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III

(Preparatory Acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

447th PLENARY SESSION HELD ON 17 AND 18 SEPTEMBER 2008

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles'

COM(2007) 856 final — 2007/0297 (COD)

(2009/C 77/01)

On 22 February 2008 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the

Proposal for a Regulation of the European Parliament and of the Council setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles.

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 15 July 2008. The rapporteur was Mr Iozia.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 140 votes to four.

1. Conclusions and recommendations

1.1 In its various opinions on the subject of cutting CO₂ emissions, the Committee has always strongly supported the Commission's legislative initiatives aimed at reaching specific visible targets on cutting greenhouse gas emissions as a key contribution to the fight against climate change.

1.2 The Committee agrees with the objectives of the proposed regulation, which is aimed at steadily reducing CO₂ emissions so as to meet the proposed target of 130 g/km by 2012, by means of improvements in vehicle motor technology.

1.3 Moreover, the Committee calls for the commitment of all stakeholders to meeting the target of 120 g/km by 2012, through an integrated approach, as set out in the Commission communication of 7 February 2007, and calls on the Council and European Parliament to swiftly adopt all pending legislation aimed at curbing climate change.

1.3.1 The Committee recommends that the Commission set long-term targets, as advocated by the European Parliament: bolder solutions will need to be found for 2020.

1.4 Specifically, the Committee calls for the speedy adoption of the proposed Directive on passenger-car related taxes (COM(2005) 261 final) and the enhancement of Directive 1999/94/EEC on CO₂-emissions labelling. It also calls on the Commission to propose and coordinate initiatives on motor vehicle advertising and marketing aimed at promoting more fuel-efficient vehicles.

1.5 Specific legislation for the car industry seems warranted, given the need to move on from the phase of voluntary industry commitments, which, although beneficial in terms of the important progress made on passenger car emissions performance, have proved insufficient to achieve the targets set.

1.6 While endorsing the strategy and proposed approach, the Committee would call for measures that are genuinely feasible, insofar as they strike the right balance between achieving crucial environmental progress on the one hand, and, on the other, the need to safeguard jobs in an industry that employs 13 million workers and to fully maintain the competitiveness of European manufacturers in an undoubtedly strategic sector for the EU's economy.

1.7 The Committee agrees that a regulation is the appropriate legal instrument as it will ensure immediate compliance and thus prevent any distortions of competition. The timeframes and specific details of the proposed measures must be carefully thought out in a more consensual manner, so as to maintain and strengthen the competitiveness of EU manufacturers in a global market and to prevent the emergence of artificial advantages amongst the various segments within the sector.

1.8 To this end, the Committee proposes that the Commission consider the possibility of replacing the current system of defining emission limit values solely based on vehicle mass (as used in Japan), and giving more consideration to other parameters such as vehicle footprint (wheelbase by track width), which is already used as the basis for goods vehicles in the USA.

1.9 The Committee calls for further consideration of the linear function inclination (i.e. the % slope), given its direct influence on the way in which the burden is shared amongst manufacturers. The Commission itself, in its Executive summary of the impact assessment [SEC(2007) 1724] says that *'The application of these criteria would, on the basis of initial analysis, suggest that in order to strike a balance between them, a range between 50 % and 80 % should be considered further at this stage'*, thus implicitly acknowledging the need for a much better impact assessment on such a sensitive issue. Opting for a 60 % slope leaves problems unresolved and could provoke a dispute with manufacturers that consider the decision unfair and imbalanced. The Committee recommends that the impact of the final decision, following all necessary further consideration, be neither beneficial nor detrimental.

1.10 Another aspect that requires careful consideration is the introduction of penalties, under Article 7 of the regulation. While the Committee agrees with this dissuasive approach, it believes that their highly progressive nature will not allow EU manufacturers to adapt their production chains to the new limits within the planned timescale. The measures seem out of kilter with those envisaged for other sectors, while creating an inherent imbalance between manufacturers of small and medium-sized vehicles and those of large vehicles, having a much greater impact on the former.

1.11 The Committee thinks that these are hefty, spiralling penalties and that they may be passed on into consumer prices, placing the burden on the purchaser and possibly distorting competition, while slowing the pace of vehicle fleet replacement. It calls on the Commission to ensure that any funds deriving from this measure remain within the car industry, providing incentives for the trade-in of more polluting cars and campaigns to increase awareness of CO₂ emissions as a factor when purchasing, as well as contributing to the huge resources needed for research and development.

1.12 The Committee considers that scientific research is crucial to the degree of progress that can be achieved by the

industry. While results can be achieved in the initial phase using existing technologies, it is a reasonable assumption that the future will require 'a technological break from the present' through the introduction of more advanced technology.

1.13 In the Committee's view, taking the research route requires huge resources and firm commitment, beginning with the need to ensure coordination of ongoing initiatives in the Member States, universities and technological centres of excellence at all levels, while encouraging the direct participation of manufacturers.

1.14 To this end, the Committee thinks that establishing a dedicated Joint Technological Initiative (JTI) for the car industry could help mobilise the scientific community.

1.15 The Committee thinks that the impact assessment does not go far enough, as highlighted by the Impact Assessment Board itself. In document SEC(2007) 1725 the Board calls for clarification of the possible effects on attaining the targets, and for an explanation of any differences between results from TREMOVE and ex-ante analysis. It adds that further analysis is needed of certain sensitive variables such as fuel prices and autonomous weight increase (AWI). There should also be further assessment of the regional impact, particularly on employment, the automotive supplier industry and competitiveness on external markets.

1.16 In the Committee's view, if such a far-reaching strategy is to succeed, suitable measures are needed to support and protect the industrial structure that exists in Europe, with a view to safeguarding or indeed raising the current level of competitiveness, while maintaining quality jobs in the industry. The Committee advocates a phasing-in approach that would require at least 80 % of the final target to be reached by 2012, the ultimate target then being reached incrementally by 2015.

1.17 A key factor in reaching the environmental targets and safeguarding competitiveness is applying the emissions limits stringently to all non-EU-manufactured vehicles sold in Europe. These limits will apply to imported vehicles.

1.18 Considering that this proposal is only the beginning of a process aimed at tackling environmental problems across the whole transport sector, the Committee calls on the Commission to quickly draw up new legislation to limit CO₂ emissions from light goods vehicles, heavy-duty and two-wheel vehicles, collating all the relevant data on their emissions.

1.19 The Committee believes that while sectoral policy for the car industry is of real importance, it does not represent the sum total of our wider commitment to general transport policy. Nevertheless, it is an important token of that commitment, helping to guide the entire industry towards the environmental targets already being pursued by other sectors of EU industry.

1.20 The Committee hopes that the proposed sector-specific measures will be flanked by action focusing on transport demand. It is vital to pursue a rigorous policy aimed at an ever greater shift of transport from the roads onto other means generating fewer greenhouse gas emissions such as rail, inland waterway and public transport (very-low-emitting, where possible).

1.21 The Committee does not agree with the temporary derogation under Article 9 of the Regulation as currently being proposed, given that this clearly means unequal treatment of manufacturers. In the Committee's view it is crucial to avoid enshrining any regulatory advantage that could distort competition.

1.22 The Committee recommends devising a model for calculating CO₂ that factors in all emissions deriving from car manufacturing. The carbon footprint should be taken into account with regard to the entire lifecycle of vehicles.

1.23 To achieve this aim, we need to launch a debate on lifestyles — an issue on which the Committee has recently drawn up specific opinions. It is a widely-held belief that if the number and size of private vehicles continue to grow, and if goods vehicles that generate high levels of greenhouse gas emissions and NO_x continue to receive preference, the goal of cutting CO₂ by 20 % will not be achieved. This cannot and must not be accepted.

2. Introduction: background to the proposal

2.1 The United Nations Framework Convention on Climate Change, which was approved on behalf of the European Community by Council Decision 94/69/EC of 15 December 1993, requires all parties to formulate and implement programmes to mitigate climate change.

2.2 The Commission responded by gradually developing a series of legislative measures which culminated in January 2007 in the EU proposing in the context of international negotiations a 30 % reduction in greenhouse gas emissions by developed countries (compared to 1990 levels) and a 20 % reduction by 2020. These targets were subsequently endorsed by the Council and the European Parliament.

2.3 An analysis of individual sectors shows that, while overall emissions of greenhouse gases fell by approximately 5 % in the period 1990-2004, CO₂ emissions from the road transport sector increased in the same period by 26 %.

2.4 In view of this, there is a need for specific legislation to bring the road transport sector back in line with the overall downward trend in greenhouse gas emissions. More particularly,

action is urgently needed on passenger cars, given that they account for 12 % of overall EU emissions of carbon dioxide (CO₂), the main greenhouse gas.

2.5 Although significant technological progress has been made in the car industry, leading to a 12.4 % cut in CO₂ emissions between 1995 and 2004 by increasing fuel efficiency, the steady growth in demand for transport and constant increase in vehicle size have completely offset this saving, and indeed led to an increase in overall emissions of greenhouse gases by the transport sector.

2.6 The result is that, without specific initiatives, the EU is highly unlikely to be able to meet its target of average emissions from the new car fleet of 120 g CO₂/km.

3. Landmarks in the Commission's strategy

3.1 The Community strategy for reducing CO₂ emissions began to take shape in 1995. It was based on three elements:

- voluntary commitments from the car industry to cut emissions;
- improvements in consumer information;
- the promotion of fuel-efficient cars via fiscal measures.

3.2 In 1998, the European Automobile Manufacturers Association (ACEA) adopted a commitment to reduce average emissions from new cars to 140g CO₂/km by 2008, and the Japanese and Korean Automobile Manufacturers Associations (JAMA and KAMA) adopted a similar commitment to reduce average emissions by 2009.

3.3 The Commission recognised these commitments by issuing Recommendation 1999/125/EC (on the ACEA voluntary agreement), Recommendation 2000/303/EC (on the KAMA voluntary agreement) and Recommendation 2000/304/EC (on the JAMA voluntary agreement). On the subject of monitoring emissions the EU adopted Decision 1753/2000/EC of the European Parliament and of the Council establishing a scheme to monitor average emissions of CO₂ from new passenger cars.

3.4 On 7 February 2007, the Commission adopted two parallel communications for the automobile sector:

- Results of the review of the Community Strategy to reduce CO₂ emissions from passenger cars and light-commercial vehicles, COM(2007) 19 final (EESC Opinion TEN/301, rapporteur Mr Ranocchiaro).
- A Competitive Automotive Regulatory Framework for the 21st Century — CARS 21, COM(2007) 22 final (EESC Opinion INT/351, rapporteur Mr Davoust).

3.5 These communications reported progress towards meeting the target of 140 g CO₂/km by 2008-2009, but concluded that without other measures it would be impossible to meet the target of 120 g CO₂/km for the new car fleet.

3.6 Both communications called for an integrated approach along two lines:

- compulsory reduction in CO₂ emissions by improving vehicle technology in order to achieve the average target of 130 g/km;
- the remaining 10 g/km reduction to be achieved by complementary measures consisting of the installation of new technological devices in vehicles (gear change indicators, tyre pressure indicators, low rolling-resistance tyres, high-efficiency air conditioning systems, etc.) **and increased use of biofuels.**

3.7 The Commission stated in these communications that the average target for the new car fleet should take the following factors into account:

- it should be competitively neutral;
- the choices should be socially equitable and sustainable;
- any unjustified distortion of competition between automobile manufacturers should be avoided;
- it should be fully compatible with the Kyoto targets.

3.8 The framework proposed and endorsed by both the Competitiveness Council and the Transport Council relies on all car manufacturers stepping up their efforts to produce more ecological cars, while at the same time pursuing maximum cost efficiency.

3.9 This means that the reduction in CO₂ emissions has to be achieved through an integrated approach that involves all parties. A legislative proposal is thus needed that will meet the targets while maintaining the global competitiveness of the automobile industry.

4. The Commission proposal

4.1 The aim of the proposed Regulation (COM(2007) 856) is to 'reduce CO₂ emissions from light-duty vehicles' and to take steps to achieve the target of 130 g/km by 2012. It applies to motor vehicles of category M1 as defined in Annex II to Directive 2007/46/EC and to vehicles to which type-approval is extended in accordance with Article 2(2) of Regulation (EC) No 715/2007 which are registered in the Community for the first time and which have not previously been registered outside the Community.

4.2 The proposal is part of an integrated approach to be rounded off by measures delivering an additional 10g CO₂/km

reduction in order to meet the Community's final objective of 120 g CO₂/km as set out in COM(2007) 19 final.

4.3 When setting the levels of CO₂ emissions, the regulation takes into account:

- the implications for markets and manufacturers' competitiveness;
- stimulating innovation;
- reducing energy consumption.

4.4 The proposed Regulation also seeks to:

- encourage the automobile industry to invest in new technologies;
- actively promote eco-innovation;
- take account of future technological developments;
- enhance the competitiveness of European industry;
- create high-quality jobs.

4.5 The Commission states that the regulation is consistent with the EU's other objectives and policies and is the result of extensive consultation and input from a working group specially set up under the European Climate Change Programme (the CARS 21 group) with the direct involvement of all stakeholders.

4.6 **Legal basis.** Article 95 of the EC Treaty is regarded as the appropriate legal basis to ensure a level playing field for all economic actors and provide a high level of protection of health and the environment.

4.7 **Subsidiarity and proportionality.** The proposal complies with the principles of subsidiarity and proportionality in that, even though it does not fall under the exclusive competence of the Community, it prevents the emergence of barriers to the single market, and the adoption of legislative measures at Community level simplifies action to achieve a harmonised reduction in the climate change impact of passenger cars.

4.8 **Choice of legislative instrument.** In the Commission's view a regulation is the most appropriate instrument to ensure immediate compliance with the provisions adopted, avoiding distortions of competition which could have repercussions for the internal market.

4.9 **Monitoring.** Information on emissions of carbon dioxide from new passenger cars, measured on a harmonised basis according to the methodology laid down in Regulation (EC) No 715/2007, must be collected by the individual Member States and reported to the Commission under the procedure laid down in Article 6.

4.10 Certificate of conformity. Manufacturers are required under Directive 2007/46/EC to issue a certificate of conformity which must accompany each new passenger car. Member States will permit the registration and entry into service of a new passenger car only on presentation of such a certificate (with the exception of the derogations provided for in Article 9 of the Regulation).

4.11 Excess emissions premium. Under Article 7 of the proposed regulation, an excess emissions premium will be imposed from 2012 on manufacturers or, in the case of a pool, pool managers, whose emissions exceed the specific target. The amount of the premium will increase significantly in the years after 2012 and the sums collected will be considered as revenue for the EU budget.

5. Strategic proposal of the European Parliament

5.1 In its resolution adopted on 24 October 2007, the European Parliament welcomed the Commission's strategy but proposed that emission targets be implemented from 2011 onwards in order to reach 125 g CO₂/km in 2015 by technical improvements to vehicles alone. The Parliament laid stress on the second step to be taken in view of the longer-term target: reaching 95 g CO₂/km by 2020 and possibly 70 g CO₂/km by 2025, subject to a confirmation or review no later than 2016.

6. Importance of consumer behaviour

6.1 Consumer behaviour is of particular importance in successfully cutting CO₂ emissions from cars. The Commission has thus begun preparatory work on amending Directive 1999/94/EC on consumer information regarding the conformity of new vehicles to the emissions targets and their fuel economy, aimed at increasing the contribution of car users to achieving the objectives set.

7. General comments

7.1 As in previous opinions regarding Commission proposals on cutting CO₂ emissions, the Committee reaffirms its support for all EU initiatives aimed at reaching specific targets on cutting greenhouse gas emissions, as a key aspect of the fight against climate change.

7.2 The Committee concurs with the objectives of this proposed regulation subject to the comments set out below. It calls on the Council and European Parliament to swiftly adopt all pending legislation aimed at curbing climate change.

7.3 The Committee calls for the speedy adoption by the EU institutions of Directive COM(2005) 261 on passenger-car related taxes, which would help accelerate the process of reaching the target, encouraging companies to make greater

efforts. It also calls on the institutions to undertake a swift improvement on Directive 1999/94/EC on CO₂-emissions labelling and for initiatives to be proposed and coordinated on motor vehicle advertising and marketing. These should include measures to promote more fuel-efficient vehicles and to ban the advertising of the most polluting vehicles.

7.4 The Committee supports the choice of Article 95 of the EC Treaty as the legal basis for the proposed regulation, as this is well-suited to ensuring a level playing field for all actors and a high level of protection of health and the environment.

7.5 The Committee agrees that a regulation is the appropriate legal instrument as it will ensure immediate compliance and prevent any distortions of competition. This choice seems necessary as voluntary commitments entered into by the industry, although beneficial in terms of the results achieved on passenger car emissions performance, have proved insufficient to achieve the targets set.

7.6 The Committee approves the proposal to limit emissions to 130 g CO₂/km by means of improvements in vehicle motor technology, though regretting that it appears no longer to be practicable to aim for the tighter target of 120 g CO₂/km originally envisaged for 2012. It recognises that the Commission now proposes to achieve the 120 g/km in a different way through an integrated approach, including improved standards for tyres, promotion of consumer awareness, incentives for eco-driving⁽¹⁾ and particularly through greater use of biofuels. But given the growing doubts about the feasibility and desirability of the target for use of biofuels in the transport sector, the Committee does not regard this as a satisfactory alternative.

7.7 The Committee therefore recommends that the Commission should set out now further targets for the car industry to improve the carbon performance of vehicles in subsequent years. We believe that establishing now a sequence of progressively tighter targets for future years would give a clear signal of the standards that will apply in those years, enabling European industry to adjust its production plans accordingly.

7.8 The Committee thinks that achieving this target would represent an important contribution by the motor industry to the fight against greenhouse gas emissions from the transport sector, as over that period it would result in a 400-million-tonne cut in CO₂ emissions.

7.9 The Committee believes that a key factor in achieving both the current and longer-term objectives is significant investment in research and development. This must be designed to tie in and coordinate with ongoing initiatives in the individual Member States, universities and all industry-related technological centres of excellence and involve the direct participation of manufacturers.

⁽¹⁾ EESC opinion: OJ C 44, 16.2.2008 (rapporteur: Mr Ranocchiaro).

7.9.1 The Committee would draw the attention of the Commission and the Member States to the need for income support measures to be introduced — inter alia via tax incentives — for large families obliged to use large vehicles. Consideration should also be given to the situation in Eastern European markets where the average fleet lifespan is very high and where more highly polluting second and third-hand cars are sold. Ways should be found of incentivising trade-ins in these countries, by means of specific provisions. Clearly, countries with lower per capita income will not be able to benefit from a general cut in emissions, as people there will be unable to purchase the new, more efficient vehicles, which will most likely be more expensive.

7.10 It seems clear that while over the next few years reasonable results can be achieved using existing technologies, there will be a need in future to consider 'a technological break from the present' by introducing more advanced technology.

7.11 To this end, the Committee thinks that establishing a Joint Technological Initiative (JTI) could help mobilise the scientific community. This could be co-funded by a sizeable EU budget allocation, matched by funding from the manufacturers, as recently proposed in important sectors such as hydrogen and fuel cells, aeronautics and air transport, innovative medicines, IT systems and nanoelectronics.

7.12 The Committee supports the introduction of penalties from 2012 for failure to meet the targets, as laid down under Article 7 of the regulation, agreeing with this dissuasive approach, but thinks that these penalties should be earmarked for motor industry-related measures, such as:

- bolstering all research and development initiatives;
- investing in vocational training;
- funding incentives for trading-in older, more-polluting vehicles;
- carrying out information campaigns to encourage consumers to factor in emissions as a criterion when purchasing a vehicle; and
- supporting local public transport.

7.13 The Committee believes that these measures and their highly progressive nature may not be compatible with the capacity of EU manufacturers to adapt their production chains to the new limits. The penalties, which most likely will be passed on into consumer prices, seem particularly high, and could distort competition and effectively penalise the sector in relation to other industries. A solution will need to be found that harmonises the burden, taking account of the average cost borne by the other sectors of industry involved in curbing CO₂ emissions.

7.14 The Committee proposes that the Commission consider the possibility of replacing the current system of defining emission limit values based on vehicle mass, with one based on other parameters, such as vehicle footprint (a car's footprint is calculated by multiplying its wheelbase by its track width).

7.15 The inclination of the linear function (i.e. % slope) will influence the way in which the burden is shared amongst manufacturers and the certainty of the environmental outcome. The nearer the slope is to 100, the lighter the burden to be borne by heavier-car manufacturers. Conversely, the nearer the slope is to zero the heavier the burden imposed to meet the targets (an 80 % slope allows a 6 g emission surplus, a 20 % slope allows only a 1.5 g emission surplus). The Commission has indicated a 60 % slope (4.6 g surplus). The Committee calls on the Commission to reflect further on this proposal, to make absolutely sure that the regulation cannot benefit or disadvantage any EU business.

7.16 If the Commission does decide to retain this mass-based approach, it would not make much sense to review the slope in 2010, while the mass increase should be considered from 2013.

7.17 The Committee calls on the Commission to quickly draw up new legislation to limit CO₂ emissions from light goods vehicles, heavy-duty and two-wheel vehicles, for which reliable verified data on actual emissions are needed.

7.18 Besides the crucial issue of environmental protection, the Committee calls on the Commission to give due consideration to the potential effects of this complex process on the 13 million workers currently employed across the motor industry. With rising oil prices and consumer demand for fuel economy, European car manufacturers could gain a competitive advantage by producing more efficient vehicles, which could favour employment in the EU.

7.19 In the Committee's view, suitable and practical measures for research into new, innovative and efficient technologies are needed, in order to maintain or indeed increase the European car industry's competitiveness and the quality of the jobs it provides.

7.20 The Committee believes that an important element in this process is applying the emissions limits, fully and stringently, to all non-EU-manufactured vehicles sold in Europe. These limits will be calculated on the basis of imports.

7.21 The Committee thinks that the progress report to be drawn up in 2010 represents a key opportunity to assess the entire strategy. It therefore asks to be involved in these periodic assessments and thus for an opportunity to give its opinion.

7.22 The Committee thinks that the impact assessment does not go far enough. The Impact Assessment Board's opinion called for certain crucial points to be clarified, given the importance of this issue.

7.23 The Board's recommendations, set out in document SEC(2007) 1725, are as follows: to clarify the impact on fleet composition and the effect this may have on attaining the targets, and explain possible differences between results from TREMOVE⁽²⁾ and ex-ante analysis; to undertake a sensitivity analysis of certain variables such as fuel prices or autonomous weight increase (AWI); to assess the regional impact, particularly regarding employment; and to consider the effects on the automotive supplier industry, and on competitiveness on external markets. The Committee agrees with these suggestions and hopes that the impact analysis will be broadened accordingly.

7.24 Alongside the proposed measures, the Committee stresses the need to step up policies aimed at reducing transport demand, through an ever greater shift of transport from the roads onto other means generating fewer greenhouse gas emissions, such as rail, inland waterway, or public transport.

7.25 The Committee disagrees with the proposed temporary derogation under Article 9 of the Regulation. As currently worded, it goes against the principle of treating companies equally, effectively distorting competition in this particular market segment as regards similar products with similar characteristics. The Committee considers that the derogation should be

granted to all manufacturers (regardless of whether or not they are connected to another manufacturer) competing in the same market segment, which in any case is just 0.2 %.

7.26 The Committee recommends that the Commission set long-term targets, as advocated by the European Parliament: bolder solutions will need to be found for 2020, with particular emphasis on their feasibility. It is crucial to continue cutting emissions, giving a clear signal of our intent to persevere along this road.

7.27 The Committee recommends devising a model for calculating CO₂ that factors in all emissions deriving from car manufacturing. In certain countries, for example, many car parts are brought in from very far afield, thus increasing the total emissions per car manufactured, before the cars even hit the road. The carbon footprint should be taken into account with regard to the entire lifecycle of vehicles, including the CO₂ needed for scrapping.

7.28 In several recent opinions, the Committee has urged the Commission to launch a debate on lifestyles. While agreeing with the proposed targets, the Committee points out that if current levels of growth continue in the number of private vehicles, road transport vehicles and other modes of transport that generate high levels of greenhouse gas emissions and NO_x, and if the Commission's growth projections are borne out, it will be impossible to achieve the goal of cutting CO₂ by 20 %, as set out in recent Commission proposals.

Brussels, 17 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽²⁾ TREMOVE is a policy assessment model for analysing the cost-effectiveness of technical and non-technical measures aimed at reducing emissions from the entire transport sector and at improving air quality, for 21 countries: EU-15, Switzerland, Norway, Czech Republic, Hungary, Poland and Slovenia (the four new Member States have been selected on the basis of data availability).

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on the safety of toys'

COM(2008) 9 final — 2008/0018 (COD)

(2009/C 77/02)

On 17 March 2008 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the

Proposal for a Directive of the European Parliament and of the Council on the safety of toys.

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 15 July 2008. The rapporteur was Mr Pegado Liz.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 49 votes to 1 with 8 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the Commission's initiative to revise the toy safety directive, although it comes rather late and is not ambitious enough.

1.2 The EESC notes that the impact assessment on which it is based dates from 2004, and did not take account of all the countries that are now EU Member States.

1.3 In view of the increasing number of alert of toys as revealed in the latest RAPEX report (2007), the EESC is surprised that the impact assessment should be inconclusive not only with regard to the link between the present directive and toy-related accidents to children, but even more with regard to the admitted lack of knowledge as to the effect of the present proposal on the number and seriousness of future toy-related accidents — something that should be the principal concern and fundamental reason for the present initiative.

1.4 Given the Commission's acknowledgement of the lack of reliable and credible statistics on accidents in the EU caused by toys, the EESC suggests that the Commission, in cooperation with the competent Member State authorities, should set up an appropriate system of statistical information on such accidents, at least as comprehensive as that already existing under some legal systems, that is accessible to all actors in the production and marketing chain with a view to preventing accidents ⁽¹⁾.

1.5 The EESC believes that the legal basis for the proposal should be Treaty Article 153 rather than Article 95 alone, considering that the most important concern, to protect children effectively, has primacy over simply facilitating cross-border trade in toys.

1.6 The EESC also believes that, in the light of the scope and nature of the new legislative proposal and of experience in implementing the current directive in the various Member States, and since a total harmonisation approach has been accepted, the most appropriate legal instrument would be a regulation rather than a directive.

1.7 The EESC appreciates the technically and legally coherent and well-structured form of the proposal, and generally agrees with its innovative measures, which include:

- a broader definition of 'toys' and adoption of the concept of foreseeable use bearing in mind behaviour of children;
- reinforcement of Member State surveillance measures;
- introduction of proper prevention and information rules on toy safety — warnings and signs.

1.8 The EESC regrets, however, that a number of aspects of key importance have not been covered, or only inadequately. They are:

- a) unequivocal adherence to the precautionary principle;
- b) more rigorous training and education of those responsible for the care of children in contact with toys;
- c) clarification of certain concepts which remain ambiguous or vague, such as the concept of a toy or the extent of harm;
- d) importers and authorised representatives not being on the same footing as manufacturers, clearly removing the responsibility of players in the toy distribution and sales chain in respect of compensation for harm caused;
- e) conformity assessment procedure unsuited to SMEs.

⁽¹⁾ National Electronic Injury Surveillance System (NEISS), managed by the Consumer Product Safety Commission (CPSC), in the United States.

1.9 The Committee therefore strongly urges the Commission to revise its proposal as suggested in the present opinion, so as to make it a more credible instrument for the effective protection and safety of children when using toys.

1.10 The Committee calls upon the EP and the Council to take on board the suggestions and recommendations presented herein, and to integrate them into the legislative procedure leading up to the adoption of the new directive.

2. Introduction: summary of the proposal

2.1 The Commission first announced its intention to take legislative steps in the field of toy safety in the 1970s, putting forward a number of proposals that were subsequently withdrawn due to a lack of political consensus. Eventually, in the wake of the Council Resolution of 23 June 1986⁽²⁾ on consumer protection and safety, a new Commission proposal pointed, in more consensual terms, to the need for European-level harmonisation of the definition of toys, their manufacturing standards, main safety requirements, conditions for putting on the market and guarantees that they could be used by children without hazard.

2.2 Directive 88/378/EC of 3 May 1988, published at that time⁽³⁾, is one of the first legislative initiatives stemming from the 'new approach' in the field of technical harmonisation and standardisation, based on the Council Resolution of 7 May 1985⁽⁴⁾.

2.3 The EESC drew up a mandatory opinion on the Proposal for a Directive presented at that time⁽⁵⁾ which, while welcoming the proposal, regretted the long delays in its preparation, and, based on the assumption that all toys should be reliable and that children are vulnerable to risks and must receive special protection, underlined the need for the issue of toy safety to be addressed as part of the broader scope of the product liability directive⁽⁶⁾.

2.4 In the meantime, the 1988 directive was the object of a number of corrigenda⁽⁷⁾, of a major amendment by Directive 93/68/EEC of 22 July 1993⁽⁸⁾, and of a Communication from the Commission on its implementation⁽⁹⁾.

2.5 Two directives on general product safety were adopted and published in 1992 and 2001, covering toy safety in generic terms⁽¹⁰⁾, the latter putting special emphasis on the 'changes made to the Treaty, especially in Articles 152 concerning public health and 153 concerning consumer protection, and in the light of the precautionary principle'.

2.6 Twenty years after the publication of the 1988 directive, the Commission is proposing a new directive on this matter, realising that the legislation in force has, in the meantime, become out-dated, that its scope and the concepts used need to be clarified and brought into line with present circumstances, that there is an urgent need to ensure that its provisions are consistent with the recently-proposed general legislative framework⁽¹¹⁾ for the marketing of goods and, most of all, that serious deficiencies and disparities have emerged in transposing and implementing the directive in the various Member States in terms of application, and that this must be resolved.

2.7 The present proposal is based on three major technical studies, to be taken as integral parts of it. Two concern the requirements and use of certain allegedly dangerous substances in manufacturing toys; the third is a general impact assessment, the final report of which dates from 2004.

2.8 In brief, the Commission is pursuing the following objectives with this proposal:

- A) Enhanced safety requirements, particularly concerning:
 - a) use of chemical substances;
 - b) warnings and information for consumers and users;
 - c) choking and suffocation risks;
 - d) toys in food;
 - e) definition of the general safety requirement.
- B) More efficient and coherent application of the directive, by means *inter alia* of:
 - a) reinforced market surveillance measures in the Member States;

⁽²⁾ OJ C 167 of 5.7.1986, p. 1.

⁽³⁾ OJ L 187 of 16.7.1988, p. 1. ESC opinion: OJ C 232 of 31.8.1987, p. 22.

⁽⁴⁾ OJ C 136 of 4.6.1985, p. 1.

⁽⁵⁾ COM(1986) 541 final (OJ C 282 of 8.11.1986, p. 4).

⁽⁶⁾ Opinion CES 639/87, rapporteur: Ms Williams (OJ C 232 of 31.8.1987, p. 22).

⁽⁷⁾ OJ L 281 of 14.10.1988, p. 55; OJ L 37 of 9.2.1991, p. 42.

⁽⁸⁾ OJ L 220 of 30.8.1993, p. 1. ESC Opinion: OJ C 14 of 20.1.1992, p. 15 and OJ C 129 of 10.5.1993, p. 3.

⁽⁹⁾ OJ C 297 of 9.12.2003, p. 18.

⁽¹⁰⁾ Directive 92/59/EEC of 29 June 1992 (OJ L 228 of 11.8.1992, p. 24 — ESC opinion: OJ C 75 of 26.3.1990, p. 1) and Directive 2001/95/EC of 3 December 2001 (OJ L 11 of 15.1.2002, p. 4); the ESC adopted opinion CES 1008/2000 of 20 September 2000, rapporteur: Ms Williams (OJ C 367 of 20.12.2000, p. 34), on the proposal for the latter directive, COM(2000) 139 final. Earlier, an own-initiative opinion on the same subject had been drawn up by Ms Williams and adopted by the ESC on 8 December 1999 (CES 1131/99 — OJ C 51 of 23.2.2000, p. 67).

⁽¹¹⁾ Package of proposals COM(2007) 36, 37 and 53 final of 14.2.2007, EESC opinions INT/352/353/354 (CESE 1693/2007 of 13 December 2007, rapporteur: Mr Pezzini).

- b) information on chemicals in the technical file;
 - c) affixing of CE marking;
 - d) safety assessment.
- C) Alignment of the directive to the general legislative framework on the marketing of products
- D) Clarification of the scope and better definition of the concepts used.

3. General comments

3.1 The EESC welcomes the Commission's initiative, although it comes rather late, given that the directive under review is more than 20 years old and the production and marketing parameters and methods for toys have undergone substantial changes in the meantime, as have the tastes and habits of their most natural users. The EESC moreover believes that the present proposal could be more ambitious in its aims, and its provisions could take account of the concerns aroused by recent events, which have been made public and are moreover reflected not only in strongly-worded speeches and positions on the part of the Commissioner responsible for consumer protection, but also in the EP Resolution of September 2007, the tenor of which the EESC echoes ⁽¹²⁾. It therefore regrets that the discussions with the EESC were not also accompanied by DG SANCO, which has not been directly involved in its preparation.

3.2 The EESC is surprised that the impact assessment on which the present proposal is based is more than four years old and does not cover the situation in all the Member States. Neither is it clear what account has been taken of consumers' and families' representatives or how far they were actually involved in its preparation.

3.3 In view of the Commission's criticism of the alleged shortcomings in applying the directive, the EESC is surprised that such criticism is not accompanied by initiatives taken by the Commission to ensure proper compliance with this Community law.

3.4 The EESC has difficulty in understanding how, given the acknowledged lack or deficiency of statistical data to which the Commission admits, it is possible to reach proper conclusions on either the state of affairs to be changed, or on the effectiveness of the proposed measures. It is, however, known that the toy market in Europe, estimated in 2002 to represent

EUR 17 300 million at retail prices, and with imports amounting to more than EUR 9 000 million, is a prosperous sector involving some 2 000 businesses, mostly SMEs, and directly employing more than 100 000 people ⁽¹³⁾.

3.5 The EESC is of the view that the nature of the proposal in question requires that not only Article 95, but also necessarily Article 153, be considered as the legal basis, insofar as its scope does not relate only to the completion of the internal market, but rather concerns a particularly vulnerable category of consumer which cannot by any means be assimilated with that of the 'average consumer'.

3.6 Moreover, the fact that children are indirect consumers of toys, insofar as it is not they who acquire them, but their parents or other adults who make them available to them for their use, should prompt the Commission to take a more rigorous approach to ensuring that the need to inform and educate this class of consumer is duly reflected in the wording of its provisions.

3.7 The EESC understands the Commission's option in this case for full harmonisation, but restates its conviction that, in cases such as this one, there would be everything to gain from selecting a regulation as an instrument rather than a directive, with the obvious advantages in terms of legal certainty and without of the risks of late or defective transposition and the consequent disparities in application, as the Commission acknowledges has occurred with the present directive ⁽¹⁴⁾.

3.8 Given the nature of the subject, the on-going evolution of the 'state of the art', the possibility of occasional incidents, as clearly shown in the Mattel and Fisher Price cases, and the worrying increase in the number of toy-related alerts as shown in the latest RAPEX annual report (2007), representing by far the sector with the greatest number of notifications (31 %) ⁽¹⁵⁾, it might have been hoped that the present proposal would draw all the lessons from events — and particularly from the failure of post-market surveillance — making a more practicable and enforceable Directive, that could lead to a safer toy market. This would mean, in the presence of doubt, prohibiting anything which, while an adequate degree of certainty is still lacking, might legitimately be suspected of presenting a hazard, even if slight, in its use as a toy by children and bearing in mind their unpredictable behaviour: this is not, however, the case.

⁽¹³⁾ Data from the Commission's website.

⁽¹⁴⁾ Council Directive 88/378/EEC of 3 May 1988 (OJ L 187 of 16.7.1988, p. 1). It is important to note that, unlike the present proposal, in the proposal on cosmetic products (COM(2008) 49 final/2 the Commission has quite rightly set out to replace the directive with a regulation. It should also be pointed out that the amendment to the protocol on subsidiarity in the reform treaty, by removing the 'preference' for directives, represents a further argument for this approach in the future.

⁽¹⁵⁾ According to the report, in summer 2007 alone, more than 18 million toys containing magnets were taken off the market, together with 2 million whose paint contained lead.

⁽¹²⁾ Cf. the statement by Commissioner Kuneva to the EP on 12 September 2007, her statements at meetings with the Vice-President of Mattel International on 20 September 2007 and with a delegation of toy manufacturers, including Hornby, Lego and Mattel, on 9 April 2008, together with the press conference of 22 November 2007. Cf. also the EP Resolution doc P6-TA(2007)0412 of 26 September 2007.

3.9 Turning to the CE marking, the EESC would simply repeat its view expressed in a previous opinion on a common framework for the marketing of products, that *'a lack of credibility of the CE marking amounts to a lack of confidence in the whole system: market surveillance authorities, manufacturers, laboratories and certifiers, and ultimately the adequacy of New Approach legislation'* ⁽¹⁶⁾.

In this case, the EESC urges the Commission to harmonise the final text of the present proposal with the text adopted for all the proposals concerning the above-mentioned common framework ⁽¹⁷⁾.

3.10 The EESC fully supports the EP's suggestion for the introduction of a European toy safety label, that would be awarded by independent third-party bodies, and regrets that the proposal has not fully responded to all the suggestions set out in the EP's resolution of September 2007; the EESC also echoes the concerns of SMEs, not that the toys they manufacture and sell might be less safe, but — as is also discussed in the above-mentioned opinion — relating to the proportionality of the measures used in the conformity assessment procedures, especially for non mass-produced products or products produced in small quantities ⁽¹⁸⁾.

3.11 The EESC considers that all substances dully recognised as potentially dangerous, must be completely removed from toy manufacturing, within a framework that is proportional, balanced and workable for responsible manufacturers, as well as being enforceable by the authorities.

3.12 The EESC welcomes the recent Commission Decision on 'magnetic toys', but is surprised that this question was not even touched upon in the present proposal for a directive: the

⁽¹⁶⁾ Opinion CESE 1693/2007 of 13 December 2007, rapporteur: Mr Pezzini (INT/352-353-354) where, in point 5.2.11, it is emphasised, with clear relevance, that:

'The best way to boost the standing and importance of the CE marking, as defined in Council Decision 93/465, is through a radical shake-up of the marking itself, which would involve:

- *making it clear that it should not be used or regarded as a marking or labelling system for purposes of consumption, nor a guarantee of quality or certification or approval by independent third parties, but only as a declaration of conformity with product requirements and a technical document that the manufacturer or the importer has an obligation and full responsibility to produce for the authorities and the consumer;*
- *rationalising the various procedures for assessing conformity;*
- *strengthening legal protection of the CE marking by registering it as a collective mark, which means that the public authorities can act swiftly to clamp down on abuses, while keeping open the possibility of additional national markings;*
- *strengthening market surveillance mechanisms and border customs checks;*
- *getting producers and consumers to look into the pros and cons of a possible voluntary code of conduct on the efficacy of the proliferation of European and national quality marks and labels —voluntary or otherwise — and how they mesh with the CE marking.'*

⁽¹⁷⁾ COM(2007) 36, 37 and 53 final of 14.2.2007.

⁽¹⁸⁾ Opinion quoted in footnote 16, points 5.2.7.1 and 5.2.9. See also the EESC opinions on policy measures for SMEs (INT/390), rapporteur: Mr Cappellini, and on cosmetic products (INT/424), rapporteur: Mr Krawczyk.

Commission's reaction does not seem strong enough given the seriousness of the hazards and accidents that have already occurred with this type of toy, amounting only to a call for the Member States to ensure, each in its own way, that a 'warning' is attached.

3.13 The EESC thinks that there grounds for a more precise definition of the level and nature of penalties, as the Commission has already done in fields where the harm caused by improper behaviour is considerably less from a social point of view.

3.14 More generally, the EESC regrets that an opportunity has been missed here to put the protection of European children on at least the same level as exists, including at the manufacturers' initiative, in some Member States and other countries, where certain types of toy are quite simply banned, as pointed out in a study recently commissioned by the EP ⁽¹⁹⁾.

3.15 The EESC is aware of the fierce competition at international level in the toy industry. It therefore urges the European Commission, the European Parliament and the Council to take account of the sector's competitiveness when introducing modifications in the course of the legislative process of adopting the present directive. Safety standards for toys must not be lowered at the expense of consumer protection, especially for children, but international trade rules must be observed strictly so that European companies can compete under equal conditions.

3.16 Lastly, the EESC calls upon the Commission to be aware of social concerns relating to toy manufacturing, especially in third countries where young children are employed under atrocious working conditions and for long hours, daily handling toxic, highly dangerous products, and to adopt a clear stance in favour of eco-toys and ethical toys.

4. Specific comments

4.1 Article 1 and Annex I — List of products that are not considered as toys

The EESC acknowledges the Commission's intention to update the definition of a 'toy', so that it can be applied to all products that are not designed exclusively for play purposes.

⁽¹⁹⁾ *Study on Safety and Liability Issues Relating to Toys* (PE 393.523), authors: Frank Alleweldt — Project director; Anna Fielder — Lead author; Geraint Howells — Legal analysis; Senda Kara, Kristen Schubert and Stephen Locke.

The EESC would however point out that the current definition of toys is not adequate to the scope of the objectives set, as not only does it not permit the updating needed to keep abreast of developments on the technology market, but it also establishes a list of products that do not fall within the directive's scope. The appropriateness of such products, particularly decorative objects for festivities and celebrations, imitation jewellery, games using sharp-pointed missiles, products intended for use for educational purposes in schools and other pedagogical framework and sports equipment, is questioned.

The basis for establishing special arrangements to protect product users depends effectively on the nature of the user, and particularly their vulnerability. Users do not distinguish the purpose of every object that may be presented to them — the products themselves are often seen as toys by children, their parents and even the traders who catalogue and sell them as toys. In consequence, the Committee does not understand why toys used for educational purposes in schools do not fall within the scope of the directive, since there is no difference concerning the nature of the user.

The EESC highlights the need for all equipment and products that are accessible and may potentially be used as toys by minors under the age of 14 to be included within the protective scope of the directive, in keeping with the precautionary principle.

The EESC therefore urges the Commission to review the definition set out in Article 1 and the list, in order to make them compatible with each other.

4.2 Articles 2 to 5

The EESC thoroughly disagrees with the distinction made between manufacturers and importers, since European Parliament and Council Directive 2001/95/EC on general product safety puts importers on the same footing as manufacturers, where the latter do not have a representative in the Member State. Maintaining the present distinction not only fails to duly uphold users' right to compensation in respect of harm (because liability falls exclusively on the manufacturer), but also does not properly harmonise Community laws, inevitably jeopardising the principle of certainty in legal matters.

The EESC therefore considers that for the purposes of applying the present directive, authorised representatives and importers (where there are no official representatives of the manufacturer) should be considered as manufacturers, contrary to the aim of the present directive which only puts them on the same footing when toys are marketed in their name or using their trademark or they have made some change to the nature of the product, even if not affecting the production process.

The EESC opposes the distinction, in terms of liability, between authorised representatives and manufacturers. The EESC is concerned that retaining this rule may prevent consumers' rights from being upheld and specifically the right to compensation in respect of harm in situations where only an authorised representative is established in the Member State.

The EESC generally supports retaining those provisions of the directive currently in force that share liability among all those involved in the marketing chain.

Regarding the definition of harm, the Committee considers that this should cover situations that arise in the long term and are the direct consequence of confirmed accidents.

4.3 Article 9

The EESC welcomes the amendment to paragraph 2 of this article, stipulating that the foreseeable use of the toy, bearing in mind behaviour of children, is to be taken into account in assessing its hazards (although it would point out that recital (16) could be interpreted in the opposite sense).

The EESC believes however that there should be an obligation on manufacturers to foresee possible uses of their products that may be inappropriate, but would reasonably be acceptable to children. Moreover, retaining the foreseeability criterion is contradictory when the explanatory memorandum emphasises the need for the frequently unpredictable behaviour of children to be taken into account when designing toys.

The EESC disagrees with the wording of paragraph 3, since the provision not only establishes an irrebuttable presumption, but also introduces vague and undefined criteria, such as the concepts of 'foreseeable' and 'normal' which, in the final analysis, rules out any obligation on the manufacturer to keep up to date with scientific and technical experiments in the specialist field, as the fact that his product is available on the market is a corollary of the maintenance of general product safety ⁽²⁰⁾.

The duty to prevent product defects does not in fact end once the product is placed on the market. The manufacturer, or his local representative, if any, is duty-bound to monitor and observe toys continuously, so that defects that were unknown and could not be known at the time of their entry into circulation can be discovered, along with defects caused by wear and tear, fatigue or premature ageing of the toy.

⁽²⁰⁾ See in this connection the judgment of the Court of Justice of the European Communities of 29 May 1997 (case C-300/95, European Court Reports 1997, page I-02649).

4.4 Article 10

The EESC welcomes the Commission's intention to require warnings to be clearly, visibly and legibly displayed at the point of sale, in order to ensure that users have effective prior information. It however considers that these warnings should appear not only on the packaging, but also on the products themselves.

The Committee however considers that the warnings displayed at points of sale should contain not only information on the minimum and maximum ages of users, but also indications as to the appropriate weight of children for the use of certain toys, and on the need for the product to be used only under the supervision of those responsible for their care.

The Committee also emphasises that warnings should be worded in a way appropriate to the users, and in keeping with their particular sensibilities.

The EESC renews its call for training initiatives for parents and child carers to be encouraged, alerting them to the precautions and risks arising from the use of toys. However, the fact that children's safety is ultimately the responsibility of their parents, guardians, carers, teachers, etc. cannot be used as a pretext to diminish the responsibility on the part of manufacturers, importers and retailers for the complete safety of toys.

Bearing in mind the fact that labels are often worded in languages others than the national ones, the EESC is of the view that paragraph 3 should make it compulsory for the warnings and safety instructions to be presented in the official language of the Member State where the toys are placed on the market, rather than the simple possibility it presently introduces.

4.5 Articles 12 and 26

Although it accepts the need to retain the presumption of conformity, the EESC feels that it would be more in keeping with the 'state of the art' to reverse the burden of proof in the event of a harmful incident.

4.6 Article 17

The EESC highlights the Commission's decision to require manufacturers to carry out an analysis of the hazards arising from the use of the toy, instead of only allowing an analysis only of the risks inherent in its use. The Committee however considers that this analysis should cover the entire lifecycle of the toy, regardless of whether or not harmful situations arise, thereby avoiding cases such as the Mattel one.

4.7 Article 18

The EESC considers that the conformity assessment procedure should be applied to all categories of toys, and not only in the cases listed in paragraph 3, ensuring use of uniform criteria and introducing a European safety label, as proposed by the EP ⁽²¹⁾.

Moreover, given that this is a technical area in which specific practical knowledge or statistics on accidents caused by virtue of product use are lacking, the EESC emphasises the need for the Commission to flesh out the precautionary principle in the present proposal, in exactly the same way as in the January 2000 White Paper on food safety ⁽²²⁾.

4.8 Annex II — Particular safety requirements

Part I — Physical and mechanical properties

The EESC believes that the scope of the third paragraph of point 4 should be extended to children under 60 months, since it is still possible at this age that children might use the toy without due prudence and precaution by putting it in their mouths, even if this was not the manufacturer's intention at the design stage.

The EESC also considers that the following aspects have not been covered:

- product packaging, and specifically situations in which toys are packaged in plastic bags;
- the possibility of certain toy components becoming loose and being swallowed by children;
- the characteristics of toys if broken.

Part III — Chemical properties

While welcoming the proposed changes, the EESC would draw attention to the need to implement, with immediate effect, the precautionary principle with regard to chemical properties, since World Health Organisation studies have shown that exposing children to these products can lead to chronic illnesses that continue to affect children over the age of three.

⁽²¹⁾ EP resolution of 19.9.2007 on dangerous toys (document P6-TA(2007)0412) of 26/9/2007.

⁽²²⁾ COM(1999) 719 final of 12.1.2000.

The Committee therefore highlights the need for all CMR substances — including those coming under category 3, provided that they have been duly recognised as potentially dangerous — to be prohibited, not only from the design of the product itself, but from all the internal component materials, in keeping, moreover, with the directive on cosmetic products. The EESC would also alert the Commission to the excessive laxity regarding not only the permitted migration limits, but also endocrine interruptors, which can stunt normal child development.

With regard to the use of allergenic substances, the EESC recommends that the Commission prohibit the use of all fragrances and sensitisers, since they may contain not only allergenic substances — that should clearly be banned — but also other substances that have direct implications for children's immune systems.

To be realistic in terms of workability and given the structure of the toy industry, with a vast majority of SMEs, and the substantial changes that this Directive brings, especially in the field of chemical properties, the EESC would like to recommend a 5 year transition period.

Lastly, the EESC draws attention to the need to ensure the compatibility of the present proposal with health safety rules,

especially regarding the materials used in toys for children of less than 36 months. The Committee therefore urges the Commission to authorise only the same substances that are allowed for materials in direct contact with food products, for the design of such toys.

Part IV — Electrical properties

The EESC considers that the annex should contain specific rules on products requiring the use of batteries, and particularly mercury batteries.

4.9 Annex V — Warnings

The EESC considers that there should be specific warnings concerning special conditions for children with certain physical or mental disabilities, so that parents or carers are aware in advance of the risks inherent in the use of the toy.

Regarding the use of toys in food, the EESC considers that there should be a specific indication, displayed in a visible and indelible way, that the food contains a toy, making this visible regardless of how it is packaged.

Brussels, 18 September 2008.

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 European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A single market for 21st century Europe’

COM(2007) 724 final

(2009/C 77/03)

On 20 November 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

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A single market for 21st century Europe.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 July 2008. The rapporteur was Mr Cassidy and co-rapporteurs were Mr Hencks and Mr Cappellini.

At its 447th plenary session, held on 17 and 18 September (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 51 votes to two with four abstentions.

1. Executive summary — conclusions and recommendations

1.1 The EESC underlines the importance of the Lisbon Strategy as an aid to maintaining the benefits of the Single Market and its development and consolidation.

1.2 A well functioning, competitive and innovation-friendly Single Market is essential for Europe to make the most of globalisation while safeguarding its welfare standards. In this connection the EESC is concerned by recent decisions of the Court of Justice concerning the posting of workers, and it is in the process of analysing the repercussions of these for the Community's social policy 'acquis' ⁽¹⁾.

1.3 In order to develop the Single Market, the EESC underlines the importance of promoting and capitalising on scientific research and innovation results, assisting national technology suppliers in promoting at European level the innovative products and technologies, promoting dissemination and transnational exploitation of research results. The Single Market is a key tool for realising the Lisbon Agenda. Its aim is to benefit consumers, economic growth and employment by progressively dismantling barriers to the free circulation of people, goods, services and capital, even though many remain. The benefits from closer integration are undeniable.

1.4 The Commission's Single Market Review Package provides a good basis for reinvigoration of the Single Market, but its success will depend greatly on the ability and the ambition of national governments and their social partners to take up their responsibilities and put in place the necessary resources to turn this rhetoric into reality.

1.5 Correct and uniform enforcement of existing legislation and standards is one of the most important challenges. Impact Assessments, the reduction of administrative burdens and the cost of legislative compliance which stem from the tax fragmentation of the internal market, better consultation of the social partners and stakeholders, in particular SMEs, are essential both to improve understanding of regulatory goals and to identify non-regulatory solutions.

1.6 Small and medium sized firms make a vital contribution to the effective operation of the Single Market. SMEs in their various forms play a particularly important role in the service sector and are central to the social compromises that support the EU's economy. The Small Business Act and the SME Charter all acknowledge the importance of SMEs in the policy processes and institutions of the EU and member states. However, the EESC believes that greater attention should be paid to the role of SMEs in the implementation of policy, specifically with reference to their contribution to achieving economic, environmental and social policy objectives.

1.7 The EESC underlines that the European Globalisation Fund is an important instrument of solidarity that will provide specific help to workers made redundant as a result of changing global trade patterns to find another job. While it is welcomed that the scheme applies to employees in SMEs the Committee regrets that it is not available to the self employed who will be vulnerable to the same changes.

1.8 The EESC calls upon the Commission and Member States to ensure sufficient allocation of resources to improve enforcement of Single Market rules. Initiatives should also be developed to ensure synergies between Single Market policy, competition policy and social and environmental policy, which are important for a well functioning Single Market.

⁽¹⁾ INT/416, R/CESE 1120/2008.

1.9 The Commission and Member States have to ensure that new regulatory initiatives, which should contribute to the smooth functioning of the Single Market, take into account both the impact on the competitiveness of European companies and the social and environmental effects. In order to ensure coherence and legal certainty for business and consumers, and to avoid new initiatives contradicting each other, there should be a 'Single Market Compatibility Test' ⁽²⁾ for new proposals at both EU and national levels, to assess their social and environmental impact.

1.10 Easy and affordable access to justice for citizens and businesses should be provided including adequate means for redress and dispute resolution mechanisms. In this regard, development of out-of-court dispute resolution tools should be improved.

1.11 The EESC can only welcome the objective of the communication of 20 November 2007 on SGIs, aimed at 'consolidating the EU framework applicable to services of general interest, including for social and health services, providing concrete solutions for concrete problems where they exist' and 'a mix of sector-specific and issue-specific actions'.

1.12 Because EU primary law or the treaties recognise that SGEIs as a whole form part of the EU's 'common values' and contribute to its 'social and territorial cohesion', sector-specific actions (taking account of the specific characteristics of each sector) must be combined with issue-specific approaches.

1.13 By incorporating the distinction between economic and non-economic services into primary legislation, as well as the need to ensure respect for SGEIs' common operating principles, the SGI protocol shows how the process of clarifying the concepts and schemes under consideration is now more important than ever to ensure that such services no longer depend on an exclusive legislative or judicial case-by-case approach.

1.14 Despite repeated demands by the European Parliament for genuine legal certainty for social services of general interest, the proposals set out in the SGI communication are confined to a set of answers to 'frequently asked questions', which will certainly be useful, but have no binding legal value.

1.15 The EESC, therefore, proposes a multi-faceted and gradual approach, combining the sector-specific and issue-specific aspects, which would lead to the adoption of legislative initiatives where required and/or to these principles and conditions being adapted to the different sectors concerned (the cross-cutting, issue-specific approach).

⁽²⁾ As requested by the European Parliament in its resolution of 4 September 2007 on the Single Market Review: tackling barriers and inefficiencies through better implementation and enforcement [2007/2024(INI)].

2. Main elements of the Commission Communications

2.1 The Commission package under consideration proposes a range of initiatives underpinned by five working papers and two communications concerning services of general interest and the social dimension of the single market ⁽³⁾.

2.2 The EESC has produced opinions on all of these topics ⁽⁴⁾. It has recently adopted an own-initiative opinion on the external dimension of the Single Market and is currently preparing one on its social and environmental dimension ⁽⁵⁾.

3. General comments — More effective enforcement

3.1 The Committee welcomes the emphasis in COM(2007) 724 final on empowering consumers and SMEs in order to help them benefit from the Single Market and respond better to their expectations and concerns. It is therefore welcome that the Single Market policy pays special attention to consumer-related areas, such as energy, telecommunications, retail financial services and the wholesale and retail trades.

3.2 The success of future Single Market policy depends on the combined capacity of Member States and of the Commission to improve its functioning. The Single Market is 'work in progress' and is a shared responsibility. Member States have to take greater ownership of it. Often national authorities fail to live up to their responsibilities for the management of the Single Market resulting in new obstacles which undermine the trust which the Single Market should inspire. The important role that social partners have in supporting the Single Market should be more recognised.

⁽³⁾ The Commission 'package' of 20 November 2007 consists of a Communication 'A single market for 21st century Europe' [COM(2007) 724 final], establishing a set of initiatives to reposition the Single Market. This Communication is supported by five staff working papers on:

- 'The single market: review of achievements' [SEC(2007) 1521]
- 'Instruments for a modernised single market policy' [SEC(2007) 1518]
- 'Implementing the new methodology for product, market and sector monitoring: Results of a first sector screening' [SEC(2007) 1517]
- 'The external dimension of the single market review' [SEC(2007) 1519]
- 'Initiatives in the area of retail financial services' [SEC(2007) 1520].

There are two further communications:

- A Communication on 'Services of general interest, including social services of general interest: a new European commitment' [COM(2007) 725 final] and several staff working documents [Commission staff working documents: SEC(2007) 1514, SEC(2007) 1515, SEC(2007) 1516]
- A Communication on 'Opportunities, access and solidarity: towards a new social vision for 21st century Europe' [COM(2007) 726 final].

⁽⁴⁾ CESE 267/2008, OJ C 162 of 25.6.2008, CESE 1262/2007, OJ C 10 of 15.2.2008, CESE 62/2008, OJ C 151 of 17.6.2008.

⁽⁵⁾ CESE 481/2008, OJ C 204 of 9.8.2008 and INT/416, R/CESE 1120/2008.

3.2.1 The Commission aims at giving higher priority to correct enforcement. There is a need to establish instruments to ensure that legislation works better in practice. Timely and correct transposition of Community legislation and administrative simplification are crucial to facilitate enforcement. Correct transposition of the services directive is particularly important for achieving its goals of creating jobs and growth.

3.3 Provision of easy and quick solutions to problems that citizens and business face in the Single Market should remain a priority. SOLVIT is a particularly helpful but unfortunately 'underused' tool due to a lack of knowledge about the system and its usefulness and adequate resources especially at national level. Any initiative to remedy this situation, including actions to ensure sufficient resources in the SOLVIT centres, both human and financial, are highly recommended, as are initiatives to widen their scope.

3.4 The EESC supports the Commission's intentions to streamline and expedite infringement processes by giving priority to infringement cases which present the greatest risk and are economically important without compromising the effectiveness of existing deterrents.

3.5 Much remains to be done in market surveillance of locally produced and imported products. This imposes a duty on Member States' authorities as well as on the European Commission.

3.6 The EESC would like the Commission to place more emphasis on assistance to SMEs by linking SME policy to the social and environmental objectives of the European Union, and finally to abolish all national non-tariff barriers including barriers to the free movement of capital and workers ⁽⁶⁾.

3.7 In a more general way, it remains crucial that the Commission continues playing a strong role as guardian of the Treaty and exercises its right of initiative in order to make the Single Market function well.

3.8 The EESC supports the importance of continuous efforts to be made for further reducing costs resulting from fiscal fragmentation of the Single Market through promotion of community regulations which will support the development of trans-border activities and provide for consolidation of the Single Market.

⁽⁶⁾ *Small and medium-sized enterprises — Key for delivering more growth and jobs. A midterm review of Modern SME policy*, COM(2007) 592 final available from:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0592:EN:NOT>.

4. Better regulation

4.1 The EESC welcomes the objective of ensuring 'more inclusive policy-shaping' and the desire to 'broaden stakeholder involvement'. Systematic impact assessments are of key importance.

4.2 Consultation of representative stakeholders when an impact assessment is being prepared is essential. Impact Assessments should be scrutinised by an independent and external body of experts including end user groups of the legislation.

4.3 Reduction of the administrative burdens on companies must also be guaranteed without compromising social outcomes.

4.4 In order to ensure coherence and legal certainty for business and consumers, and to avoid new initiatives generating new barriers, there should be a 'Single Market Compatibility Test' with an evaluation of the social and environmental consequences ⁽⁷⁾ for new proposals at both EU and national levels. Unclear legal texts, often implemented and interpreted differently, cause contradictions in Community legislation.

4.5 Improved information and data about the practical implementation of Single Market rules is of paramount importance. The Commission should be more open in disclosing information about those Member States which do not fulfil their responsibilities and in assisting the role of national social partners by making national reporting more consistent and transparent.

5. External dimension of the Single Market ⁽⁸⁾

5.1 The EESC agrees with the Commission that globalisation is a formidable source of dynamism and competitiveness and that the Single Market is an asset which should be used as a springboard to meet the challenges of globalisation.

5.2 Trade liberalisation is correctly identified as the first pillar of the EU's strategy in this area. An ambitious conclusion of the Doha Round and completion of the far-reaching free-trade agreement negotiations launched under Global Europe will be the measure of the EU's success.

5.3 Regulatory and standards issues are increasingly determinants of companies' ability to engage internationally. European Standardisation Organisations such as CEN, CENELEC and ETSI in cooperation with advisory organisations, such as NORMAPME ⁽⁹⁾, should ensure that such standards are accessible to all businesses particularly small businesses, across the EU and developing countries.

⁽⁷⁾ See opinion CESE 794/2007.

⁽⁸⁾ CESE 481/2008, OJ C 204 of 9.8.2008.

⁽⁹⁾ The European Office of Crafts, Trades and Small and Medium-Sized Enterprises for Standardisation.

5.4 The Commission rightly emphasises the need to achieve improved regulatory cooperation, equivalence and convergence internationally. 'One test, one standard, accepted everywhere' should be the long-term goal.

5.5 EU regulations must maintain competitiveness. Excessive burdens on EU companies will not be compensated for by international acceptance of EU norms. Regulatory cooperation with partner countries will not be successful without a spirit of openness and innovation to other approaches.

5.6 The EESC is encouraged by the commitment to benchmarking of EU regulation against international best practice particularly with that of EU's main trading partners. This benchmarking should be systematically included in EU impact assessments and the EU should be open to regulatory cooperation with important trading partners. The EU should accept officially recognised international standards for conformity assessment.

5.7 EU initiatives to take a lead on a global scale in rule-setting and the development of high quality, science-based international standards for industrial and food products should be encouraged. Common standards should be accompanied by common regulatory objectives. Therefore the Committee would recommend more focus on bilateral agreements and networks among international regulators.

5.8 The EU should remain supportive of free trade, while at the same time providing an adequate level of market surveillance to guard against the import of unsafe products. The Commission however should make sure that these measures and emerging systems of private standards are not misused in a protectionist manner ⁽¹⁰⁾.

6. The social dimension of the Single Market

6.1 The Committee supports the view that a social dimension will help to improve the functioning of the Single Market, along the lines of the 'growth and jobs' strategy and through its strong emphasis on a healthy SME economy.

6.2 Since labour market integration is the best safeguard against social exclusion, better use of Europe's labour force potential in rapidly changing societies must be at the core of

the Commission's plan for 'opportunities, access and solidarity'. The Commission must work with social partners to ensure that this applies especially to vulnerable, immigrant and minority groups.

6.3 To respond to the challenges of globalisation: technological change and evolving social and environmental realities, policy efforts must be geared towards securing social goals through increasing employment rates and creating the framework conditions for high productivity growth.

6.4 The importance of integrating 'flexicurity' ⁽¹¹⁾ in all EU policies has been highlighted by the EESC in its opinion ⁽¹²⁾. SMEs, and especially the self employed, are central to the effective operation of flexible labour markets. To this end a greater understanding of the role of SMEs in relation to social policy provision is needed.

7. Innovation-driven Single Market

7.1 In order to develop the Single Market, the EESC underlines the importance of promoting and capitalising on scientific research and innovation results, assisting national technology suppliers in promoting at European level the innovative products and technologies, promoting dissemination and transnational exploitation of research results. Europe's innovative capacity can be greatly influenced by the quality of the Single Market. Coordination of efforts is required at the European level on R&D between 'clusters' of SMEs, large firms, research institutes, universities and the new European Institute of Innovation and Technology.

7.2 Progress towards a more competitive patent system in terms of costs of legal certainty is key for Europe's innovation capacity. This includes progress on a common patent jurisdiction system for Europe that should deliver the highest quality, cost-effectiveness and reliability for all companies and a Community Patent also meeting those benchmarks to benefit in particular SMEs. Strong protection of intellectual property rights with effective measures at European and international level against the growing scourge of counterfeiting and piracy is also needed.

7.3 Innovation in social policy administration should embrace the variety of social economy organisations (such as cooperatives) that can bring service provision closer to user communities under appropriate regulatory supervision.

⁽¹⁰⁾ WTO World Trade Report 2005 'Exploring the links between trade, standards and the WTO' from http://www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report05_e.pdf.

⁽¹¹⁾ CESE 767/2008 (SOC/283), COM(2007) 359 final: Flexicurity can be defined as an integrated strategy to enhance, at the same time, flexibility and security in the labour market.

⁽¹²⁾ CESE 999/2007, OJ C 256 of 27.10.2007.

7.4 The new Single Market Policy must play a central role in the creation of an environmentally sustainable global economy.

8. Consumer protection policy

8.1 A balanced consumer policy is important for a well-functioning Single Market. The EESC sees consumers as central to the Commission's new vision for a truly inclusive Single Market. More attention should be paid to the experience of consumers in the market, for instance through impact assessments or incorporating consumer interests into the Lisbon Agenda.

8.2 The focus should be on one common market that is beneficial to consumers and business and on the role that the service sector can play in the economy, raising quality and consumer trust. Consumers should have effective access to goods and services offered throughout the EU and businesses should be able to offer their goods and services anywhere in the EU as easily as they do on their domestic market. Harmonisation coupled with mutual recognition provides the right basis for this 'win-win' situation ⁽¹³⁾.

9. Communication on Services of general interest, including social services of general interest: a new European commitment ⁽¹⁴⁾

9.1 The EESC has stated its concerns in a number of opinions ⁽¹⁵⁾ at the situation of legal uncertainty concerning SIG.

9.2 The communication highlights the role of the specific protocol on social services of general interest appended to the Lisbon Treaty (the SIG protocol) which is intended, according to the Commission, to establish a consistent framework that will guide EU action, whilst providing a solid basis for defining services of general interest ⁽¹⁶⁾.

9.3 The Communication on SGIs, on the other hand, makes only a passing reference to the new Article 16 of the Lisbon Treaty, without elaborating on its implications, whereas this introduces a new legal base for Services of General Economic Interest (SGEI), giving the Council and the Parliament the task of establishing, by means of regulations, in line with the ordinary legislative procedure, the principles and conditions enabling SGEIs to fulfil their missions.

⁽¹³⁾ As stated in the European Council conclusions of 13-14 March 2008.

⁽¹⁴⁾ COM(2007) 725 final.

⁽¹⁵⁾ CESE 427/2007, OJ C 161 of 13.7.2007, CESE 976/2006, OJ C 309 of 16.12.2006, CESE 121/2005, OJ C 221 of 8.9.2005 and CESE 1125/2003, OJ C 80 of 30.3.2004.

⁽¹⁶⁾ COM(2007) 725 final of 20.11.2007, point 3, page 9.

9.4 The effective implementation of the principle that missions of general interest take precedence, which is now made possible by the new Article 16 of the Lisbon Treaty, will help reducing the frequent recourse to the arbitration of the Court of Justice.

9.5 The Lisbon Treaty involves a number of innovations, not least the new Article 16 referred to above, and a general reference to SGIs and services of non-economic general interest (SNEGI). It helps to refocus the issue of services of general interest in the field of Community action in line with the principle of subsidiarity.

9.6 In the EESC's view, the new Lisbon Treaty (Article 16 TFEU and the SGI protocol) is therefore merely the start of a new approach to achieve greater legal security and more consistent regulation of national and Community SGI schemes.

9.7 The SGI protocol forms a handbook to the rules on SGIs, both economic (SGEI) and non-economic (SNEGI), but makes no attempt to solve the problem of distinguishing between these two categories.

9.8 By incorporating the distinction between economic and non-economic services into primary legislation, as well as the need to ensure respect for SGEIs' common operating principles, the SGI protocol shows how the process of clarifying the concepts and schemes under consideration is now more important than ever to provide legal security for the companies and bodies responsible for managing these services and their main beneficiaries.

9.9 The SGI communication proposes to 'consolidate the EU framework applicable to services of general interest, including for social and health services, providing concrete solutions for concrete problems where they exist' and 'a mix of sector-specific and issue-specific actions'.

9.10 Such action should, of course, take account of the specific characteristics of each sector concerned. Because primary law has recognised, however, that SGEIs as a whole form part of the EU's 'common values' and contribute to its 'social and territorial cohesion' there is a need to combine sector-specific actions (taking account of the specific characteristics of each sector) and issue-specific approaches.

9.11 The EESC therefore proposes a multi-faceted and gradual approach, combining the sector-specific and issue-specific aspects, which would lead to the adoption of legislative initiatives where required and/or to these principles and conditions being adapted to the different sectors concerned (the cross-cutting, issue-specific approach).

10. The specific situation of Social Services of General Interest

10.1 The EESC underlines the importance of the Lisbon strategy as an aid to maintaining the benefits of the Single Market and its development and consolidation.

10.2 The Commission has introduced the concept of social services of general interest (SSGI) and has detailed it in its White Paper on SGI and in two communications ⁽¹⁷⁾ and in a 'staff working document' ⁽¹⁸⁾.

10.3 The communication does not put forward a definition of these SSGIs and prefers to make a distinction between two broad groups of SSGIs: firstly legal and complementary social protection schemes; and secondly, 'other essential services provided directly to the person'.

10.4 The Commission's tentative approach shows how difficult it is to classify SSGIs, as they reflect specific and extremely varied tasks that are deeply rooted in national and even local collective preferences.

10.5 During consultation on the 2003 Green Paper, the majority of stakeholders in this sector (local authorities, operators, users' representatives) stated that they felt there to be increased legal uncertainty regarding the body of Community law that applied to them, given their specific characteristics, in particular concerning authorisation to provide the service. They made it clear that they fell into a 'grey area', which hampered their work. This led to:

- the Commission launching a specific discussion process (involving a communication, studies, etc.),
- the legislator largely excluding them from the scope of the Directive on services ⁽¹⁹⁾, and
- the European Parliament calling twice for greater legal certainty ⁽²⁰⁾.

10.6 The Commission has not, however, adhered to this approach, which clearly contradicts the sector-specific approach that it favours, and today intends to limit its proposals to a set of answers to 'frequently asked questions' and an interactive information service, which will certainly be useful, but have no binding legal value.

⁽¹⁷⁾ COM(2006) 177 of 26.4.2006 entitled 'Implementing the Community Lisbon programme: Social services of general interest in the European Union' and COM(2007) 725 of 20 November entitled 'Services of general interest, including social services of general interest: a new European commitment'.

⁽¹⁸⁾ SEC (2007) 1514 of 20.11.2007 entitled 'Frequently asked questions concerning the application of public procurement rules to social services of general interest'.

⁽¹⁹⁾ See Article 2(1) and (2)(j) of the Services Directive.

⁽²⁰⁾ Rapkay Report of 14.9.2006 and Hasse Ferreira Report of 2007.

10.7 In order to meet the calls for legal certainty, inter alia under Article 16 TFEU which opens up new prospects with regard to the place and role of SGEIs in the European Union, including SSGIs, the process of clarifying the concepts and also the Community frameworks applicable to public-spirited activities must be pursued.

11. Communication on 'Opportunities, access and solidarity: towards a new social vision for 21st century Europe'

11.1 The Committee welcomes the objectives stated in the Communication on 'Opportunities, access and solidarity: towards a new social vision for 21st century Europe' ⁽²¹⁾, which addresses EU citizens, civil society and businesses, including SMEs, and is based on Europe's key instruments such as the Single Market, the Lisbon Strategy for Growth and Jobs and the Sustainable Development Strategy.

11.2 The current changes in European societies (EU 27 with 500 million citizens, demographic change, globalisation, technological progress and economic development among others) might represent new work opportunities and skills, but adaptation to change still entails a risk of unemployment and exclusion.

11.3 The EESC supports a more prominent role for the EU in facilitating, anticipating and fostering such structural changes while promoting European values at global level. The Communication sketches out a new 'life chance' social vision for 21st century Europe and attempts to complete the consultation expired on 15 February 2008. The Bureau of European Policy Advisers (BEPA) among others, as well as Member States and EU institutions, have been involved in the debate on social changes and on the concept of a European Social Reality. The EESC welcomes the objective of ensuring that the final analysis of these discussions will contribute to the preparation of the renewed Social Agenda to be submitted in 2008 and take into account the new institutional framework provided by the Lisbon Treaty.

11.4 General assumptions and comments

11.4.1 Changing social realities

All Member States are experiencing rapid and profound changes and in particular Europeans express anxiety and concern for the future generation (see also previous EESC opinions and

⁽²¹⁾ COM(2007) 726 final.

initiatives, the BEPA document with a detailed overview of on-going social trends and the Commission's 2007 Social Situation Report).

11.4.2 'Life chances' social vision for Europe: advancing well-being through opportunities, access and solidarity

— Opportunities — to start well in life, realise one's own potential and make the most of the chances offered by an innovative, open and modern Europe.

— Access — new and more effective ways to get an education, progress in the job market, obtain quality healthcare and social protection and participate in culture and society.

— Solidarity — to foster social cohesion and social sustainability, and make sure that no one is left behind.

11.4.2.1 The EESC agrees with the Commission that there is no 'one size fits all' recipe for Europe and that common challenges require joint action supported by active citizenship.

11.4.2.2 Combating social exclusion and improving living by creating opportunities for individuals is essential to sustain economic growth and to reduce risks of shortcomings in the welfare system. Confidence and trust are essential for progress, modernisation and openness to change.

11.4.3 Key areas for action:

In order to achieve the objectives of 'opportunities, access and solidarity', the EU needs to invest:

- 1) **in youth:** new social changes and new economy based on innovation and technology request more attention in terms of education and skills; investing in youth has a positive impact both on economic development and social cohesion. The Lisbon Agenda has placed education in the centre of the European social and economic system by turning knowledge into a competitiveness lever for Europe in the global context;
- 2) **in fulfilling careers:** a dynamic economy and labour market require flexible labour market rules and high social standards (see 'flexicurity');
- 3) **in longer and healthier lives:** longer life expectancy puts a burden on social protection systems but also creates new

economic opportunities in terms of new services, goods and technologies. The EU should promote new social policies to take advantage of these opportunities and to remedy the failure of current protection systems;

4) **in gender quality:** new economic models induce new social schemes. For instance, labour policies should consequently adapt to new requirements of gender equality. Some of the Commission's proposals address pay gaps, the tax system and family-friendly practices at the workplace;

5) **in active inclusion and non-discrimination:** the recent enlargements revealed deep economic and social disparities between Member States and regions. The European Commission aims at promoting a new cohesion policy based on the acceptance of diversity, active inclusion, the promotion of equality and the eradication of discriminations;

6) **in mobility and successful integration:** The Single Market has led to an increasing citizens mobility also impacting on SMEs. This requires new EU-wide approaches based on integration;

7) **in civic participation, culture and dialogue:** these aspects play a important role in social cohesion while also involving economic resources connected with innovation and technological development.

11.4.4 The role of the EU

11.4.4.1 The EESC stresses the fact that although the main competence for these policies lie in the Member States, the EU and Social Partners play an important role in steering and supporting related actions and reforms. The '*acquis communautaire*' is a major instrument in particular with regards to enlargement and cohesion policies, the Lisbon Treaty and the Charter of Fundamental Rights.

11.4.4.2 The EESC agrees with the following five strategies set out in the Communication:

— **setting policy frameworks for action:** the EU has already stated common goals, aiming at harmonisation among Member States, in terms of Employment Strategy, the Lisbon Agenda and social policies. Efforts must now be focused on reaching these objectives and making these common principles operative;

- **upholding Europe's values and ensuring a level-playing field:** The European legal framework plays a fundamental role in steering national policies towards common objectives;
- **sharing experiences and good practices:** The EESC shares the Commission's view that best practices, exchange of experiences, joint evaluations and peer reviews on social innovations should be part of the mainstream national and European policy debate. Institutions at national, regional and local level, social partners and NGOs should also be actively involved;
- **supporting action at local, regional and national level:** The EU cohesion policies and structural funds have contributed in reducing disparities in prosperity and living standards across the EU. In recent years these instruments have been more closely associated with 'growth and jobs' policy priorities (for the period 2007-2013 over 75 billion euros from the European Social Fund have been invested in new skills and innovative companies). The EESC underlines that the European Globalisation Fund is an important instrument of solidarity that should provide active measures to alleviate consequences of globalisation on most vulnerable groups as

well as on businesses, including SMEs. It is therefore crucial to take part in the debate on the EU budget after 2013 so as to include the findings of social consultation;

- **raising awareness and building a strong knowledge base:** The EESC welcomes the initiatives such as the European Year for Equal Opportunities for All (2007), for Intercultural Dialogue (2008), for combating poverty and social exclusion (2010). The existing Foundations and Agencies — the European Foundation for the Improvement of Living and Working Conditions, The European Agency for Fundamental Rights and the European Institute for Gender Equality — will increasingly contribute to decision-making, to raising awareness and to promoting systematic consultation (and not only e-consultation). The EESC, independent expert panels, representative organisations and research institutes at EU/national levels should also be associated to this process. The EESC calls for an increased involvement of all interest parties in raising awareness and improving the quality of findings (provision of reliable data, statistics, common indicators, monitoring systems, etc.) on social issues.

Brussels, 18 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — A European initiative for the development of micro-credit in support of growth and employment’

COM(2007) 708 final/2

(2009/C 77/04)

On 13 November 2007 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions. A European initiative for the development of micro-credit in support of growth and employment.

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 15 July 2008. The rapporteur was Mr Pezzini.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 18 September), the European Economic and Social Committee unanimously adopted the following opinion.

1. Conclusions and recommendations

1.1 The Committee welcomes the Commission’s moves to increase support for the setting-up and growth of micro-enterprises and fostering the entrepreneurial spirit, so as to expand the Community’s production and employment base with a view to greater competitiveness, greater cohesion and a higher-quality knowledge-based economy in line with the renewed Lisbon objectives.

1.2 While the Committee welcomes the initiative to set up a new Community support structure for micro-credit, it feels that merely encouraging Member States is not enough, given that the non-bank sector, which is not covered by the EC bank directives, is regulated inadequately in many Member States and by widely differing basic provisions.

1.3 The Committee believes that a pilot project for socially responsible micro-investment bringing together bank and non-bank micro-credit institutions in a European network — through the implementation of memorandums of understanding for socially responsible investment with individual institutions and support from trade associations — should target in particular those unlikely to obtain bank credit:

- to develop projects for genuine, productive, decent work;
- to enhance and expand the production, cooperation and employment base;
- to reactivate individuals’ ‘empowerment’ capacity, building processes for integrating, supporting and enhancing the abilities of people in danger of economic and social exclusion.

1.4 The Committee is convinced that an innovative use of new technologies in the field of micro-credit could help extend the reach of micro-finance, by means of a network, while also increasing competition and reducing costs for users.

1.5 In addition, the Committee feels that support for micro-credit must go hand in hand with training credits for applicants, facilitating their development and success on the market, to prevent social exclusion and continually enhance the implementation of the Lisbon Strategy.

1.6 The Committee accepts that any changes to the institutional and legal frameworks supporting micro-credit are primarily a matter for the Member States, to be implemented by means of the annual Lisbon governance cycle. Nevertheless, action is needed to boost the European reference system, particularly by:

- establishing a network of agreements on socially responsible investment (MOUs), between the *European micro-credit fund* to be set up and individual micro-credit institutions on the ground, so that the micro-credit network is based on compatible standards of soundness, solvency, portfolio diversification ⁽¹⁾, transparency and combating usury;
- establishing an EU rating system for bank and non-bank MFIs, to increase their quality and reliability, as well as the availability of information on risk and performance, by adopting a common format to enable dialogue and best-practice exchange, as well as the provisional awarding of an EU MFI quality label that will help to attract funds and increase the confidence of potential micro-credit recipients;
- launching EU information and training measures for micro-credit stakeholders on the available options and means of operation and, from the point of view of potential beneficiaries, on the requirements and method of preparing a draft business plan — using a simplified, standardised format;

⁽¹⁾ Cf. the studies by the Nobel prize-winner Harry Markowitz on the relationship between portfolio diversification, risk reduction and compensation in fluctuations in investment return (efficiency curve) stabilising the economic cycle.

- introducing EU measures aimed at the ongoing training and capacity building of management and staff of bank and non-bank MFIs, based on common technical expertise, and as a way of dealing with changes in micro-finance, new customer requirements and the need for a common basis to facilitate EU-wide dialogue and best-practice-exchange; and
- establishing an EU data base network on the basis of harmonised criteria, enabling the collation and processing of standardised data on transactions and related risk, inter alia to reduce the cost of risk assessment inherent in individual micro-credit transactions.

1.7 The Committee has misgivings about the proposal to set up a dedicated Community support structure within the Jeremie department of the EIF. It would not give the initiative optimal visibility and would limit the scope it ought to have for coordinating other existing initiatives, while also preventing it from taking on activities other than technical assistance. The Committee therefore thinks that an independent department should be set up, which could act as a micro-credit fund.

1.8 The funding and technical assistance provided by the new support structure should not be directed solely at new non-bank MFIs, but rather should cover all such institutions so as not to distort competition.

1.9 The EU MFI initiative should include measures to increase social dialogue, as well as dialogue between the various civil society players and to make optimum use of EU best-practice-exchange networks, such as the European Microfinance Network, the Microfinance Centre and the European Microfinance Platform.

1.10 The Committee feels that the MFI initiative should enhance the role of employers' associations in ascertaining the reliability and competence of applicants, building up strong relationship and trust potential and providing training, advice and other kinds of support, to bring out the autonomous capacities of beneficiaries and cut red tape, particularly as regards drawing up business plans.

1.11 Setting up a micro-credit fund, operating in conjunction with financial institutions, state administrations ⁽²⁾, trade associations and guarantee cooperatives and credit consortia could play a major role in directing financial engineering towards forms of 'social credit management'.

⁽²⁾ In many Member States, regional and local administrations support the development of SMEs by providing funding for credit consortia.

1.12 A social view of credit, which could also be the basis for setting up a micro-credit fund, ties in closely with corporate social responsibility principles and the values of better, more widespread employment.

1.13 Support for EMAS environmental certification can provide an excellent means to encourage social growth of businesses and facilitate informed dissemination of a micro-credit fund.

2. Introduction

2.1 In April 2007 the SME Observatory noted that the greatest barrier to more product and process innovation lay for European SMEs in gaining access to credit, followed by the difficulty of finding skilled human resources, while for larger businesses human resources were the main problem.

2.2 The market's main shortcomings are insufficient seed capital, available funds and demand. These issues are addressed by the Commission Communication Implementing the Community Lisbon Programme: Financing SME Growth — Adding European Value ⁽³⁾, on which the Committee has commented on several occasions ⁽⁴⁾.

2.3 In particular, the Committee noted that 'Policies to assist businesses to start up and develop should be intensified including quicker, lower-cost start-ups, measures to improve access to risk capital, more entrepreneurial training programmes, measures to improve access to public networks and utility services and a denser network of support services for small enterprises' ⁽⁵⁾.

2.3.1 The Committee stresses, as in previous opinions ⁽⁶⁾, that 'Cooperatives, consortia, mutuals, innovative start-ups and microenterprises can also help boost competitiveness and innovative capacity within the EU'.

2.4 It has also noted that 'A main issue is to ease access to finance markets' and that 'banks and other financial stakeholders, such as venture capital funds, should be encouraged to adopt a more positive attitude to risk-taking' ⁽⁷⁾.

⁽³⁾ COM(2006) 349 final of 29.6.2006.

⁽⁴⁾ Opinion CESE 599/2007, OJ C 168/1 of 20.7.2007 — rapporteurs: Mr Van Iersel and Mr Gibellieri.

⁽⁵⁾ Opinion CESE 982/2007, OJ C 256/8 of 27.10.2007 — rapporteur: Ms Faes.

⁽⁶⁾ Opinion CESE 1485/2005 on the Competitiveness and Innovation Framework Programme (2007-2013); rapporteurs: Mr Welschke and Ms Fusco.

⁽⁷⁾ Cf. footnotes 4 and 5.

2.5 In autumn 2007 the Commission announced that a set of initiatives for SMEs was being discussed, including a European initiative setting up a new support structure for micro-credit ⁽⁸⁾.

2.6 Micro-credit is generally acknowledged to be a financial instrument which has great impact on entrepreneurship, economic development and productive social inclusion but where there are still many shortcomings and much room for improvement. This relates to difficulties in obtaining seed capital investment, especially when the applicant is unemployed, has recently immigrated, belongs to an ethnic minority, or is based in a convergence region.

2.7 Another problem arises from the fact that for financial institutions economies of scale come into play, linked to fixed transaction costs such as information-gathering, assessment, and the follow-up to loans. This is particularly the case with micro-loans to the self-employed and to SMEs that are insufficiently transparent, with a limited capacity for providing the necessary information to financial institutions.

2.8 The international definition of micro-credit is 'making small loans — below EUR 25 000 in Europe ⁽⁹⁾ and below USD 100 000 in the United States — to low-income earners who usually have no access to bank loans because they are insufficiently solvent and/or because the cost of managing such loans is considered too high' ⁽¹⁰⁾. The definition of micro-credit does not include consumer credit.

2.9 The Committee agrees with the Commission that micro-credit has an important role to play in implementing the Lisbon Strategy for growth and jobs and promoting social inclusion. It is essential that micro-credit preserves its main role of encouraging growth of self-employment and development of micro-enterprises, and is not reduced to mere social aid.

2.10 The Committee believes that micro-credit should be used in the EU to address problems revealed by market failures, giving entrepreneurs access to credit, which is necessary to start up or expand economically viable activities, including in the area of development aid and cooperation policy ⁽¹¹⁾.

2.11 At Community level, the EIFs ⁽¹²⁾ CIP — Micro-Credit Guarantee provides a set of guarantees for micro-credit financing granted by local institutions to microenterprises ⁽¹³⁾.

⁽⁸⁾ Back in 1997, the Commission provided support for micro-credit, in conjunction with the EIF, through the SME-Guarantee facility.

⁽⁹⁾ SEC(2004) 1156; Competitiveness and Innovation Framework Programme, 1639/2006/EC.

⁽¹⁰⁾ Cf. Eurofi Francia website: eurofi.net.

⁽¹¹⁾ Cf. Regulation No 1905/2006 of the Parliament and of the Council establishing a financing instrument for development cooperation.

⁽¹²⁾ EIF, European Investment Fund.

⁽¹³⁾ For the definition of microenterprises see Recommendation 2003/361/EC.

However, there is currently no specific Community legislation on micro-credit apart from that governing the bank micro-credit sector, which is subject to European banking regulations ⁽¹⁴⁾, and the references to micro-credit included in various Community programmes and initiatives ⁽¹⁵⁾.

2.12 Furthermore, the micro-credit sector is regulated and managed differently according to the Member State. Only two Member States have specific legislation governing the non-bank microfinance sector ⁽¹⁶⁾, although four other Member States do have anti-usury legislation ⁽¹⁷⁾.

2.13 The Spring European Council pointed out, *inter alia*, the urgent need for 'further facilitation of access to finance, including through existing EU financial instruments' ⁽¹⁸⁾ and to 'promote higher overall labour force participation and tackle segmentation in order to ensure active social inclusion'.

2.14 The Committee believes that a broader legal and support framework could help to provide greater stimulus to set up new production businesses and facilitate their consolidation, preventing risks of marginalisation and exclusion from the production system which can exacerbate social and criminal scourges such as usury.

3. The Commission proposal

3.1 The Commission sets forth two lines of action:

— launch of a programme of reform by the Member States, aimed at improving the conditions for micro-credit according to national circumstances and priorities, with the possibility of Community assistance in establishing quantitative targets and good practices;

— setting-up of a new Community support structure for micro-credit within Jeremie, to develop technical assistance and support for consolidation of micro-credit bodies/institutions, and appropriate publicity and communication measures.

⁽¹⁴⁾ Directive 2006/48/EC — CRD (Capital Requirement Directive).

⁽¹⁵⁾ Cf. the Jeremie initiative; the Growth and Employment Initiative (Decision 98/347/EC); the Multiannual Programme for SMEs; the Competitiveness and Innovation Framework Programme (Decision 1639/2006/EC); the EAFRD (Regulation 1698/2005/EC); the European Globalisation Adjustment Fund (1927/2006/EC).

⁽¹⁶⁾ France and Romania. In addition, the legal systems of the United Kingdom and Finland provide for some exemptions on the subject, although there is no specific legislation.

⁽¹⁷⁾ Belgium, Germany, Italy and Poland.

⁽¹⁸⁾ 13-14 March 2008, point 11.

4. Framework for the development of micro-credit in support of growth and employment

4.1 Micro-credit can be a lever for social inclusion and enable less well-off people and businesses that are excluded from the conventional banking system to gain access to the crucial funds needed to start up and develop income-generating activities.

4.2 At EU level, the *Small Business Act for Europe* ⁽¹⁹⁾ — whose explicit objective is to establish concrete measures and principles for improving the European SME environment — should make it possible to identify and remove the barriers to unlocking the potential of small businesses, by stepping up the drive for simplification, **increasing access to credit**, and framing appropriate rules on energy and the environment.

4.3 The Committee feels that there should be better coordination of the array of relevant existing instruments, taking on board the experience of past and present instruments pertaining to micro-credit, as pointed out in the Commission Communication itself ⁽²⁰⁾, i.e.:

- the Jeremie initiative;
- the CIP Micro-credit Guarantee ⁽²¹⁾; the EMN and MFC ⁽²²⁾ under the Community action programme to combat social exclusion;
- the European Social Fund's initiatives;
- the rural development programmes under the EAFRD ⁽²³⁾.

4.3.1 The Committee believes that when devising new Community micro-credit initiatives, the successes achieved in the development and practical implementation over several years of DG Europaid's EU-ACP Microfinance Framework Programme should be taken into due account.

4.4 Financial engineering and the European micro-credit fund

4.4.1 Since the early 1980s ⁽²⁴⁾, and particularly as a result of the ideas and proposals arising from discussions during the

⁽¹⁹⁾ Cf. also in this regard Opinion CESE 977/2008; rapporteur Mr Cappellini.

⁽²⁰⁾ Cf. COM(2007) 708, Annex 3.

⁽²¹⁾ CIP, Competitiveness and Innovation Programme 2007-2013.

⁽²²⁾ EMN: European Microfinance Network; MFC: Microfinance Centre for Central and Eastern Europe.

⁽²³⁾ EAFRD: European Agricultural Fund for Rural Development.

⁽²⁴⁾ 1982: European Year of SMEs and the Craft Industry.

European Conferences of Crafts and Small Businesses ⁽²⁵⁾, European financial institutions have promoted and supported a culture of financial engineering in the Member States ⁽²⁶⁾.

4.4.2 The need to take practical steps to ease access to credit and help establish financial engineering prompted the Commission and the EIB, under pressure from European small business organisations, to set up the EIF ⁽²⁷⁾. After an initial, brief diversion into supporting communications networks ⁽²⁸⁾, the EIF turned its attention to providing various forms of guarantee to support measures assisting micro-businesses and SMEs, often involving financial engineering.

4.4.3 By means of the Commission's multi-annual programmes for micro-businesses, SMEs, cooperation and, latterly, through Axis 1 of the CIP ⁽²⁹⁾, financial engineering has been developed through:

- guarantees for loans granted to SME cooperatives and credit consortia;
- securitisation ⁽³⁰⁾ of the risk capital of credit consortia;
- capital guarantees through *mezzanine credit* ⁽³¹⁾;
- venture capital investments, support for eco-innovation, technology transfer;
- business angels.

⁽²⁵⁾ Held in Avignon in 1990, Berlin in 1994 and Milan in 1997.

⁽²⁶⁾ **Financial engineering** is based on the principle that financial support to a small-scale entrepreneur who wishes to start up a new business or invest in new products or processes should extend beyond the relationship between the small entrepreneur and the financial institution, but — given the social function of the business — must involve other parties, absorbing various degrees of liability and sharing part of the risk and cost.

⁽²⁷⁾ **EIF: European Investment Fund**, established in 1994, driven by the then DG XXIII (the directorate-general set up to support small business and the craft sector, which was behind the related European conferences ...), and by DG II (Economy and finance). The EIF had an original budget of ECU 1 billion from the EIB, ECU 800 million from the Commission and ECU 200 million, made up of shares of ECU 2 million each, from European financial institutions. More than fifty such institutions signed up to the initiative from the outset.

⁽²⁸⁾ Cf. Lille metropolitan area.

⁽²⁹⁾ CIP, Axis 1: support for entrepreneurship; Axis 2: support for ICT; Axis 3: support for Intelligent Energy Europe.

⁽³⁰⁾ Debt securitisation works by ceding part or all of the amount owed to a credit consortium (or bank) to specialised financial institutions in order to enable credit consortia in particular to boost the credit guarantees they can offer to undertakings.

⁽³¹⁾ Mezzanine credit is based more on beneficiary companies' expected cash flow than on real guarantees. It can work in two ways: (1) subordinate debt (loans at a fixed rate or index-linked rate); (2) equity kicker (the lender/investor is entitled to a percentage share of the increased worth of the property to which the loan refers). Mezzanine finance matures at between four and eight years.

4.4.4 On several occasions, the Committee has welcomed the action taken by the Commission, EIB and EIF, particularly in the last fifteen years, to support small businesses. The Committee acknowledged the broadening and modernisation of the EIB group financial support to SMEs ⁽³²⁾ **but it believes that efforts could be stepped up, inter alia through programmes agreed jointly with:**

- the EIB as regards capital, and the EIF as regards guarantees;
- the financial institutions in the individual Member States;
- micro-business and SME representative bodies; and
- credit consortia already engaged in financial engineering, acting as guarantors for between 50 and 80 % of business loans.

4.4.5 A **micro-credit fund** network could be set up at Member State level, drawing on EIB rotating funds and with additional EIF guarantees operating at various levels. At regional (NUTS II) and provincial (NUTS III) levels, credit consortia (where they exist) ⁽³³⁾ could provide the structure for granting the loans. Credit consortia have already gained considerable experience in the area of seed capital and, with sufficient risk capital, counter-guaranteed by the EIF, could provide the loan guarantees.

4.4.5.1 This new proposal should be clarified with respect to the creation of the micro-fund by the EIB group and the Commission. The aim of this initiative is to support micro-finance institutions across Europe through the provision of funding (grants, loans, mezzanine or equity instruments) as well as technical assistance. This micro-fund is being established by the EIF with an initial capital of around EUR 40 million for support activities (of which EUR 20 m from the EIB). The Committee believes that the EIF should also, in future, administer the fund.

4.4.6 A micro-loan could be sufficient to cover the purchase of the supplies and basic equipment needed to start up a business, or to replace equipment, which is always necessary in a micro-business ⁽³⁴⁾.

4.4.6.1 The Committee thinks that particular attention should be paid to micro-credit for women entrepreneurs. Here there needs to be greater attention to flexibility and to the practical arrangements and criteria for granting loans, in order to be responsive to situations where social or psychological difficulties come into play; these can be aggravated if the person:

- is a member of a minority,
- faces a difficult family situation,
- or is being pushed into social self-exclusion.

4.4.6.2 When designing and managing microcredit in support of female entrepreneurship, one must keep in mind the priority need to enable women to take on or resume a productive socio-economic role in society, with a view to boosting their self-esteem, building a culture of entrepreneurship and helping them to assume greater responsibilities and risks.

4.4.7 Micro-loans should also provide an opportunity for young people wishing to set up their own business, who have sufficient professional training but lack the financial wherewithal.

4.4.7.1 The initial guarantee for the loan, which in any case must be granted by a financial institution (which may or may not be a bank), consists of the equipment purchased. However, the existence of a *European micro-credit fund* would encourage financial institutions to be less stringent in offering loans ⁽³⁵⁾: as well as having its own funding and expertise and the ability to intervene from time to time, via the EIF, credit consortia and trade associations, to help pay off any debts, the Fund should also be willing and able to promote exacting standards of soundness, production enhancement and diversification, transparency, and combating usury ⁽³⁶⁾.

4.4.8 Studies on micro and small-business insolvency have found that in the major EU countries over the last ten years, loan-related insolvencies have not exceeded 4 % ⁽³⁷⁾. Thus, with a rate of less than 5 %, a **multiplier of 20** can be used to guarantee the loan granted by the financial institution.

4.4.9 With a multiplier of 20 and a guarantee covering 50 % of the insolvency of each individual debtor, a credit consortium with risk capital of EUR 1 million could guarantee loans to a large number of entrepreneurs ⁽³⁸⁾ for a total of up to EUR 40 million.

⁽³⁵⁾ By removing a significant proportion of their risk, financial engineering makes it easier and less costly for financial institutions to grant loans, especially to new and little-known entrepreneurs.

⁽³⁶⁾ Joint measures implemented by banks and trade associations to improve financial management of microenterprises were referred to in the documents of the first European Crafts Conference, held in Avignon in 1990, and in the second conference, held in Berlin in 1994. They were developed in particular by the network of *Raiffeisen-Volksbank* (German people's banks) together with trade associations (German Confederation of Skilled Crafts — ZDH).

⁽³⁷⁾ Cf. FedartFidi UE, European federation of craft-sector credit consortia (of the States in which the credit consortium system operates).

⁽³⁸⁾ 5 % of EUR 40 million is EUR 2 million; however, as credit consortia are responsible for only 50 % of a defaulted loan, only EUR 1 million of risk capital is required. Securitisation of this risk fund could allow credit consortia to grant new loans up to a new ceiling of EUR 40 million.

⁽³²⁾ <http://www.eib.org/projects/publications/sme-consultation-2007-2008.htm>.

⁽³³⁾ The credit consortia system is well-established in many European countries and has an active European federation.

⁽³⁴⁾ Micro-businesses account for 94 % of all non-agricultural private companies in Europe.

4.4.9.1 By granting guarantees, the credit consortium system enabled some EUR 6 billion to be loaned to Italian craft firms in 2007.

4.4.10 There are approximately 500 000 business start-ups per annum in the EU-27. The number of businesses that fail is slightly lower ⁽³⁹⁾. SMEs account for 99 % of each year's business start-ups and, of these, at least 240 000 are one-person businesses ⁽⁴⁰⁾.

4.4.11 Using the example in point 4.4.9, EUR 1 million of risk capital coupled with financial engineering could guarantee loans amounting to EUR 25 000, via a *European micro-credit fund*, to 1 600 small businesses.

4.5 Social credit management

4.5.1 As has already been stated, credit is a key instrument for economic and social development and building a 'social market economy'.

4.5.2 That is why new concepts of credit have gradually emerged and gained ground, with credit no longer being seen merely as a relationship between client and financial institution but as an instrument with high social value because of its connection with better-quality, more secure jobs and with economic development.

4.5.3 In this new, wider perspective, the risks related to granting credit need to be spread more widely.

4.5.4 Sharing credit risk between a number of bodies:

- increases guarantees for financial institutions;
- lowers interest rates on the credit granted;
- makes it easier to grant loans to applicants.

4.5.5 In keeping with the inherent social value, granting loans must increasingly be made subject to corporate social responsibility and employers must adjust and adhere to sustainable development values.

4.5.6 EMAS environmental certification would be the most appropriate certification to require in a financial engineering process in connection with the social role of credit ⁽⁴¹⁾.

4.5.7 In recent years, only a few tens of thousands of businesses have been able to use Community financial instruments ⁽⁴²⁾, revealing the yawning gap between the way the issue is presented and the practical results. This prompts consideration of the practical possibilities of intervening with systems which can boost the involvement of financial institutions and amplify the results.

4.5.8 On 20 and 21 November 1997, the Luxembourg Extraordinary European Council, whose agenda contained a single item — employment — launched three practical initiatives to help businesses stay competitive in the markets, and called upon the Commission to put forward proposals that would boost the business sector and promote employment in that field. The three initiatives were: the ETF Start-Up Facility, the JEV (Joint European Venture) and SME-Guarantee Facility. Two of these initiatives — the ETF Start-Up Facility and SME-Guarantee Facility — were aimed at easing access to credit.

4.5.8.1 Over 277 000 SMEs had availed of the growth and employment programme and MAP (multiannual programme) facilities by the end of 2005 ⁽⁴³⁾.

4.5.8.2 The SME Guarantee Facility is one of the key European programmes for SMEs ⁽⁴⁴⁾.

4.5.9 There are around 23 million micro enterprises and 1.1 million small businesses in the EU of which 90 % are sole traders or partnerships. **Only 5 or 6 % of them make use of venture capital.**

4.5.10 The Committee therefore believes that new forms of support for credit must be devised, aimed also at partnerships, as has been the case with financial engineering tools. Failing this, take-up will continue to be negligible, thus creating a barrier to the financial growth of micro and small enterprises.

Brussels, 18 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽³⁹⁾ Source: Corporate Europe Observatory.

⁽⁴⁰⁾ In the EU, 49 % of micro-businesses have no employees and are thus one-person businesses.

⁽⁴¹⁾ Cf. Regulation 1836/93/EEC and Regulation 761/2001/EC.

⁽⁴²⁾ Consultation document on the Community programme on enterprise and competitiveness, 2006/2010, DG Enterprise, 2004, point 118.

⁽⁴³⁾ Source: COM(2007) 235 — Report to the Council and the European Parliament on the financial instruments of the multiannual programme for enterprise and entrepreneurship, and in particular for small and medium-sized enterprises (SMEs) (2001-2006).

⁽⁴⁴⁾ At 31.12.2005, the average utilisation reached 67 % for the Loan Guarantee window, 66 % for the Micro-credit window and 65 % for the Equity window.

Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council amending Council Directive 76/769/EEC as regards restrictions on the marketing and use of certain dangerous substances and preparations (Dichloromethane)'

COM(2008) 80 final — 2008/0033 (COD)

(2009/C 77/05)

On 10 March 2008, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the

Proposal for a Decision of the European parliament and of the Council amending Council Directive 76/769/EEC as regards restrictions on the marketing and use of certain dangerous substances and preparations (Dichloromethane).

The Section for Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 July 2008. The rapporteur was Mr Sears.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion unanimously.

1. Summary and recommendations

1.1 This proposal seeks to amend Council Directive 76/769/EEC by adding restrictions on the marketing and use of dichloromethane (DCM) when used as a major component of paint strippers for industrial, professional and consumer use.

1.2 This is the last such amendment of Council Directive 76/769/EEC before it is replaced on 1 June 2009 by Regulation (EC) 1907/2006 (REACH).

1.3 The EESC recognises the considerable scientific and political difficulties faced by the Commission in proposing and reaching agreement on a proportionate and cost effective amendment which, as Directive 76/769/EEC requires, will preserve the Internal Market and at the same time ensure a high level of protection for human health and the environment.

1.4 The EESC agrees that there is compelling evidence that, where high concentrations of vapour occur due to the high volatility of DCM, these can lead to unconsciousness and death. These result from poor industrial practice, including inadequate ventilation. The evidence for a serious ongoing risk to consumers through occasional domestic use is less compelling. The proposal for a ban on sales is therefore disproportionate and, given the known but so far unquantified risks of the alternative products and processes, seems unlikely to lead to any overall reduction in the, rather low, rate of accidents being recorded.

1.5 The EESC also notes, as did the consultants employed by the Commission, that the special hazards of DCM are not fully covered by existing pictograms or Risk and Safety phrases. The same comment applies to the risks to children, more common in a domestic setting. This is a failing of the labelling system,

not of the products or people concerned. Recommendations on packaging and labelling are therefore made to rectify this situation.

1.6 Other problems are identified, most noticeably the absence of agreed Occupational Exposure Limits and guidelines or regulations on good industrial practice. The German TRGS 612 is considered an excellent model in this respect.

1.7 A number of other general points are made for consideration by the Commission, European Parliament and Member States in the hope that agreement can be reached. Failure to do so will lead to a fracturing of the internal market. Users, in and outside the work place, will remain at risk.

2. Legal Basis

2.1 As previously noted, Regulation (EC) No 1907/2006 of 18 December 2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) will come into effect on 1 June 2009. This will repeal and replace a number of existing Council and Commission Regulations and Directives, including Council Directive 76/769/EEC of 27 July 1976 on the marketing and use of certain dangerous substances and preparations.

2.2 Annex I of Council Directive 76/769/EEC sets out the specific restrictions on the marketing and use of certain dangerous substances and preparations that have been agreed and put in place over the last 30 years. On 1 June 2009 these will become the cornerstone of Annex XVII of Regulation (EC) No 1907/2006 (REACH).

2.3 Previous amendments to Council Directive 76/769/EEC (i.e. to add further restrictive measures) have been in the form of Directives requiring implementation by member states. This proposal by the Commission is, however, for a Decision, which will have immediate effect, rather than for a Directive. It will not therefore require transposition into national laws which would also have to be repealed on 1 June 2009 when Regulation (EC) No 1907/2006 (REACH) comes into force.

2.4 All subsequent proposals for restrictions on the marketing and use of dangerous substances or preparations will be under Regulation (EC) No 1907/2006 (REACH).

2.5 The substances (and any preparations containing them) for which restrictions on marketing and use have been deemed necessary have generally resulted from evaluations of certain 'priority substances' nominated by Member States and published in four priority lists between 1994 and 2000 under Council Regulation (EEC) No 793/93.

2.6 A number of substances not included in these lists have also been assessed for their impact on human health and the environment, and/or proposals made to restrict their marketing and use, as new problems have been addressed at the request of the Member States. DCM comes under this heading. A number of Member States, for a variety of reasons, have already imposed or sought to impose restrictions on its use, in particular as a component of paint strippers. Other member states view these measures as being disproportionate, costly and likely to lead to less satisfactory outcomes for users. There is some evidence (or a lack of evidence) to support or contradict both positions.

2.7 The first full review of the proposal in Council took place in early June. If a compromise can be found within the coming months, then the proposal is likely to go ahead as planned. If this is not the case, then the proposal will fail. In this case the Internal Market for DCM-based paint strippers will remain fractured and may become more so. DCM would then in due course be assessed under Regulation (EC) No 1907/2006 (REACH) — with its use in paint stripping being one of many exposure routes to be considered. It is obviously unclear what the outcome of this would be or when any final recommendation could be made.

3. Background

3.1 DCM is a colourless low boiling halogenated aliphatic hydrocarbon with a mild sweet odour. It has been widely used for many years as a powerful solvent with low flammability in the production of pharmaceuticals, aerosols and adhesives and in other processes such as paint stripping, metal degreasing and as an extraction solvent for foodstuffs.

3.2 Although regarded as one of the safer low molecular weight halogenated hydrocarbons, DCM must still be used with care. It is classified in Europe as a Category 3 carcinogen, i.e. it is 'a substance that causes concern for man owing to possible carcinogenic effects but for which the available information is not adequate to make a satisfactory assessment'. It must therefore carry the R40 phrase ('limited evidence of a carcinogenic effect'). It is also a priority substance under the Water Framework Directive.

3.3 Of greater concern however is that it is also a powerful narcotic, depressing the central nervous system, and leading to unconsciousness or death. This has led to a series of accidents and fatalities, generally associated with unsafe working practices and gross over-exposure, generally during open tank industrial or large scale professional use. Usage in closed systems, where this is feasible, removes these risks.

3.4 Production levels of DCM in Europe (from sites in Germany, France, Italy, Spain, the Netherlands, UK and Romania) are declining slowly as other products become available. Of the approximately 240 000 tonnes currently manufactured in Europe, approximately 100 000 tonnes are exported. 30-50 % of the remainder goes to the pharmaceutical industry and 10-20 % for sale as 'virgin' DCM in paint strippers. Recycled DCM from the pharmaceutical industry provides a similar tonnage. This proposal deals solely with the use of DCM in paint stripping.

3.5 Paint stripping is familiar to most householders as an essential process to conserve and decorate wood, metal, stone and plaster objects and surfaces in and outside their properties. There are also a number of more specialist markets, including fine art restoration, graffiti removal and the repainting of large mobile objects such as trains or planes.

3.6 Paint strippers are divided somewhat arbitrarily into three categories: 'industrial' (i.e., with on-site continuing high volume usage); 'professional' (multiple site specialists, builders and decorators) and 'consumers' (individuals occasionally undertaking home maintenance).

3.7 The numbers of actual incidents for each group are hard to determine. Given that the symptoms of a DCM overdose resemble heart failure, there may (or may not) be some under-reporting. The data presented to the Commission by consultants RPA show 3-4 incidents per year in Europe due to the use of DCM-based paint strippers over the last twenty years, of which 1 per year proved fatal. Fatalities were concentrated in France (6), Germany (6) and the UK (5), non fatalities were concentrated in the UK (36), Sweden (12) and France (6).

In the south of Europe, only one incident has been recorded in the period studied by RPA (1930-2007) — an industrial fatality in Spain in 2000. Local climatic conditions and work practices may well be relevant. In warm weather windows are always open, good ventilation is achieved and the risks are negligible; in colder climates, the reverse may be true.

3.8 Fatalities were split equally between industrial and professional users. The bulk of the non-fatal incidents were recorded during use by operators classified as 'professionals'. The causes of the fatalities were recorded as being almost entirely inadequate ventilation and inadequate use of personal protective equipment, especially in the presence of large open tanks.

3.9 A possible fatality reported for a consumer (or a professional) in France in 1993 cannot now be verified and this particular key piece of data has therefore been challenged. The only other death reported for a consumer was in the Netherlands in 1960. Other factors may be relevant.

3.10 Alternatives to DCM-based chemical paint strippers of course exist. These are generally grouped under three headings — 'physical/mechanical stripping' (sanding, scraping, blasting); 'pyrolytic or thermal stripping' (in ovens, over hot fluidised beds or using blow torches or heat guns); and 'chemical stripping' (using high power solvents, including DCM, or corrosive, generally strongly alkaline, liquids or pastes, or formic acid or hydrogen peroxide based mixtures). Each process may work and may be the preferred course under specific circumstances. All pose risks of one sort or another, either due to particle impact, heat, fire, explosion, eye or skin irritation or due to the composition of the coatings being removed, most notably lead from paints applied prior to 1960. With multiple layers dating back 100 years or more in old but still usable or even highly desirable housing stock, or with sensitive surfaces that must not be damaged, more than one approach and some degree of experimentation will be required.

3.11 No data have been presented on the overall market share of these various alternatives under all 3 headings or of the different costs per square metre stripped. DCM is thought to be still the most widely used solvent, in particular in the consumer sector, with caustic soda based applications also popular. Even within the chemicals group, comparative costings are difficult. There is general agreement that DCM-based paint strippers appear cheaper than competing products on a volume basis. This advantage is likely to disappear if the full costs of protective equipment (if used) and waste disposal (if relevant) are taken into account.

3.12 Total costs are also determined by through-put times. Slower acting but more benign products and processes increase the cost of work in progress and reduce profits. Higher boiling solvents allow larger areas to be coated at one time but take

longer to work. For a consumer, short exposures are replaced by longer exposures and potentially greater domestic disruption. (The assumption by RPA that consumers are less time sensitive 'because they usually carry out stripping in their leisure time' should certainly be challenged.) For all users, new methods of working and changes to work flow will become essential. For an industrial user, any switch to water-based products decreases the costs of ventilation but sharply increases the cost of tanks and pipe work to minimise corrosion. Given all these variables, predicting the effect of any restriction on any one route becomes extremely difficult. Consumers are particularly at risk under these circumstances, with little evidence, given conflicting views at government level, that their choices of alternative products or processes will be in their own best interest.

3.13 One of the popular alternatives to DCM as a solvent, methyl-2-pyrrolidone (NMP), has recently been classified as 'toxic to reproduction Category 2' which will eventually lead to a ban on sales of formulations containing it to the general public (but not to professional or industrial users). Other solvents, such as 1,3 dioxolane, are highly flammable.

3.14 Systems based around dibasic esters (DBEs) — mixtures of dimethyl adipate, succinate and glutarate — currently look to be the most promising alternatives, with little to suggest that there are any significant concerns for human health or the environment. Dimethyl sulfoxide (DMSO) and benzyl alcohol also appear to be relatively 'safe'. Whether or not any of these are regarded as cost effective by their users, however, depends on many factors, and their eventual choice as widely used 'safe' alternatives cannot be guaranteed.

3.15 Overall it is clear that there is no single totally acceptable approach — and that inappropriate action may well lead to an increase in the current, relatively low, rate of recorded incidents. The difficulty is to identify a solution which satisfies all the parties, in particular member states with different experiences and, quite reasonably, strongly held positions.

4. Summary of the Commission's proposal

4.1 The Commission's proposal seeks to protect human health and the environment whilst preserving the Internal Market for dichloromethane, in particular when used as a major component of paint strippers for industrial, professional and consumer use.

4.2 The proposal seeks to ban all sales of DCM-based paint strippers to the general public and to professionals, other than to those specially trained and licensed by competent authorities in the member states. Sales to industrial installations would be possible only where a series of protective measures, in particular effective ventilation and the provision and use of the

appropriate personal protective equipment, are in place. All DCM-based formulations should be indelibly marked as being 'reserved for industrial and professional uses' (and then presumably only to those suitably licensed).

4.3 No new DCM-based paint strippers should be placed on the market for supply to the general public or to professionals within 12 months of the entry into force of the Decision. All supplies to these two groups would be banned after a further 12 months.

4.4 The Decision would come into force on the third day following that of its publication in the Official Journal of the EU.

4.5 The proposal is accompanied by an explanatory memorandum and a Commission staff working document (impact assessment report). Further material is available in impact assessments prepared for the Commission by outside consultants (RPA, TNO) or in reports on specific topics (ETVAREAD, on the effectiveness of vapour retardants). These have been in turn reviewed by the appropriate scientific committee (SCHER). There is no formal EU Risk Assessment Report (RAR) as DCM was not defined by any of the stakeholders to be a priority substance despite concerns already being noted.

4.6 Some EU member states (and other major economies and trading partners such as Switzerland and the US) have also conducted studies to support particular — and often strongly conflicting — regulatory and political positions. The concerned industries have generated a wealth of data on the possible risks and comparative benefits of different products and processes; not surprisingly, these too conflict. Comments from other stakeholders were recorded during the European Health and Safety Week 'Building in Safety' in 2004 after a conference of experts hosted by the Danish Painters Union. According to RPA in April 2007, BEUC, EMCEF and the ETUC had not yet expressed formal opinions.

5. General comments

5.1 The EESC recognises the difficulties faced by the Commission in proposing a proportionate and cost effective amendment to Directive 76/769/EEC for DCM usage as a solvent in paint stripping. There have been relatively few incidents reported and verified. There may (or may not) have been under-reporting. Existing legislation has not always been followed — and in respect to labelling, appears inadequate. Alternative products and processes exist but these have not been evaluated and all pose risks. There are good reasons why the views of member states differ. There is no guarantee that the overall outcome will be favourable to any of the groups most likely to be affected.

5.2 The EESC also recognises that, due to obvious time constraints, this is the last opportunity to introduce any

measures under the above Directive. If a common position between the member states and the European Parliament cannot be agreed and the proposed Decision (or any variation to it) adopted and implemented, there will be no further action until DCM is assessed for all its uses under Regulation (EC) No 1907/2006 (REACH).

5.3 The EESC strongly believes that such a delay is unnecessary and undesirable, with respect to protecting the environment and the health of all users in or outside the work place. The EESC would also deeply regret any fracturing of the internal market over this, or any other, issue. The need to find a basis for agreement should be obvious to all concerned. This should seek to manage the risks, not to replace one hazard with another.

5.4 In this respect the EESC notes that DCM can be manufactured, stored, transported and used safely in closed systems. DCM is non-flammable and does not contribute to ground level ozone formation. However, in open systems, for instance in paint stripping, DCM clearly presents problems due to its volatility (it evaporates quickly), the density of the ensuing vapour (it accumulates at the lowest point or where there is inadequate ventilation), and its behaviour as a narcotic (it induces unconsciousness and death). All of these contribute to increased risks for children. DCM is also classified as a category 3 carcinogen and it is this potential risk that dominates the labelling of any product containing DCM.

5.5 RPA and others have all noted that this is both misleading and inadequate to properly protect users in or outside the workplace. There are no R (Risk), S (Safety) phrases or pictograms under existing legislation, or their counterparts under the revised UN Globally Harmonised System of Classification and Labelling, which adequately warn against either narcosis (and a subsequent risk of death) or, more surprisingly, of the serious risk to children (which would of course apply to many products and processes used in domestic situations).

5.6 The focus on the possible but so far unproven cancer risk is also misleading. SCHER, in their Opinion on the ETVAREAD Report on vapour retardants noted that the metabolic mechanism in a mouse for the end-point tested is not the same as in a human and therefore DCM, on the basis of the evidence presented, is unlikely to be a carcinogen. There is little evidence based on actual usage. The results of two major epidemiological studies on cohorts exposed to DCM in the US in other industries are still awaited. Cohorts in the EU may have been exposed to other known carcinogens such as styrene. RPA did not present any evidence of actual risks under this heading from exposures to DCM used in paint stripping. The required R68 phrase ('possible risk of irreversible effects') is not the most useful under the circumstances.

5.7 It should also be noted that the incident statistics presented by RPA for the period 1930-2007 clearly demonstrated the dangers of gross over-exposure to DCM, generally through very poor working practices. The corresponding data for alternative processes and products were not collected. The extent to which these data can be extended to use by either 'professionals' or 'consumers' in a domestic environment is however questionable. Indications of chronic (long term) industrial health effects may (or may not) indicate problems for acute (short term) consumer exposures; accident statistics, which perhaps these are, are harder to pro-rate.

5.8 The studies also highlighted the lack of consistent Occupational Exposure Levels (OELs) for work places across the EU. Limits vary considerably for a single substance (DCM) between member states and between substances (DCM v DBE or DMSO, for example). Manufacturers must recognise their duty of care to their workers; regulators must provide a clear, consistent data-based regulatory framework to achieve this.

5.9 In this respect the EESC took note in particular of the Technical Rules for Hazardous Substances TRGS 612 for alternatives to DCM-based paint strippers produced by the German Federal Ministry of Labour and Social Affairs (BMAS), version dated February 2006. This appears to be a model which others could follow to help ensure work place safety and is considerably more detailed than the current proposal from the Commission.

5.10 The hierarchy of questions to be answered under the above (a) *can you make your process safer by substitution?* (b) *if not, why not?* and (c) *have you taken all appropriate measures to make your work place safe?* should be followed in most cases. The potential risks, as well as benefits, from alternative processes and products should be fully recognised. Above all, there must be some estimate of the likely outcomes of any decision to remove a significant quantity of any material from any market; what actually will users do and will their choice improve their personal safety?

5.11 As an example, taken from a Member State that has already implemented a ban on DCM-based products and applicable to industrial and professional users alike, this is a ban on sales of products containing DCM, not on DCM itself. A powerful paint stripper can still be made by mixing DCM with methanol at the place of use. The resulting product is cheaper but lacks the surfactants and vapour retardants which increase both the effectiveness and the safety of the properly formulated product. This is therefore an undesirable outcome.

5.12 As RPA and the Commission have noted, the distinctions between the different categories of user are hard to justify

or maintain in real life. The only real difference is that single site, high throughput, continuous paint stripping operations require large open tanks of chemical agents into which products are dipped; off-site operations generally do not depend on dipping and therefore do not involve large open tanks. Single sites are covered by other Directives, for instance on solvents emissions and water waste quality which should be strictly enforced; off-site operations depend more on the care and common sense of the individual. Where there is an employer, the duty of care of course rests with him or her to ensure the best possible working environment for any employees involved.

5.13 The 'professional' category should also be split between those engaged permanently in specialty cleaning operations (e.g. graffiti removal, façade restoration, trains and planes) and those having only an occasional need to strip paint (builders, decorators and 'consumers') as a necessary but time-consuming prelude to more profitable activity. The needs, capabilities and vulnerabilities of this last group appear to be identical and they should be treated equally.

5.14 Finally, a proposal to train and license certain operators has been introduced as a possible derogation to enable a compromise between different views. It is however difficult to equate the use of DCM-based paint strippers with, say, asbestos removal or the handling of nuclear waste, for which licenses most certainly are required. Given the high costs of installing and monitoring such a system, it is difficult to see this proposal as likely to meet anyone's needs.

6. Specific comments

6.1 Given the above, the EESC do not believe that the current proposal is either proportionate or, by itself, likely to lead to fewer incidents in or outside the work place. Given the wide actual and political differences between member states, other approaches must be considered and implemented without further delay.

6.2 This would include changes to the packaging and labelling of DCM-based paint strippers to minimise the risk of accident and to highlight the real dangers. Sales to anyone not permanently engaged in paint-stripping, on or off-site, whether regarded as being a 'professional' or a 'consumer' should be limited to a maximum of 1L per container and purchase. The containers should have child-proof seals as defined by the relevant existing or new EU Regulations and Directives and/or EN-ISO standards 8317:2004 and 862:2005. Narrow necks to limit spillage would also be useful, although the consequent need to decant before use with a brush limits their effect. Manufacturers should actively work towards new and safer

delivery systems if they wish to maintain the long term viability of these products. Bulk sales to all other users for 'industrial' or ongoing 'professional' use should be in quantities of not less than 20 L. Manufacturers and suppliers should recognise their duty of care under such circumstances and ensure that sufficient information and training is provided to ensure safe handling and disposal under all conditions of use.

6.3 New pictograms and R and S phrases for narcotics and to warn of the dangers to children should be developed as a matter of urgency to complement those already in use. For DCM-based paint strippers (and other products with similar effects) the appropriate wording for all users would be along the lines of: '*Narcotic: high concentrations lead to unconsciousness and death*'; '*Do not use in the presence of children or vulnerable adults*'; '*Do not use in an enclosed space: heavy vapours asphyxiate*'. These seem to be justified by the evidence and are relevant to actual needs. The phrases should not be lost in an array of less significant warnings. An effective warning and unmistakable pictogram on the need to protect children would be likely to have more effect than many more complicated pieces of advice. The current S2 phrase ('Keep out of the reach of children') is inadequate in this respect.

6.4 There is also a clear need for a standardised and internally consistent set of EU-wide Occupational Exposure Limits (OELs) to further improve work place safety. This should be considered as a useful output of the REACH programme over the coming years.

6.5 Good working practice, and the close observance of all existing controls, is obviously key to risk management, in and outside the work place. Manufacturers and retailers share the responsibility of providing good advice and ensuring that recommendations can be followed by members of the general public and others using hazardous materials or processes on an infrequent basis. Safety advice and equipment should be promoted with the same enthusiasm and incentives as the materials for which they are required.

6.6 The approach used in the German TRGS 612 should form the basis of EU-wide controls. Additional technical advice on ventilation or waste treatment can be added as necessary. Best practices should be published and shared.

6.7 Ongoing studies in the US on the effects of long-term exposure to DCM should be completed as quickly as possible and the results presented to SCHER for evaluation. Opportunities should be explored to identify any valid cohorts for study in Europe.

6.8 A systematic evaluation of the risks associated with paint stripping should also be undertaken so that all the products and processes can be evaluated on a comparable basis. This would lead to a better understanding of their relative performance characteristics and risks and eventually the possibility of more informed choices being made by users in and outside the work place. Neither of these proposals should however delay the adoption of the control measures discussed above.

Brussels, 17 September 2008.

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 Council Directives 68/151/EEC and 89/666/EEC as regards publication and translation obligations of certain types of companies'

COM(2008) 194 final — 2008/0083 (COD)

(2009/C 77/06)

On 23 May 2008 the Council decided to consult the European Economic and Social Committee on the

Proposal for a Directive of the European Parliament and of the Council amending Council Directives 68/151/EEC and 89/666/EEC as regards publication and translation obligations of certain types of companies.

On 21 April 2008 the Committee Bureau instructed the Section for the Single Market, Production and Consumption to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Iozia as rapporteur-general at its 447th plenary session, held on 17 and 18 September 2008 (meeting of 18 September), and adopted the following opinion with 71 votes in favour and one abstention.

1. Conclusions and recommendations

1.1 The Committee approves of the content of the proposed directive and considers it a further step forward in the administrative simplification strategy, as envisaged in the communication on *A strategic review of Better Regulation in the European Union*.

1.2 This follows the positive view taken by the EESC's Single Market Observatory, which in several opinions has consistently supported the various simplification initiatives undertaken in the field of company law. It believes that by cutting costs for companies, these initiatives make an important contribution to the competitiveness of EU firms, as long as they do not undermine the protection of other stakeholders' interests.

1.3 The Committee points out that the proposal under review to amend Directives 68/151/EEC (First Company law Directive) and 89/666/EEC (Eleventh Company law Directive) is aimed at simplifying and reducing administrative burdens in the sensitive area of publication and translation obligations for certain types of companies that are often burdened by disproportionate and sometimes unnecessary costs.

1.4 The Committee supports the proposed measures, achievable through minor changes to the EU acquis, which — as well as cutting administrative burdens for companies, as demonstrated in the accompanying impact assessment — will prevent the emergence within the EU of unjustified barriers to the free movement of goods and services.

1.5 The Committee therefore welcomes such intervention and joins with the Council in calling on the Commission to propose further measures to reduce other remaining unnecessary obligations in other areas which, without providing any added value to users, are a burden to companies and reduce their capacity to respond to the current challenges posed by global competition.

1.6 The Committee recommends that the Commission encourage the Member States to pursue administrative simplification for business by transferring online all information that is required to be published under existing legislation.

2. Background

2.1 After launching a series of assessments in 2005, the Commission embarked on a simplification drive to reduce administrative costs and burdens on companies deriving from existing legislation, taking the view that unnecessary costs were hampering economic activity in the EU and damaging the competitiveness of businesses.

2.2 On 14 November 2006, the Commission presented a communication with the significant title of *Better Regulation in the European Union* ⁽¹⁾ and a working document on *Measuring administrative costs and reducing administrative burdens in the European Union* ⁽²⁾. Both initiatives stress the need to pursue tangible economic benefits for companies where simplification is possible without adverse effect on the users of the information concerned.

2.3 In March 2007, this strategy was backed up by an action programme aimed at reducing administrative burdens ⁽³⁾ (not yet published in the Official Journal), which set the target of a 25 % cost reduction by 2012.

⁽¹⁾ A strategic review of Better Regulation in the European Union, COM(2006) 689 final, OJ C 78, 11.4.2007, p. 9.

⁽²⁾ Measuring administrative costs and reducing administrative burdens in the European Union, COM(2006) 691 final.

⁽³⁾ Action programme for reducing administrative burdens in the EU, COM(2007) 23 final.

2.4 A number of fast-track proposals were adopted by the Commission in March 2007 aimed at reducing administrative burdens and on 10 July 2007 it presented a communication setting out its proposals for simplification in the fields of company law, accounting and auditing ⁽⁴⁾.

2.5 At its meeting of 13 and 14 March 2008, the European Council called on the Commission to continue identifying new burden-cutting legislative proposals ⁽⁵⁾.

2.6 This is the background to the proposed directive on publication and translation obligations in the field of company law, which provides for the reduction and/or removal of information obligations that provide no added value for users.

3. The Commission proposal

3.1 The aim of the proposed directive, according to the Commission, is to enhance the competitiveness of EU companies by reducing and/or removing the administrative obligations laid down under existing legislation that do not meet the requirements of the users of the resulting information and represent unnecessary additional costs for companies.

3.2 The proposal involves amending Directives 68/151/EEC (First Directive) and 89/666/EEC (Eleventh Directive), as regards the publication and translation obligations arising from the establishment of certain types of company.

3.3 With regard to the First Directive, a new minimum publication requirement is to be set with regard to what is currently contained in Article 3(4) of Directive 68/151/EEC on company law. The proposed amendment to the article is aimed at eliminating some of the current obligations to publish in national gazettes information on the company's foundation as well as the annual accounts, which under the current legislation have to be published on a yearly basis.

3.4 The proposed simplification by no means reduces the added value for users, particularly now that the information contained in commercial registers, through which Member States are required to provide the necessary information, is increasingly available online as the use of electronic means becomes more common.

3.5 Member States are required to provide for an electronic chronological access to the information, but remain free to

prescribe the use of additional means of publication, provided that this does not lead to additional costs for companies.

3.6 As regards Directive 89/666/EEC (Eleventh Directive) on company law, an amendment is envisaged to Article 4, which currently requires the translation of all documents in the company file upon registration of a new branch.

3.7 The new Article 4 requires that the documents are published in an official language of the Community but considers it sufficient that the translations be certified in a procedure accepted by the authorities of any Member State. All Member States are to accept this attestation and are not to impose any formal requirement other than those laid down in paragraphs 1 and 2, in keeping with the aim of minimising translation and certification costs.

3.8 The legal basis for the proposal remains the same as for the previous directives: Article 44(2)(g) of the Treaty. Furthermore, the Commission deems it in line with the principles of subsidiarity and proportionality.

3.9 The Commission points out that the proposal and impact assessment have stood up to the scrutiny of a very broad representation of stakeholders (110 in total from 22 Member States). The positive findings are available on the website of the Directorate-General for Internal Market and Services (DG MARKT).

3.10 In its impact assessment, the Commission estimated that around EUR 410 million per year would be saved on the publication of annual accounts and about EUR 200 m per year on the publication of amendments to registers. Approximately EUR 22 m would be saved on translation and certification.

4. General comments

4.1 Through several opinions drawn up by the Single Market Observatory, the Committee has expressed its support for the administrative simplification drive envisaged under the *Strategic review of Better Regulation in the European Union*.

4.2 The Committee's opinions have fully supported this drive, which is making a practical contribution to the competitiveness of EU companies by cutting their costs — which in the field of company law seem largely redundant and excessive — without undermining the protection of other stakeholders' interests.

⁽⁴⁾ A simplified business environment for companies in the areas of company law, accounting and auditing, COM(2007) 394 final.

⁽⁵⁾ Conclusions of the Presidency of the European Council, Brussels, 13 and 14 March 2008, doc. 7652/08, (concl. 1).

4.3 The Committee points out that by intervening in such sensitive areas as publication and translation obligations, this proposal not only significantly reduces costs, as demonstrated in the impact assessment, but also increases the credibility of the EU by removing all possible temptation to raise artificial unjustified barriers to the free movement of goods and services.

4.4 It notes that the initiatives launched to date have followed careful assessment of the intended objectives and of the fundamental principles of subsidiarity and proportionality

and have also been subject to the prior in-depth consultation of all stakeholders.

4.5 The Committee therefore approves of the content of the proposed directive, considering it a welcome step forward within the broader simplification strategy. It also fully backs the Council in calling on the Commission to intervene in other areas and fields in which there is also a need for simplification to reduce the many obligations that continue to burden companies.

Brussels, 18 September 2008.

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 Council Directives 78/660/EEC and 83/349/EEC as regards certain disclosure requirements for medium-sized companies and obligation to draw up consolidated accounts'

COM(2008) 195 final — 2008/0084 (COD)

(2009/C 77/07)

On 23 May 2008 the Council decided to consult the European Economic and Social Committee, under Article 44(1) of the Treaty establishing the European Community, on the

Proposal for a Directive of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC as regards certain disclosure requirements for medium-sized companies and obligation to draw up consolidated accounts.

On 21 April 2008 the Committee Bureau instructed the Section for Single Market, Production and Consumption to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee, in accordance with Rules 20 and 57(1) of the Rules of Procedure, appointed Mr Cappellini as rapporteur-general at its 447th plenary session, held on 18 September 2008, and adopted the following opinion by 59 votes to one.

1. Conclusions and recommendations

1.1 The EESC welcomes that the exemptions foreseen for small companies in the 4th Company Law Directive are extended to medium-sized companies as they lead to a reduction of reporting burden for those companies.

1.2 The EESC also welcomes the proposed changes to the 7th Directive as they simply clarify the interaction between consolidated rules set out in this Directive and in the International Financial Reporting Standards.

1.3 The EESC especially appreciates that the objective of simplifying financial reporting is respected: there is no significant loss of information for users of accounts, and other stakeholders are basically not affected. The proposed simplification is based on the needs of SMEs and users of financial information.

1.4 To date there has been a lack of research and supporting evidence to determine the needs of users, which may vary across EU Member States. Before introducing further changes to financial requirements for SMEs, the current position in terms of uptake of options under the 4th and the 7th Directives should be considered. This investigation should include (a) use of existing options, (b) motives cited by Member States to explain their choice of options and (c) a review of Member States' success in meeting their objectives.

1.5 The EESC therefore recommends that research in this area should be undertaken as a basis for rational policy proposals in the future.

1.6 Accounting requirements were among the first areas of legislation that were harmonised at European level. The EESC recalls that it is a central element to achieve the common market and stresses the importance that harmonisation creates a level playing field in the EU.

1.7 Cross-border trading by SMEs is growing within the EU. There is a strong case, therefore, for developing the harmonisation of financial reporting frameworks and rules to (a) support this growth in trade and (b) create a level playing field.

2. Background

2.1 In its Conclusions, the European Council of 8 and 9 March 2007 emphasised that reducing administrative burdens is important for boosting the European economy, especially considering the benefits this could bring for small and medium-sized companies.

2.2 It stressed that a strong joint effort by the European Union and the Member States is necessary to reduce administrative burdens by simplifying accounting rules for small and medium-sized companies; the legal basis for such measures would be Article 44(1) of the Treaty establishing the European Community ⁽¹⁾.

2.3 Accounting and auditing have been identified as areas for reducing administrative burdens for companies within the Community ⁽²⁾.

2.4 Special attention was given to additional relief from reporting requirements for small and medium-sized companies.

2.5 In the past, a number of changes were made in order to enable companies falling within the scope of Directives 78/660/EEC and 83/349/EEC to use accounting methods in accordance with International Financial Reporting Standards (IFRS).

2.6 Pursuant to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards ⁽³⁾, companies whose securities are admitted to trading on a regulated market of any Member State must prepare their consolidated accounts in accordance with IFRS, and are consequently relieved from most of the requirements in Directives 78/660/EEC and 83/349/EEC. Those Directives, however, still form the basis for accounting by small and medium-sized companies in the Community.

2.7 Small and medium-sized companies are often subject to the same rules as larger companies, but their specific accounting needs have rarely been assessed. In particular, the increasing number of disclosure requirements raises concerns for such companies. Extensive reporting rules create a financial burden and can hinder efficient use of capital for productive purposes.

2.8 The application of Regulation (EC) No 1606/2002 has also highlighted the need to clarify the relationship between the accounting standards required by Directive 83/349/EEC and IFRS.

2.9 Where formation expenses can be treated as an asset in the balance sheet, Article 34(2) of Directive 78/660/EEC requires that such expenses are explained in the notes to the accounts.

2.10 Small companies can be exempted from this disclosure requirement in accordance with Article 44(2) of that Directive. In order to reduce unnecessary administrative burdens, it should also be possible to exempt medium-sized companies from such disclosures.

2.11 Directive 78/660/EEC requires disclosure of a breakdown of turnover according to activity and geographical markets. This is required for all companies, but small companies can be exempted in accordance with Article 44(2) of that Directive. In order to reduce unnecessary administrative burdens, it should also be possible to exempt medium-sized companies from this disclosure requirement.

2.12 Directive 83/349/EEC requires a parent company to prepare consolidated accounts even if its only subsidiary, or all of the subsidiaries as a whole, are immaterial for the purposes of Article 16(3) of Directive 83/349/EEC. As a consequence these companies fall under Regulation (EC) No 1606/2002 and therefore have to prepare consolidated financial statements in accordance with IFRS. This requirement is considered burdensome where a parent company has only immaterial subsidiaries.

2.13 Therefore, it should be possible to exempt a parent undertaking from the obligation to draw up consolidated accounts and a consolidated annual report, if all the subsidiary undertakings of the parent undertaking, taken individually or as a whole, can be considered as immaterial.

2.14 Since the objectives of this Directive, namely reducing administrative burdens relating to certain disclosure requirements for medium-sized companies and the obligation to draw up consolidated accounts for certain companies within the

⁽¹⁾ OJ C 325, 24.12.2002, p. 35.

⁽²⁾ EU Project on baseline measurement and reduction of administrative costs, Second interim report, 15 January 2008, page 37. To date the Final Report is not published yet. (See footnote 6 in COM(2008) 195 final).

⁽³⁾ OJ L 243, 11.9.2002, p. 1.

Community, cannot be sufficiently achieved by Member States and can therefore, in terms of scale and effects, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty.

2.15 In compliance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

2.16 Directives 78/660/EEC and 83/349/EEC should therefore be amended accordingly.

3. General comments

3.1 The purpose of changes to Directive 78/660/EEC (4th Company Law Directive) ⁽⁴⁾ is to simplify financial reporting for medium-sized companies ⁽⁵⁾ and relieve them from financial reporting burdens in a short term perspective. The changes should lead to a reduced administrative burden without loss of relevant information.

3.2 The purpose of changes to Directive 83/349/EEC (7th Company Law Directive) ⁽⁶⁾ is to clarify the interaction between consolidation rules set out in this Directive and in the International Financial Reporting Standards.

3.3 Consultation and impact assessment

3.3.1 The discussion on achieving meaningful reductions in the regulatory burden on SMEs under the 4th and 7th Company Law Directives was launched in good time by the EC together with the consultation process, taking into account the objective of ensuring that SMEs prosper in the European Single Market. The problem of regulatory burdens on SMEs is invariably caused by the original regulations being designed for large business entities. Such regulations are not necessarily relevant to SMEs and often impose a significant burden in terms of administration and cost.

3.4 Simplification based on the needs of SMEs and users of financial information

3.4.1 It is important for discussions to focus not only on 'simplification' but also on the 'relevance' to SMEs — as opposed to large listed companies — of financial reporting requirements. The debate on simplification tends to focus on

costs whereas the debate on relevance is concerned with the benefits of financial reporting and with particular users and their needs.

3.4.2 The simplification of 'the Accounting Directive must take as its starting point the actual needs of SMEs and the users of their accounts'. If financial reports are to be useful and relevant, investigating users and their needs is critical in the development of a European financial reporting framework for SMEs. The users are multiple: financial institutions (rating), public authorities (taxation, money-laundering, ...).

3.4.3 It is also important to remember that SMEs themselves are major users of financial information, e.g. as suppliers and contracting parties to other SMEs, in situations where it is important to evaluate creditworthiness.

3.4.4 In the context of 'simplifying' accounting rules for SMEs, it is important that rigorous impact assessments are carried out, including assessment of the benefits of financial reporting as well as cost/administrative burdens. Such impact assessments should take into account the reasons for initially imposing financial reporting requirements and stakeholders' interests (transparency, ...) which they were intended to protect.

3.5 Harmonisation to create a level playing field in the EU

3.5.1 Cross-border trading by SMEs is growing ⁽⁷⁾ within the EU. There is a strong case, therefore, for developing the harmonisation of financial reporting frameworks and rules to (a) support this growth in trade and (b) create a level playing field. This may require fewer options and a move to maximised harmonisation, e.g. in the field of publication of financial information and public access to such information.

3.6 No mandatory international accounting standards for SMEs

3.6.1 The IASB's SMEs project is a consequence of demands from standard setters, accountants and other stakeholders for an alternative to the full IFRS. Although originally reluctant to take on the project, the IASB was persuaded that the majority of these stakeholders wanted it to go ahead and that only the IASB had the perceived credibility and authority to establish high-quality, enforceable accounting standards. However the starting point for this project was the full IFRS, developed for listed companies.

⁽⁷⁾ See EESC opinions on the importance of Internal Market:
 — CESE 952/2006 on *A strategy for the simplification of the regulatory environment* (INT/296), OJ C 309 of 16.12.2008, p. 18;
 — CESE 89/2007 on the *Review of the Single Market* (INT/332), OJ C 93 of 27.04.2007, p. 25;
 — CESE 1187/2008 on *Policy measures for SMEs* (INT/390) (not yet published in the OJ);
 — CESE 979/2008 on *International public procurement* (INT/394) (not yet published in the OJ).

⁽⁴⁾ OJ L 222, 14.8.1978, p. 11. Directive as last amended by Directive 2006/46/EC of the European Parliament and of the Council (OJ L 224, 16.8.2006, p. 1).

⁽⁵⁾ Definitions in Article 27 (medium-sized companies) of the 4th Company Law Directive.

⁽⁶⁾ OJ L 193, 18.7.1983, p. 1, Directive as last amended by Council Directive 2006/99/EC (OJ L 363, 20.12.2006, p. 137).

3.6.2 The full IFRS were developed with the use of financial reporting by listed companies and their stakeholders in mind. As mentioned above, financial reporting for SMEs is more often for internal or informal use (in connection with suppliers, contracting parties, financial institutions, etc.) than because of legal or other obligations to report to a wide range of users.

3.6.3 The mandatory implementation of IFRS, or a different set of new rules, based on those developed for listed companies, would generate substantial administrative burdens and a financial cost for SMEs that is likely to outweigh any positive effects. The close connection between annual accounts and the tax returns would also force SMEs in different Member States to maintain two sets of financial reports, also adding to the administrative burden.

3.7 Simplification of the Directives

3.7.1 Concerning the options for achieving simplification for SMEs in the Accounting Directives which are mainly extensions of the existing options for SMEs under the Directives, it is important to investigate how these options are working in the

Member States prior to introducing new Directives. The EESC recommends in addition to systematically apply the *only once* principle at all levels ⁽⁸⁾.

3.7.2 Before introducing further changes to financial reporting requirements for SMEs, the current position in terms of uptake of options under the 4th and 7th Directive should be considered. This investigation should include (a) use of existing options, (b) motives cited by Member States to explain their choice of options and (c) a review of Member States' success in meeting their objectives.

3.7.3 A major problem with the current situation is a 'top-down approach' which (a) results in administrative burdens on SMEs, and (b) reduces the relevance of financial accounting frameworks and standards for those entities. A future review of financial reporting in the EU should address this problem by taking a 'bottom up approach'. Such an approach would concentrate on the needs of SMEs and other stakeholders, and would be informed by research into users and their needs, as proposed above.

Brussels, 18 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽⁸⁾ Opinion of the European Economic and Social Committee on 'The different policy measures, other than suitable financing, that would help SMEs to grow and develop' (exploratory opinion), INT/390. This principle means that Enterprises should not be obliged to provide all over again information that the authorities have already received by another route, at all levels (European, national, regional and local level).

Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council on statutory markings for two or three-wheel motor vehicles (Codified version)’

COM(2008) 318 final — 2008/0099 (COD)

(2009/C 77/08)

On 18 June 2008 the Council of the European Union decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the

Proposal for a Directive of the European Parliament and of the Council on statutory markings for two or three-wheel motor vehicles (Codified version).

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it decided unanimously, at its 447th plenary session of 17 and 18 September 2008 (meeting of 17 September), to issue an opinion endorsing the proposed text.

Brussels, 17 September 2008.

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 approximation of the laws of the Member States relating to the driver’s seat on wheeled agricultural or forestry tractors (Codified version)’

COM(2008) 351 final — 2008/0115 (COD)

(2009/C 77/09)

On 7 July 2008 the Council of the European Union decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the

Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the driver’s seat on wheeled agricultural or forestry tractors (Codified version).

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it decided unanimously, at its 447th plenary session of 17 and 18 September (meeting of 17 September), to issue an opinion endorsing the proposed text.

Brussels, 17 September 2008.

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 in the area of company law on single-member private limited-liability companies (Codified version)’

COM(2008) 344 final — 2008/0109 (COD)

(2009/C 77/10)

On 7 July 2008 the Council of the European Union decided to consult the European Economic and Social Committee, under Article 44 of the Treaty establishing the European Community, on the

Proposal for a Directive of the European Parliament and of the Council in the area of company law on single-member private limited-liability companies (Codified version).

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it decided unanimously, at its 447th plenary session of 17 and 18 September 2008 (meeting of 17 September), to issue an opinion endorsing the proposed text.

Brussels, 17 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation (EC) No .../... of the European Parliament and of the Council of [...] concerning the supplementary protection certificate for medicinal products (Codified version)’

COM(2008) 369 final — 2008/0126 (COD)

(2009/C 77/11)

On 7 July the Council of the European Union decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the

Proposal for a Regulation (EC) No .../... of the European Parliament and of the Council of [...] concerning the supplementary protection certificate for medicinal products (Codified version).

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it decided unanimously, at its 447th plenary session of 17 and 18 September 2008 (meeting of 17 September 2008), to issue an opinion endorsing the proposed text.

Brussels, 17 September 2008.

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 promotion of the use of energy from renewable sources'

COM(2008) 19 final — 2008/0016 (COD)

(2009/C 77/12)

On 3 March 2008 the Council decided to consult the European Economic and Social Committee, under Articles 175(1) and 95 of the Treaty establishing the European Community, on the

Proposal for a directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources.

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 16 July. The rapporteur was Mr Ribbe.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 105 votes to 38 with 10 abstentions.

1. Conclusion and recommendations

1.1 The EESC welcomed the European Commission's 2007 climate protection plans, which this directive is intended to help implement.

1.2 The Committee fully endorses the Commission's statement that the proposed development of renewable energies not only makes sense in climate policy terms but also has, or can have, a clear positive impact on security of energy supply, regional and local development opportunities, rural development, export prospects, social cohesion and employment opportunities, especially as concerns small and medium-sized undertakings as well as independent power producers.

1.3 The EESC therefore welcomes the draft directive and the renewables target of 20 %. It sees renewable energies not only as a contribution to climate protection but also as correct in strategic energy-policy terms, leading to a higher degree of energy self-sufficiency and thus greater security of supply.

1.4 The objective of cutting CO₂ by 20 % by 2020, which is to be achieved by means of other directives⁽¹⁾, and the target of 20 % of final energy from renewables, which is dealt with in this draft, are closely correlated and complement each other. They should, however, always be considered independently of each other, particularly as some renewable energies do not have a clearly positive impact on the climate (see point 6 on agrofuels).

1.5 As the necessary reorganisation of our energy system will entail heavy investment costs, the Member States need to be allowed a high degree of flexibility to ensure that they can

⁽¹⁾ See point 3.5.

always act in those areas where the greatest impact can be achieved in terms of climate protection and job creation, at the lowest cost.

1.6 The EESC wishes to make it clear that it fully supports the expansion of renewables and that it is aware that in the medium to long term a much higher percentage of renewables than the 20 % envisaged for 2020 will be required if the Council's ambitious target (a 60-80 % CO₂ emissions reduction and greater energy self-sufficiency) is to be achieved.

1.7 The EESC notes that the strategic requirement for the partial substitution of diesel or petrol by agrofuels is one of the least effective and most expensive climate protection measures, and that it represents an extreme misallocation of financial resources. The EESC cannot understand why the most expensive measures are to be promoted politically with the greatest intensity, particularly as a huge number of environmental and social questions, let alone economic ones, remain completely unanswered (see point 6). It therefore opposes the separate 10 % target for agrofuels.

1.8 The EU's plan to introduce sustainability criteria for agrofuels is welcome. However, the environmental criteria set out in the draft do not go far enough. Moreover, social questions are not touched on at all, and the draft directive is completely inadequate in this respect⁽²⁾.

2. Introduction

2.1 The directive will establish binding targets for the development of renewable energies. The aim is a 20 % share of

⁽²⁾ The EESC pointed out the need for environmental and social sustainability criteria for agrofuels in its opinions on Progress in the use of biofuels, TEN/286 — CESE 1449/2007, OJ C 44, 16.2.2008, p. 34 and Reducing greenhouse gas emissions/Road transport, NAT/354 — CESE 1454/2007.

renewable energy sources in final energy consumption in the EU by 2020 and a 10 % binding minimum target for biofuels ⁽³⁾ in transport to be achieved by each Member State ⁽⁴⁾.

2.2 The European 20 % goal is to be achieved by applying individual national targets which are listed in part A of Annex I. The Member States are required to draw up national action plans setting out sectoral targets for electricity, heating/cooling and transport/agrofuels, as well as measures for the achievement of these goals.

2.3 The directive is based on the decisions of the spring 2007 European Council on the grounds that the use of regenerative energies can counter climate change. At the same time, however, it states that *'the renewable energy sector stands out for its ability to (...) exploit local and decentralised energy sources, and stimulate world-class high-tech industries'*.

2.4 The Commission states that *'renewable energy sources are largely indigenous, they do not rely on the future availability of conventional sources of energy, and their predominantly decentralised nature makes our economies less vulnerable to volatile energy supply'*. Security of supply is then, alongside climate protection and innovation and economic growth, a further important argument used by the Commission.

2.5 The Commission argues that: *'The development of a market for renewable energy sources and technologies also has a clear positive impact on security of energy supply, regional and local development opportunities, rural development, export prospects, social cohesion and employment opportunities, especially as concerns small and medium-sized undertakings as well as independent power producers'*.

2.6 The directive does not only lay down the quantitative targets referred to above but also, *inter alia*, addresses the following issues:

- how the share of energy from renewable sources (Article 5) is to be calculated, taking account of imports,
- guarantees of origin (Articles 6-10),
- access to the electricity grid (Article 14),
- environmental sustainability criteria for agrofuels and their climate relevance (Article 15 et seq.),

⁽³⁾ The draft directive uses the term 'biofuels'. In various opinions, however, the EESC has drawn attention to many environmental problems caused by these 'bio' fuels. The prefix 'bio' suggests an environment-friendly product, and in this opinion the EESC therefore instead uses the more neutral term 'agrofuel'.

⁽⁴⁾ The draft directive states that: *'(...) it is proposed that each Member State shall achieve at least a 10 % share of renewable energy (primarily biofuels) in the transport sector by 2020'*.

- the framework for the national support systems, prevention of distortions of competition.

2.7 The new directive replaces Directives 2001/77/EC on the *Promotion of the electricity produced from renewable energy source in the internal electricity market*, which laid down the existing target of 21 % of total electricity consumption to come from renewable energy sources by 2010, and Directive 2003/30/EC on the *Promotion of the use of biofuels or other renewable fuels for transport*, under which a 5.75 % share was to be achieved by 2010.

3. General comments on the overarching and climate-policy objectives of the directive

3.1 The European Council reiterated in 2007 *'that absolute emission reduction commitments are the backbone of a global carbon market and that developed countries should continue to take the lead by committing to collectively reducing their emissions of greenhouse gases in the order of 30 % by 2020 compared to 1990 with a view to collectively reducing their emissions by 60 to 80 % by 2050 compared to 1990'*.

3.2 The draft directive under consideration is part of the implementation of this decision. The EESC has welcomed the climate decisions of the European Council and has stressed that energy economies and efficiency must enjoy the highest priority. There is no alternative to a massive development of renewable energy. Not only is it a requirement for climate protection; growing shortages of fossil resources will in themselves make it necessary in the medium to long term. The rapid increases in the prices of fossil energies currently being experienced will help ensure that many renewable energies become financially viable sooner.

3.3 The EESC is very glad that, in the explanatory memorandum, the Commission does not only address the climate aspects but also attaches high importance to the questions of security of supply and employment. The importance of decentralised energy supply structures for the regional economy and rural areas is, for example, repeatedly stressed (points 2.4 and 2.5). The Committee shares this view. But it also feels it essential to consider the individual strategies for renewables in a more differentiated way than hitherto, taking these aspects into account.

3.4 The EESC shares the Commission's view that a leading role for Europe in the development and implementation of renewable energies will not only be good for climate policy but also hold out the prospect of making Europe a more competitive location for business. The draft directive is a clear energy, environmental and industrial policy signal — also a signal to the international community in the run-up to the international climate negotiations.

3.5 The actual arrangements for sharing the burden, i.e. the individual national contributions to the European target of an overall 20 % CO₂ reduction, are set out in the Proposal for a Decision of the European Parliament and of the Council on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 (COM(2008) 17 final) and the Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community (COM(2008) 16 final).

3.6 The EESC considers a target of 20 % renewable energy by 2020 to be appropriate in political and strategic terms as well as technically and economically feasible. It is a tangible sign of the transition to a post-fossil energy policy. The Committee also believes that the individual national goals can be achieved, particularly as the Member States are offered flexible options (purchase, participation in projects etc). What is clear is that reorganisation of the energy system will not be free, nor can it be done without structural change. Investment is not only needed in plants for generating electricity from renewable energy sources but also in energy storage technologies and capacities to even out fluctuations in power generation resulting from insufficient wind strength or solar radiation, as well as in the development of international power lines in the EU. We will not achieve the planned objectives by concentrating exclusively on power generation.

3.7 Germany for example promotes power generation from renewable energies via its electricity feed law, and the country's proportion of green electricity is currently 15 %. The additional costs of higher feed premiums to be borne by electricity users amount to around EUR 3.5 bn per year. This does not, however, allow for the economic benefit in terms of new jobs, the prevention of environmental damage and additional tax revenues.

3.8 In order to keep the cost of meeting the target to a minimum, it is provided in the directive that individual targets can also be met by supporting measures for the development of renewable energy in other Member States. The import of electricity from guaranteed renewable sources is also allowed. The EESC considers this to be a good idea in principle. However, it supports the calls by some Member States for this trade to be subject to authorisation, in order to prevent measures to promote renewable energy financed by one Member State⁽³⁾ from being used to achieve cost savings in another Member State.

4. Restriction of flexibility in the development of renewable energies

4.1 The EESC considers the Commission's approach of laying down an overall target for the three sectors in which renewable

energies will play a part (electricity, heating/cooling and transport) rather than three separate targets to be correct. In this way Member States are given the freedom to decide how they will combine measures in the three individual sectors in such a way that the overall national targets can be achieved.

4.2 This flexibility is, however, massively compromised, by the fact that a separate, binding goal is to be set, applicable to only one of these three sectors, i.e. the replacement of diesel fuel and petrol in the transport sector.

5. The special role of agrofuels in the draft directive

5.1 The Commission assigns a special role to agrofuels.

5.2 Many studies published in recent months on the subject of agrofuels have pointed out that biomass, unlike solar energy, is a limited resource and will inevitably find itself in competition with foodstuff production or the maintenance of biodiversity. Just how massive this competition will be is at present still a matter of debate. Before policy intervenes there is therefore a need for a very precise strategic analysis of which form of renewable energy can most usefully be deployed, and in which area. This will require very precise impact assessments.

5.3 In a November 2007 recommendation on the use of biomass for energy production, the scientific advisory council of the German Federal Agriculture Ministry expressed the view that in the long term solar and wind energy will play the dominant role in renewable energies, in part because they have considerably higher potential than biomass. The council cites three reasons for this:

- a) Solar energy can use land which would not otherwise be used for the production of biomass for foodstuffs; much higher energy yields can be achieved for a given area than through the use of bioenergy.
- b) The worldwide shortage of arable land will mean that, as oil prices rise, so will the price of bioenergy; as a result all agricultural prices will be driven up. This will in turn mean higher raw material costs for bioenergy plants, whereas higher oil, coal and gas prices simply make solar energy more profitable.
- c) If arable land is in short supply, large-scale expansion of bioenergy will necessarily mean that land not previously used for arable farming will be brought into use (ploughing up of grassland, deforestation) or that land will be farmed more intensively. This will cause increased CO₂ and N₂O emissions, with the result that the expansion of bioenergy production on agricultural land will in the end be detrimental to climate protection.

⁽³⁾ Or that State's consumers.

5.4 When existing natural resources are scarce, while at the switch to new, regenerative and as far as possible decentralised energy supply structures will require relatively heavy investment, the principle to keep in mind must be that of concentrating financial resources on the most efficient climate protection strategies.

5.5 At EU level, however, some of the existing forms of bioenergy, which in some cases benefit from state support, such as agrofuels (as well as the production of biogas from maize) go hand-in-hand with very high CO₂ prevention costs ⁽⁶⁾ (EUR 150 to over 300 per tonne CO₂).

5.6 Other types of bioenergy, e.g. biogas production from liquid manure (ideally combined with heat production), combined heat and power production from wood chips (wood residues, short rotation farming) and the combustion of wood chips in existing large power plants have CO₂ prevention costs of only EUR 50 per tonne CO₂ ⁽⁷⁾.

5.7 The European Commission's Joint Research Centre concludes that in terms of GHG reduction per ha of land it is substantially more efficient to use the biomass to generate electricity than to produce liquid agrofuels ⁽⁸⁾. The efficiency of modern biomass burners is nearly as high as fossil fuel burners, so in heating and electricity production, 1MJ biomass replaces about 0.95 MJ fossil fuel. Transforming biomass into liquid fuel for transport is typically only 30-40 % efficient in energy terms. 1 MJ biomass replaces only around 0.35-0.45MJ crude oil in the transport sector.

5.8 A CO₂ prevention figure of 3 t CO₂/ha can be achieved with the production of agrofuels, and more than 12 t CO₂/ha with the bioenergy products described (in point 4.6).

5.9 Against this background the EESC wonders why the Commission wishes to lay down an explicit 10 % target for agrofuels. It points out that the Spring European Council said that this objective should be achieved 'cost efficiently', and that three conditions had to be met, namely that:

— production was sustainable,

— second-generation agrofuels were commercially available, and

⁽⁶⁾ CO₂ prevention costs here mean CO₂ equivalents.

⁽⁷⁾ Source: 'Nutzung von Biomasse zur Energiegewinnung — Empfehlungen an die Politik', agricultural policy advisory council of the German Federal Ministry for Food, Agriculture and Consumer Protection, published in November 2007.

⁽⁸⁾ European Commission, Joint Research Centre, 'Biofuels in the European Context: Facts, Uncertainties and Recommendations', 2008, http://ec.europa.eu/dgs/jrc/downloads/jrc_biofuels_report.pdf.

— Directive 98/70/EC relating to the quality of petrol and diesel fuels was amended.

5.10 Where sustainability is concerned, there are more questions than answers (see also point 5), and second-generation agrofuels are still not available. Thus, at least two out of the three criteria laid down by the European Council have not been met, which has not, however, prevented the Commission from planning to include the 10 % target in the directive.

5.11 It justifies this, inter alia, with the arguments that the transport sector is the economic sector showing the fastest rise in greenhouse gas emissions and that agrofuels 'are currently more expensive to produce than other forms of renewable energy, which might mean that they would hardly be developed without a specific requirement'.

5.12 The EESC cannot endorse this line of argument:

5.12.1 It is true that greenhouse gas emissions are getting out of control in the transport sector. But, in the EESC's view, more stringent exhaust gas limit values and a 10 % additive for petrol and diesel will not solve the problem, nor even compensate for the environmental impact of the growth expected in the transport sector over the next few years.

5.12.2 The EESC has pointed out on a number of occasions that this problem should be tackled with a policy of traffic prevention and a change in the modal split in favour of more climate-friendly modes of transport like railways, local public transport and shipping.

5.12.3 In technological terms the EESC believes that the future of private cars lies not with the internal combustion engine but with electric traction powered by renewable energies. To power a VW Golf over 10 000 km with agrodiesel would, according to an estimate by EMPA ⁽⁹⁾, require the entire annual crop from 2 062 m² of arable land planted with oilseed rape. The same energy could, on the other hand, be obtained from the annual output of solar cells covering 37 m², around one sixtieth of the area.

5.12.4 The strategic requirement for the substitution of diesel or petrol by agrofuels is one of the least effective and most expensive climate protection measures, and it represents an extreme misallocation of financial resources. The EESC cannot understand why the most expensive measures are being promoted politically with the greatest intensity, particularly as a huge number of environmental and social questions, let alone economic ones, remain completely unanswered.

⁽⁹⁾ EMPA is a research institute for material sciences and technology. It is part of the Swiss Technical University of Zürich (ETH). Source: 'Ökobilanz von Energieprodukten: Ökologische Bewertung von Biotreibstoffen. Schlussbericht, April 2007. Commissioned by the Federal Offices for Energy, the Environment and Agriculture; Empa, Department of Technology and Society, St. Gallen: R. Zah, H. Böni, M. Gauch, R. Hischer, M. Lehmann, P. Wäger; Download: <http://www.news-service.admin.ch/NSBSubscriber/message/attachments/8514.pdf>.

5.12.5 The Committee does not therefore agree with the Commission's statement that '*increased use of biofuels for transport is one of the most effective tools*' for meeting the challenges.

5.13 Considering that the Commission is aiming to authorise agrofuels if they offer at least a 35 % cut in greenhouse gas emissions — by comparison with fuels derived from fossil oils — the 10 % target will — assuming unchanged traffic volumes — mean a cut in greenhouse gas emissions from motorised transport of only 3.5 %. As transport accounts for around a quarter of total greenhouse gas emissions, we are speaking here of a potential 1 % cut in total emissions! This is a value which is out of all proportion to the cost and the associated risks.

5.14 Even if agrofuels for transport were seen as a way of usefully harnessing biomass, the accent should be on absolute efficiency. Annex VII to the directive makes it clear, however, that the conversion of biomass to esters or ethanol is not the right approach. Any (industrial) molecular change is associated with energy input and thus energy loss. It would make more sense to use the biomass directly, without industrial/chemical change.

5.15 The fact that some tractor manufacturers are now offering engines which run on pure plant oil shows that this is technically possible.

5.16 Annex VII demonstrates that the greatest greenhouse gas emission savings can be achieved using this technology; pure rape seed oil offers standard greenhouse gas emission savings of 55 %, agrodiesel from rape only 36 %, ethanol from wheat 0 %, compared with fuels derived from fossil oil. The EESC cannot understand why the Commission does not make it clear that this path offers the greatest benefits, particularly as this is the way in which decentralised energy supply structures — and thus jobs in agriculture and rural areas — can be most easily developed.

5.17 The EESC considers that a good strategy would be to promote the use of pure plant oils, which can, for example, be obtained from environment-friendly mixed cultivation, in agriculture itself and also, for example, in local transport and waterborne transport⁽¹⁰⁾. In this way farmers could be directly involved in the development of regional energy cycles and would benefit directly from this. Under the agrofuel strategy, on the other hand, they would become producers of the cheapest possible raw materials for the oil industry, if indeed raw materials grown in Europe were used at all.

⁽¹⁰⁾ See also opinion TEN/211 — CESE 1502/2005, Renewable energy sources of 15.12.2005 (rapporteur: Ms Sirkeinen), point 3.3.1.

6. Comments on the security of supply argument

6.1 The Commission believes that the bulk of the biomass needed for agrofuels will be produced in regions with more suitable climates outside the EU. Replacing imports of crude oil with imports of biomass does not, however, mean reducing import dependency but merely diversifying it.

6.2 It cannot seriously be the objective of a new EU energy policy to replace one form of dependency with another.

6.3 Rather, the priority approach should be actually to place decentralised, locally or regionally available sources at the heart of the new renewable energy strategy. Bioenergies could and must play a role here, but not the one envisaged by the agrofuel strategy.

7. Employment

7.1 The Commission writes that '*renewable energy is a close substitute for conventional energy and is supplied through the same infrastructure and logistic systems*'. The EESC considers this statement to be crucially misleading: renewable energies from decentralised structures are diametrically opposed to conventional energies, which tend to be produced in centrally organised, large-scale plants.

7.2 An agrofuels strategy based on energy imports and diesel and petrol additives uses the traditional, i.e. centrally organised, structures of global oil companies. It thus cements their central production and distribution structures, which is entirely in the industry's interests. It creates hardly any new jobs in Europe, however⁽¹¹⁾.

7.3 If, on the other hand, the accent is placed on the energy-efficient use of, for example, wood chips for heat and power production, or pure plant oils grown regionally, or the use of biogas in vehicles or in areas without mains gas, or decentralised solar technologies etc, new, regionally organised forms of manufacturing and distribution can be developed which will open up major potential for new jobs.

7.4 In the case of solar thermal energy and the decentralised use of photovoltaic technology (energy) consumers produce the bulk of their energy needs themselves, which is also proof that energy supply based on renewable energies is organised quite differently from the existing energy supply structure.

⁽¹¹⁾ See also the study carried out by the European Commission's Joint Research Centre, Biofuels in the European Context: Facts, Uncertainties and Recommendations, 2008, http://ec.europa.eu/dgs/jrc/downloads/jrc_biofuels_report.pdf.

7.5 Other measures, such as greater energy-efficiency and energy savings, could create hundreds of thousands of jobs in small and medium-sized businesses — in the construction phase alone. Insulation of buildings, the installation of solar and wind energy equipment and the construction of biogas plants are examples of this. The role of policy-making is to ensure that this potential is actually tapped; the agrofuels strategy envisaged by the directive is not the most efficient way.

7.6 This means that, in relation to the question of jobs too, a very precise and much more differentiated analysis of the various renewable energies is urgently needed. Renewable energies can indeed promote and support regional economic structures; they can, however, also help to perpetuate large-scale, centralised structures.

7.7 The same also applies to the countries in which biomass for agrofuels is grown. In a March 2008 discussion paper entitled *Development-policy position on agrofuels*, the German federal ministry responsible for development aid comes to the conclusion that, in terms of the economic, environmental and social development of developing countries, a strategy of export-orientated mass production of biomass, as a reaction to sharply increased demand from industrialised countries, is associated with high risks and will not create jobs, whereas biomass for decentralised energy supply, with small farms involved in production, gets a generally positive assessment.

8. Comments on the sustainability criteria

8.1 The EESC is glad that the Commission also plans to introduce sustainability criteria for the production of agrofuels. This is a major step forward, but the Committee considers the proposal submitted to be completely inadequate.

8.2 The Commission itself has repeatedly stressed the importance for sustainability policy of a balance between the economic, environmental and social pillars. And yet this total exclusion of social issues from the criteria alone leads the EESC to the conclusion that the draft directive does not implement a well thought-out sustainability strategy or sustainability criteria for agrofuels. In this respect the draft needs to be completely revised.

8.3 The EESC considers it important in this context that, because of indirect changes to land use, effective environmental and social criteria be drawn up not only for agrofuels but for all imported agricultural products, including feed.

8.4 Moreover, it is illusory to believe that, for example, rain-forests or peat bogs can be protected against use for agrofuel production by setting a cut-off date (in this case January 2008). This would require a functioning land registry system as well as a functioning administrative and monitoring system. Experience shows that these do not exist in most emerging and developing countries.

8.5 The EESC considers the criteria, listed in Article 15(3) and (4), for preserving biodiversity and preventing land with a high carbon content from being used to be inadequate. Far more areas than just those listed in paragraphs 3(a) to (c) are important for the maintenance of biodiversity. The same is true of paragraphs 4(a) and (b) in relation to carbon sinks.

8.6 In Annex VII part B the Commission lists 'estimated typical and default values for future biofuels that are not or in negligible quantities on the market'. The EESC believes that values based on hard data should be used rather than estimates.

Brussels, 17 September 2008.

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 European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Supporting Early Demonstration of Sustainable Power Generation from Fossil Fuels’

COM(2008) 13 final

(2009/C 77/13)

On 23 January 2008, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Supporting Early Demonstration of Sustainable Power Generation from Fossil Fuels.

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 16 July 2008. The rapporteur was Mr Simons.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 143 votes to three, with five abstentions.

1. Conclusions

1.1 The EESC endorses the mechanisms in the proposal for promoting the demonstration of CCS (Carbon Capture and Storage) in power stations, as set out in the Commission's Communication, however the lack of financing capacity and clearly established financing options for the medium (2010-2020) and long term (2020 and beyond) is a concern.

1.2 Care should be taken to ensure that the lack of financing capacity by the Commission can be partly compensated by revenue generated via the European Emission Trading Scheme (EU-ETS) e.g. through the auctioning of emission allowances by the power generating sector after 2013. It is important to note that so far, no specific financial scheme — including necessary security — has been suggested at EU level.

1.3 It is important that financial conditions are clear and well-established by the end of 2009 at the latest. Only this will ensure a financial basis for launching the preparation of large-scale CCS demonstration sites to be operational in 2015.

1.4 Revenue generated by the EU-ETS should be collected at national level as part of the implementation of the revised EU-ETS directive from 2013 on.

1.5 The Commission's idea to have 20 % of the total revenue from national EU-ETS auctions dedicated to measures to support reductions in CO₂ emissions is completely inadequate and a missed financing opportunity. Member States should be strongly urged to revolutionise their position on EU-ETS revenue, and dedicate all EU-ETS revenue to low-carbon and carbon-neutral technologies with a specific envelope for CCS. In this way the billions of euros that the Commission currently

lacks but are needed to support the early demonstration of large-scale CCS may become available.

1.6 The Commission should draw up a plan defining the organisation and role of the European Industrial Initiative, ensuring that it complements but does not overlap with other initiatives such as the projects supported by the Seventh Framework Programme, the European Technology Platform for Zero-Emission Fossil Fuel Power Plants and the European Flagship programme.

1.7 The EESC agrees with the need for joint European CO₂ transport and storage infrastructure. A European-wide transport system is required to connect Member States that may not be able to create national storage facilities themselves.

1.8 Because of the importance of transport as an essential element in creating large-scale CCS infrastructure, the acronym CCTS (Carbon Capture Transport and Storage, i.e. including transport) could be adopted.

2. Background ⁽¹⁾

2.1 The development of the overall CCS value-added chain, involving the capture, transport and storage of CO₂, remains at an early — and, in some cases, still at an exploratory — stage. Measures to increase the degree of efficiency of conventional power station technology, on the other hand, are gradually making progress. Bearing in mind the urgent and high level of need to replace power-station capacity in Europe over the next few decades, the EESC therefore urges that a pragmatic approach be adopted under which both technologies are developed and employed side by side. Whilst the development of a higher level

⁽¹⁾ See the Opinion CESE 1203/2008 on the Proposal for a Directive on the geological storage of carbon dioxide and amending Council Directives 85/337/EEC, 96/61/EC, Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC and Regulation (EC) No 1013/2006 (COM(2008) 18 final — 2008/0015 (COD)).

of efficiency may be largely market-driven, CCS technologies — in respect of both power stations and infrastructure — require additional support at the demonstration and marketing stages.

2.2 CCS technology is being pursued along two development paths: (a) integrated power station technology involving the capture of CO₂ before the combustion process and (b) post-combustion technology, which involves washing out CO₂ from the flue gas after combustion (CO₂ washing). Once it has undergone suitable development, method (b) would be suitable for deployment in highly efficient new power stations which are now in the process of construction, on condition that certain power stations are designed accordingly ('capture ready'). A common feature of both these development paths is the fact the CO₂ so captured has to be brought from the power station to a suitable storage site.

2.3 The issue of the safe, long-term storage of CO₂ is a matter of decisive importance in respect of the social and political acceptance of this process. This aspect is, in the final analysis, the major environmental question confronting this technology as such ^(?).

2.4 At a meeting in Aomori, Japan, 9 June 2008, the Group of Eight industrial powers (G8) has agreed to launch 20 large carbon capture storage (CCS) demonstration projects by 2010, with the view to support the technology development and cost reduction for broad deployment of CCS from 2020 on.

2.5 The G8 meeting was attended by representatives from Britain, Canada, Italy, Japan, France, Germany, Russia, the United States, China, India and South Korea.

2.6 To support the G8's CCS commitment, the United States Department of Energy (DOE) pledged to provide funding for the addition of CCS technology to multiple commercial-scale Integrated Gasification Combined Cycle (IGCC), or other advanced clean-coal technology power plants, under its FutureGen programme. The U.S. is also funding seven regional carbon sequestration partnerships to demonstrate the effectiveness of large-scale, long-term terrestrial storage of carbon dioxide.

2.7 The G8's CCS announcement is in line with the International Energy Agency's (IEA) recommendation to use CCS technology as part of a package solution to halve greenhouse gas emissions by 2050.

3. Gist of the Commission's Communication

3.1 Technologies for the capture and storage of CO₂ (CCS) represent a crucial element in a portfolio of existing and

emerging technologies with the potential to bring the cuts of CO₂ emissions needed for meeting targets beyond 2020 ^(?).

3.2 Wide-scale application of CCS in power plants can be commercially feasible in 10-15 years, enabling CCS by 2020, or soon after, to stand on its own feet in an Emission Trading Scheme (ETS)-driven system as a crucial instrument for the elimination of CO₂ emissions from fossil fuels in power generation.

3.3 This will not happen without an immediate start to the necessary preparatory steps; early demonstration is particularly needed for CCS technologies, already globally developed and used in other applications, to be adequately adapted for large-scale application in power generation.

3.4 The European Council gave its endorsement in March 2007, and reiterated it in March 2008, to the Commission's intention to stimulate the construction and operation by 2015 of up to 12 demonstration plants of sustainable fossil fuel technologies in commercial power generation.

3.5 Complementing the Commission proposal for a Directive on Geological Storage of CO₂, creating the legal framework for CCS in the EU, the present Communication takes the work on CCS forward, aiming to create a structure to coordinate and effectively support large-scale CCS demonstrations and the conditions for bold industrial investments in a series of plants.

3.6 It is imperative that European efforts on CCS demonstration within an integrated policy framework, including focused R&D efforts and public awareness and acceptance measures, start as soon as possible. According to the European Commission, a delay of 7 years in demonstration leading to a similar delay in global introduction of CCS could mean over 90 Gt of avoidable CO₂ emissions being released by 2050 worldwide ^(*), equivalent to over 20 years of current overall EU emissions of CO₂.

3.7 Clear and decisive commitments from European industry backed by Commission incentives and guarantees are essential if contributions are to be paid from public funds. In particular, those Member States intending to rely on coal in their future energy mix should implement support measures for early demonstration of CCS.

^(?) See the Opinion CESE 1203/2008 on the geological storage of carbon dioxide.

^(?) While improvements in combustion efficiencies will be indispensable, they alone will not deliver the necessary reduction of CO₂ emissions.

^(*) IAES.

3.8 Two main types of obstacle are mentioned:

- Legislative and safety obstacles: these issues can be overcome on time and without substantial extra cost. Once a regulatory framework ensures risk mitigation, legal barriers can be addressed.
- Economic obstacles: CCS cost is estimated to be around 35 EUR/ton CO₂ in 2020 and it is felt that they could easily be covered by the value of emission allowances.

The Commission's document suggests that there is an opportunity to take leadership in international regulation.

3.9 The proposed European Industrial Initiative should bring together the efforts of first movers in a network of demonstration projects. This should assist in exchanging experience and information, increase public awareness and provide input for policies enabling a complete CCS value chain. In addition, the proposed European Industrial Initiative is also expected to assist in attracting national and international funds.

3.10 The Commission states that it can only provide a minimum of support and therefore focuses on catalysing financing by first movers themselves and public funding from national governments and international NGOs.

3.11 Three actions are defined:

- Mobilising first movers in industry by means of the Flagship Programme and providing real commercial benefit.
- Willingness of the Commission to allow on a case-by-case basis the use of state aid and other preferential measures by Member States.
- Mobilising financing at EU level: a specific initiative by the Commission together with the EIB to develop financing/risk sharing instruments.

In addition it is pointed out that the longer industry takes to start embracing CCS, the more policy-makers will be obliged to look at compulsory measures.

3.12 The need for a joint European CO₂ transport and storage infrastructure is addressed. A revision of the TEN-E guidelines including CCS is envisaged.

4. Context of the European Commission's referral

4.1 Following the Council decisions of March 2007 on climate change and threats to the security of energy supplies, the Commission proposed a package of measures in the form of separate documents in order to meet the objectives set by the Council decisions. These measures focus on energy efficiency,

promoting renewable energy sources and developing and using the relevant innovative technologies. The Committee has drawn up specific opinions on each measure ⁽⁵⁾.

4.2 One area of key importance in this context is the development of methods to sustainably reduce greenhouse gas emissions arising from the use of fossil fuels, which is the subject discussed in this opinion.

4.3 This opinion ties in with a Committee opinion ⁽⁶⁾ on the same technology discussing the Commission's Proposal for a Directive on the geological storage of carbon dioxide.

5. General comments

5.1 In its Communication, the Commission repeatedly makes the point that if its plans are to succeed, it is crucial to demonstrate at an early stage that (a) the European Emission Trading Scheme (EU-ETS) will play a key role and (b) there is scope for 'real commercial benefits'. Obviously, the EU-ETS promises to generate real commercial benefit for first movers. However, it will come too late if the Commission fails to provide a clear and final basic set of rules for the post-2012 EU-ETS scheme before the end of 2009.

By the end of 2009, industry will need to have a solid basis for taking investment decisions in order to start the engineering and construction phase in time for the first CCS sites to become operational in 2015. This aspect has not been sufficiently stressed, especially in view of the current lack of clarity surrounding the EU-ETS and vague demands from the Commission on industry and national governments that keep the financing issue in the air.

5.2 The EU-ETS does indeed constitute an important carbon market, which may prove to be very effective, but this will only be the case if the scheme is strongly geared towards establishing of a price for emission allowances which more than covers the extra costs incurred by carbon mitigation measures. If the Commission fails to set out clear provisions in respect of the rules and scope for auctioning and appropriate recovery of such collected revenues and if it fails to play a supervisory role, potential investors will be inclined to adopt a 'wait and see' position because of too large uncertainties.

⁽⁵⁾ NAT/399, NAT/400, NAT/401 and TEN/334, TEN/338, TEN/341.

⁽⁶⁾ See the Opinion CESE 1203/2008 on the Proposal for a Directive on the geological storage of carbon dioxide and amending Council Directives 85/337/EC, 96/61/EC, Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC and Regulation (EC) No 1013/2006 (COM(2008) 18 final — 2008/0015 COD).

5.3 A joint European CO₂ transport and storage infrastructure is indeed something which would clearly facilitate large-scale implementation of CCS throughout Europe. Some Member States may not be able to create national storage facilities themselves⁽⁷⁾. Where possible, use should be made of existing infrastructure that has fallen into disuse or new facilities integrated with other infrastructure. Because of the importance of transport, the EESC would even suggest adopting the acronym CCTS (Carbon Capture Transport and Storage) explicitly including transport, even though the acronym CCS is already internationally known and acknowledged.

5.4 The Commission imposes a considerable burden upon national authorities in respect of CCS financing as there is no scope for a significant contribution from the Commission's current budget. Bearing in mind that the subject at hand is an important issue to the EU and in view of the need for EU-level supervision to ensure the success of the demonstration projects, the Commission should take a much larger share in financing CCS projects than it now envisages, backed up, where necessary, by Member State contributions provided by the Member States⁽⁸⁾.

5.4.1 The auctioning of emission rights under the EU-ETS has provided an opportunity to tackle the issue of insufficient Commission financing. At present only 20 % is dedicated to supporting low-carbon and carbon-neutral technologies. Member States should be strongly urged to revolutionise their position on EU-ETS revenue, and dedicate all EU-ETS revenue to low-carbon and carbon-neutral technologies with a specific envelope for CCS⁽⁹⁾. In this way the billions of euros that the Commission currently lacks but are needed to support the early demonstration of large-scale CCS, may become available.

5.4.2 Moreover, as the Committee already has suggested, the budget for energy within the Seventh Framework programme (FP7) could be significantly increased by 15 % resulting in an increase of 2 % to 3 % of GDP invested in R&D. In this way a real contribution to promoting CCS demonstration could be made via FP7.

5.4.3 There are a number of other measures supported under the Seventh Framework Programme which can also contribute to the preparation of large-scale demonstration projects. The various measures should be clearly linked with the proposed mechanisms for promoting demonstration.

⁽⁷⁾ See The Primes study mentioned in footnote 2 with relevant maps attached.

⁽⁸⁾ There are nevertheless other suggestions how to overcome the financing deadlock — see the EurActive.com article of Wednesday 27 February 2008 'Financing woes plague EU Climate technologies'.

⁽⁹⁾ In the European Parliament proposals are being discussed to dedicate between 60 and 500 million EUR revenues from the ETS to large-scale commercial demonstration projects (amending the draft directive that amends directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community COM(2008) 16 final).

5.5 No mention is made of how the *European Industrial Initiative* ties in with the range of other measures and initiatives in which the Commission is involved⁽¹⁰⁾. To ensure an integrated approach, it is essential to indicate which measures are to be taken.

5.6 It is anticipated that the development and implementation of CCS technologies will have a substantial positive impact on employment in Europe. Some major CCS equipment and transport infrastructure providers are based in Europe. They develop and would also sell and install e.g. equipment and pipelines when CCS is implemented worldwide. Europe has a strong worldwide position on CCS that would be strengthened further if the EU succeeded in early large-scale demonstration of CCS technology within Europe⁽¹¹⁾.

5.7 The EESC proposes using the word 'clean' instead of 'sustainable' fossil fuels. Sustainable is more appropriate for e.g. solar and bio energy and less appropriate for CCS technologies that bridge the gap, using fossil fuels in a clean way, until we have succeeded in a full transition towards a sustainable energy supply.

5.8 With regard to the feasibility of safe storage of CO₂, there is already considerable experience in this field, as indicated briefly below:

- i) Gas fields: proven containment for natural gas; potential for enhanced gas production (EGR) to be proven;
- ii) Oil fields: proven containment for oil; enhancing oil production (EOR) routine in South West USA since mid 1970s;
- iii) Aquifers: large potential with large uncertainty; site-specific appraisal needed, good experience for many years with Sleipner field Utsira saline aquifer;
- iv) Coal seams: interesting niche for enhancing coal bed methane production with CO₂ injection. This, however, is still in the research phase.
- v) An important aspect to large-scale demonstration will be to show and to provide proof to the public that storing CO₂ in amongst others gas fields is just as safe as producing oil and gas from the same types of fields. The EESC asks the commission to take appropriate measures for informing the public.

⁽¹⁰⁾ Reference may be made, in this context, to, for example, the European Flagship Programme or the Zero Emission Power Platform.

⁽¹¹⁾ See IEA report.

6. Specific comments

6.1 The EESC is able to endorse the mechanisms in the proposal for promoting the demonstration of CCS in power stations, as set out in the Commission's Communication, but wishes to make a number of observations:

6.1.1 The Commission should have a strategy ensuring that the European Industrial Initiative does not overlap with the European Flagship Programme and the European Technology Platform for Zero Emission Fossil Fuel Power Plants (ZEP). These activities should be properly coordinated and mutually reinforcing.

6.1.2 In its Communication, the Commission speaks of 'extending the scope of the European Industrial Initiative beyond a project network'. The aim of this statement is not clear. It is also pointed out that the requisite financing still has to be found. What added value is provided by such extension and how does it tie in with the abovementioned measures in the field of CCS?

6.2 The EESC does not endorse the proposal for catalysing the finance for CCS demonstrations because it does not go far enough.

6.2.1 The proposal advocates a 'case-by-case' approach under which the Commission would be presented with national initiatives and would assess which forms of state aid and other national measures would be permitted. If the implementation of the European flagship demonstration projects is to succeed, the Commission should play a central co-ordination and supervisory role. This would mean that the Commission would take responsibility for general financing. In addition to the commission's contribution financing could then be topped up by earmarked contributions from the Member States concerned which would then have such funding recognised as authorised state aid. At the same time the industry would have to commit itself in respect of financing and implementation.

6.2.2 If the Commission were to guarantee, subject to certain conditions, EU co-financing proportional to an earmarked national contribution, this could provide a stimulus to national authorities. Pre-determined co-financing could remove some of

the uncertainty surrounding the financing of projects and could speed up their development.

6.2.3 Catalysing financing for demonstration projects through new financial facilities is, in itself, an attractive idea. In the final analysis, however, such blueprints will only prove effective if the risk is acceptable and if it is clear how the additional long-term costs can be recovered in each case.

6.3 The EESC can readily endorse the view that the inclusion of CCS in the EU-ETS provides an important stimulus to the development and implementation of large-scale demonstration projects in a European context. In its Communication, the Commission also points out that first movers must be able to see a 'real commercial benefit'.

6.4 It is, however, stated that the EU-ETS should be able to compensate for — or even more than compensate for — the additional costs incurred in each case. As things stand at present, though, this scenario cannot be guaranteed for the following reasons:

- the situation as regards a post-2012 EU-ETS remains unclear;
- assuming that CCS is incorporated in the EU-ETS, there is ongoing uncertainty with regard to the pricing of emission allowances. The major issues at stake in this context are, for example: the character, scope and timing of auctioning at the Member State level within the EU wide cap or the influence of the Clean Development Mechanism (CDM);
- the actual costs involved in CCS after 2012 (early demonstration) and after 2020 (commercial implementation) will depend to a considerable extent on progress made with R&D and economic developments (e.g. fuel prices and design and construction costs).

6.5 The Emissions Trading Scheme (EU-ETS) provides important scope for enabling first movers to derive real commercial benefit vis-à-vis other parties. Further elaboration is however required with a view to making the EU-ETS into a reliable and long-lasting market which gives first movers a competitive advantage over subsequent market entrants. Furthermore, efforts should be made to bring about stronger and possibly different market drivers.

Brussels, 17 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the Council and the European Parliament on a first assessment of national energy efficiency action plans as required by Directive 2006/32/EC on energy end-use efficiency and energy services — Moving forward together on energy efficiency’

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(2009/C 77/14)

On 23 January 2008 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Communication from the Commission to the Council and the European Parliament on a first assessment of national energy efficiency action plans as required by Directive 2006/32/EC on energy end-use efficiency and energy services — Moving forward together on energy efficiency.

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 16 July 2008. The rapporteur was Mr Iozia.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 142 votes to six with three abstentions.

1. Conclusions and recommendations

1.1 In several recent opinions on energy efficiency in general ⁽¹⁾ and energy efficiency in buildings in particular ⁽²⁾, the European Economic and Social Committee has expressed strong, almost unanimous support for a serious policy on energy efficiency.

1.2 The EESC deplores the failure of the Member States to produce their national energy efficiency action plans (NEEAPs) on time. The EESC also regrets that, with a few exceptions, the documents analysed do not demonstrate a strong and serious commitment by the Member States to achieving these objectives. This is particularly true in the main areas of energy consumption: private transport and housing.

1.3 Only two Member States met the deadline for notification, a further 15 were between two and six months late, two presented their plans when the Commission's assessment had already been completed and the remaining eight did so even later. It was not until early April 2008 that all the plans were ready, ten months after the original deadline.

1.4 The EESC notes that the savings resulting from the energy efficiency plans under the Commission's programmes are supposed to make the main contribution to reducing greenhouse gases. The target of reducing energy consumption by 20 % in 2020 includes a reduction in CO₂ emissions of 780 Mteq. Given that UE emissions amounted to 5 294 Mteq for the EU-25 in 2006 (European Environment Agency Report 2006), it is clear that energy efficiency can make an invaluable contribution.

1.5 The EESC notes that, in order to prevent world temperatures rising by more than 2 °C, the concentration of greenhouse gases (currently around 425 ppm of CO₂ eq by volume) will

have to be kept well below the limit of 550 ppm ⁽³⁾. Given that the concentration increases by 2-3 ppm every year, stabilising it at 450 ppm could offer a 50 % probability of meeting the target of limiting the increase in average temperature to less than 2 °C.

1.6 There were glaring differences in the way the Member States produced their plans. The NEEAPs ranged in length from 13 pages to 221 pages, making it virtually impossible to draw any comparisons. Many were produced only in the national language, making them difficult to understand. The EESC recommends the adoption of a model like the one produced as part of the EMEEES project (Evaluation and Monitoring for the EU Directive on Energy End-Use Efficiency and Energy Services) in conjunction with the Wuppertal Institute for Climate Environment and Energy.

1.7 The Member States have, for example, reached agreement with the EEA on a model for the National Inventory Report. The EESC believes that the same procedure could be adopted here, provided that the model could be made more flexible by using specific appendices for each field (housing, transport, etc.).

1.8 The EESC believes that the instrument of voluntary agreements with national operators is useful, but it should be clear from any agreements approved that failure to meet the targets will result in the imposition of compulsory standards.

1.9 The Commission is already taking a number of measures, which were announced back in 2006, to make energy savings compulsory and plans to follow Australia's example and phase out incandescent light bulbs which use 90 % of their energy to produce heat and only 10 % to produce light. The EESC hopes that manufacturers will find ways of cutting the price of

⁽¹⁾ CESE 242/2006, rapporteur: Mr Buffetaut and CESE 1243/2007, rapporteur: Mr Iozia.

⁽²⁾ CESE 1338/2007, rapporteur: Mr Pezzini.

⁽³⁾ Parts per million.

fluorescent bulbs, that government institutions in the EU Member States will promote their larger-scale manufacture, that energy-saving bulbs will become more durable and compact and that problems with their recycling can be solved.

1.10 The next EEA report, due to be published by the end of June 2008, will show that there was a reduction in greenhouse gases between 2005 and 2006 of 35.8 Mteq of CO₂. Interestingly, the main contribution to this has come from private houses and offices, which have achieved savings of 15.1 Mteq. Production of electricity and heating, on the other hand, showed an increase of 14 Mteq. Despite the reduction, the report shows that the UE-27 achieved an improvement of less than 0.5 % compared with 1990, and certain Member States need to step up their efforts.

1.11 The liberalisation of the energy market could accelerate energy savings because production and distribution systems with different levels of efficiency will face one another in the market, which could potentially stimulate research and investment to reduce waste. Over 30 % of energy is lost at the generating stage alone. In a recent opinion (*) the EESC backed the Commission's proposals on the third energy package, aimed at creating an effective European energy market.

1.12 The EESC firmly believes that there is room for improvement and more needs to be done. It would like more details about the Commission's conclusions on completion of its assessment of the national action plans and wishes to be given the opportunity to express its own opinion on the outcome of this assessment.

1.13 The EESC has repeatedly called for the involvement of civil society in Europe and the Member States, on the grounds that the full knowledge and support of the European public are essential if the targets for energy efficiency are to be met. The recommendations coming from civil society need to be given serious consideration. The measures adopted must always take into account the difficulties many millions of ordinary people have in coping with the problems of daily life. Energy saving programmes will inevitably entail costs and should provide for carefully chosen measures and appropriate support for the less well-off, who have to meet the costs of rising energy prices but are unable to reduce their bills, for example because they cannot afford energy-saving measures in the home.

1.14 The EESC insists that the initiatives in the field of energy efficiency must be specific and feasible and wonders whether at least some of the measures should be made compulsory, with checks to determine how far the practical results fall short of the plans, as was the case with vehicle emissions, the CO₂ reduction in general, greenhouse gas emissions and renewable energies.

1.15 The national action plans do not clearly specify what measures and resources will be used to involve the final users in

a major European energy efficiency and energy saving plan. The EESC has on several occasions drawn attention to the essential role that organised civil society could play in identifying good examples of information provision and the sharing of best practice. The EESC would like to discuss this issue with the European institutions that do not seem to be particularly committed or aware.

1.16 The EESC recommends that the European Commission and the Member States set up a specific integrated monitoring system of the sort used for water policies, for example. Such a system is essential in view of the lack of information about and assessment of the impact of the EU's energy efficiency policies on final users (particularly SMEs) and the absence of any methodology for verifying the consistency between international and European targets or a process for monitoring the results achieved by these users.

1.17 In some sectors, such as social housing, the building stock consists of very old and inefficient dwellings. More than 25 million homes require urgent and complex modifications. The EESC hopes that plans will be launched to renovate public housing with funding from the EIB. There is no mention of such measures in the NEEAPs.

1.18 The EESC believes that market instruments, similar to those already in operation, could make a valuable contribution. Creating a market in 'negawatts', or electrical energy efficiency, for final consumers as well could provide a useful incentive for ordinary citizens to adopt good energy saving practices. Given that replacing incandescent light bulbs alone could produce savings equivalent to at least 80 power stations of 1 000 MW (almost equal to Italy's gross installed capacity), it is clearly in the interests of producers to support energy efficiency, which will enable them to satisfy more customers while generating the same amount of electricity.

1.19 The EESC hopes that there will be a renewed positive trend, that the Member States will take policy on energy efficiency and energy saving seriously and that this will be reflected in serious, credible and realistic national plans with measurable objectives. An indication should also be given of the resources which the Member States intend to devote to providing adequate support for the investment by individuals and companies that is required.

2. Introduction

2.1 In its Communication on the first assessment of national energy efficiency action plans (NEEAPs) entitled 'Moving forward together on energy efficiency', the Commission fulfils an obligation under Article 14(5) of Directive 2006/32/EC to publish an assessment of the 27 national action plans by 1 January 2008. The second report must be published before 1 January 2012 and the third before 1 January 2015.

(*) CESE 758/2008, rapporteur: Mr Cedrone.

2.2 The targets to which the Communication refers were laid down in Article 4(1) of the Directive, which states that 'Member States shall adopt and aim to achieve an overall national indicative energy savings target of 9 % for the ninth year of application of this Directive, to be reached by way of energy services and other energy efficiency improvement measures.'

2.3 The Commission reports that only two Member States met the deadline for notification (Finland and the United Kingdom), while a further 15 notified plans late: Austria, Bulgaria, the Czech Republic, Cyprus, Denmark, Estonia, Germany, Ireland, Italy, Lithuania, Malta, the Netherlands, Poland, Romania and Spain. Belgium and Slovakia submitted their NEEAPs at the end of 2007, too late to be included in the assessment.

3. The Commission Communication

3.1 It appears from the plans that five Member States have set themselves more ambitious targets than those laid down in the Directive, others have set much higher targets, but have not made them official commitments. Of the 17 plans evaluated, six did not cover the full period referred to in the Directive (i.e. up to 2016). Examples of the exemplary role of the public sector were found in Ireland, which has adopted a public sector savings target of 33 % by 2020, Germany, which is committed to a 30 % reduction in CO₂ emissions for the public sector by 2012, and the United Kingdom, which is aiming for carbon neutral central government buildings by 2012.

3.2 The report mentions a number of national campaigns, such as Ireland's Power of One, which includes an internet site for exchanging best practices between the public and private sector; the use of energy audits in public buildings in Denmark, with compulsory implementation of the resulting recommendations; Germany's major retrofit programme for its federal buildings which has a budget of 120 million euros, and the appointment in Malta of Green Leaders — officials in each ministry responsible for energy efficiency and promoting renewable energy.

3.3 The United Kingdom will apply the Code for Sustainable Homes to all its housing developments, requiring all new homes to comply with the Code's Level 3 — a 25 % energy performance improvement compared to the 2006 building code. Austria is working to make public buildings more efficient than the legal requirements, while Spain plans to update public street lighting systems with modern and more efficient equipment and improve energy efficiency in the treatment and supply of drinking water.

3.4 Poland and Finland will require the public sector to achieve energy savings at a level at least equal to the national target, as already achieved at municipal level, while

the Netherlands aims to lead the field by ensuring that by 2010 100 % of national and 50 % of local and regional public procurement includes sustainable procurement criteria.

3.5 Tax incentives are felt to be extremely important. Germany and Austria are targeting energy efficiency in buildings, which account for 40 % of energy consumption, and Lithuania plans to introduce a reduced rate of VAT (9 % instead of 18 %) on publicly financed housing. The Netherlands plans to offer an Energy Investment Deduction to private companies, while Italy has introduced a gross tax deduction of up to 55 % for the purchase of energy efficient consumer durables (A+ rated refrigerators and boilers) and lighting equipment, and for energy efficiency building refurbishment.

3.6 Voluntary agreements are seen as a useful tool, particularly in Finland (in the period under review they covered around 60 % of final energy use and the aim is to reach 90 % by 2016), the Netherlands, where they apply mainly to businesses, and Denmark which, by contrast, uses them for public procurement. Spain, Poland, the United Kingdom, Romania and Ireland plan to introduce voluntary agreements as a key instrument to achieve energy savings.

3.7 Market-based instruments feature in the national plans of a small number of countries. One example is Italy's white certificates scheme, which it plans to extend until 2014 and which Poland intends to adopt. The United Kingdom's Energy Efficiency Commitment will be extended until 2020. It has been renamed the Carbon Emission Reduction Target and will have a savings target almost double that for the period 2008-2011. Several countries (particularly Austria, Germany, Ireland, Italy, Poland and Spain) attach great importance to the Energy Service Companies (ESCOs), which have not yet fulfilled their expectations.

3.8 Bulgaria, Romania and the United Kingdom are planning to set up funds and funding mechanisms targeting the commercial and residential sectors. Information, education and training policies are not implemented in the same way by the national energy agencies, which have different mandates; some countries, like Denmark and Italy, have chosen to devolve these tasks to regional and local agencies.

3.9 Transport, which accounts for over a third of energy consumption, is seen as particularly important by many countries, but in practice only Austria and Ireland are proposing specific measures to promote a modal shift to public transport.

3.10 Most of the plans presented adopt a 'business-as-usual' approach, and in several Member States there is a considerable gap between the political commitment and the measures adopted and resources allocated.

3.11 In addition to closely monitoring the transposition of the Directive, the Commission will try to facilitate its implementation by means of the Intelligent Energy Europe Programme. It will launch a web-based platform to gather and present input from stakeholders, who will be involved in supporting the implementation of the Directive and, hopefully, contribute to the adoption of national measures and the preparation of the next NEEAPs. The national plans will be assessed as part of the Energy Efficiency Watch project.

3.12 The Commission concludes by reiterating the importance of international cooperation and referring to its initiative of setting up an international platform on energy efficiency to help develop technical standards, trade and technology transfer. The major challenges Europe faces and the responsibility it wants to assume in the field of climate change, security and sustainability of energy supplies, and reducing greenhouse gas emissions require strong and effective programmes to improve energy efficiency.

4. Specific comments

4.1 The first clearly negative aspect of this Communication is that only two of the 27 Member States met the deadline for presenting National Energy Efficiency Action Plans laid down in the Directive. A further 15 managed to produce their conclusions shortly thereafter and two countries submitted reports too late for inclusion in the assessment, but there was no sign of any report from the remaining eight. A year after the deadline of 30 June 2007 one Member State has still failed to produce a report.

4.2 The second negative element to emerge from the Commission's conclusions is that, with a few exceptions, the documents analysed did not demonstrate the strong and serious commitment that the situation demands. It is more and more common for Heads of State and Government, representing the Member States, happily to approve directives in Brussels which they cannot or will not comply with when they get home. The Lisbon Agenda is the most blatant example, but the books are full of such contradictory behaviour. And there will no doubt be more instances in future.

4.3 Reading the national action plans, one is struck by the absence of any frame of reference and the lack of uniformity in the format and content of the plans, which makes them difficult to read and almost impossible to compare. As part of the EMEEES project (Evaluation and Monitoring for the EU Directive on Energy End-Use Efficiency and Energy Services) carried out in conjunction with the Wuppertal Institute for Climate Environment and Energy, a model was drawn up, precisely to facilitate the drafting of the national action plans. Belgium wrote a letter complaining that this important model was not produced until 11 May, just a few days before the deadline for submitting the national plans.

4.4 The documents range from 13 pages for the Czech Republic and Lithuania to 41 pages for Romania and 89 for Malta, among the new EU Member States. In the case of the large states, France's report was 37 pages, Germany's 102 pages, Spain's 211 pages and the United Kingdom's 214 pages. As for Belgium, because of its federal system it had to produce four documents amounting to a total of 221 pages. The total number of pages produced by 25 Member States (Sweden and Portugal do not yet appear on the Commission site) was 2 161, all with different data, tables and measures. Each country chose its own reference parameters, methodologies and means of communication: the result is discouraging because it is impossible to identify any trend.

4.5 The material published by France, Slovenia, Greece (a draft only), the Netherlands and Luxembourg is in the national language (making it impossible for the rapporteur to read). It is extremely difficult for any exchange of best practice to take place when documents have to be read in their original language, but the Member States were not asked, let alone required, to use a single language for their submissions. The Commission has translated all of the documents into one language, but the delays in submitting the NEEAPs have had repercussions on the translation schedule.

4.6 The EESC would stress the contrast between the objectives of the national plans and the two factors referred to here. Neither encyclopaedic plans nor summaries help us to understand exactly where a country is heading. Excessive detail and excessive conciseness both have the same effect of making a report difficult to read and understand. The EMEEES model could be a happy medium between the two extremes. The EESC strongly recommends that for the next round of national plans a common model be adopted that is easy to read and compare.

4.7 With a few commendable exceptions, mentioned in this opinion, the EESC is disappointed by the serious lack of initiatives in the public sector and agriculture. The NEEAPs have little or nothing to say about these highly important sectors.

5. General comments

5.1 In January 2007 the Council asked the Commission to take measures in the field of energy and climate change to meet ambitious targets. These targets were laid down in the third energy package, the renewable energy and climate change package, the Directive on reducing CO₂ emissions from new cars, the new Energy Star Regulation, the Green Paper on urban mobility, which includes incentives for efficient vehicles, and the Strategic Energy Technology Plan.

5.2 These measures contain a few recommendations and a large number of rules. However, having formally approved the measures, the governments are incapable of resisting the pressures from national industry and standing by the choices they have made. They then call for changes in policies which they have collectively agreed, as in the case of CO₂ emissions.

5.3 The reason why the Member States do not seem to be too concerned can be found in the Directive itself. Recital 12 specifically states that 'Even though Member States commit themselves to making efforts to achieve the target figure of 9 %, the national energy savings target is indicative in nature and entails no legally enforceable obligation for Member States to achieve it.'

5.4 This type of legislation (directives containing non-binding objectives without penalties in the event of non-compliance) was typical of the legislative initiatives taken in a particular period and in certain specific fields. Until very recently the Member States insisted on their own sovereignty in matters of energy choices, energy supplies, production and distribution. This led to the sort of 'soft law' which characterised the period in question. The Biofuels Directive (2003/30/EC) set quantitative targets, but imposed no specific obligation to achieve them.

5.5 In these circumstances and under such conditions the target of achieving a 20 % reduction in consumption by 2020, by increasing energy efficiency, will be extremely difficult to meet unless stringent additional measures and/or objectives are adopted.

5.6 The EESC has supported and will continue to support all initiatives aimed at achieving an ever higher level of energy efficiency, in the belief that CO₂ emissions and the EU's energy dependency are two issues of major importance.

5.7 At the same time, the EESC notes the contradiction between general non-binding measures and specific measures aimed at achieving the result, which are binding. Why is the whole not binding but the individual parts are? The Commission itself should set a good example by making public the energy efficiency and energy savings achieved in its own buildings, the initiatives it has undertaken and the funding that has been allocated. An appendix giving the 'federal' viewpoint would help readers to understand the importance of such policies.

5.8 The EESC emphasises the wide disparity between the publicised expectations about the adoption of measures capable of significantly improving energy efficiency and the generally disappointing and unambitious proposals presented by the Member States, and reiterates the need for practical measures in the short, medium and long term to give substance to the declared objectives.

5.9 If this is the conclusion reached, the EESC urges the adoption of measures capable of achieving the objectives rather than a purely cosmetic gesture of the sort made on other occasions.

5.10 The EESC welcomed both Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services, and the subsequent Action Plan for Energy Efficiency: Realising the Potential

(19 October 2006), but the legislation and guidelines were premised on relatively low oil prices. When the Directive was presented, in 2004, the price of oil was hovering around USD 42 per barrel, while the average price in 2006 was just under USD 62.

5.11 In this context it was understandable that the targets were indicative and that the Commission did not include in the Directive a firm obligation on Member States to meet them. As the EESC once wrote: 'the best energy is unused energy', but if energy-saving is left to the goodwill of the Member States, without any incentive other than their own conscience, the target becomes problematic or simply impracticable.

5.12 But can the European Union afford not to meet the targets of reducing energy intensity by 1.5 % per year? Not to save 390 Mtoe which produce 780 Mt of CO₂? On the one hand, clear and ambitious targets are being set for reducing greenhouse gas emissions by 20 % and meeting 20 % of our energy needs using renewable sources, while on the other, the most directly attainable target, which would bring an immediate saving, is downplayed and treated like a hypothetical aspiration.

5.13 The EESC notes that in some countries implementation of the plans is devolved to the regional governments, without proper coordination. This means in practice that there is a lack of harmonisation and consistency between regions.

5.14 The EESC deplores the lack of real choice on the supply side and believes greater choice should be provided, coupled with incentives for less well-off groups, and especially for consumers and small and medium-sized businesses, in order rapidly to achieve the desired results. In some countries incentives have produced very encouraging results, for example in the case of white goods.

5.15 The EESC considers the experience with ESCOs to have been a success and is in favour of making such services more widely available to the public and businesses. New professions, new opportunities for skilled employment, benefits in the area of energy efficiency and greenhouse gas reductions are just some of the positive aspects of these services.

5.16 The EESC insists that the Member States are not doing enough to meet the targets that have been set and is convinced that, as in the case of transport emissions, the Commission's initiatives need to be supported, where these seek to place stricter obligations on the Member States. Last year the Commission took several positive initiatives, including i) the new Energy Star Regulation, the standards of which have now become compulsory for public procurement for office equipment; ii) the Green Paper on urban mobility, which suggests funding for more energy-efficient vehicles; iii) the third energy package, which increases the powers of the national regulators in the area of energy efficiency; iv) the Strategic Energy Technology Plan and v) the Regulation on emissions by new cars.

5.17 Other measures are planned for the coming months. These range from new directives on energy-efficiency requirements and green labels for a wide range of products (such as public street lighting and office lighting, minimal consumption standby and off modes) to the new regulations, expected in 2009, on televisions, domestic fridges and freezers, washing machines and dishwashers, boilers and water heaters, personal computers, imaging equipment, electric motors, heat pumps and air conditioners. Also in 2009, the Commission plans to adopt a proposal to promote the rapid replacement of domestic incandescent light bulbs. The revision of the directive on car labelling, and tyre efficiency and systems for constant monitoring of tyre pressure and quality will be at the heart of the new transport policies.

5.18 The EESC believes it is essential to create an internal energy market in which prices are the result of healthy competition, in line with the Directives on electricity and gas.

5.19 The EESC highlights the need for the EU Member States to produce training plans for schools (which will then actively have to pursue energy efficiency programmes), as well as communication campaigns to raise public awareness of the importance of and need for responsible, energy-efficient consumption.

5.20 A particularly interesting initiative in the educational field has been the organisation of a number of competitions in

which technical institutes compete to achieve the biggest energy savings with the active involvement of the students. For example, in Italy the project 'datti una scossa', which offered a prize of up to EUR 25 000 for putting the proposal into practice, proved highly successful; another example is the international eco marathon in which a French institute presented a prototype vehicle that travelled 3 039 km on one litre of petrol! A team from Denmark succeeded in producing a combustion engine emitting 9 g/km to win the Climate Friendly Award.

5.21 The economic instruments that are available in the future will have to be effective and sustainable in the long term. The EESC believes that particular attention should be paid to the distribution of the incentives, which should be aimed at final consumers. Consideration should also be given to the case for reserving part of the incentives for the energy service supplier, thereby creating a common and convergent interest in energy efficiency policies.

5.22 In order to give customers proper price signals that will promote more rational and efficient energy use, the EESC urges the Commission to clamp down on predatory pricing, taking into account what is allowed under European legislation in the area of proper promotion of renewable energies and preserving the provisions for vulnerable consumers laid down in the gas and electricity Directives.

Brussels, 17 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on 'The Internet of Things'

(2009/C 77/15)

On 7 February 2008 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on

The Internet of Things.

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 16 July 2008. The rapporteur was **Mr Retureau**.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 118 votes with one abstention.

1. Conclusions and recommendations

The EESC encourages the EU Commission to:

1.1 Invest in research, to support dissemination (such as the past presidency events) and standard setting activities because they consider the Internet of Things (IOT) domain important.

1.2 Take measures to remove barriers that would hamper the taking-up of the technology.

1.3 Assess whether centralised systems will be able to handle the amount of traffic that can be expected of IOT applications and if local governance (of names and services) are a better approach to manage mass deployment.

1.4 Investigate whether the current existing directives handle the data protection and security requirements adequately or if new legislative measures are needed.

1.5 Consider the need for some laboratories in Europe with combined funding from universities and private companies, in order to ensure that research results are taken up in Europe and to counter a brain-drain of researchers to research facilities and enterprises in other parts of the world (US).

1.6 On the issue of eventual electromagnetic risks — the principle of precaution should apply for these new environments with a high density of wave readers, in particular for the workers in such environments. They should be informed about any potential risks and methods of protection should be put in place. All the same, the question should be seriously assessed, through scientific studies.

1.7 Remember that technology development should be done for the people and that there is a need to evaluate the related ethical risks.

1.8 For transeuropean services, the European Commission or the independent administrative authority that may regulate

the spectrum in the future, should consider the spectrum needs of the Internet of Things.

1.9 Research will be crucial to win the race to deliver computing capacity to handle future real time Internet of Things applications.

2. Commission proposals

2.1 Following its 2007 communication on RFID tags ⁽¹⁾ and the conference on this subject held in Lisbon last November, this communication sees the Commission moving into the next phase, which is the Internet of Things ⁽²⁾.

2.2 Reference should also be made to the numerous communications and initiatives which the EESC has produced in recent years ⁽³⁾, including an interim report on the i2010 programme ⁽⁴⁾.

3. Comments and analysis

3.1 Introduction

3.1.1 The development of IT is a crucial issue for our societies, especially since Europe's single market puts it in a good position to become a key region in the digital economy, provided that it commits sufficient economic resources to basic research and R&D and political resources to governance for the Internet of the future.

⁽¹⁾ COM(2007) 96 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Radio Frequency Identification (RFID) in Europe: steps towards a policy framework.

⁽²⁾ See Towards an RFID policy for Europe, Workshop report, Maarten Van De Voort, Andreas Ligtvoet, 31 August 2006.

⁽³⁾ Such as the EESC opinion, on *Radio Frequency Identification (RFID)*, rapporteur Mr Morgan, OJ C 256 of 27.10.2007, p. 66 — TEN/293.

⁽⁴⁾ Communication on Preparing Europe's digital future: i2010 Mid-Term Review COM(2008) 199 final.

3.1.2 Europe's growth and competitiveness are highly dependent on this and it is time that, in addition to developing technology and investment and the requisite knowledge and know-how, a strong position be taken on political governance of the Internet.

3.1.3 Even with the current interactive, mobile Web 2.0, the Internet still relies on a global network of hundreds of thousands of servers and routers, in other words, fixed computers linked by wire or optic fibres. However, connections to mobile terminals, such as mobile telephones or internet tablets, which are made via electromagnetic waves, are expanding very rapidly, using various different connection standards (3G, 3G+-HSPDA, Edge, WiFi, WiMax).

3.1.4 Web 2.0 is interactive. Users can also create or supply content, either individually or through cooperative or collective formats (such as the Wikipedia encyclopedia and free software). A huge number of SMEs now provide software, creative content and, in particular, a very diverse range of services, from network installation and maintenance to information security and training.

3.1.5 Computer chips are becoming smaller and simultaneously more complex and energy efficient. They are incorporated into increasingly light mobile terminals where the embedded software and calculation power can be used to integrate telephony, internet access and geolocation (e.g. SiRF 3 chips).

3.2 *Towards the Internet of Things*

3.2.1 The Internet of Things is starting to develop in a complex technological context, on the basis of Web 2.0 and other, mostly already operational, associated technologies, whose fusion will represent a major step towards the Internet of Things. These include:

- The Ipv6 ⁽⁵⁾, HTTP ⁽⁶⁾, and FTP Protocols, amongst others, and a new universal HTML standard for reading sites (which has yet to be developed)
- RFID ⁽⁷⁾ tags and the radio-frequency readers, which connect them to databases
- Geolocalisation (GPS, and soon Galileo)
- Interconnected networks and data storage capacities
- Artificial intelligence, particularly in Web 3.0 (a semantic web, whose language will be closer to ordinary language) and for inter-machine data management

⁽⁵⁾ Internet Protocol version 6.

⁽⁶⁾ Hypertext Transfer Protocol (HTTP) is a communications protocol for the transfer of information on intranets and the World Wide Web. Its original purpose was to provide a way to publish and retrieve hypertext pages over the Internet.

⁽⁷⁾ Radio Frequency IDentification.

- Nanotechnology, particularly applied to micro-processors
- 2D labels (barcodes, Datamatrix) which can be re-used, for instance by linking rich context to a Datamatrix coded Internet address, scanned by a portable terminal which is directly connected with the Web Site (multiple uses, including tourism, advertising and information).

3.2.2 As the various components of the future networks are developed, massively parallel IT processing will play an increasingly important role. Hundreds or thousands of processors can function in parallel ⁽⁸⁾ rather than operating sequentially, which allows for a powerful acceleration of calculation and thence for the design of complex, simultaneous virtual universes. In fact, virtualisation allows for much fuller use of the power of computers by enabling several machines to operate virtually from one single machine, even if they have different operating systems, and this technique is being introduced rapidly.

3.2.3 Europe certainly needs to step up research and to train people to a high theoretical and practical level in these areas in order to prevent a brain-drain of researchers to the big American — and soon also Chinese and Indian — university and private-sector laboratories. There is a clear risk of a sizeable technology gap opening up if no major initiatives are devoted to mastering the Internet of the future.

3.2.4 Mass storage technologies are also developing rapidly. These are absolutely vital for the databases which will contain the descriptions of the objects identified by their Internet address. This storage capacity, combined with the data processing capacity, will pave the way for the Intelligent Internet, which will store new knowledge in more complete databases by combining and processing data received from the identity databases and objects. At the same time, the network will become the PC, storing the programmes that will enable users to access databases and carry out other operations, such as complex searches and reports.

3.3 *Initial applications:*

3.3.1 Some applications are currently being tested and others are already operational using existing means in economic sectors such as:

- retailing (Wal-Mart),
- transport logistics and tracking of cargo,
- security in certain enterprises.

⁽⁸⁾ Stanford University is launching a new laboratory, the 'Pervasive Parallelism Lab' funded by the key IT companies in the USA, including HP, IBM and Intel.

3.3.2 The RFID tags incorporated into objects, ID badges and supermarket products give a reader located relatively nearby (the distance depends on the frequency used) simultaneous access to the address and characteristics of all the objects which are scanned at the same time (i.e. the supermarket trolley or container) and draws the necessary conclusions (i.e. price to be paid, detailed customs declaration). In Japan, it is already possible to use this kind of system for purchases, which are paid for using another chip contained in the mobile phone (which is actually a multi-purpose terminal).

3.3.3 With respect to transport logistics, in connection with geolocalisation, it is possible to find out everything about an open order, including its geographical location, in real time.

3.3.4 The Internet of Things is pervasive. It is often also referred to as the 'Ambient Internet', where the information transmitted by the readers at various stages of processing can be handled automatically.

3.3.5 In some applications, the objects communicate, the network 'learns' and can take appropriate decisions. This would apply, for instance, to home systems including applications such as Bio Recognition, door opening, decisions concerning the house and supplies, heating, ventilation and safety warnings for children.

3.3.6 Access to some machines or information can be determined by fingerprint or form recognition scanners.

3.4 *Pervasive networks, privacy and security:*

3.4.1 However, these developments can considerably increase the risks of breaches of privacy for business confidentiality and the relationship between customers and the suppliers of goods and services being undermined, since, to function properly, the Ambient Internet needs to contain large quantities of personal or even, with regard to medical applications, confidential or strictly private information.

3.4.2 The issue must therefore be raised of whether existing EU legal instruments on data protection are sufficient to cover the networks that will be operational in the near future.

3.4.3 Without stronger protection and confidentiality for sensitive data, the ambient network could become a totally transparent instrument for people (as is already the case for pets in the European identification system).

3.4.4 Above all, it is important to monitor the intersections where the disparate data comes together by regulating those which relate to objects and prohibiting those which relate to

people. Data will only be disseminated if it has already been rendered anonymous, which removes the objections of those who refuse to give sociological data, for the sake of protecting their privacy. There is no need for people to give prior authorisation if data is made anonymous and translated into statistics before the results are published.

3.4.5 Legally defined confidential data will have to be protected by high-level encryption so that access will only be given to authorised people (or machines).

3.4.6 The question of whether the powerful ultra-high frequencies that will soon be widely used are harmless or involve some degree of risk is, as the Commission acknowledges, still open.

3.4.7 The legislation on the protection of workers against electro-magnetic waves is likely to be inadequate to cover permanent exposure to high and super-high frequencies. Studies in this area, focusing in principle on the possible impact of mobile telephones on users' health, have remained inconclusive. It is vital and urgent that research be conducted more rapidly and extensively into the risks and possible ways of countering them before some new-generation tags are developed in an uncontrolled way⁽⁹⁾.

3.4.8 Rules, preferably global but at least European, must be established for the use of RFID tags, prioritising the right to the protection of privacy and using an approach that goes beyond 'natural persons', since current legislation is applied patchily and does not cover all the various situations connected with the current and future use of RFID tags and the Internet of Things.

3.5 *The Internet of the Future:*

3.5.1 To the extent that is possible to make medium-term forecasts in a field that is constantly evolving, it seems likely that the Internet of the future will be a combination of Web 3.0 and the Internet of Things.

3.5.2 Most of the various components of the Internet of the future either already exist, or are being perfected or implemented, meaning that the new Internet will soon be making its debut. Its new paradigm will redefine the place and role of pervasive networks in people's lives and economic growth on a scale that is still difficult to conceive but which may lead to major social change and be an unprecedented source of development for the businesses and countries which are able to master its vicissitudes, in other words, those who have already taken steps to make the requisite investments in research, training and

⁽⁹⁾ A British scientific study on mobile phones has demonstrated over several years that they are harmless. The report can be found at <http://www.mthr.org.uk>.

establishing standards and new services. This could lead to changes in economic and scientific power balances at global level. It is a challenge Europe cannot avoid.

3.5.3 Lastly, the Internet of Things represents a fusion of the physical and digital, the real and virtual worlds. Smart objects are fully incorporated into the ambient ubiquitous network, and will occupy a far greater place than in the humanist

participatory Web 2.0, which will be dissolved into and become part of the wider and larger scale network.

3.5.4 Finally, the new network poses problems of governance in view of its scale and new content, the requirements of finding hundreds of billions of names and the universal standards which will need to be used. RFIDs are currently regulated through private standards and commercial relations with global EPC, but will this continue to be a practical solution when the Internet of the future is fully developed?

Brussels, 18 September 2008.

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 European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Creative Content Online in the Single Market’

COM(2007) 836 *final*

(2009/C 77/16)

On 3 January 2008, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Creative Content Online in the Single Market.

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 16 July 2008. The rapporteur was Mr Retureau.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 115 votes to 1 with 5 abstentions.

1. Conclusions and recommendations

1.1 Consumers’ rights:

1.1.1 The EESC endorses the idea of high-level consumer protection. It consequently looks forward to the publication of the Guide for consumers and users of Information Society services.

1.1.2 In the EESC’s view, this guide should cover at least the following points:

- Ensuring the network’s neutrality, in order to improve consumer choice
- Guaranteeing the proper protection of personal data, and a high level of security for the electronic trading environment
- Helping to establish voluntary regulations and trust marks for e-commerce

- Determining how consumers’ rights apply in the digital environment, in particular access rights, universal service and protection from unfair commercial practices

- Setting quality parameters for online services

- Establishing a simple European online form for notifying fraudulent activity

- Introducing an online out-of-court dispute settlement scheme.

1.2 Interoperability:

1.2.1 The EESC wishes to emphasise that interoperability is a factor of key economic importance and notes that open standards are central to achieving interoperability and help to ensure security and reliability.

1.2.2 The continuing lack of interoperability limits the European public's access to technology, services and content, forces them to pay higher prices for equipment and at the same time limits the choice of such devices and obliges people to use backdoor approaches, since some of the parties concerned take advantage of unnecessary technical differences to create monopolistic markets.

1.2.3 The EESC considers the concept of Euro-compatible Digital Rights Management systems (DRM) ⁽¹⁾ to be less useful than it might appear, causing more problems than it solves and potentially excluding some creators from online distribution; further, the content market is now global, as demonstrated by the practice of zoning, which restricts user freedom.

1.3 The Committee considers that the almost anarchic taxation of all types of digital media or memory devices, which reveals considerable disparities between Member States, leads to major market distortions.

1.4 The criminal measures and exception procedures implemented in the Olivennes proposal in France far exceed the WTO's requirements, as laid down in the 1994 Marrakesh agreement. As stated by the Court of Justice in the *Promusic* judgment, the choice of methods used to enforce copyright must comply with the principle of proportionality and a proper balance must be struck between rights and freedoms and the interests at stake.

1.5 The EESC looks forward, therefore, to seeing the Commission's planned recommendation on creative content online, in order to make specific comments on transparency (labelling) and on new forms of establishing and managing digital rights at the European level, fostering and contributing to innovative schemes for distributing creative content online and researching the most effective means of putting an end to illegal copies made for commercial purposes and any other form of piracy.

2. Commission proposal

2.1 The main aspects of the Commission communication and questions aim to:

- regulate and harmonise and harmonise a European market for creative content online;
- develop a European copyright and related rights, multi-territory rights licensing and greater protection for rights relating to literary and artistic property;
- establish interoperable European DRMs, appropriate to the media devices concerned, in particular for online content;
- ensure the security of communications and financial settlements, combat piracy and fraud, in order to boost confidence in the digital economy and to foster the growth of online services;

⁽¹⁾ Digital Rights Management — (a 'politically correct' term meaning software or technical devices preventing copying).

- the greatest problem on the horizon will undoubtedly concern private copying, which is the source of considerable controversy in Europe, because legislation on this issue in the different EU Member States is far from being harmonised.

2.2 According to the 41-page Commission staff working document, which is published separately from the Communication and is available only in English ⁽²⁾, the cross-border nature of online communications and the new business models required by the new technologies mean that EU policies should aim to promote the fast and efficient implementation of new business models for the creation and circulation of European content and knowledge online. In this context, the Commission has identified as 'creative content distributed online': content and services such as audiovisual media online (film, television, music and radio), games online, online publishing, educational content as well as user-generated content, such as social networks, blogs, etc.).

2.3 The main aim, already stated in the document entitled *i2010* ⁽³⁾, is to establish a single European information area. The problems described in that document still exist and, at the same time, technological distribution platforms are diversifying and expanding.

2.4 With regard to the problem of confidence in the digital economy, a recurring question concerns interoperability between hardware, services and platforms and some people consider that criminalising 'peer to peer' (P2P) or BitTorrent file-exchange systems and imposing draconian measures to protect intellectual property rights do not foster a climate of confidence. This holds all the more true because the explosion of user-generated content, which gives a new dimension to the role played by those users in the digital economy, has resulted in a number of challenges for public policy in different areas, such as confidence and security.

2.5 The use of DRM (digital rights management) is heavily criticised by consumers' organisations, which consider them to infringe basic consumer rights. They also imply data-protection risks and are not easy for users to manage. Some industry representatives defend DRM, however, claiming that the interoperability-related problems are caused by the product manufacturers and software designers.

2.6 On the global market, national market operators are confronted with the diversity of languages and the limitations of certain markets, as well as the disparities in national licensing rules. The ISPs (Internet service providers) support multi-territory licences and rules, but other areas of the industry are by and large opposed to this approach. National licences would help to ensure that authors are better remunerated; although a sizeable number of rights collection agencies operate in more than one country. Furthermore, music organisations and mobile operators would like the rights recovery process to be simplified.

⁽²⁾ COM(2007) 836 final, Brussels, 3.1.2008, SEC(2007) 1710 Commission staff working document.

⁽³⁾ *i2010* — A European Information Society for growth and employment' (COM(2005) 229 final).

2.7 The ISPs are also critical of the differences in systems for collecting rights for private copying, which are increasingly burdensome and complex, as well as the amounts involved. The ISPs also question the benefit of these systems where DRM is concerned.

2.8 The lack of availability of content for online distribution, market fragmentation and the considerable diversity in the types of contract for different uses make it difficult to place creations online rapidly and act as a brake on the development of services.

2.9 The Commission working document reflects the results of two consultations and shows the variety of positions held by the different interests at stake; the Commission would, however, like to push ahead in the (controversial) areas of multi-territory licences and a European copyright, increased use of interoperable DRM in particular and see the completion of a genuine European market, which includes the full range of cultures.

2.10 The aim is to ensure that the European online content market (covering music, films, games, etc) grows four-fold by 2010, with revenues increasing from the 2005 figure of EUR 1.8 billion to EUR 8.3 billion.

3. Comments

3.1 The Committee is fully aware of the fact that the Internet allows the digital collection or distribution of goods and services using methods which infringe the immaterial property rights of authors and distributors of creative content online, as well as the invasion of people's privacy and new forms of fraud affecting businesses and individuals.

3.2 Contemporary music and, increasingly, audio-visual works and software of all kinds are the creations most subject to illegal circulation. This phenomenon became very widespread during the period when distributors had not proposed any business model which took account of the new possibilities for infringing immaterial property rights. Education on Internet use by adolescents was also needed, but no institution has taken this initiative and education of this nature continues to be totally inadequate.

3.3 The initial reactions were sometimes extreme and sometimes, more rarely, lax. In general, distributors have introduced copy-restriction mechanisms (so-called 'DRMs'), concurrently with the demand for financial compensation for rights holders and penal measures which are strong deterrents but, in practice, inapplicable given the scale of the fraud, except in cases of mass counterfeiting, principally from Eastern Europe and Asia. A small number of people have been caught out to serve as a deterrent, but it has not been possible to assess the real impact of this deterrent given the lack of independent studies and realistic data on the damage caused by counterfeiting.

3.4 However, the Committee expresses some surprise at the Commission's proposal to create 'European', interoperable DRMs for content distributed online. As regards music, millions of songs are already available on commercial sites without DRMs, which are expected to disappear over time. Distribution companies are designing a variety of distribution systems for

this category of content, including the possibilities of listening directly without being able to record, or arrangements whereby a certain number of works can be downloaded, or free content in return for 'compulsory' advertising etc.

3.5 Physical protection mechanisms for mobile media, or even terminals, are now viewed as barriers to 'fair use' more than as effective protection against piracy; they can also result in anti-competitive vertical integration (sites, property coding with some degree of loss of quality, dedicated players: Apple distribution systems with AAC coding and iPod or iPhone players). One common form of protection, particularly for software or games and a number of online publications, is based on a digital access key, sent to the purchaser after he has paid for his purchase per unit or for his subscription for a given period; this system is reasonably effective and is already widely used.

3.6 The Committee believes that integrated, interoperable digital DRMs are outdated in practice; it would doubtless be preferable to study developments in the various sectors of the online content market, which seem to be conducive to the protection of copyright and related rights, based in particular on appropriate codes of conduct and realistic business models⁽⁴⁾, rather than using a European initiative to force a transitory, rapidly changing situation into a rigid framework.

3.7 With reference to copyright and related rights, the existing international agreements and conventions constitute a legal basis which in principle is common for Member States and relations with third countries. In practice, however, differences persist, despite Community law. The proposal for a 'European copyright' for the internal market would also render protection automatic in all Member States once these rights are recognised in one of them, and would guarantee uniform protection.

3.8 In the age of the Internet and the knowledge society, it is vital that a genuine balance be found between the general interest and private interests. Fair payment for authors and distributors is imperative. Readers or listeners and users must be able to make reasonable use of legitimately acquired content, in the home, in libraries or for teaching in educational establishments.

3.9 It must be acknowledged that there is a rigorous criminal law system in a number of countries, protecting copyright and stipulating exorbitant sanctions against unlicensed individuals, while private usage and copying rights have been restricted; however, while police methods imposed on Internet service providers may be useful in the fight against terrorism, they appear disproportionate and likely to infringe the right to privacy in a legal framework unilaterally favourable to

⁽⁴⁾ The fact that music is sold on the Internet at the same price as CDs sold in shops represents excessive profit for manufacturers, which does not encourage those concerned to look for more realistic models that take account of the cost price and a reasonable profit margin.

distributors. Ultimately, this type of legislation may well be challenged at the European Court of Human Rights in Strasbourg, which watches over respect for privacy. For its part, the ECJ in Luxembourg calls on the parties concerned to respect the principle of proportionality and strike a balance between the different rights involved (*Promusicae* judgment).

3.10 Furthermore, some countries, often the same ones, levy a tax on all types of digital media, considering them to be tools for piracy, whatever their intended use. Although this is often referred to as a 'tax on private copying', it generates considerable revenues, which are often shared out in a far from transparent manner. This approach, which places any private or fair-use copying in the same category as an infringement of copyright and related rights is particularly intolerable for honest ICT users, that is to say, a very large majority, and for companies which use them for purposes other than copying pop songs or games. Such levies should at least be reasonable and proportionate to the real cost of storing digital units (a percentage of the device's sale price, divided by its total capacity in Gigabytes, for example, because considerable distortions have been observed in the pricing of storage devices).

3.11 The rights of the different parties concerned must be respected, but so too must the directives in force as well as the principle of proportionality, as clearly stated by the Court of Justice in its *Promusicae* ruling (°).

4. Additional comments by the Committee

4.1 The Committee shares the opinion that interoperability, which is crucial to free competition, can only be achieved when consumers are able to use whatever device they choose to read

(°) Judgment of the Court (Grand Chamber) 29 January 2008.

In Case C-275/06,

Reference for a preliminary ruling

The Court (Grand Chamber), rules that:

'Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ("Directive on electronic commerce"), Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights, and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) do not require the Member States to lay down, in a situation such as that in the main proceedings, an obligation to communicate personal data in order to ensure effective protection of copyright in the context of civil proceedings. However, Community law requires that, when transposing those directives, the Member States take care to rely on an interpretation of them which allows a fair balance to be struck between the various fundamental rights protected by the Community legal order. Further, when implementing the measures transposing those directives, the authorities and courts of the Member States must not only interpret their national law in a manner consistent with those directives but also make sure that they do not rely on an interpretation of them which would be in conflict with those fundamental rights or with the other general principles of Community law, such as the principle of proportionality ...'.

their content. The only solution to this problem is for content to be open source encoded and thus universally accessible. All DRM systems, however, automatically prevent content being read by any device, hardware or software, that has not been explicitly authorised by the DRM's publisher. By definition, DRM rely on the secrecy of their closed formats, the technical specifications of which are not publicly available. Systems that are not authorised or certified by the DRM's publisher are thus excluded from mounting any competition. Further, no open source DRM yet exists. This solution would require the implementation of complex cross-licensing systems and a number of content creators could find themselves excluded from the market, as a result, for example, of not using DRM. An entire sector within the sphere of digital content creation, including scientific institutions and research centres and universities, as well as free software and content created under alternative licences could be excluded from any market that only allows commercial content. This would appear to be incompatible with the information and knowledge society, of which Europe wishes to be a pioneer.

4.2 None of these approaches is satisfactory, for example for the import of works and content from third countries into Europe or for export from Europe. Any European software-based DRM scheme would therefore also have to be compatible with those used in external markets, which are often much more active in the audio-visual sector. DRM schemes open the door to anti-competitive attitudes and attempts at vertical integration in the multimedia sector. A case in point is Apple iTunes, which uses a proprietary DRM scheme and coding, which in practice forces users to use an iPod or iPhone player.

4.3 If only the API (application programming interface) of a software-based DRM scheme and not the entire source programme is revealed, which might be a considerable temptation for some providers, there will always be the risk that genuine interoperability will be impossible.

4.4 Pirates rapidly find out how to get around or reproduce any protection system, to such an extent that content providers no longer trust DRM schemes and are looking for new commercial distribution models, such as flat-rate subscription, listening without charge but paying to download, incorporating advertising, etc. It would be better to trust the market than to pass hasty and confused legislation, as in France where a succession of laws has given rise to contradictory interpretations by the courts. Lobbying by the major record labels (five global 'majors' dominate the music industry, and six or seven dominate the audio-visual sector) has so far been a key factor in inducing some countries to abandon the right to private copying and criminalise file sharing between individuals. France's most recent legislative proposal fell into this trap of excessive regulation.

4.5 As the Committee has stated in previous opinions, criminal law should only apply to counterfeiting for commercial purposes (production and distribution, e.g. by criminal organisations). In some Member States, it is very easy, even on the open market, to obtain pirated copies of software, music or video material. A European pirating industry does exist, but most

copies come from Asia. Priority should be given to targeting and punishing large-scale counterfeiting for commercial purposes and to developing police and judicial cooperation with a view to dismantling international criminal networks.

4.6 With reference to sharing, particularly between adolescents, priority should be given to launching campaigns to publicise the need for fair payment for authors and producers (particularly authors, who often receive the smallest share of receipts) and to promote civic education.

4.7 Large-scale file sharing does not necessarily involve files protected by copyright. It may involve the sharing and publishing of miscellaneous free content (results of scientific experiments and studies or works submitted for non-restrictive copying or distribution licences).

4.8 However, under the legislative proposal under discussion in France, the entire network would be monitored, with long-term storage of internet users' personal data. This data would be accessible to representatives of the major record companies. However, if a system of this kind actually were introduced, access to the data ought to be restricted to public authorities having obtained an appropriate court order.

4.9 The right to private copying would become an exception subject to heavy restrictions set out in 'contracts' drawn up by content providers, using opaque jargon and incompatible with the common practice of impulse buying.

4.10 In practice only professional creators and distributors benefit from this kind of excessive legal protection, and there is no specific protection for individual producers, unknown artists or those using alternative licences (there are some fifty types of licence, including GPL, LGPL and creative commons), although these licences are governed by copyright and are not necessarily free of charge. The only recourse available to these rights holders would be legal action for counterfeiting, which would create a profound disparity between the legal treatment of major multinational distributors and that of small companies or individuals.

4.11 The Committee considers that the basic principle of legislation must be the protection of bona fide consumers and fair remuneration for content creators.

4.12 Restrictions on the use of legally acquired licences and access to personal data by representatives of the major record companies are detrimental to the objectives pursued, since 'commercial' counterfeiters will be able to overcome all technical barriers and cover their tracks on the network. Only (legal or illegal) file sharing by internet users with no commercial purpose will be accessible for monitoring. Much of this sharing

is admittedly illegal and must be combated using means appropriate to such a large-scale phenomenon. A few 'deterrent' convictions and the resulting publicity intended to discourage certain internet users will not suffice, since statistically the chances of being caught are minimal and this will not worry, for example, adolescents who are not aware of the harm they are doing to their favourite artists.

4.13 The long-term storage by ISPs of all internet users' personal data constitutes a major violation of their privacy. Is such storage absolutely necessary to enforce copyright and related rights, or is it in fact disproportionate to the objective pursued? Are these rights so absolute that they require permanent violation of the privacy of all internet users?

4.14 This stored data may perhaps be used in the fight against terrorism, but internet users must have legal guarantees of the confidentiality of their internet connections. This could, however, be waived in the general interest by an authority which has obtained a proper warrant, for a specific purpose limited by the terms of the court order.

4.15 The use of data for information-gathering and analytical purposes may be authorised under certain conditions, in particular that of anonymity. On the other hand, cross-referencing named files, collating named data for profiling with a view to more efficient advertising, and storing and linking this data with the list of key words used by search engines, and other practices which are already current (and which mainly benefit the major record labels and other large companies), should be prohibited, as they constitute an invasion of privacy.

4.16 Taxes are levied in many countries on all data media, whether fixed or mobile, for the exclusive benefit of rights owners (especially audio-visual content rights), even on media not intended for such use. Under this system any user of a digital medium is seen as a potential pirate. Certain categories of user should be exempt, including companies. On the other hand, broadband access providers, which owe the development of their networks in part to their potentially illegal use, could be taxed at a relatively low rate, but linked to the volume of traffic between individuals, so as to contribute to copyright revenue and the promotion of new content. Except for collection and redistribution expenses, States should not pocket the proceeds of these taxes.

4.17 Examples of rights management from Scandinavia, in particular Sweden, should be preferred to the succession of French laws and proposals, which are unbalanced and unconvincing as a way of assisting young artists and small and medium-sized businesses.

4.18 After a reasonable period during which exclusive rights would be guaranteed, a global system could kick in, as is the practice in Sweden.

4.19 During its discussion on the draft directive on protection of intellectual property rights (IP-LAP: Industrial property, literary and artistic property and other related or ad hoc rights recognised and protected in the EU), the Committee called for a firm but measured approach to the fight against counterfeiting for commercial purposes.

4.20 For its part, in the Agreement on intellectual property rights, the WTO warned against abuse by rights owners who might restrain competition or fail to comply with the general interest.

4.21 'Objectives: the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of

technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.'

4.22 'Principles: ... 2. Appropriate measures, provided that they are consistent with the provisions of this Agreement, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.'

4.23 The above comments by the Committee, which are already contained in the EESC opinion of 29 October 2003 ⁽⁶⁾ on the 'Proposal for a Directive of the European Parliament and of the Council on measures and procedures to ensure the enforcement of intellectual property rights' are in keeping with the TRIPS objectives (Article 7) and their underlying principles (Article 8(2)): these should be included in the recitals of this directive, since the possible penalties cannot be entirely dissociated from substantive law, and possible abuses of IP-LAP rights by right holders must not be overlooked ⁽⁷⁾.

Brussels, 18 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽⁶⁾ OJ C 32, 5.2.2004, p. 15.

⁽⁷⁾ The TRIPS Agreement, which forms Appendix 1 C of the Agreement establishing the World Trade Organisation (WTO) signed in Marrakesh on 15 April 1994 and approved by Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) (OJ L 336, p. 1) is entitled 'Enforcement of Intellectual Property Rights'. This Part includes Article 41(1), which states: 'Members shall ensure that enforcement procedures as specified in this Part are available under their law so as to permit effective action against any act of infringement of intellectual property rights covered by this Agreement, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.'

Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements’

COM(2008) 134 final — 2008/0055 (COD)

(2009/C 77/17)

On 4 April 2008 the Council decided to consult the European Economic and Social Committee, under Article 80(2) of the Treaty establishing the European Community, on

Ship-source pollution and the introduction of penalties for infringements.

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 16 July 2008. The rapporteur was **Mr Retureau**.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 17 September), the European Economic and Social Committee unanimously adopted the following opinion.

1. Commission proposals

1.1 The EESC's opinion is sought on the amendments proposed by the Commission to the 2005 directive on ship-source pollution, in order to comply with the case law of the Court of Justice in the field of environmental crime as regards the respective competences of the Community institutions, the effectiveness of Community legislation, and the precedence of the TEC over the TEU in relation to the Community policies and objectives defined in the treaties.

2. General comments

2.1 With regard to criminal matters, the EESC again notes that, in principle, no competence is conferred on the Community by the treaties.

2.2 However, the Commission must be concerned with the effectiveness of Community law, for which it has the power of initiative, in order to implement the policies set down in the TEC that fall within its remit. To this end, in its legislative initiatives it can propose that governments, in their national legislation, provide for proportionate, effective, dissuasive penalties — including criminal penalties — against natural and legal persons having committed offences against the environment, whether deliberately or through gross negligence, directly or with accomplices, or who incite offences warranting the enforcement of these penalties.

2.3 In its previous opinion ⁽¹⁾, the EESC was critical of the Commission's wide interpretation of the scope of Community powers in criminal matters, and advocated a more moderate interpretation, which ultimately proved to be in line with the case law of the Court of Justice ⁽²⁾. Since 2000, much time has

been lost over an interinstitutional conflict that has now been settled, and this will make it possible to ensure better compliance with environmental legislation in the future.

2.4 The concern is sometimes expressed that the future amendment of the Treaties would lead to new changes in competences and hence in legislation, which would thus lose stability and certainty. However, this fear does not seem to be justified either by the current institutional situation or under any application of the Lisbon Treaty. Whatever happens, Member States do not seem willing to lose their competences in criminal matters, as these are considered sovereign and part of the ‘hard core’ of State powers. Even a less radical change to the respective competences of legislative institutions would not, *ipso facto*, be justification for a fundamental change to the law.

2.5 Moreover, in ECJ case C-308/2006 regarding the legality of the directive in terms of public international law, the Court declined jurisdiction, thus bringing an end to the action. In fact, even this case were brought before other international courts, it would not be possible to resolve it for legal and political reasons too complex to enter into here. However, even if a court did agree to give an advisory opinion on a draft Community law, this would not suffice to overrule the Community legislature, which is reinforced by the internal supremacy of its law over national legal systems and international law and, moreover, is not bound by the latter.

2.6 Therefore, in full compliance with Community case law, the proposal on ship-source pollution calls upon Member States to provide for and introduce penalties in their criminal legislation for a limited number of serious cases which the proposal

⁽¹⁾ OJ C 220, 16.9.2003, p. 72.

⁽²⁾ See ECJ judgment of 23 October 2007, Commission of the European Communities supported by the European Parliament versus the Council, case C-440/05.

identifies. The penalties should be effective, proportionate and dissuasive, in order to combat these clearly defined infringements of Community law.

2.7 This does not entail harmonising applicable criminal law, as Member States are merely called on to treat certain infringements identified by the Community legislature as criminal offences. However, ECJ case law does allow for the introduction of obligations for Member States in criminal matters, which is a

more effective way of strengthening European legislation and compliance therewith for major issues.

2.8 The Committee therefore welcomes and supports the proposal to amend the 2005 directive, and considers that the new means of identifying and monitoring ships to be gradually set up will ensure full compliance with the directive, by effectively and systematically penalising illegal practices.

Brussels, 17 September 2008.

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 facilitating cross-border enforcement in the field of road safety’

COM(2008) 151 final — 2008/0062 (COD)

(2009/C 77/18)

On 13 May 2008 the Council decided to consult the European Economic and Social Committee, under Article 71(1)(c) of the Treaty establishing the European Community, on the

Proposal for a Directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety.

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 16 July 2008. The rapporteur was Mr Simons.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 17 September), the European Economic and Social Committee unanimously adopted the following opinion.

1. Conclusions

1.1 The Commission’s draft directive sets out proposals aimed at securing the more efficient and more effective enforcement and supervision of traffic offences committed in another Member State.

1.2 Its purpose is to help meet the Commission’s 2001 objective of halving the number of road fatalities between that date and 2010.

1.3 The target will be impossible to meet without further action. The current proposal is part of that process and focuses on tackling traffic offences committed in another Member State.

1.4 The Committee considers the draft directive to be a sound approach to dealing effectively with offences committed in another Member State. This must, however, also be accompa-

nied by effective and efficient checks and penalties. The Committee would therefore call on the Council and the Member States to make urgent improvements on this front.

1.5 The Committee feels that, to make the directive more effective, the list of offences proposed by the Commission needs to be expanded to include all offences that have a bearing on improving road safety.

1.6 In the interests of efficiency and effectiveness, the Committee feels that, to exchange information, use should be made of an existing electronic network, for instance, the EUCARIS system, as the costs involved are low. The Commission is advised at least to carry out a feasibility study — or have one carried out externally — on the possibility of expanding existing systems to incorporate the planned data exchange.

1.7 As punishment for offences, the Committee feels that consideration should also be given to tools such as a penalty-points driving licence, vehicle impoundment, and the temporary withdrawal of an offender's driving licence that may or may not be imposed alongside fines.

1.8 In terms of boosting efficiency, the Committee endorses the proposal that each Member State should designate a central authority to assist with the application of the measures set out in the draft directive.

1.9 The Committee considers there is no added value to be gained from the Commission's model offence notification form. The Committee takes the view that what matters is the content, not how it is presented. It therefore feels that the Commission should confine itself to setting out precisely the information required for the purposes of the directive.

1.10 The Committee endorses the Commission's proposed committee procedure for applying the projected measures.

2. Introduction

2.1.1 Under the 2001 European transport policy white paper, the EU aims to halve the number of road deaths by 2010. In tangible figures, that means cutting traffic deaths from 54 000 in the 27 EU Member States in 2001 to 27 000 in 2010.

2.1.2 Between 2001 and 2007, the number of fatalities decreased by 20 %, while a 37 % reduction would have been necessary to achieve the objective of halving the number of road fatalities by 2010. Efforts do therefore need to be stepped up.

2.2 The Commission proposal

2.2.1 To prepare the ground for this draft directive, the Commission organised a public information session and also held a meeting with representative stakeholders. These meetings helped shape the draft directive now on the table.

2.2.2 The Commission feels that the proposed directive is an effective means by which the objective can still be achieved and equal treatment secured for all EU citizens.

2.2.3 The draft directive seeks to improve the enforcement of offences committed with a vehicle registered in a Member State other than the one in which the offence took place.

2.2.4 Currently, traffic offences are often not sanctioned if they are committed with a vehicle registered in another Member State. The share of non-resident drivers in speeding offences, for instance, shows a range of 2.5 % to 30 %.

2.2.5 Tackling speeding — which available figures cite as the cause of 30 % of road fatalities — would be an effective way of significantly cutting the numbers of those killed on the roads.

2.2.6 The other offences included in the proposal are also of key importance: drink-driving (25 %), non-use of seat belts (17 %), and failing to stop at a red traffic light (4 %).

2.2.7 The Commission is not proposing to harmonise road traffic rules or penalties for road traffic offences. This remains a matter for the Member States. The proposal merely contains provisions of an administrative nature for putting in place an effective and efficient system of cross-border enforcement of the main road traffic offences with the aim of halving the number of road fatalities by 2010.

3. General comments

3.1 In its opinion on the communication from the Commission on the *European Road Safety Action Programme: Halving the number of road accident victims in the European Union by 2010: A shared responsibility* adopted on 11 December 2003, the Committee questioned what it felt was the Commission's overly ambitious objective. It now appears that additional action is indeed needed to meet that target.

3.2 Thus, the Committee feels that there is clear added value to be gained from a European approach to cross-border enforcement in the field of road traffic. It shares the Commission's view that everything must be done to ensure that the target laid down in 2001 can still be met, namely to halve the number of road fatalities by the year 2010. It considers that the draft directive now under discussion is, potentially, a major step in that direction, but must be accompanied by effective and efficient checks and penalties. The Committee would therefore call on the Council and the Member States to make urgent improvements to checking and penalty arrangements, in line with their remit and actual conditions on the ground.

3.3 The Commission's proposed approach appears simple. Thanks to an information exchange network, the details of which have still to be determined, each Member State will be able to enforce penalties on drivers from other Member States committing offences in its territory. It is not clear what network and what kind of system the Commission is envisaging.

3.4 In Article 4 of the draft directive, the Commission states that the exchange of information must be carried out quickly by means of an EU electronic network to be set up within twelve months. Elsewhere the document states that an already existing EU system will be used for the purpose of exchanging information, not least in order to keep costs low. However, the Commission fails to indicate which system is to be used for the exchange of information. The Committee agrees with the Commission that, to save time and money, the best approach will be to use an already existing EU information system.

3.5 In specific terms, the Committee would envisage an approach similar to that adopted under the *Council Decision on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime*, where use is made of EUCARIS technology. This system is currently used by 18 Member States and will be adopted by all 27 Member States once the Council decision enters into force. Compared with other network systems, the costs involved here are very low.

3.6 The Committee would advise that the Commission should at least have a feasibility study carried out on all existing systems, including EUCARIS technology, to explore the possibility of expanding them to incorporate the planned data exchange.

3.7 The Committee feels that the Commission is right to restrict its proposal to providing a legal basis for the exchange of vehicle registration information. The Member States themselves must put in place the appropriate prosecution procedures. This is consistent with the subsidiarity principle.

3.8 The Committee would also point out that enforcement would be more effective if EU-wide agreements were reached — to be implemented and monitored consistently across the Member States — on, for instance, the harmonisation of speed limits, blood alcohol limits and penalties. The Council must therefore — at last — also produce results on this front.

4. Specific comments

4.1 Given the objective of halving the number of road fatalities between 2001 and 2010, and the interim assessment made at the end of 2007 showing that that objective will be impossible to attain without additional measures, the Committee feels that the Commission's proposals for cross-border cooperation in the following four areas:

- speeding,
- drink-driving,
- non-use of a seat-belt, and

— failing to stop at a red traffic light

are a step in the right direction, as the Commission's own figures indicate that this could reduce the number of road fatalities by between 200 and 250 a year.

4.2 The Committee feels that, in Article 1 of the draft directive, the Commission should add other cross-border offences, for instance, the use of a non-hands-free telephone while driving, aggressive driving, failure to comply with overtaking bans, wrong-way driving, and driving under the influence of drugs. As the Committee noted in its earlier opinion the communication from the Commission on the *European Road Safety Action Programme: Halving the number of road accident victims in the European Union by 2010: A shared responsibility*, every possible attempt must be made to reach this objective.

4.3 As punishment for offences, the Committee feels that consideration should also be given to tools such as a penalty-points driving licence, vehicle impoundment, and the temporary withdrawal of an offender's driving licence that may or may not be imposed alongside fines.

4.4 The Committee endorses the Commission proposal set out in Article 6 of the draft directive that each Member State should designate a central authority to coordinate application of the directive.

4.5 In the interests of subsidiarity, the Committee feels it is not desirable for the Commission to lay down a model offence notification form, as it does in Article 5 of the draft directive. The important thing is, after all, the content, not how it is presented. The Committee feels that the Commission should confine itself to setting out precisely the information that is required.

4.6 Article 8 of the draft directive states that the Commission is to be assisted by a committee on road safety enforcement. The Committee endorses the proposed committee procedure.

Brussels, 17 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on 'Climate Change International Negotiations'

(2009/C 77/19)

On 16-17 January 2008 the European Economic and Social Committee, acting under Article 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

Climate Change International Negotiations.

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 2 September 2008. The rapporteur was Mr Osborn.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 130 votes to three with three abstentions.

1. Summary and Recommendations

1.1 Climate change is one of the major challenges facing the world in the 21st century. To avoid catastrophic change total global emissions of greenhouse gases need to be substantially reduced, and those of the developed countries will need to be reduced by 60-80 % of 1990 levels by mid century.

1.2 The international negotiations on climate change launched in Bali in December 2007 are crucial, since they will have a decisive influence on the scale of action to be taken globally up to 2020. It is vital that these negotiations should be carried to a successful conclusion in Copenhagen in 2009.

1.3 The EU has committed itself to a binding target of reducing greenhouse gas emissions by 20 % from 1990 levels by 2020, and has put on the negotiating table an offer to increase this to a 30 % reduction below 1990 levels if other countries will make comparable commitments. Subsequently the Commission has launched proposals in the energy package of 23 January 2008 setting out proposals as to how the 20/30 % reduction target can be achieved.

1.4 The Committee strongly supports the initiative that the EU has taken in the negotiations and particularly its unilateral commitment to 20 % target reductions for 2020 to get the negotiations moving.

1.5 We believe however that the climate change challenge is so serious that every effort should be made to go further. The EU should be aiming at the 30 % reduction conditionally offered for 2020 and in the negotiations we should be seeking to secure comparable commitments from other developed countries, with significant commitments also from the emerging economies whose emissions are rising rapidly.

1.6 In order to maximise its influence on the negotiations the EU needs to be able to demonstrate its credibility by delivering what it commits to. A package of measures to deliver the

20 % target reduction should be firmly in place by the end of 2008.

1.7 We consider that in order to achieve the 30 % reduction target for 2020 which we believe should be the true goal, a further set of measures at European and national level are likely to be needed. We urge that steps be put in hand as soon as possible to create a second tranche of measures that could deliver the 30 % reduction.

1.8 We look forward to the forthcoming proposals from the Commission on adaptation to climate change, and recommend that this should be complemented by national adaptation strategies for each of the member states.

1.9 We recommend the development of new initiatives to support capacity building and technology transfer in the field of climate change mitigation and adaptation.

1.10 Responding adequately to climate change will require major changes in the world economy and in flows of investment. We recommend further analysis of the scale of resources required and the appropriate machinery public and private needed to handle these flows. We suggest that the scale of effort and leadership required is comparable to that involved in the creation of the Marshall plan for reconstruction in Europe after World War II. On this occasion the EU should be a major initiator of the plan needed.

1.11 Specifically funds will be needed to assist mitigation and adaptation measures in developing countries. Expansion of the CDM mechanism is one source of funds but the criteria and implementation need to be tightened up. Europe could provide some of the extra resources needed from the proceeds of auctioning of carbon trading permits.

1.12 Action is needed by public bodies of all kinds at all levels, and by consumers and the public at large.

1.13 The EU itself has a crucial part to play in guiding and orchestrating this great transformation. We urge all the EU Institutions to play their full part in delivering the EU climate goal. The Committee will do everything it can to help mobilise civil society support in this great joint enterprise.

1.14 The parameters of the global deal to be constructed in the international negotiations over the next eighteen months need to be established as soon as possible so that political effort can then be focused on communicating the challenge and building support, trust and commitment from all parts of society throughout the world for the major changes that need to be made. This is not a deal that can be made behind closed doors — all parts of society need to be involved. The abatement measures must be proven realistic, economically and socially sound and feasible in the suggested time frame.

2. Background

2.1 Climate change is one of the major challenges facing the world in the 21st century. The 4th Assessment Report (4th AR) of the Intergovernmental Panel on Climate Change (IPCC) published in 2007 documented the changes that have already taken place as a result of the huge increase in man-made greenhouse gas emissions during the last two centuries, and projected alarming further changes unless urgent action is taken to limit global emissions in the next few years. The IPCC have advised that the global goal should be to keep average global temperatures to no more than 2°C above pre-industrial levels if catastrophic impacts are to be avoided. To achieve this goal, global emissions of greenhouse gases will need to be substantially reduced, and those of the developed countries will need to be reduced to 60-80 % of 1990 levels by mid century.

2.2 The international community has been endeavouring to agree collective action to limit emissions of greenhouse gases for the past 20 years. The Framework Convention on Climate Change was agreed at Rio in 1992, and was subsequently strengthened by the Kyoto protocol of 1997 which committed signatory countries to specific efforts to reduce emissions by 2012. It is generally recognised, however, that these agreements and actions are only a beginning and that much more vigorous and comprehensive action will be needed in the years ahead to achieve the mid-century goal. The international negotiations on climate change launched in Bali in December 2007 are therefore crucial, since they will have a decisive influence on the scale of action to be taken globally up to 2020. It is vital that these negotiations should be carried to a successful conclusion in Copenhagen in 2009.

2.3 **Targets for 2020.** The Bali Roadmap makes reference to a section of the IPCC's 4th AR which demonstrates that by 2020 emissions reductions for developed countries in the range of 25-40 % below 1990 levels will be needed if the long-term goal

of limiting global warming to 2 degrees above pre-industrial levels is to be achieved.

2.4 Clearly the developed countries will be the ones which should be making large absolute reductions in their emissions, since they have been and remain the largest per capita contributors to climate change. Europe needs to play its part. The USA needs to be brought back into the international strategy and to make real commitments to reductions. Russia will also need to contribute by accepting a more realistic target than in the Kyoto round.

2.5 The EU is playing a major part in those negotiations. The Council has adopted a long term vision of cutting emissions by developed countries by 60 to 80 % by 2050. As an interim measure towards this long term goal the EU has committed itself to a binding target of reducing greenhouse gas emissions by 20 % from 1990 levels by 2020, and has put on the negotiating table an offer to increase this to a 30 % reduction below 1990 levels if other countries will make comparable commitments. Subsequently the Commission has launched proposals in the energy package of 23 January 2008 setting out proposals as to how the 20/30 % reduction target can be achieved.

2.6 It is also becoming important that developing countries make serious commitments of their own to help limit climate change. The major emerging economies of China, India, Brazil and a few others are already or are fast becoming significant emitters of greenhouse gases themselves, and it will be important that they manage their economies in ways that restricts the rate of growth of their emissions significantly below what it would be in a business as usual model.

2.7 The essence of the global deal that negotiators are aiming for is for developed countries to commit to challenging targets and measures for reducing their own emissions, and to offer financial and technological support to developing countries in return for commitments on their part to manage their growth and development in ways that will limit the growth of their greenhouse gas emissions as far as possible.

3. General Comments

3.1 For its part the EESC has been following from the outset both the general progress of the negotiations and the package of measures proposed by the Commission to enable the EU to fulfil its own commitments. To follow the negotiations at first hand the Committee sent small delegations on behalf of European civil society as part of the EU delegations to the Bali Conference of the Parties to the Convention and to the subsequent intersessional Bonn meeting. The EESC is also using its contacts with civil society organisations and groupings in other leading countries to explore further the positions they are taking, and the part that civil society can play in promoting agreement and implementation.

3.2 The Committee is reviewing the separate elements in the Commission's climate and energy package in a number of separate opinions which are summarised and cross-referenced in this general opinion. In this own initiative overview opinion the Committee is now reviewing the progress and prospects of the negotiations in general, and the part that Europe is playing. Following adoption of the opinion the Committee intends to organise side-events at the negotiation meetings planned to take place in Poznan in December 2008 and in Copenhagen in December 2009 to help civil society respond to and relate to the ongoing negotiations.

3.3 The Roadmap for the negotiations agreed at Bali identified four main building blocks for the negotiations:

- commitments to national targets and measures to limit greenhouse gas emissions up to 2020 and contribute to mitigation of climate change;
- measures to manage adaptation to unavoidable climate change;
- measures to support transfer of technology and capacity for building for mitigating and adapting to climate change;
- establishing appropriate financial arrangements to support mitigation and adaptation measures, technology transfer etc.

3.4 We are structuring the comments in our opinion around these four building blocks.

4. Enhanced mitigation of climate change by limiting or reducing emissions (Building Block 1)

4.1 **Targets.** The Committee agrees with the IPCC assessment that reductions of emissions by developed countries in the range 25-40 % from 1990 levels is an appropriate level of ambition for the targets to be established for 2020. Achieving bigger reductions than that by 2020 would probably now be impracticable.

4.2 The Committee strongly supports the leading position that the EU has taken in the negotiations. We applaud the initiative shown by the EU in committing itself unilaterally to 20 % target reductions for 2020 to get the negotiations moving. But we think that the gravity of the climate change challenge is such that every effort should be made to achieve the 30 % reduction conditionally offered for 2020 and to aim in the negotiations to secure comparable commitments from other developed coun-

tries, with significant commitments also from the emerging economies whose emissions are rising rapidly.

4.3 If the negotiations only result in a 20 % commitment from the EU, with comparably modest commitments from other countries, that will in our view be a serious failure.

4.4 **Implementation.** For the EU the measures proposed by the Commission in its climate and energy package represent a very positive and constructive implementation plan to enable Europe to meet its 20 % reduction commitments for 2020. The Committee has prepared separate opinions on each of the elements of this plan. In summary we support all elements of the plan subject to the following comments:

- We support the proposed reforms and extension of the emission trading scheme. The tightening of the cap and wider use of auctioning of allowances is welcome as it is in line with the polluter-pays-principle, avoids windfall profits, incentivises and funds low carbon installations and products and fosters innovation. Given the scale of transformational investment needed both in Europe and in developing countries we urge however that at least 50 % of revenues from allowance auctioning should be mandated to support climate change mitigation and adaptation measures rather than the 20 % proposed by the Commission ⁽¹⁾. We also welcome the decision of the Council and the European Parliament to include aviation into ETS from 2012 on.
- We support the thrust of the burden sharing proposals for the non traded sectors and urge the institutions not to erode the overall target in their detailed discussions about the basis for sharing the targets in this sector ⁽²⁾.
- We strongly support the move towards a rapid progress on renewables. To achieve 20 % renewables by 2020 would be a good first step towards increasing their use to much higher levels by 2050 ⁽³⁾.
- We regret that the crucial issue of energy efficiency, where the 20 % increase target by 2020 is not obligatory, seems to be given less prominence than it deserves, as clearly shown by the report of the Commission on the National Energy Efficiency Plans. The majority of Member States have not set up their national plans on time, the plans vary in their quality, and some of them clearly lack ambition even though major energy efficiency gains can often be achieved at comparatively small initial investment cost and with very short payback periods ⁽⁴⁾.

⁽¹⁾ See EESC Opinion CESE 1201/2008 adopted on 9 July 2008.

⁽²⁾ See EESC Opinion CESE 1202/2008 adopted on 9 July 2008.

⁽³⁾ See EESC Opinion 1511/08 adopted on 17 September 2008.

⁽⁴⁾ See EESC Opinion 1513/08 adopted on 17 September 2008.

— While we welcome the legislative framework for carbon capture and storage (CCS) proposed by the Commission, we are also anxious that funding for the envisaged demonstration projects is being made available only at an insufficient rate and that progress towards application on an industrial scale will be too slow, although it will be critically important if some countries are obliged to rely substantially on coal and other fossil fuel sources of power for many years to come ⁽⁵⁾.

4.5 The European Union has pinned a lot of faith and political capital on making its emissions cap and trading system a main means of securing the emissions reductions that will be needed. The EU ETS has already become the world's biggest emissions trading system and is set to grow further after 2012. Initially the system had only limited impact on European emissions because generous initial caps and allocations led to a very low carbon price. As the caps become tighter the carbon price has risen and coupled with other factors driving up the price of fossil fuels there is likely to be more impact on European power production and other industries.

4.6 In general we believe that the strengthening of the carbon trading system will have a positive effect on European business and employment by encouraging the rapid development of more energy-efficient low carbon processes and products that will be the market leaders of the future. This will not only create employment, but also reduce our dependency on imports and thus increase our energy security.

4.7 While the EU has been the first in this field it must now be a key objective to encourage the development of trading systems in the USA and other countries and to link all the systems in a common global carbon market. The development of a truly global carbon market could play a major part in securing carbon emission reductions throughout the world in the most efficient and cost-effective way. We strongly support the ICAP (International Carbon Action Partnership) initiative that seeks to enable the various trading systems emerging in different parts of the world to evolve harmoniously towards a single global market. As an international carbon market develops within a system of worldwide caps on emissions the risk that a Europe-alone trading system might damage Europe's competitive position should be reduced.

4.8 International sectoral agreements setting out more detailed plans and strategies for securing progressive reductions in emissions from the main sectors concerned, and from their products might also be useful. But this should be seen only as a way of supporting the implementation of firm internationally agreed national targets, not as an alternative to binding national targets, since the history of the past 20 years shows that volun-

tary sectoral agreements in this field by themselves produce too little, too late, and are impossible to enforce effectively.

4.9 On the transport side we reassert our view that a long term sustainability strategy for transport needs to start from a fundamental reassessment of the drivers of demand for transport and of how the policies on physical planning, infrastructure and public transport could over time suppress the remorseless growth in demand for transport and eventually even reduce it. Planning should not proceed on the basis that the growth of traffic is inevitable and that the only possible limitation on emissions from the transport sector lies in technical improvements to fuel and engine design — important though those are.

4.10 On the technical measures, we believe that tough targets for reducing emissions from cars should not only be set in a short term (120 g CO₂ per km by 2012/2015), but also for the medium term so as to reduce emissions substantially further by 2020 ⁽⁶⁾. At the same time extra support should be given for the development and early introduction of carbon-free vehicles with electric or hydrogen propulsion.

4.11 We are less sanguine than the Commission about the potential for achieving the 10 % target for biofuels for transport. In view of the problems linked with the production of most biofuels concerning their GHG emission reduction potential, and the environmental and social impact of their production, stricter sustainability criteria than those proposed by the Commission will have to be put in place so as to ensure that biofuels are only introduced where they do have a genuine and significant impact in reducing net carbon emissions, and do not impose unacceptable pressures on agricultural land and food production. Moreover, economic considerations currently point clearly into the direction that the use of biomass to produce electricity or heat is (at least now and for the near future) much more efficient than the use in form of biofuels.

4.12 **Further measures to achieve the 30 % target.** If the package can be adopted by the end of 2008 with implementation beginning promptly in 2009 we believe that it will provide good assurance that the EU should achieve its 20 % reduction target by 2020.

4.13 We doubt however whether it would be possible to achieve the 30 % reduction target for 2020 simply by tightening up the ambitions of the separate elements of the package and increasing the use of CDM credits as the Commission has at present suggested. We believe that in order to achieve this more ambitious target a more comprehensive and wider range of measures is likely to be needed both at European and at Member State level.

⁽⁵⁾ See EESC Opinion CESE 1203/2008 adopted on 9 July 2008.

⁽⁶⁾ See EESC Opinion 1500/08 adopted on 17 September 2008.

4.14 At European level we suggest that the following further elements should be among those to be considered for a second package:

- more action through regulation and standard-setting to promote energy efficiency in all main sectors and products;
- further measures to accelerate the development and introduction of renewable energies;
- more support for the development of electric or hydrogen propelled vehicles;
- an extension of the carbon trading system to include emissions from shipping (we doubt whether ongoing discussions in the International Maritime Organisation are capable of delivering sufficient action sufficiently quickly);
- more collective efforts to adopt tighter national targets for reductions under the effort-sharing agreement.

4.15 At Member State level in order to achieve tighter individual targets under the burden-sharing agreement, the Committee believes that Member States and their political leaders need to do much more to bring the general public, business, trade unions and other civil society organisations into partnership and participation in the common effort.

- Citizens need to be encouraged and incentivised to play their part through such means as improving the efficiency of their homes and using greener forms of energy for lighting and heating, purchasing more energy efficient goods and services, and reducing the carbon impact of their regular travelling and their holidays. In our view there is already a growing proportion of the public and of civil society organisations who would be ready and willing to take action if only they could be given a strong and effective political lead as to what is expected of them, along with appropriate incentives for action.
- Many local and regional government bodies have already shown vision and courageous political leadership on this issue. They need to be encouraged and incentivised to go further.
- Businesses similarly need to be incentivised to make further progress. They need to be urged and incentivised to continuously improve the energy efficiency of their operations and to obtain their energy from low carbon sources. Regulation should be used more systematically and vigorously to drive up the energy performance of all types of products and services. The construction industry needs to be mandated to achieve much higher energy efficiency both in the construction process and in the performance of buildings in use.
- Trade unions have an important part to play as well. Many of their members are in the front line in delivering energy efficiency improvements and disseminating practical

information and their potential contribution needs to be recognised and encouraged. Trade unions also need to be fully engaged with the process of transforming industry and the economy onto a path of lower carbon intensity. Properly managed the new forms of production should provide just as many employment opportunities as the older carbon intensive modes of production, while maintaining good working conditions.

4.16 In order to enhance the EU's credibility at the international level, it is of the utmost importance that every single Member State should make every effort in order to ensure that not only the overall Kyoto target for the EU-15 'bubble' will be met, but also that the individual Kyoto targets for 2012 will be reached. The latest Commission Progress Report towards achieving the Kyoto objectives ⁽⁷⁾ states that only three of the EU-15 Member States were on track to meeting their targets with current domestic policies, and that 8 are only projected to reach their targets 'when the effect of the Kyoto mechanisms, carbon sinks and additional domestic policies and measures, that are already being discussed, are accounted for'. For three Member States, reaching their Kyoto target appears to be impossible. Moreover, the large use of credits from the Kyoto flexible mechanism, especially CDM, shows that the much needed transformation towards a low carbon society has much further to go in many Member States.

5. Adaptation to climate change (Building Block 2)

5.1 Even if successful action is taken to reduce global emissions in the future, global warming is expected to increase further over the next decades because of the emissions that have already taken place. In response to the Commission's Green Paper on Adaptation to Climate Change, the Committee has already adopted an opinion ⁽⁸⁾. In summary the Committee believes that the EU needs to establish an over-arching strategy for managing adaptation to climate change within the EU, within which more detailed national adaptation plans should be drawn up by each Member State. Greatly increased priority should also be given to adaptation in research and analysis, in budgets and investment programmes and in other measures. We hope that in the White Paper on adaptation, foreseen for autumn 2008, the Commission will propose detailed measures to make progress on this subject.

5.2 Outside the EU there are many parts of the developing world which are already severely affected and will be even more in the future but which have fewer resources to deal with the impacts. It must therefore be a high priority for the EU and other OECD countries to increase financial and other assistance to the especially vulnerable parts of the world to help them cope with climate change. Climate change considerations must be mainstreamed into all development policies.

⁽⁷⁾ COM(2007) 757 final.

⁽⁸⁾ OJ C 120, 16.5.2008, p. 38.

5.3 There will also need to be major efforts to support the sustainable management of forests in the developing world and to restrain the commercial pressures that are continuing to drive large-scale deforestation in many parts of the world's climate systems. The EESC is preparing a separate opinion on climate change and forestry.

6. Action on technology development and transfer (Building Block 3)

6.1 To succeed in the transition to a lower carbon economy the world will need to achieve a new industrial revolution. There will need to be a major shift to cleaner forms of energy production, new technology to capture emissions of carbon and other greenhouse gases, and a continuous push to switch products and consumption patterns to more efficient and less energy intensive patterns. This will require big increases in relevant research programmes by public and private sectors, and major investment programmes to re-equip industry and transform products and services. Many of the necessary technologies are already in existence, but their application needs to be much more widespread than it is now.

6.2 Within the UE this will require radical shifts in the spending programmes of the EU and governments to support the appropriate research, development and investment. It will also require fiscal and other incentives to businesses and others to make the necessary investments.

6.3 There will be a need to identify the kinds of technology and services which will best assist the emerging economies and developing countries to manage their continuing development in the most sustainable and least carbon intensive way, and to support its transfer to those economies on appropriate terms. Where new technologies are identified that may be particularly useful for developing countries in adapting to climate change or in mitigating the carbon impact of their future development ways should be established for assisting their rapid and widespread introduction on affordable terms. It should be noted that the emerging economies are themselves the originators or developers of some of the new technologies that will be needed. Technology transfer should not be regarded solely as a one way street running from North to South, but as a matter of facilitating the rapid dissemination of the key technologies around the world wherever they may originate.

6.4 The Committee urges the EU to explore urgently with its partners how the most up-to-date and carbon-efficient technology can be made readily available to the developing world on affordable terms, including in particular technology in the power sector, the energy-intensive industries, the transport sector, and, as the technology becomes available, carbon sequestration. Countries that are likely to remain heavily dependent on coal for power generation will need help to enable them to use

the latest clean coal technology and to introduce carbon capture technology as soon as it is available.

6.5 Such technology transfer assistance should enable the developing countries concerned to manage their development on a lower carbon trajectory than would otherwise occur, and might reasonably be made conditional to some extent on appropriate commitments by the developing countries concerned to undertake other measures themselves to limit the potential growth in their emissions.

6.6 In parallel to the climate negotiations, EU and US should undertake a new initiative to achieve trade liberalisation in climate-friendly goods and services in the WTO framework. This initiative should be designed in such a way that developed countries, developing countries and emerging economies alike could draw net advantages from such a liberalisation, for example by fostering the (further) development of environmental technologies and services in the developing countries.

7. Scaling up of finance and investment to support mitigation and adaptation (Building Block 4)

7.1 Developing countries will need help on a large scale from the developed world to enable them to play their part in meeting the climate change challenge without compromising their development goals. It will be particularly important to ensure that the future path of development in the developing world has as low carbon intensity as possible, and does not reproduce the path of excessive reliance on carbon-intensive production that marked (and marred) development in the North.

7.2 The developing countries that are worst affected by climate change and which have least resources of their own to handle adaptation will also need additional help. They will need enhanced programmes for coastal defences, flood prevention, drought alleviation, replanning of agriculture, new public health needs and other matters.

7.3 The Committee welcomes the recognition at Bali by all countries that new and additional resources and investment channels and mechanisms will be needed to handle this transfer. However, with some honourable exceptions the developed world does not have a good track record in delivering on past promises to provide additional resources for sustainable development objectives. On this occasion it is vital for the whole world that genuinely additional resources should be mobilised and committed.

7.4 The Committee has noted estimates from the UNFCCC and others indicating that resources of some hundreds of billions of dollars annually may be needed from the public and private sectors combined when the programmes are fully geared

up. They recommend that in any case urgent steps should be taken by the UNFCCC, the Commission and/or OECD and the International Financial Institutions to quantify the needs more precisely and to secure the necessary pledges and commitments so that adequate funding can be achieved and the programmes undertaken can make a decisive impact on the global problem of climate change. Proceeds from the auctioning of allocations under future phases of the carbon trading scheme could be one source of new funds but are unlikely to be sufficient by themselves for all that needs to be done.

7.5 CDM has had some success in channelling new resources to support appropriate investments in non-Annex I countries. But the distribution of projects has been skewed heavily towards China and other emerging economies, and there have been serious doubts about the additionality and quality of many of the projects. It is vital that the criteria for acceptance of projects should be implemented and monitored effectively if the mechanism is to play its proper part of securing that genuine carbon reductions are achieved in the most efficient way possible.

7.6 The Committee recommends that the EU and others concerned should explore urgently how the defects of the scheme can be eliminated in the next period, and the whole programme geared up. In the future, CDM should give priority to projects which make significant contributions not only to reduce emissions, but also to foster the transformation to low-carbon economies. In particular in emerging economies, it does not seem useful to continue financing straightforward energy-efficiency projects ('low-hanging fruits') which would be done by the country anyway. For these countries, 'sectoral CDMs' — possibly combined with no-lose targets⁽⁹⁾ — could be a viable option.

7.7 Private sector investment on a massive scale in less carbon intensive production will be crucial in all parts of the world. The measures undertaken by the EU and national governments should particularly aim to incentivise the private sector to make such investments.

7.8 The costs and investments needed will run into trillions of dollars over the next 50 years. These are large sums. Such investments are however already becoming necessary as global supplies of fossil fuels become more constrained and prices rise. Quite apart from climate change it is thus becoming increasingly important from an economic perspective to diversify away from fossil fuels and to use remaining resources more efficiently. Security considerations also point in the same direction, since both scarcity of fossil fuels and climate changes already occurring are potent sources of instability and conflict in many parts of the world.

⁽⁹⁾ No-lose targets: A pledge to reduce emissions by a certain amount; with no penalty if the target is not met, but the possibility to sell credits if reductions exceed the pledge.

7.9 From this perspective the need to respond promptly to the threat of climate change does not represent an additional burden on the global economy but simply an additional powerful reason for proceeding rapidly with the economic and industrial transformation which is in any case needed. When the price of oil stood at USD 60 a barrel, the Stern review estimated that the cost of measures needed over the next 50 years to deal with climate change might amount to 1 % of global GDP. With the price of oil now well over USD 100 a barrel investment in renewables and efficiency measures of all kinds are already looking much more attractive in business terms. By the same token the net additional costs of measures to deal with climate change are likely to be much less, and in some applications could even become negative indicating that effective action on climate change will actually represent a net benefit to the global economy over the years ahead.

7.10 Responding appropriately to the climate challenge should not therefore be regarded as a vast, depressing and burdensome obligation that will hold back economic growth, but rather as an opportunity to be at the forefront of the next economic and industrial revolution. The EU has been at the forefront of the policy debate on climate change. But it still needs to do more to convert that forward policy stance into an equally active and vigorous business environment that will stimulate our businesses and our societies to make the necessary investments to become global leaders and competitive winners in the low carbon economy of the future.

7.11 Some commentators have spoken of the need for a new Marshall plan, and we commend this parallel as giving a measure of the scale of the challenge and the effort that will be needed. We need a Marshall scale vision of how the countries of the world can unite together in face of a common global danger, with the strongest and wealthiest countries both showing the way forward themselves and helping others as generously as they can.

7.12 Action is needed by national and public bodies of all kinds at all levels, by business of all kinds and by consumers and the public at large.

8. Conclusions

8.1 Climate change is already happening and is already having severe impacts around the world. These problems are expected to get worse in the next few years as greenhouse gas concentrations increase and temperatures rise more rapidly. The world needs urgent action to set and implement demanding goals for reduction of emissions by 2020, leading to deeper

reductions in the years that follow. The earlier the reductions can be made the more good they will do in slowing the rate of temperature increase.

8.2 Developed countries have much higher per capita emissions than the rest of the world and need to stiffen up their ambitions and actions for reducing them. Europe needs to ensure that it delivers its existing commitments for 2012 and then to commit to a 30 % reduction by 2020 — the higher end of its range. To be credible in these ambitions it needs a further package of sound and realistic measures to ensure that it can deliver these targets, and to be planning now for the further reductions that will be needed beyond 2020.

8.3 Developing countries need to be engaged as well, and particular effort needs to be devoted to ensure that the most energy-intensive sectors in the emerging economies are equipped with the most energy efficient and least carbon-intensive forms of production. They will need major, focused help from the developed world.

8.4 The parameters of the global deal to be constructed in the international negotiations over the next eighteen months need to be established as soon as possible so that political effort

can then be focused on communicating the challenge and building support, trust and commitment from all parts of society throughout the world for the major changes that need to be made. This is not a deal that can be made behind closed doors — all parts of society need to be involved. The abatement measures must be proven realistic, economically and socially sound and feasible in the suggested time frame.

8.5 The global transformation required is comparable in scale to the industrial revolution of the last two centuries which harnessed the energy locked up in fossil fuels to achieve massive increases in the productive capacity and output of human society. The world now needs a second industrial revolution to substitute other forms of energy for fossil fuels, and to maximise energy efficiency so as to enable us to achieve comparable levels of output and growth without burdening the atmosphere with unsustainable levels of greenhouse gas emissions. Major investment is needed; appropriate and focused changes in regulation, taxes and other economic instruments will have to be made; there will have to be significant changes in economic behaviour and individual lifestyles. Everyone needs to understand the challenge and be engaged in the changes needed.

Brussels, 17 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on the provision of food information to consumers'

COM(2008) 40 final — 2008/0028 (COD)

(2009/C 77/20)

On 10 March 2008, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the

Proposal for a Regulation of the European Parliament and of the Council on the provision of food information to consumers.

The Section for Agriculture, Rural Development and the Environment, which was responsible for the Committee's work on the subject, adopted its opinion on 2 September 2008. The rapporteur was Mr José M^e Espuny Moyano.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 77 votes to 3.

1. Conclusions and recommendations

1.1 The EESC welcomes this Commission initiative which will facilitate consumer understanding and simplify legislation.

1.2 However, the Committee wishes to make it known that unless the information indicated in point 3.4.1 is backed up in advance by proper measures to educate final consumers, it will lose most of its value and fail to meet most of its objectives. The EESC therefore finds it regrettable that the proposal is not accompanied by measures to support education of consumers either within Member States or at European level. At the very least, providing a guide to priority measures in this area as an annex to the Regulation might be a very useful first step.

1.3 As regards reference to origin, the proposal maintains the current rules. In this context, considering the interest shown by consumers in the origin of food products, the EESC regrets that the proposed regulation does not provide for mandatory indication of origin on the label. The EESC believes, however, that a distinction should be made between primary and secondary processing products, with the obligation to mention the principal agricultural ingredients of the latter products being determined on a case-by-case basis.

1.4 The EESC is deeply concerned about the development of additional 'national schemes' (described in chapter VII of the proposal) which, rather than offering any additional benefits, become an excuse to interfere in the free movement of the internal market. The risk this poses is particularly serious for SMEs since, as the Commission points out in its proposal, more than 65 % of food businesses market their products in other Member States. For this reason, SMEs will have more difficulties in sending their products to other Member States, with knock-on effects for their costs and competitiveness. Only by ensuring that these 'national schemes' provide additional information, which is not obligatory on the label but available via other means (Internet, free telephone numbers, etc.), can these detrimental effects be avoided.

1.5 The EESC understands that, for reasons of consistency, the Commission intends to apply the same system of derogations to alcoholic products, a system which could be reviewed within five years, following the publication of the report on the subject.

1.6 The EESC suggests that Member States have at their disposal the necessary list of infringements and penalties to prevent any breach of these common rules, which must be harmonised if the same behaviour is to be penalised with a similar degree of severity in all Member States.

1.7 In this connection, the EESC calls on the Commission and Member States to establish information tools and specifically a data base for public consultation on the information that must be included on the labelling of various foods. This would ensure that businesses, consumers and the authorities use the same guide when the legislation is implemented.

1.8 As far as legibility is concerned, the 3mm requirement proposed by the Commission does not seem feasible. Various elements such as the quantity of information, the size and the form of packaging would have to be taken into account. An appropriate reference could be the typeface of the EU's Official Journal.

1.9 Finally, with a view to achieving the desired clarity and simplification, the EESC believes that the references to the repealed rules should be more explicit, thus making the Regulation more readable and facilitating its application.

2. Gist of the Commission proposal

2.1 This proposal seeks to consolidate current legislation on the labelling, presentation and advertising of foodstuffs (including nutrition labelling) into a Regulation, with a view to modernising, simplifying and clarifying it.

2.2 The proposal will repeal current legislation on food labelling: Directives 2000/13/EC, 90/496/EEC (within five years), 87/250/EEC, 94/54/EC, 1999/10/EC, 2002/67/EC, 2004/77/EC and Regulation 608/2004.

2.3 The main objectives of the proposal are to ensure a high level of consumer protection and the smooth functioning of the internal market.

2.4 The scope of legislation in this area is being broadened to include all aspects of food information made available to the final consumer by economic operators and also to cover food delivered by mass caterers and foods intended for supply to mass caterers.

2.5 The general principles and mandatory labelling requirements established under previous legislation will be maintained, while at the same time expanding certain aspects such as the responsibilities of each link in the food chain and the circumstances in which it is obligatory to indicate the country of origin.

2.6 Provisions on nutrition labelling differ significantly from previous legislation in that they include an obligation to indicate six nutrients or substances both in terms of quantity and as a percentage of the recommended daily intake.

2.7 Another major change concerns the coexistence of 'national schemes' for nutrition labelling alongside the provisions of the Regulation, which complement the rules for presenting nutrition labelling information with voluntary requirements set at national level.

2.8 The draft Regulation stipulates that many of the necessary changes to the proposal should be carried out using the comitology procedure. Various transitional periods are provided for to facilitate its entry into force.

2.9 The annexes provide further details on the following: ingredients that cause allergies or intolerances, additional mandatory particulars, nutrition labelling derogations, name of the food, quantitative indication and designation of ingredients, net quantity declaration, 'use by' date, alcoholic strength, reference intakes, energy, and expression and presentation of nutrition declaration.

2.10 Finally, the Regulation is due to come into force 20 days after its adoption, although the actual implementation of the mandatory particulars and the nutrition declaration will be postponed by three years (five years for the latter in the case of SMEs).

3. General comments

3.1 Consolidation, modernisation, simplification

3.1.1 European legislation on the labelling, presentation and advertising of foodstuffs has helped, over the course of the past

almost 30 years, to maintain a high level of consumer protection and to ensure that the internal market runs smoothly.

3.1.2 The current proposal seeks to consolidate, update and simplify existing legislation, to cut red tape, and to provide greater transparency for consumers. The EESC supports these objectives but regrets the complexity of the proposed text, which would stop the regulation from being directly applicable.

3.2 Development of additional 'national schemes'

3.2.1 There is no doubt that a regulation which consolidates and updates the current individual sets of rules will lead to more consistency in levels of consumer protection and greater harmonisation. However, the EESC is concerned that the introduction of 'national schemes', provided for in Articles 44 *et seq.*, may undermine the objectives of harmonisation and consistency. Under the new provisions, Member States will be allowed to adopt national schemes with additional requirements which, although voluntary, will result in more information on labels and could confuse consumers.

3.2.2 The problem becomes worse if we consider that every national market sells products from many other Member States. Those products will be able to display various items of information which have been decided on in those other States and which may not be understood by a consumer unfamiliar with such information.

3.3 Mandatory information requirements

3.3.1 The draft Regulation incorporates the vast majority of mandatory particulars that are stipulated under current legislation and which have proven useful in protecting the health and interests of consumers (such as name, list of ingredients, quantity, dates, name or business name and contact address). Some of these particulars are covered in more detail in the annexes.

3.3.2 The experience of the past few years has shown that such requirements are useful and should be maintained. In the light of this experience, the EESC would also like to see mandatory indication of the origin of food, of the primary processing products and, on the basis of a case-by-assessment of the secondary processing products, the origin of the main ingredients used to make them.

3.4 Nutrition declaration

3.4.1 First and foremost, consideration should be given to the fact that European consumers need to be educated in nutrition in order to be able to follow a balanced diet. Without such an education, the consumer will be unable to understand or make use of any of the information provided. The measures for increasing nutrition information are to be welcomed, but we must not forget that without education these measures will not have the desired effect.

3.4.2 Given the nutritional imbalances in the European population, any information measures must be accompanied by a major education drive.

3.4.3 The proposal represents, for various reasons, a major break with current legislation. First of all, it makes nutrition information mandatory, whereas under Directive 90/496/EEC this was voluntary. Second, it stipulates that the following should be declared: energy value and amounts of fat, saturates, carbohydrates, sugars and salt. Third, not only will the quantity of these substances be provided, but also the percentage that they represent of the daily recommended intake, thus seeking to offer guidance to the consumer as to the appropriate quantity that may be consumed as part of a balanced diet. Finally, the proposal stipulates that this information should be presented in the principal field of vision of the packaging and set out in a particular way.

3.4.4 Given the amount of mandatory information that already appears on labels, it is important to assess very carefully which nutrition information is useful to the consumer. The move from voluntary nutrition labelling to mandatory nutrition labelling will in itself constitute a major change for a large number of SMEs in the agri-food sector. The mandatory information could therefore be limited to what is currently advocated on a voluntary basis, namely indication of energy, protein, carbohydrates and fats.

3.4.5 The main advantage of the nutrition labelling model proposed by the Commission is that it provides information

(recommended daily allowances) showing the consumer how the product should form part of an appropriate diet, and does not assess the product in itself, but within the context of such a diet, as advised by nutrition experts.

3.5 *Additional obligatory information about the food's country of origin*

3.5.1 Current legislation already stipulates that in cases where there might be some confusion on the part of the consumer, foods should indicate the country of origin.

3.5.2 The EESC considers that indication of origin not only meets the needs of consumers, but is also an effective way of improving market transparency and supporting the future development of the agriculture sector and of rural areas throughout the EU. The establishment of a direct link with the place of origin of a food and the indication of the production methods used are crucial to the European development model, based on respect for rules that guarantee food safety, environmental safety, animal welfare and adequate public health standards.

3.5.3 Indication of origin should therefore be obligatory for all non-processed or primary processing agri-food products. In the case of secondary processing products, the obligation to indicate the provenance of the main agricultural raw materials used to make the final product should be assessed on a case-by-case basis.

Brussels, 18 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on the placing on the market and use of feed'

COM(2008) 124 final — 2008/0050 (COD)

(2009/C 77/21)

On 18 March 2008 the Council decided to consult the European Economic and Social Committee, under Articles 37 and 152(4) of the Treaty establishing the European Community, on the

Proposal for a Regulation of the European Parliament and of the Council on the placing on the market and use of feed.

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 2 September 2008. The rapporteur was Mr Allen.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 17 September 2008), the European Economic and Social Committee adopted unanimously the following opinion.

1. Conclusions and Recommendations

1.1 The EESC welcomes this proposed Regulation from the Commission.

1.2 The EESC welcomes the proposal as specified in Article 4(1) and Article 5(1) that the relevant sections of the feed hygiene Regulation and the food law Regulation will apply to pet food as well as to feed for food producing animals.

1.3 It is important that the control authorities can access any information concerning the composition or claimed properties of the feed placed on the market so that the accuracy of the label can be verified.

1.4 Feed Business operators first placing feed on the EU market and who use feed or feed materials imported from outside the EU must ensure that such imports comply with the same standards as if such materials originated within the EU. This must be able to be verified by the control authorities.

1.5 There must be a commitment that the person who answers the free telephone as indicated on the pet food label is suitably qualified to deal with customers queries and that queries will be dealt with swiftly.

1.6 Article 17(1)(a) and (b) should apply in all cases. This means that the category of animal for whom the feed is intended and the proper feeding instructions must always appear on the label of a compound feed.

2. Background

2.1 At present the circulation of Feed Materials and Compound Feed is regulated by 5 Old Council Directives and

some 50 amending or implementing acts. The legislation is extremely scattered with many cross references making it difficult to understand and implement in a uniform way in the different member states. For example two member states applied the Directive differently as regards the permitted level of Vitamin D3 in compound feed.

2.2 Intra EU Trade in Compound Feed amounts to only 2.6 % of production which suggests the possibility of trade obstacles and a lack of consistency in the implementation of the existing Directives.

2.3 In 2005 in the EU 25 it should be noted that 5 million farmers produced milk, pork, poultry, beef and veal to a total value of EUR 129 bn. Purchased Compound Feed amounted to EUR 37 bn. The EU feed industry (excluding pet food) directly employs 100 000 people in about 4 000 plants.

2.4 In terms of quantity about 48 % of feed used is roughage produced on farms e.g. grass, silage, hay, maize etc. 32 % of feed is purchased Compound Feed.

2.5 About 62 million EU households have pets. The EU pet food market is estimated at EUR 9 bn per year giving direct employment to 21 000 people.

2.6 The label serves for enforcement, traceability and control purposes and to pass information to the user.

2.7 Concerns have been expressed that the current legislation on the labelling of pet food can mislead customers, as to the quality and nature of the ingredients contained in the pet food.

3. Animal Feed Definitions

3.1 Animal feed falls in 4 categories:

- a) Feed materials which may be fed direct such as grass or grains or feed materials that can be incorporated into a compound feed.
- b) Feed additives which are substances such as micro-organisms or preparations (other than feed material and pre-mixtures) which are intentionally added to feed in order to perform certain functions.
- c) Compound feed is a mixture of feed materials, which may also contain additives for oral animal feeding in the form of a complete or complementary feedstuff.
- d) Medicated feed is feed containing veterinary medicinal products intended to be fed to animals without further processing.

3.2 Feed materials and Compound Feed are by far the most common type of feed used.

4. Commission proposal

4.1 The proposal is included in the Commission Rolling Programme of simplification. It is in line with the Commission Better Regulation Policy and the Lisbon Strategy.

4.2 Currently, the general rules for the marketing of feed, including pet food, are spread over several Directives according to the type of feed concerned. There is Directive 79/373/EEC on compound feed, and Directive 93/74/EEC laying down the rules for the circulation of feeding stuffs intended for particular nutritional purposes ('dietetic feeds'). Directive 96/25/EC contains the general rules for the circulation and use of feed materials and Directive 82/471/EEC lays down the marketing conditions for certain products belonging to the category feed materials, used in animal nutrition ('bio-proteins'). The proposed Regulation streamlines, simplifies, updates and modernises the above mentioned provisions.

4.3 The TSE Regulation (999/2001) containing the ban to feed meat and bone meal to food producing animals. The Animal By-product Regulation (1774/2002) setting the conditions for the such product if intended to be fed to animals. The regulation on GM Food and Feed (1829/2003) setting the rules for the use of genetically modified feed. The feed Hygiene Regulation (183/2005) focusing on assuring safety during the production process of feed. These regulations, which have been established following the new integrated food safety approach 'from farm to fork' are not being changed.

4.4 The general objective of the proposed new regulation is to consolidate, revise and modernise the existing directives on the circulation and labelling of feed materials and compound feed.

4.5 The subsidiarity principle applies in so far as the proposal does not fall under the exclusive competence of the community. The proposal complies with the proportionality principle because it harmonises the regulatory framework for the marketing and use of animal feed.

4.6 The proposal removes unnecessary and inefficient labelling obligations. It is now proposed that the requirements to label ingredients will be the same as those required for food. The new rule would no longer require the indication of the percentage of all raw materials but only their indication in their exact weight order. At the moment, all feed materials used in a compound feed for food producing animals have to be labelled as a percentage of the total weight but with a tolerance of +/- 15 %. The farmer cannot get the real percentage of incorporation. Under the new proposal, if a manufacturer voluntary indicates the percentages they will have to be exact. Furthermore, the exact percentage has to be indicated for raw materials in compound feed that are highlighted on the label. Finally, the farmer can request information on the composition of the feed beyond the descending weight order of raw material, which the manufacturer could only reject if this unveils business secrets.

4.7 The name of the Feed Business operator who first places a compound feed on the EU market must be clearly identified on the label.

4.8 Any voluntary information provided on the label must be accurate and understandable to the final user.

4.9 The Commission will be obliged to maintain and update a list of materials whose placing on the market is prohibited. In addition the Commission may adopt guidelines clarifying the distinction between feed materials, feed additives, and veterinary drugs.

4.10 The requirement for pre-market authorisation must be proportionate to the risk in order to give the necessary assurance that emerging feed materials are adequately specified for proper use. The integrated food safety approach from farm to fork (under Reg. 178/2002) safely allows for the reduction of 'red tape' in this area. It is not justified that for bio-proteins and for emerging feed materials that all of them would have to undergo a pre-market authorisation procedure.

4.11 The trend is one of an increasing supply of co-products for feed rations due to the stronger competition for the base grains between feed, food and fuel. Lack of clear product information contributes to the under utilisation of these materials.

4.12 It is proposed that all stakeholders (and users) would be involved in establishing a catalogue of Feed Materials that is more comprehensive and better adapted to market developments than the current non-exhaustive list in the Directive. Also stakeholders would be encouraged to prepare Community Codes to good labelling practice within the framework of voluntary labelling with one code for pet food and another code for feed for food producing animals. The commission shall advise in the preparation of the voluntary Community catalogue and the Codes both of which shall be subject to final approval by the Commission (co-regulation).

4.13 The labelling of feed additives would be generally mandatory only for sensitive additives. The remainder could be labelled on a voluntary basis in line with the stakeholder code of good practice as approved by the core regulation.

4.14 In the case of pet food the objective is to improve the appropriateness of the pet food labels and to facilitate the purchaser and to prevent misleading labelling. Any nutritional claims made must be able to be verified as accurate scientifically. Under Article 19, a pet food label must have a free telephone number to allow the customer to obtain information as regards feed additives and feed materials that are designated by category.

4.15 Feed intended for particular nutritional purposes may only be marketed as such if it fulfils its claimed essential nutritional characteristics and as authorised and included in the list established in accordance with Article 10. Under Article 13(3) the labelling or the presentation of feed shall not claim that it will prevent, treat or cure a disease.

4.16 The labelling and presentation of feed must not mislead the user. The mandatory labelling particulars must be given in their entirety in a prominent position on the packaging.

4.17 The Feed Business operator who first places feed on the EU market will be responsible for the labelling particulars and ensure their presence and substantive accuracy.

5. General Comments

5.1 The level of food and feed safety has been significantly improved due to the new General Food Law, the Feed Hygiene Regulation and their implementing measures. The improved traceability system, the introduction of the HACCP (Hazard

analysis and critical control point) principle in feed businesses guarantees better feed safety all round.

5.2 It is essential that any of the proposed changes do not compromise the safety standards that are necessary in the case of food producing animals.

5.3 Feed Business operators must supply the official authorities with any information required to satisfy that the rules are being properly observed.

5.4 Reduced administrative burdens are usually very welcome because in many areas we have become over regulated in terms of paperwork requirements.

5.5 There can be no question of ever allowing meat and bone meal (MBM) to be fed to ruminant food producing animals. At present the TSE Regulation (999/2001) contains the ban on feeding MBM to ruminant animals. MBM can be used in pet food. This proposed Regulation does not propose any changes in the use of meat and bone meal insofar as this issue does not fall within the scope of the present proposal for a regulation. The subject must be debated in connection with the proposal for a regulation laying down health rules as regards animal by-products not intended for human consumption.

5.6 Compound Feed production is generally located close to where animals are produced. Hence the production facilities are often located in rural areas with limited alternative employment opportunities. In terms of transporting the animal feed to the farms it is also convenient to have a local distribution system which avoids the necessity for long distance driving on the part of the delivery trucks thereby reducing greenhouse gas emissions.

5.7 The Commission emphasises that there is little intra-EU trade in compound feed and it suggests that the new proposed regulation will improve competition by encouraging greater intra-EU trade in Compound Feed.

6. Specific Comments

6.1 In General the EESC welcomes the proposal to simplify, streamline and improve the Administrative efficiency of the Animal Feed Sector.

6.2 The proposed new Regulation confers greater freedom and responsibility on feed business operators. Article 12(1) states that the manufacturer of the feed shall be responsible for the labelling particulars and ensure their presence and substantive accuracy and they must also fulfil the obligations of this Regulation and the obligations imposed by the other relevant

Regulations such as 183/2005, 178/2002 and 1831/2003. Whereas regulation 88/2004 lays down general rules for the performance of official controls to verify compliance with the rules, the FVO must ensure consistent application. Feed Business operators first placing feed on the EU market, who use imports from outside EU must be subject to adequate controls to verify that imports are of the same standards as products originating within EU.

6.3 This conferring of greater responsibility to feed manufacturers to regulate their business means that if a serious problem of feed contaminated with poisonous substances or feed detrimental to animal husbandry or feed detrimental to the environment arises, especially in the area of emerging feed materials serious damage could be done to the food producing animal sector before adequate remedial action is taken. If the manufacturer has insufficient financial resources to deal with the problem then even more serious problems could arise.

6.4 The animal feed customer that is the farmer needs adequate protection in the event of a disaster arising because of the consequential financial, social and economic losses. These aspects should therefore be considered in connection with a specific regulation, and in the light of the Report from the Commission to the European Parliament and the Council on existing legal provisions, systems and practices in the Member

States and at Community level relating to liability in the food and feed sectors and on feasible systems for financial guarantees in the feed sector ⁽¹⁾.

6.5 We must observe the precautionary principle in this area as very serious mistakes have been made in the past.

6.6 It is unlikely that there will be major growth in intra-EU trade for compound feed for food producing animals because customers prefer to deal with local feed business operators. This situation could change if multi-national companies were to take control of a major section of the animal feed business sector.

6.7 There is a risk that multi-national companies would seek to take control of large sections of the Animal feed business and thereby reduce competition. If this were to happen it could lead to a large reduction in the number of feed mills and lead to greater intra-community trade. It does not follow that the market will become more competitive.

6.8 As regards pet food, what pet owners really need is adequate advice as to what is the best quality food for their pets rather than a list of the actual ingredients. It is also important to state the proper quantities to feed to particular pets and whether the feed is a complementary or a complete feed.

6.9 As world wide demand for protein increases there is a great need for a massive increase in investment in research and development in the animal feed sector.

Brussels, 17 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹⁾ OJ C 246, 20.10.2007, p. 12.

Opinion of the European Economic and Social Committee on the 'Impact of the ongoing development of energy markets on industrial value chains in Europe'

(2009/C 77/22)

On 17 January 2008, the European Economic and Social Committee, acting under Article 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on the

Impact of the ongoing development of energy markets on industrial value chains in Europe.

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 24 June 2008. The rapporteur was Mr Zboril and the co-rapporteur was Mr Kerkhoff.

At its 447th plenary session, held on 17 and 18 September (meeting of 17 September), the European Economic and Social Committee adopted the following opinion by 62 votes to 5 with 5 abstentions.

1. Conclusions and recommendations

1.1 The Committee takes note of the changed environment for energy markets and recognises the need to mitigate anthropogenic climate change by cutting GHG emissions. The costs of climate change and cost-efficient approaches of reducing the greenhouse gas emissions are important issues in the climate policy discussion. These questions are even more important, as global energy supplies will have to double by 2050 to meet the energy needs of all the people in the world. Sustainable energy and climate policy must be structured in such a way that it achieves its aims while at the same time retaining the industrial value chains as the backbone of the European economy, even when the costs of the damage associated with climate change are taken into account. This is very much in the interests of the European Union itself.

1.2 Because of the high share of energy which is inevitably required to produce basic materials by conversion from raw materials, the basic material industries are strongly affected by any change of energy costs or by energy taxes or similar financial measures. However, the energy-related footprint of basic materials has to be attributed to the whole industrial value chain and cannot be sensibly addressed separately.

1.3 The Committee's opinion is that economic growth and innovation in European economy can only be achieved on a viable industrial basis. Competitive and innovative basic material industries are a fundamental prerequisite for the industrial value chains. In fact, the support for environmental technology and renewable energy is an important target. But even the development of environmental technologies requires performing industrial value chains. They are dependent on the availability and expertise of the basic material industries. Environment-related innovations, in particular, can be achieved only with cooperation throughout the entire value chain. There can be no success without a holistic approach spanning the entire length of value chains.

1.4 The Committee recalls that buildings, accounting for 40 % of final energy demand in the European Union, represent the single largest consumer of energy. As much as half the

potential for gains in energy efficiency can be secured in the built environment and at negative economic cost. Such savings could by themselves achieve the EU's commitments under the Kyoto Protocol. Moreover, these energy savings can be achieved using technologies that already exist today. Furthermore, raising the energy performance of buildings has only positive effects, creating useful employment, reducing running costs, increased comfort and a cleaner environment. This should be an absolute priority for the European Union. The Committee equally recognises the importance of new and further developed basic materials in domestic and office appliances as well as other sectors such as energy or transport.

1.5 A possible relocation of energy-intensive industry outside the EU would significantly reduce the attractiveness of the industrial location in Europe and lead to a loss in economic growth and employment and jeopardise the European social model. Because of the interdependency within the industrial value chains it is not feasible, in the short run, to compensate for these losses with other sectors, for example environmental technology. Instead, these sectors would lose competitiveness as well.

1.6 The energy-intensive industries must indeed contribute towards energy and climate policy aims. The requirements, however, must be such that competitive disadvantages in a global business environment can be largely ruled out. By their nature, the basic material industries are highly sensitive to the impact of energy costs. Therefore energy and environment policy instruments must be carefully examined and designed in terms of the extent to which they impact on the competitiveness of these industries.

1.7 The energy-intensive industries require secure energy supplies, drawn from an appropriate European energy mix, which should not exclude any energy source (coal, renewable energy nuclear energy) and be based upon efficient competition on the electricity and gas markets ultimately resulting in reasonable prices of energy supplies. The interests of national energy policies should be more strongly embedded in an integrated

European concept, because so far the energy market has not kept pace with the single market for industrial goods. Although some Member States have decided not to use nuclear energy, maintaining electricity generation based on fission in the EU would also mean keeping the know-how on this technology in Europe. Of course, continuing the nuclear option would require a high safety level and well-trained employees ⁽¹⁾.

1.8 Concluding an ambitious international climate change agreement is of utmost importance for the fight against climate change. It has to lead to emission reduction obligations for all major emitting countries (according to the principle of common, but differentiated responsibilities), including the energy-intensive industries in order to ensure fair competition and a level playing field. In the absence of such an agreement, free allocation of allowances to energy-intensive industries at risk of 'carbon leakage' should be considered in the framework of the EU ETS in order to counter risks to the competitiveness of industrial location and economic growth in Europe. The final choice of allocation method should be performance-based (such as benchmarking), on the basis of best available techniques.

1.9 To pave the way for a long-term contribution to the aims of energy and climate policy, the Committee strongly recommends focusing on research and development of new technologies, particularly because the available production processes are largely mature. Where technical solutions do not yet exist, the requirements of higher energy efficiency and emission reduction targets cannot be fulfilled. There are workable structures in place already, such as Technology platforms for example, but efforts need much stronger coordination as is expected in the SET-Plan, for instance ⁽²⁾. However, enough time must be allowed to achieve the intended advance in technology and the required marketability in terms of global competitiveness.

1.10 The European and Economic Social Committee, with its special relationship with economic players, should highlight the problems of industrial value chains, which are sometimes not given due consideration by the political institutions.

2. The impact of energy, as a production factor, on industrial value chains in Europe

2.1 The production of basic materials such as steel, aluminium and other non ferrous metals, chemicals, cement, lime, glass and pulp and paper is the indispensable basis for industrial value chains. Industrial products require basic constructional and functional materials with specifically defined mechanical, physical and chemical properties which are not available in a natural form. As a matter of fact, the performance of industrial

products is dependent upon the material used having a particular application profile and being optimised in terms of substance and energy consumption, quality, reliability, economic efficiency, durability, environmental effects, etc. The continuous development of such materials is therefore a major factor in the level of technological innovation present in all conceivable products. A value chain is a string of companies or collaborating players who work together to satisfy market demands for specific products or services. Downstream industries in the industrial value chains consume comparably less energy for their manufacturing processes; thus, an isolated consideration of the end-product is not helpful. The energy-related footprint must be judged over the entire value chain. An increase in energy costs does not have an impact solely at the level of basic material production, but may simultaneously result in price increases in the downstream industrial intermediate and end-products as a result of the increased cost of the basic material if there is room on the market for such increases.

2.2 A competitive and innovative basic material industry is an important factor in deciding on the location of subsequent links in the industrial value-creation chain, like car manufacturing, engine building or construction industry. It guarantees the joint development of tailor-made materials, adapted to meet the user's individual requirements. Customer demands for just-in-time delivery also necessitate the supplier's physical proximity. The industrial value chain loses its innovative power and competitiveness if an appropriate material basis is lacking. This is especially true for small and medium enterprises. Many of them can be found in the steel processing sector for example.

2.3 In the main, production of basic materials requires large amounts of energy — particularly when compared with subsequent production steps. The energy consumption required in energy-intensive industries per unit of value is at least ten times (and up to fifty times) greater than in subsequent industries, such as mechanical engineering. In Germany, for example, the primary energy consumption of cement lies at 4.5 kg, of steel at 2.83 kg and paper at 2.02 kg SKE per unit of added value, while this figure amounts to only 0.05 kg SKE in the mechanical engineering sector ⁽³⁾. This is due to the fact that basic materials must be obtained from natural raw materials by means of physical/chemical conversion. This involves high temperatures for burning and melting and reduction processes, as well as electricity for electrolysis. The forming of semi-finished products also requires high levels of energy consumption. In many cases, primary energy sources are not applied for heat and electricity production, but used as raw materials or reducing agents, for example in the reduction processes carried out during iron production. It is also important to note that quality of raw materials is gradually falling and their processing involves usually more energy.

2.4 The overall energy requirements of an industrial product must be compared with both the energy savings which may result from any innovations to this product and its application in other sectors. Such a comparison can only come about as a

⁽¹⁾ World Nuclear Association, 'World Nuclear Power Reactors 2007-2008 and Uranium requirements' <http://www.world-nuclear.org/info/reactors.html>.

⁽²⁾ SET Plan — COM(2007) 723 final.

⁽³⁾ Calculations as per Destatis.

result of cooperation between the basic material suppliers and the downstream industrial producers, in which newly developed materials play a considerable role. For example, power plants with greater efficiency levels and lower primary energy source consumption rates require high-performance, temperature-resistant steels. Alternatively, specific fuel-consumption rates in the transport sector, for example, can be reduced by using light materials in automobile construction.

3. The situation in various energy markets (coal, oil, gas, electricity) and their impact on energy-intensive industries ⁽⁴⁾

3.1 The basic material industries — cement, steel, non ferrous metals, chemical products, glass and pulp and paper — employ fossil fuels in the form of energy as well as raw material and they are affected by the costs of the various energy sources in a variety of ways. Crude oil, for instance, is used in the chemical industry as a raw material for the production of plastics and other petrochemical products. Meanwhile, developments in the oil markets have also affected purchase prices for gas and electricity because gas prices are still linked to the price of oil. Developments in the coal market also affect the cost of electricity for energy-intensive industries. At the same time, the steel industry uses coal and coke as reducing agents.

3.2 The static range of oil reserves, e.g. of those resources which can today be profitably and technically exploited, is about 40 years. It could essentially expand if further resources can be opened up economically in the future, especially non-conventional oil resources like oil sand. The evolution of oil prices is characterised by growth in consumption, particularly in China and India. The effect of this situation is amplified by the OPEC nations' growing power on the market, which is making diversification of supply sources increasingly difficult due to unevenly distributed reserves. The regional concentration of production in nations characterised by considerable political and economic instability will increase uncertainty due to the incalculable nature of possible future restrictions on supply, with all their concurrent effects on price.

3.3 The static range of natural gas reserves is — at approximately 60 years from today's viewpoint — greater than that of oil. Natural gas is Europe's most rapidly expanding primary energy source. The EU's dependence on imports of natural gas is increasing at an even greater rate than its consumption. Individual oil and gas deposits in Member States like the Netherlands, Norway and the United Kingdom are gradually becoming depleted, while the importation of gas — largely from a single source, Russia — increases. Rising gas prices must be expected in the long term and, what is more, such reliance on a single source may result in the potential for Russia to exert political influence over the EU. The possibility of such a development is enhanced by naturally limited strategic reserves of gas within the EU.

3.4 Coal reserves that may be extracted in an economically viable manner are far greater than reserves of oil and gas. A static range of 150 years for coal is the general assumption. Furthermore, these reserves are more widely distributed amongst the continents as well as being, on the whole, located in politically stable countries such as the USA or Australia. Like other energy carriers, due to rising demand, the price of coal has increased significantly in recent years.

3.5 Electricity is a secondary form of energy that is produced mainly from coal, gas, nuclear and renewable primary energy sources and a good deal of power generation is still based upon oil in some Member States. The composition of the electricity generating mix largely determines the electricity generation costs. Coal and nuclear based power offers a cost-effective source for base-load power supplies, while renewable energies in the EU are to be developed further. Compared to other primary energy sources, the latter have so far been characterised by rather high cost, not least because external effects to a large extent are not reflected in the price of conventional energies. In the case of wind power and photovoltaic power, there is low and fluctuating availability with corresponding problems for the grids which will need to be adapted to accommodate the future growth of electricity supply from renewables. Certain renewable sources are less costly than others, differing from region to region. Photovoltaic power, for example, may be economically advantageous in sunny regions like the south of Europe, while it is not economical in Northern Europe.

4. Changing environment for energy markets

4.1 The energy markets exist in a dynamic environment, to which assorted economic, political and social influences — the interactions of which are complex — contribute. Industry is confronted by a change in the conditions and costs of energy supply which results in excessive uncertainty. The growing dependency of Europe on energy imports and anticipated further increases in energy prices reinforce the concerns about meeting energy demand in the future. It is well recognised that ensuring secure and reliable energy supplies at affordable, stable prices is vital to economic and social development and should constitute an integral part of a sound and consistent energy policy.

4.2 The recent rapid changes in the economic environment in Europe and worldwide require the energy sector to develop new concepts and policies to respond better to the security requirements of energy supply. While in the past security of energy supplies has traditionally been considered primarily the responsibility of the MS governments, the current status of the European energy market requires market forces to play a complimentary role. In a liberalised market, security and competitiveness come at a cost. To achieve long-term security of supply the common European energy policy becomes an issue of key strategic importance ⁽⁵⁾.

⁽⁴⁾ For example BP Statistical Review of World Energy June 2007.

⁽⁵⁾ Opinion TEN/312 'Towards a common energy policy' CESE 236/2008 fin.

4.3 Fossil energy sources are non-renewable. Many of the EU oil and natural gas resources have already been completely exhausted. This should be seen in light of the growing consumption levels of developing countries such as China and India. In the case of oil in particular, there is a wide range of additional, non-conventional deposits (e.g. oil sands), which are still difficult and expensive to exploit and generate vast amounts of GHGs. Reduced deposits are therefore likely to be reflected in increased exploitation costs and thus lead, ultimately, to rising prices.

4.4 The share of imported primary energy sources in the total consumption of the European Union is currently at about 50 % and it is expected to grow to 70 % in the near future (2030). The EU is thus dependent for its oil and gas in particular, on imports from a few countries (such as the OPEC nations or Russia) that have a powerful position on the market. Given that these countries and regions are often characterised by considerable political and economic instability, a stable supply is not guaranteed. A recent increase in the price of oil has demonstrated the EU's economic vulnerability. Therefore, the opening-up of own resources and sustainable development of existing resources in the European Union is an important task. Dependence on energy importation has major security consequences in respect of all its forms except coal, as procurement of the latter takes place from a wider variety of states that happen also to be considered stable. Even so, Europe also has own coal sources which are economically viable: the mining of lignite in the EU is relatively inexpensive.

4.5 The electricity and gas markets, which used to be characterised by a natural monopoly and national scope, are in the process of liberalisation and integration. While the grid is regulated, competition on generation and commercial levels should lead to reduced prices and greater efficiency. This strategy has resulted in a certain degree of price convergence between neighbouring countries. However, the national segmentation of the markets due to the historical bottlenecks in the transmission network, have with few exceptions impaired competition amongst Member States.

4.6 In addition, gas prices and other primary energy prices — which form the main part of electricity generation costs (see 3.5 above) — have experienced huge increases in the last few years. Finally, there are no longer power generation overcapacities and the electricity industry is facing a period of massive investments. All these factors have resulted in rising prices, in spite of continuing improvements (see for example the progressive integration of the Central West region: Belgium, France, Germany, Luxembourg and the Netherlands). Concentration of energy production and distribution can also be found outside the European Union without a correlation between that and gas or electricity price levels.

4.7 The political decision taken in the EU to mitigate anthropogenic climate change with far-reaching cutting of GHG emissions is already a major factor on the energy markets and its importance is ever growing. Correspondingly, energy efficiency has been focused on much more strongly and it has to be increased dramatically so that the CO₂ intensity of energy consumption is safely reduced. From this perspective, acceptance of carbon-rich fossil fuels is declining, while the low carbon

energy sources (such as gas) or nearly CO₂-free technologies (such as renewable energies and, in some respect nuclear energy) have gained in status, although this is not the case in all Member States.

4.8 Ensuring sufficient energy supply for the EU has become both a major challenge from the point of view of acquiring appropriate and available technology and, increasingly, a race against the clock. In the past, a few EU Member States decided to cease using nuclear energy, with all the corresponding restrictions for the electricity generation mix that this would entail. In addition, the construction of both coal-fired power stations and the infrastructure required for energy transmission has been the subject of some resistance among the population. This could increasingly lead to the cancellation of coal fired power plant projects, as happened for example in Enseldorf, Germany, due to the activities of citizens groups. Even certain renewable energies like wind mills are increasingly subject to resistance. Public acceptance of all sorts of energy, not just nuclear energy, has become a serious issue which has to be dealt with the utmost care if power generation is to be brought up to the EU citizens and economy's needs.

4.9 As the result, generation capacity in the EU is stagnating, only a few new projects are under development and it is not inconceivable that the EU will encounter problems in the future. The imminent modernisation of Europe's power stations presents both a challenge and an opportunity. It is now imperative that potential investors get the message that only investment in low-carbon technologies makes economic sense.

5. The adaptation strategies of industry

5.1 Energy-intensive basic material industries face numerous pressures to adapt — in view of globalisation of the markets and the changing situation of energy markets. On one hand, companies have to succeed against international competition through the development of innovative products and processes. On the other hand, they are forced to accommodate increasing energy costs, to ensure compliance with the political decisions taken in terms of appropriate reduction of both CO₂ emissions and energy consumption levels.

5.2 International economic interactions have intensified in the wake of globalisation. Suppliers from developing countries have caught up in technological terms and they now offer more reasonably priced labour-intensive production. Basic material suppliers have reacted to this challenge by optimising their production processes, specialising in technologically high-quality products, by developing customised products in close collaboration with the customers. Increasingly, partnerships between material suppliers and customers have developed, offering a variety of services.

5.3 Energy costs represent a significant share of the production costs for materials in energy-intensive industries. Thus, reducing specific energy consumption is in the economic interests of energy-intensive industries. Remarkable successes have been achieved here over the past decades. Energy-intensive industries in the EU are worldwide leaders in energy efficiency during production.

5.4 The recent political demands for reduced CO₂ emissions and increased energy efficiency pose further challenges for energy-intensive industries. Existing manufacturing technologies and processes have in many cases already reached their physical and chemical limits⁽⁶⁾. The steel industry's consumption of reducing agents in the blast furnace converter process, for instance, is already at a chemical/physical minimum and cannot be further decreased without sacrificing demand of customers and production volumes. A number of fundamental technological achievements, which have yet to be identified, researched and developed, would be required before any further noteworthy improvements in energy efficiency could be made. This requires great efforts from industry. For this reason, long-term joint research projects and demonstration projects already exist within the framework of the technology platforms, and endeavours like CCS. The same holds true for other industries with process emissions, such as the lime and cement industries. Also in energy supply, research and development is an important long-term challenge, for example with respect to CCS or renewable technologies.

5.5 The basic materials industries' endeavour to achieve revolutionary new production technologies with lower energy consumptions will take time. In addition to technical advances, the roll-out of new processes must be in sync with companies' investment cycles. Ultimately, the basic prerequisite for the introduction of new processes is their economic viability — which, in turn, must be measured against competition on the world market. For this reason, and other factors (administrative burdens, limited financial resources and ensuing economic uncertainties), a period of several decades must be reckoned on for basic material industries to realise any major steps forward in energy savings. This distinguishes the energy-intensive industries from the power-generating sector, which, while also achieving efficiency improvements in a step-by-step fashion in line with innovation cycles, can more readily pass on improvement costs and other related administrative burdens to captive customers.

5.6 The energy efficiency of industrial products can be increased significantly through the use of new and highly-developed basic materials produced in collaboration with other sectors, such as carmakers or power plant developers, resulting in components with greater temperature resistance or lower weight. Appropriate process control systems also bring about new levels of quality in terms of energy efficiency. Equipment for generating renewable energies is also produced from constructional and functional basic materials (e.g. wind turbines made of steel and high performance plastics). Although the potential is great, the need for material research remains correspondingly great since the majority of new developments are still not mature enough for commercial use.

6. The impact of energy policy on industrial value chains

6.1 Energy policy affects the energy markets by means of a mix of instruments. On one hand, a European regulatory frame-

work for a single market in electricity and gas is slowly progressing, but it has still not led to the sought-after goal of price stabilisation. On the other hand, energy production and industrial energy consumption are and would be heavily affected by the EU ETS, intended to act as a major instrument for emissions reduction. The value of the Emission Trading System (ETS) will be measured by its impact on European GHG emissions and its relevance and example in stimulating global action and/or evolving into a comprehensive global scheme. The main problem is that the system is not global, but restricted to the European Union, which leads to the risk of carbon leakage in international competing industries. For that reason too the EU should push at climate talks for GHG trading to be carried out internationally. The problematic features of the proposed revised system should therefore be addressed with great care to minimise the foreseen cost impacts.

6.2 Absolute emission caps of CO₂ for power plants and process facilities in energy-intensive industries were introduced in 2005. For energy-intensive industries, the emissions of which are closely interlinked with production volumes because of technological limitations, this considerably increases the cost of any growth of production that exceeds the allocated volumes. The auctioning of emission allowances, planned to start in 2013, would involve a substantial increase of costs of all basic material production, which, in most cases, is not transferable to the downstream customers.

6.3 The EU aims to reduce CO₂ emissions, maintain dependency on imports at manageable levels and promote technologies for export by expanding its share of renewable energy sources. Financing the start of renewables would be a reasonable contribution to these targets, but permanent subsidy systems should be avoided. Finally, renewable energies have to become competitive on the market. Current trends in energy prices and technical advances in renewable energies have already significantly increased the competitiveness of renewable energies. The promotion of renewable energies in the electricity sector is currently taking place in the EU by means of national subsidy systems, variously involving quota systems with the trading of certificates and systems of feed-in tariffs for renewables. The additional costs of renewable energies are generally conveyed in the price of electricity for end consumers. Energy-intensive industries are, for the time being, like other users exposed to financing renewable energy via electricity prices.

6.4 Although certain sectors, for example parts of mechanical engineering, benefit from the renewable markets, these gains have to be compared with negative effects in the basic materials industries. Furthermore, their supply chain and therefore competitiveness could be affected if basic materials were crowded out by the additional costs from subsidising renewables⁽⁷⁾. This can at least be avoided by cost capping for these industries. While the development of the renewable market also opens up opportunities to export technology, for example wind

⁽⁶⁾ Presentations Public Hearing CCMI 052, 7 May 2008. Available at CCMI website: http://eesc.europa.eu/sections/ccmi/index_en.asp.

⁽⁷⁾ See, for example, Pfaffenberger, Nguyen, Gabriel (December 2003): Ermittlung der Arbeitsplätze und Beschäftigungswirkungen im Bereich Erneuerbarer Energien.

power, to those regions where it can be profitably operated, it should also be considered that not only European companies but the European economy as well benefit in turn from the subsidised markets in Europe — a large proportion of photovoltaic materials in Europe for example are delivered from Japan.

6.5 Nuclear energy is an important factor in the energy mix of many EU countries, while some other countries have decided to cease using this form of power generation. In such countries, there is no source of reasonably-priced low CO₂ electricity generation for base-load power and the latter must be replaced by fossil fuels or renewable resources⁽⁸⁾. As a result, electricity prices, CO₂ emissions and the price of CO₂ allowances would rise, with corresponding impact on the energy-intensive industries.

6.6 Many EU Member States are introducing taxes with the aim of reducing energy consumption or of cutting CO₂ emissions. In a green paper on economic climate policy instruments, the EU Commission is considering harmonising these instruments across Europe and introducing more incentives for reducing CO₂ emissions. Energy-intensive industries would face considerable electricity and energy price rises. These costs could only be partially offset by means of energy-efficiency measures as indicated above.

7. The global environment

7.1 Energy and climate change policies no longer stop at national or regional borders. Security of supply, shortages of energy resources and, above all, climate change are global challenges. Climate change can only be combated effectively if all the world's regions are involved in the effort. Conversely, ambitious emission reduction policies in the EU will remain ineffective as long as rapidly growing countries such as China can quickly exceed these savings through industrial growth.

7.2 The increasing interaction between global trade and capital flows is leading to increasing competition between global locations. Energy-intensive industries are also increasingly subject to global competition for customers and capital. Firstly, there is immediate competition with other material suppliers outside the EU. Secondly, the processing industrial sectors that

are strongly reliant on exports, such as the automotive or machine building industries, pass on the cost pressures induced by the world market to the material industries. The international competitive situation distinguishes energy-intensive industries from regional sectors, such as the electricity sector.

7.3 The combination of the global energy and climate policy challenge with industrial global competition means that an excessive cost burden for energy-intensive industries triggers relocations. These occur when regions outside Europe do not impose any comparable cost burdens on their industries. All the building blocs of the EU climate/energy policy should be soundly based upon realistic assessment of resources (natural, human and social) and their potential development in the time scale (Lisbon strategy etc.) to exploit those resources for our mutual sustainable future. The EU strategic considerations should reflect those strategic fundamentals.

7.4 Relocation of production would probably lead to greater emissions in regions outside Europe. Their production processes might well exhibit lower energy efficiency than in the countries of origin. Additional emissions arise from transporting the leaked products to Europe. Even if the production were relocated to efficient installations, however, the leakage would be unsustainable, because production would be squeezed out from Europe resulting in loss of jobs and technical know-how, even in terms of environmental technology. Global reduction of GHG emissions should be the decisive factor in setting up the community policy.

7.5 Relocation of the energy-intensive industries would result in reduced employment and economic growth. The loss of the basic material link also reduces the attractiveness of the location for subsequent industrial chains and leads to an erosion of all levels of the value chain. The European economy, however, requires its industrial core. A purely service-based economy is not sustainable — because many value-creation-intensive services are industry-related services, which would also be at risk from the loss of their industrial bases. Furthermore, leadership in technology and innovation, (as much for the benefit of environmental issues as others), depends upon the presence of basic industries in the European Union.

Brussels, 17 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽⁸⁾ Hydro-energy, as in Scandinavia for example, remains restricted to a limited number of countries with advantageous natural conditions.

APPENDIX 1

to the Opinion of the European Economic and Social Committee

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

1. Point 1.9

Add new point:

'However, in the medium and long-term it is essential that the European economy moves to low carbon production methods and products. If we wish to achieve a 60-80 % reduction in CO₂ emissions in industrialised countries by 2050 (considered vital to prevent climate change from getting out of hand) it is counterproductive to protect CO₂-intensive industries. Instead, it is imperative that Europe makes progress in restructuring its economy in order to gain a competitive advantage as the spearhead of technological innovation and to initiate changes in other countries. It will not be possible to carry out this third industrial revolution with a "business as usual" attitude, accompanied by modest efficiency increases in energy-intensive products.'

Result of the vote

Votes in favour: 23 Votes against: 27 Abstentions: 12

2. Point 6.7

Add new point:

'However, in the medium and long-term it is essential that the European economy moves to low carbon production methods and products. If we wish to achieve a 60-80 % reduction in CO₂ emissions in industrialised countries by 2050 (considered vital to prevent climate change from getting out of hand) it is counterproductive to protect CO₂-intensive industries. Instead, it is imperative that Europe makes progress in restructuring its economy in order to gain a competitive advantage as the spearhead of technological innovation and to initiate changes in other countries. It will not be possible to carry out this third industrial revolution with a "business as usual" attitude, accompanied by modest efficiency increases in energy-intensive products.'

It reproduces same text as in paragraph 1.9 (conclusions and recommendations) but in point 6. (The impact of energy policy on industrial value change). Point 1.9 having been rejected, point 6.7 falls.

3. Point 7.4 and 7.5

Amend point 7.4 and delete point 7.5, as follows:

'Relocation of production ~~would probably~~ lead to greater emissions in regions outside Europe: if ~~their~~ production processes ~~might well~~ exhibit lower energy efficiency than in the countries of origin, which, given the rise in energy prices, is unlikely for new buildings. Additional emissions arise from transporting the leaked products to Europe. Even if the production were relocated to efficient installations, however, the leakage would be unsustainable, because production would be squeezed out from Europe resulting in loss of jobs and technical know-how, even in terms of environmental technology. It is therefore essential that a climate change agreement be concluded that brings about a ~~Global~~ reduction of GHG emissions ~~should be the decisive factor in setting up the community policy.~~

Relocation of the energy-intensive industries would result in reduced employment and economic growth. The loss of the basic material link also reduces the attractiveness of the location for subsequent industrial chains and leads to an erosion of all levels of the value chain. The European economy, however, requires its industrial core. A purely service-based economy is not sustainable — because many value-creation-intensive services are industry-related services, which would also be at risk from the loss of their industrial bases. Furthermore, leadership in technology and innovation, (as much for the benefit of environmental issues as others), depends upon the presence of basic industries in the European Union.'

Result of the vote

Votes in favour: 21 Votes against: 41 Abstentions: 3

APPENDIX 2

to the Opinion of the European Economic and Social Committee

The following CCMI Opinion texts were rejected in favour of amendments adopted by the assembly but obtained at least one-quarter of the votes cast:

1. Point 4.9

'The risks of certain technologies are exaggerated, while their economic benefits are by far underestimated. The German energy agency, for example, expects for Germany a shortfall in guaranteed capacity of power generation of 11 700 to 15 800 MW in 2020, depending on the development of demand ⁽¹⁾. This implies that power generation capacity deficiency is imminent throughout the EU — the price of failing to act will be very high. Other studies deem it possible to close the gap by increased energy efficiency and generation using renewable sources. However, an energy mix including any energy source would be necessary to prevent such a development, and stakeholders should clearly and openly communicate such needs to the citizens.'

Result of the vote

Votes in favour: 36 Votes against: 20 Abstentions: 5

2. Point 6.3

'This can be avoided by cost caps for energy-intensive industries to reconcile the support of renewable energies with the international competitiveness of basic material industries. Apart from that, if the support of renewables is imbalanced, it threatens material supply chains for certain industries, such as forest-based industries ⁽²⁾. This threat could, for instance, result in the eradication of traditional industries in the EU, such as pulp and paper.'

Result of the vote

Votes in favour: 37 Votes against: 20 Abstentions: 4

⁽¹⁾ DENA, Kurzanalyse der Kraftwerks- und Netzplanung in Deutschland, March 2008.

⁽²⁾ Bio-energy and the European Pulp and Paper Industry — An Impact Assessment; McKinsey, Pöyry, for CEPI, August 2007.

Opinion of the European Economic and Social Committee on the 'White Paper — Together for Health: A Strategic Approach for the EU 2008-2013'

COM(2007) 630 final

(2009/C 77/23)

On 23 October 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

White Paper — Together for Health: A Strategic Approach for the EU 2008-2013.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 18 July 2008. The rapporteur was Ms Cser.

At its 447 plenary session, held on 17 and 18 September 2008 (meeting of 18 September 2008), the European Economic and Social Committee adopted the following opinion by 114 votes to four with seven abstentions.

1. Conclusions and recommendations.

1.1 The EESC welcomes the Commission's White Paper entitled 'Together for health', given that the EESC also emphasises the correlation between health, economic prosperity and competitiveness, while recognising the rights of citizens to be empowered in their mental and physical health and to the provision of high-quality healthcare.

1.2 The EESC approves the Council's recognition of fundamental and shared health values, universality, access to good quality care, equity and solidarity ⁽¹⁾. The EESC hopes that developments in the field of public health will be based on these fundamental principles; it also expects to see the principle of 'health in all policies' applied. Therefore it feels that trade, competition and economic policies in the Single Market must be coordinated and harnessed in order to achieve the EU's political objective of ensuring a high level of public health and thus promoting, preserving and improving human health.

1.3 The EESC agrees with and supports the Commission in its view that active European citizenship only makes sense if underpinned by fundamental rights; among other things, this means emphasising, promoting awareness of and ensuring patients' rights, and providing the requisite information. Failing this, a Community-level health policy is unthinkable.

1.4 The EESC agrees with the Commission's priorities in particular to combat the major cross-border health scourges and health threats, measures to monitor and give early warning of disasters, and measures to combat tobacco and alcohol abuse and protect public health.

1.5 Continuous and coordinated input by specific EU-operated agencies ⁽²⁾ play an important role in securing acceptance for the strategy and implementing it.

1.6 The EESC is in favour of launching more targeted compilation and joint evaluation of data at Community level to ensure successful implementation of the strategy. Besides creating real and comparable indicators, efforts must be made to update databases and develop methods to check the accuracy of data. However, it would point out that personal data must be strictly protected.

1.6.1 The EESC believes that those patients requiring cross-border healthcare should receive information about their rights to quality care. Member States should also ensure that the free provision of services does not result in social dumping in this field, which would be damaging to healthcare workers, their professionalism, and ultimately to patients.

1.7 The EESC welcomes the Commission's declaration on reducing the serious inequalities that exist between and within Member States. However, it would warn the Commission that support for patients' rights to mobility and greater mobility among healthcare workers must not exacerbate such inequalities.

1.8 The EESC supports the Commission in its intention to strengthen and promote prevention, and welcomes its efforts to promote health awareness programmes targeted at different age groups. Public-service TV and radio should have an important role to play; these should be targeted at the poor, who represent a large proportion of the EU's population, especially children and young people, who often lack any other means of accessing objective and useful information and knowledge.

1.9 The EESC suggests launching a 'Healthy European Citizen' long-term campaign, to last for the entire five years of the strategy, with annual rolling planning and feedback enabling continuous evaluation of the strategy and appropriate adjustments. The EESC recommends that the Commission extend the duration of both the strategy and the programme/long-term campaign to ten years, in order to promote more health-conscious behaviour among European citizens.

⁽¹⁾ Council Conclusions on Common Values and Principles in European Union Health Systems (C 2006 146/01).

⁽²⁾ The Fundamental Rights Agency in Vienna, the Bilbao Agency, the European Centre for Disease Prevention and Control, etc.

1.10 The EESC emphasises the importance of broad stakeholder involvement in disseminating knowledge about the strategy, stimulating discussion about it and implementing it, thus ensuring, through transparency and cooperation, acceptance of the strategy and implementation of participatory democracy.

1.11 The EESC would remind the Commission of the key role played by health and safety at work and would urge that, with the involvement of the social partners and Member States, coordinated cooperation be stepped up in EU policies, and prevention and protection be strengthened.

1.12 The EESC suggests that specialists in various policy areas and representatives of the social partners, professional organisations and civil society set up forums at European, national, regional and local levels. These forums, which would involve cooperation on multiple levels, could form a network to help promote the exchange of information, and would be an appropriate means of presenting various points of view, delineating between national and EU policies, and ensuring the acceptance of such policies. Educating members of the public in how to behave individually and collectively in the event of a serious health crisis should be one of the subjects covered by such forums involving a wide audience, and would enable effective management in the interests of all concerned during periods of difficulty.

1.13 The EESC recommends that the EU set up similar forums in its international policy with the participation of those concerned and in cooperation with international organisations to enable debate on policy issues and ensure formulation and implementation of strategies.

1.14 The EESC supports innovation in Member States' healthcare systems and welcomes the development of e-health technology; however, further research and proposals for solutions are needed here, in view of the need to comply with the subsidiarity principle and ensure patients' rights.

1.15 The EESC is disappointed that a strategy which concerns all EU citizens has not been given a budget of its own. The EESC recommends that, to ensure effective implementation of the new strategy, an overall review of the EU's budget⁽³⁾ be carried out to identify projects impacting on public health; these should be monitored and evaluated, and subsequently harmonised. Throughout the duration of the strategy, efforts must be made to ensure that, in addition to project-type funding, budget-type support is available in the post-2013 period for new tasks which become ongoing.

⁽³⁾ See EESC opinion of 12.3.2008 on *EU budget reform and future financing*, rapporteur: Ms Florio (OJ C 204, 9 August 2008).

2. General comments

2.1 Health and high-quality-healthcare is part of the European social model, built on essential values such as solidarity, and should be actively developed⁽⁴⁾.

2.2 Right to be empowered in mental and physical health and access to mental and physical healthcare, is a fundamental right for European citizens and is one of the main pillars of active European citizenship.

2.3 The focus must be on citizens, with joint efforts to develop a Community culture of health and safety.

2.4 In the EU, it is vital to combat poverty and ensure access to high-quality healthcare for all, as a fundamental performance indicator not only of healthcare provision but also of efforts to promote competitiveness⁽⁵⁾.

3. Content of the White Paper

3.1 The European Commission has held two consultations on health. Consultation revealed general support for a new health policy strategy in Europe, and a desire for closer cooperation between the European Commission and EU Member States on further improvements in health protection in the EU.

3.2 Several major issues were raised by the public consultation:

- combating health risks,
- disadvantages in terms of health including gender-related inequalities,
- the importance of information and awareness-raising for the public,
- the quality and safety of cross-border healthcare,
- identification of key lifestyle-related health factors such as diet, exercise, drinking, smoking and mental health,
- the need to improve the European information system in order to develop the European health strategy.

3.3 The Lisbon Treaty signed on 13 December 2007 expands and clarifies Article 152 of the Treaty establishing the European Community by introducing the concept of 'physical and mental health' to replace 'human health'. The Lisbon Treaty also adds monitoring, early warning of and combating serious cross-border threats to health to the content of the Treaty.

⁽⁴⁾ See EESC opinion of 6.7.2006 on *Social cohesion: fleshing out a European social model* (own-initiative opinion), rapporteur: Mr Ehnmark (OJ C 309 of 16 December 2006).

⁽⁵⁾ See EESC opinion on *Implementation of the Lisbon Strategy*.

3.4 The White Paper emphasises common values such as the right to high-quality treatment, equality and solidarity. The Commission has developed its common strategy on the basis of four fundamental principles:

- Common Values in the Field of Health
- ‘Health is the Greatest Wealth’
- Health in All Policies, and
- Strengthening the EU’s Voice in Global Health.

3.5 Based on this, the strategy identifies three main objectives for the coming years:

- fostering good health in an ageing Europe,
- protecting citizens from health threats, and
- supporting dynamic health systems and new technologies.

The Commission is proposing 18 measures to achieve these objectives.

4. Specific comments

4.1 The EESC agrees with the fundamental principles set out in the White Paper, and therefore welcomes the principle of Health in All Policies (HIAP), which will require much closer cooperation between the Commission, the social partners, civil society organisations, academia and the media in order to promote and implement the strategy.

4.2 The EESC recognises that public health around the world is facing three main challenges: firstly, the struggle against the constantly changing microbial world, secondly, the struggle to change human habits and behaviour, and thirdly, the struggle for attention and resources⁽⁶⁾. It is also aware of the challenges facing the EU and the resources available to meet them:

- demographic ageing is posing a growing challenge in terms of diagnosis, treatment and care;
- health threats such as epidemics caused by infectious diseases and bioterrorism are increasingly serious problems;
- climate change and the hidden dangers of globalisation;
- at the same time, the rapid development of new technologies may result in dynamic changes in methods for promoting health, as well as the prevention and treatment of illnesses.

4.3 The EESC emphasises the importance of a significant active role for stakeholders (public authorities, social partners,

⁽⁶⁾ Speech by Dr Margaret Chan, secretary-general to the WHO: *Address to the Regional Committee for Europe*, 18 September 2007, Belgrade, Serbia: see: http://www.who.int/dg/speeches/2007/20070918_belgrade/en/index.html.

civil society organisations including patients’ associations and consumer organisations) both in identifying and solving problems and in promoting health-conscious behaviour.

4.4 The EESC is disappointed that the social partners, stakeholders from civil society, professional organisations and patients’ associations were not involved. It suggests that cooperation with public authorities — at local, regional, national and European level — in the context of social partnership should take place, whilst effective use of financial resources is essential conditions for implementation of the health strategy and EU economic success.

5. The health of European citizens

5.1 The EESC agrees with the Commission that, in implementing the Citizens’ Agenda, civic and patients’ rights should be the key starting points for Community health policy, and that solidarity, as the key value underpinning the European social model, should be strengthened, in the interests of everyone’s health⁽⁷⁾.

5.2 The EESC is in favour of active European citizenship, which only makes sense if underpinned by health-conscious behaviour. Despite EU and national efforts to achieve this, there are still big differences between citizens in terms of health⁽⁸⁾, access to healthy lifestyles and equal opportunities; this particularly applies to gender equality⁽⁹⁾ and especially vulnerable disadvantaged groups. The EESC urges the Commission to ensure that, once the disadvantages faced by particular groups have been identified, specific solutions and support systems are developed, while promoting cooperation between Member States; moreover, promoting specific programmes to evaluate and maintain the health of elderly people would benefit society as a whole, and would enable population trends to be taken into account.

5.3 In view of the inequalities within and between Member States, the EESC supports the common objective whereby health policies should support the strategies to reduce and eliminate poverty. Although health costs are constantly growing this must not result in individuals and households (both within and outside the EU) becoming worse off or being driven into poverty. Both equality and affordability, as well as local availability, must therefore be ensured in the provision of the appropriate range of public healthcare services and social services. It is vital to avoid further widening the gap between rich and poor in our societies.

⁽⁷⁾ See EESC opinion of 2.6.9.2007 on *Patients’ rights* (own-initiative opinion), rapporteur: Mr Bouis (OJ C 10 of 15 January 2008).

⁽⁸⁾ See impact assessment: for example, in Italy, men live in good health for 71 years; the corresponding figure for Hungary is only 53.

⁽⁹⁾ See EESC opinion of 13.9.2006 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 *A Roadmap for equality between women and men 2006-2010*, rapporteur: Ms Attard (OJ C 318 of 23 December 2006).

5.4 The EESC believes all European citizens should be empowered in their mental and physical health and enjoy equal rights to physical and mental healthcare. This can only be achieved if particular attention is paid to disadvantaged groups such as persons living in long-term poverty, marginalised groups, and groups excluded on religious grounds. Developments in the field of public health must take mental health, in particular that of high-risk groups, more closely into account ⁽¹⁰⁾.

5.5 The EESC suggests that the Member States should further promote intercultural dialogue with a view to supporting the work of the EU and individual citizens, particularly in terms of providing and using healthcare services. Recognition and support of cultural diversity and multiculturalism can substantially help to secure legitimacy and acceptance for health awareness and encourage mutual help ⁽¹¹⁾, as well as ensuring timely prevention and recourse to healthcare services and treatment.

5.6 The EESC urges the Commission to formulate proposals to ensure mainstreaming of proposals to develop health-conscious behaviour into all policies, with a view to ensuring access to independent information on mental and physical health, including for citizens without Internet access and disadvantaged persons, whose numbers are — unfortunately — increasing. One option should be cooperation with public-service radio and TV channels to disseminate information about public and individual health (for example on prevention) and provide information enabling timely access to medical facilities. This could also be done using communication tools such as internet, accessible to patients and health workers.

5.7 The EESC emphasises that anti-smoking campaigns, the development of common standards in the area of food labelling, pharmaceutical research, and the development and promotion of health online are areas which offer added value. In many areas, the exchange of best practices and performance evaluation can play a key role in making efficient and effective use of limited funding.

5.8 The EESC feels that policies to support families are important, together with appropriate training and support for the development of health awareness; support for women during pregnancy could be a good starting point for such efforts ⁽¹²⁾. Hence, to promote European citizenship, the EESC recommends launching a long-term 'Healthy European Citizen' campaign.

⁽¹⁰⁾ EESC opinion of 17.5.2006 on the *Green Paper 'Improving the mental health of the population — Towards a strategy on mental health of the European Union'*, rapporteur: Mr Bedossa (OJ C 195 of 18 August 2006).

⁽¹¹⁾ See EESC opinion of 20/4/2006 on the *Proposal for a decision of the European Parliament and of the Council concerning the European Year of Intercultural Dialogue (2008)*, rapporteur: Ms Cser (OJ C 185 of 8 August 2006).

⁽¹²⁾ E.g. the Hungarian nurses' network, which provides support for children and families from conception up to the age of 18.

5.9 While the EESC supports the free movement of labour and acknowledges patients' rights, it would remind the Commission that mobility among patients and healthcare workers must not exacerbate the inequalities which already exist in the field of healthcare; indeed, it is important to overcome these ⁽¹³⁾.

5.10 The EESC notes that adequate, high-quality public healthcare and social services are a prerequisite for the supply of sufficiently skilled labour in sufficient numbers. In view of this, workers in these fields must be better paid and be given greater social recognition and prestige, to ensure that work in this sector becomes more attractive for young people. The EESC is concerned about the health of ageing healthcare and social care workers, who are threatened by burn-out and stress; that there is a need to highlight the value of the work done in the healthcare and social services sector and to stress that professionals in this sector do valuable work to promote health in the whole of society.

5.11 A conscious effort must be made at national level to establish a strong health policy, and this can only be achieved if adequate budgetary resources and/or funding from social security systems are earmarked. The Member States must effectively invest not only in the prosperity of their populations but also in the well-being of their citizens and subjects.

6. Cross-border and global issues

6.1 The EESC agrees that, with regard to globalisation and health, the EU can play a key role within and beyond its borders in resolving global health problems, and in developing Community-level responses to disasters, pandemics and new challenges arising from climate change; it can also offer added value in dealing with a global shortage of healthcare workers through the compensation fund ⁽¹⁴⁾ and improving international access to medicines.

6.2 Existing and new threats to health (HIV/AIDS) which transcend borders mean an increasingly strong role for the EU in offering added value, given that Member States are incapable of resolving such problems on their own (lack of access to tritherapies). This particularly applies to the reinforcing of screening and protection and coordinating the prevention of infectious diseases.

⁽¹³⁾ EESC opinion of 27.10.2004 on the *Communication from the Commission: Follow-up to the high level reflection process on patient mobility and healthcare developments in the European Union*, rapporteur: Mr Bedossa (OJ C 120 of 20 May 2005).

⁽¹⁴⁾ EESC opinion of 11.7.2007 on *Health and Migrations* (exploratory opinion), rapporteurs: Ms Cser and Mr Sharma (OJ C 256 of 27 October 2007).

6.3 The EESC is disappointed at the lack of specific proposals by the Commission to deal with problems concerning health-care workers, who have a key role to play in ensuring the success of the EU's health strategy. There is a very clear correlation between the lack of healthcare workers and problems connected with shortcomings in the provision of healthcare services or the absence of such services.

6.4 The EESC would emphasise the importance of an ethical approach to patients' rights in relations between doctors, patients and all other healthcare workers. In a developing and changing world, with rapidly advancing medical technologies, greater emphasis must be placed on ethics and the protection of personal data; training and further training should therefore pay particular attention to these aspects.

6.5 The EESC points out that there is a growing shortage of healthcare workers and that those currently working in the sector are ageing; an ethical approach is therefore needed to recruitment, with specific policies on integration, skills and pay for employees recruited from both within the EU and from third countries. Options should be considered to promote the return of trained healthcare migrants, thus contributing to the development of healthcare systems in their countries of origin. With regard to the migration of healthcare professionals within the EU, Member States should also ensure that the free provision of services does not result in social dumping in this field, which would be damaging to healthcare workers, their professionalism, and ultimately to patients.

7. Adoption and implementation of the strategy

7.1 The EESC is disappointed by the lack of adequate, genuine, analysable and comparable information or data on the health of European citizens, and of monitoring systems to enable comparisons between Member States or regions. There are also major discrepancies and gaps in terms of information on health and safety at work⁽¹⁵⁾. Certain EU agencies have an important role to play here.

7.2 The EESC recommends that further efforts be made at regional, national and European level in compiling relevant statistics and defining indicators.

7.3 The success of the renewed Lisbon strategy is closely dependent on the health and safety of employees at work. Working conditions are especially important for health, given that adults spend one-third of their lives at the workplace. Hazardous and unhealthy conditions at work cost 3-5 % of GNP. Prevention is the most important way of promoting health and safety at work and ensuring it on a permanent basis.

⁽¹⁵⁾ EESC opinion of 29.5.2008 on the *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work*, rapporteur: Ms Cser (OJ C 224 of 30 August 2008).

Provided that they adopt and comply with collective agreements, SMEs, which employ over 80 % of workers, require special support, given that they are at an immense disadvantage compared to multinational companies in terms of financial resources and possibilities. The EESC deplores the fact that self-employed are not protected at work.

7.4 The EESC supports changes to Member State healthcare systems improve the standards of service. In order to overcome inequalities within and between Member States, the role of regions should be analysed together with that of Member States; however, this must not result in a transfer of responsibilities from the national level. In this connection, the EESC is deeply perturbed by the reforms to public social insurance and health-care systems that are taking place in some Member States and which seek to curb public health insurance systems and privatise public healthcare on a massive scale.

7.5 The EESC supports the Commission's objective to promote and strengthen prevention; it is pleased that the Commission intends to work towards improved health for the elderly, children and young people. Making this happen will closely depend on proposals concerning tobacco, nutrition, alcohol, mental health (including Alzheimer's disease) and cancer screening, which are also of particular relevance to the groups targeted by the strategy⁽¹⁶⁾.

7.6 The EESC welcomes the results of technological development, but does not feel that the proposal to use e-health as a solution would ensure that requirements are met in terms of equal opportunities, given that the views of the professionals on this issue are not known. The reference to cost-cutting and more citizen-centred services is justified; however, measures to ensure patients' rights and Member States' responsibilities with regard to developing and overseeing healthcare have not been explained in sufficient detail.

7.7 The EESC supports increased cooperation and new initiatives with international organisations; given that the EU plays a key role in the provision of international aid, the Committee is in favour of closer cooperation with the WHO.

7.8 The EU can help to achieve the objectives of the WHO for the 21st century if it cooperates with Member States, UN bodies, the WHO, the ILO, and other international bodies such as the International Organisation for Migration. Contacts must also be stepped up with international financial institutions such as the IMF and the World Bank. Efforts must be made to promote forums at international level involving the social partners, professional and civil society organisations, in particular patients' associations and consumer organisations.

⁽¹⁶⁾ EESC opinion of 30.5.2007 on the *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — An EU strategy to support Member States in reducing alcohol-related harm*, rapporteurs: Ms Van Turnhout and Mr Janson (OJ C 175 of 27 July 2007) and EESC opinion of 28.9.2005 on 'Obesity in Europe — the Role and responsibilities of civil society partners' (own-initiative opinion), rapporteur: Ms Sharma (OJ C 24 of 30 January 2006).

7.9 The EESC recommends that, as part of the stronger role to be played by the EU at international level, the EESC could take on within the remit of its competence, a more active role in international debates on specific subjects such as the new challenges arising from climate change and their implications for human health.

7.10 The health strategy must feature permanently on the agenda of European neighbourhood and international policies, in particular in order to ensure joint action to combat new health threats and pandemics, the effects of disasters and new health problems arising from climate change or other factors.

Brussels, 18 September 2008.

8. Financial instruments and resources

8.1 The EESC stresses that it is vital to ensure that the health strategy is taken into account in all EU policy areas. Adequate funding must be ensured, given that the White Paper does not envisage that any additional funding will be available from the budget. Therefore, the EESC has doubts whether Community-level checking and proposals to strengthen mechanisms for surveillance and response to health threats will succeed without appropriate financing being foreseen. In order to ensure effective funding for projects and in view of the ongoing nature of EU policies, it would be advisable to put in place continuous specific budgetary funding for each task ⁽¹⁷⁾.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹⁷⁾ EESC opinion of 5.7.2006 on the *Proposal for a Council decision on the system of the European Communities' own resources (//EC, Euratom)*, rapporteur: Ms Cser (OJ C 309 of 16 December 2006).

Opinion of the European Economic and Social Committee on 'Extending anti-discrimination measures for areas outside employment and the case for a single comprehensive anti-discrimination directive'

(2009/C 77/24)

On 17 January 2008 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

Extending anti-discrimination measures for areas outside employment and the case for a single comprehensive anti-discrimination directive.

The Section for Employment, Social Affairs and Citizenship which was responsible for preparing the Committee's work on the subject, adopted its opinion on 18 July 2008. The rapporteur was Mr Crook.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 18 September 2008), the European Economic and Social Committee adopted the following opinion by 112 votes to 3 with 2 abstentions.

1. Conclusions and recommendations

1.1 The right to equality is both a universal right and a fundamental principle of Community law. It is proclaimed in the Charter of Fundamental Rights. Its source is in the European Convention for the Protection of Human Rights and Fundamental Freedoms, the other international instruments to which all Member States are signatories and in the constitutional traditions common to the Member States.

1.2 Article 13 TEC commits the EU to combating discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age and sexual orientation in all areas within its competence. The Lisbon Treaty makes combating discrimination a specific aim of the EU.

1.3 Discrimination on the grounds within Article 13 may undermine the objectives of the European Community as set out in Article 2 TEC, including the promotion of a high level of employment and social protection, equality between men and women, the raising of the standard of living and quality of life, economic and social cohesion and solidarity among Member States.

1.4 Effective protection against discrimination outside the field of employment is important to ensure the development of democratic, tolerant societies which allow for the expression of diversity and the full participation and integration of all persons into economic and social life.

1.5 Action is required in response to the continuing inequality and discrimination in the EU. Such discrimination causes harm to individuals and to European societies generally. Current EU legislation is inadequate for this purpose. While all grounds referred to in Article 13 are protected against discrimination in employment and occupation, EU law also provides protection against discrimination on grounds of racial or ethnic origin in social protection, including social security and health-care, social advantages, education and access to goods and

services including housing and on grounds of sex in access to goods and services. For grounds of religion or belief, disability, age and sexual orientation there is no EU legal protection against discrimination outside the field of employment. EU anti-discrimination law fails to recognise and provide protection for multiple discrimination.

1.6 The actual picture of legal protection across the EU is complex. Many Member States have laws beyond EC requirements but with wide variation as to the content, nature and degree of protection offered, while others barely meet minimum requirements. Despite the proven benefit of specialised equality bodies to combat discrimination and promote equality, EU law requires such bodies only in relation to racial or ethnic origin and sex equality. Many Member States have established equality bodies with mandates including equality on all or some of the other Article 13 grounds.

1.7 The EESC considers that there can be no justification for the EU to maintain a system of legislation based on a clear Treaty commitment to combat discrimination on six specified grounds that maintains disparities in protection with lesser protection against discrimination and more limited guarantee of equal treatment on certain grounds. Without binding obligation to meet an EU common standard there is no real incentive for Member States to enact laws providing consistent rights for all grounds.

1.8 The EESC is concerned that achievement of the aims of the EU will be significantly hindered by this hierarchical scheme of protection against discrimination. It could impede freedom of movement of workers, and of goods; workers may be reluctant to move to countries with fewer enforceable rights, and providers of goods or services may be adversely affected by requirements to meet different equality standards in different countries. It works against social cohesion and will limit levels of participation in civil society.

1.9 The EESC considers that there is now a need for new EU legislation prohibiting discrimination outside the field of employment on grounds of religion or belief, disability, age and sexual orientation. Consistent with principles of subsidiarity and proportionality in Article 5 TEC, the achievement of a high common standard of legal protection across all Member States cannot be achieved other than by action at Community level.

1.10 Action by the EC should be in the form of a single directive covering all four grounds. To achieve coherence and consistency in EU and national law, the new directive should apply to all areas other than employment and occupation within the Race Equality Directive. The EESC believes that a single directive offers major advantages: it would provide maximum clarity for businesses and other providers of goods and services, encouraging early compliance; it would most effectively encompass protection against multiple discrimination; it supports greater social cohesion.

1.11 The EESC therefore welcomes the decision by the Commission announced on 2 July 2008 to propose a new directive implementing the principle of equal treatment irrespective of religion or belief, disability, age or sexual orientation.

1.12 It is essential that new legislation should ensure that the right to equality is not diluted or diminished and does not result in the reduction of protection against discrimination under existing EU or national laws. A new directive should offer a framework for compliance with the equality obligations under the UN Convention on the Rights of Persons with Disabilities including provision of access and reasonable accommodation so disabled people can participate fully in society. It should enable adoption of measures permitting positive action and preferential treatment on grounds of age or disability where this is consistent with the principle of equal treatment. It must not allow a general justification for direct discrimination, but should permit discrimination where it serves to promote equality and respect for human dignity. It should require the establishment or enlargement of specialised bodies to cover equality on the four outstanding grounds.

2. Equality is a fundamental principle of EU law

2.1 The right to equality is both a universal right and a fundamental principle of Community law. It derives from international instruments of which all Member States are signatories and from the constitutional traditions of Member States and is proclaimed in Articles 21 and 22 of the Charter of Fundamental Rights.

2.2 The right to non-discrimination between women and men in the workplace, agreed more than 30 years ago, has been

a key feature in the development of the Union. Equal treatment of women and men remains essential for a fair internal market, freedom of movement and the building of a strong and cohesive European society.

2.3 During the 1990s there was an increasing awareness of the need for measures to tackle discrimination on grounds other than sex and in areas other than employment. The incorporation of Article 13 in the Amsterdam Treaty was a major development conferring new powers and an expanded commitment to secure equal treatment. Article 13 commits the EU to combating discrimination not only on grounds of sex but also on grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation.

2.4 Recognising the pressing need for action in respect of discrimination on these other grounds, in 2000 the Council approved two directives: the Racial Equality Directive (2000/43/EC) implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and the Employment Framework Directive (2000/78/EC) establishing a general framework for equal treatment in employment and occupation. In 2004 the Council approved the Gender Goods and Services Directive (2004/113/EC) implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

2.5 Each of the three directives refers in its preamble to Article 6 of the Treaty on the European Union and confirms that the right to equality is a fundamental right based on the rights enshrined in international instruments of which all Member States are signatories and the constitutional traditions common to all Member States.

2.6 This was endorsed by the European Court of Justice, in *Mangold-v-Helm* ⁽¹⁾ in its preliminary ruling on the interpretation of Council Directive 2000/78/EC in relation to age discrimination:

— ‘74 ... in accordance with Article 1[Directive 2000/78], the sole purpose of the directive is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation, the source of the actual principle underlying the prohibition of those forms of discrimination being found, as is clear from the third and fourth recitals in the preamble to the directive, in various international instruments and in the constitutional traditions common to the Member States.

— 75 The principle of non-discrimination on grounds of age must thus be regarded as a general principle of Community law’.

There is no reason to suggest that the Court would not equally confirm this as a principle in respect of the other grounds within Directive 2000/78.

⁽¹⁾ [2005] EUECJ C-144/04 of 22 November 2005.

2.7 In *Coleman-v-Attridge Law*, a case in which the European Court of Justice had been asked for a preliminary ruling on the scope of Council Directive 2000/78 the Advocate General in his Opinion stated ⁽²⁾:

— ‘8 Article 13 EC is an expression of the commitment of the Community legal order to the principle of equal treatment and non-discrimination. ... The Court’s case law is clear as regards the role of equal treatment and non-discrimination in the Community legal order. Equality is not merely a political ideal and aspiration but one of the fundamental principles of Community law’.

2.8 Both the Race Equality Directive ⁽³⁾ and Employment Framework Directive ⁽⁴⁾ affirm the Council’s view that discrimination based on the grounds referred to in Article 13 may undermine the achievement of aims of the EC as stated in Article 2 TEC, including the promotion of a high level of employment and of social protection, equality between men and women, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.

2.9 The Lisbon Treaty gives new importance to combating discrimination on the grounds within Article 13 ⁽⁵⁾, making this a specific aim of the EU in defining and implementing its policies and activities ⁽⁶⁾.

3. The importance of effective protection against discrimination outside the field of employment

3.1 The Employment Framework Directive establishes a general framework for equal treatment on grounds of religion or belief, disability, age or sexual orientation in employment and occupation; the Race Equality Directive implements the principle of equal treatment between persons irrespective of racial or ethnic origin in relation not only to employment and occupation but also to social protection including social security and healthcare, social advantages, education and access to and supply of goods and services which are available to the public, including housing.

3.2 The Gender Goods and Services Directive supplements the protection against sex discrimination in employment and occupation in directives adopted under Article 141 TEC ⁽⁷⁾ and implements the principle of equal treatment between men and women in the access to and supply of goods and services.

3.3 In the Race Equality Directive ⁽⁸⁾ and the Gender Goods and Services Directive ⁽⁹⁾ the Council has recognised that to

⁽²⁾ [2008] EUECJ C-303/06 of 31 January 2008.

⁽³⁾ Recital 9.

⁽⁴⁾ Recital 11.

⁽⁵⁾ Treaty on the Functioning of the European Union (consolidated version as amended by the Treaty of Lisbon), Article 19.

⁽⁶⁾ Treaty on the Functioning of the European Union (consolidated version as amended by the Treaty of Lisbon), Article 10.

⁽⁷⁾ e.g. Directives 76/207/EEC and 2002/73/EC.

⁽⁸⁾ Recital 12.

⁽⁹⁾ Recital 9.

ensure full participation of all persons, protection against discrimination should extend beyond employment.

3.4 The EESC has recognised ⁽¹⁰⁾ the importance of eAccessibility in combating discrimination and enabling full participation in society of all groups and recommended legislation under Article 13 to achieve a common high standard of measures for eAccessibility.

3.5 The EESC believes that the elimination of discrimination both within and outside of the labour market is essential for the achievement of the objectives of the Lisbon Strategy. Conversely, discrimination in social protection, healthcare, education or housing or in the access to essential public and private sector services will hinder progress towards sustainable growth and more and better jobs.

4. Current position of equality and non-discrimination in the EU

4.1 The European Year of Equal Opportunities for All in 2007 provided a valuable opportunity for EU institutions, national governments and civil society to reflect on the importance of equality and the elimination of discrimination for the realisation of a more socially inclusive society. It exposed the fact clearly noted by the Council that inequality and discrimination on grounds of sex, racial or ethnic origin, age, disability, religion or belief or sexual orientation ‘continue to exist in the EU, at a substantial cost to the individual women and men concerned and European societies as a whole’ ⁽¹¹⁾.

4.2 The European Year also exposed the disparity in protection against discrimination within the existing EU legislation, described in 3.1 and 3.2 above. The EESC is concerned that denial of fair treatment, including institutional patterns of discrimination, on any of the Article 13 grounds in areas such as healthcare, education, access to goods and services and housing may contribute to persistent inequality in access to employment and may profoundly affect the quality of people’s lives and their ability to participate fully in society.

5. Multiple discrimination

5.1 As the Council noted ‘The European Year has highlighted the aggravated difficulties stemming from multiple discrimination’ ⁽¹²⁾.

⁽¹⁰⁾ EESC opinion of 30.5.2007 on ‘Future eAccessibility Legislation’, rapporteur: Mr Hernández Bataller (OJ C 175 of 27.7.2007).

⁽¹¹⁾ Council Resolution of 5 December 2007 on the follow-up of the European Year of Equal Opportunities for All (2007), page 1.

⁽¹²⁾ Idem, page 3.

5.2 'Multiple discrimination' recognises the complex identities of every natural person. It occurs when a person experiences discrimination or harassment on more than one of the grounds that form part of their identity.

5.3 A research report by the Danish Institute for Human Rights 'Tackling Multiple Discrimination — Practices, policies and laws' was published in December 2007⁽¹³⁾. From their academic and legal research and consultation with stakeholders the authors conclude: *'If the reality of discrimination and inequality is to be tackled, workable solutions to combat the existence of Multiple Discrimination have to be found'* (14).

5.4 EU anti-discrimination legislation and national laws transposing EU legislation should be capable of providing protection and rights to redress against all forms of multiple discrimination. In order to do this, there needs to be parity of protection for all of the grounds. Currently this is not the case under EU law outside the field of employment.

6. Legal protection against discrimination across the EU

6.1 Although not all Member States have yet adequately transposed the Race Equality Directive or the Employment Framework Directive⁽¹⁵⁾, many Member States have laws prohibiting discrimination that go beyond the requirements of the current Article 13 directives.

6.2 A mapping study⁽¹⁶⁾ published in December 2006 looked at national laws prohibiting discrimination outside the field of employment and occupation on grounds of sex, sexual orientation, disability, religion and belief and age. As the author states:

'Perhaps the most striking features of the European countries surveyed are (1) the fact that most countries go well beyond current EC requirements and provide legal protection of some form in respect of much of the discrimination forming the subject matter of this report, and (2) the variety between the countries as to the degree, as well as the nature, of such protection' (17).

6.3 She found wide disparities in terms of which grounds were protected in relation to which areas of activity and

(13) Office for Official Publications of the European Communities, 2007, ISBN 978-92-79-06953-6.

(14) *Idem*, page 7.

(15) See M. Bell, I. Chopin and F. Palmer, 'Developing Anti-Discrimination Law in Europe — The 25 EU Member States Compared', July 2007, Office for the Official Publication of the European Communities, 2007, ISBN 978-92-79-06572-9.

(16) See A. McColgan, J. Niessen and F. Palmer, 'Comparative Analyses on National Measures to Combat Discrimination Outside Employment and Occupation' VT/2005/062, Migration Policy Group and Human European Consultancy, December 2006.

(17) *Idem*, page 3.

whether protections were set out in national constitutions, generic anti-discrimination laws, national or regional laws or special laws covering single areas, such as housing or education. For each of the grounds or areas covered there were different variations between countries in the nature, form and extent of exceptions to non-discrimination rights⁽¹⁸⁾. The comparison of Member States by Bell, Chopin and Palmer⁽¹⁹⁾ reinforces these findings of variation and inconsistency.

6.4 As the Council recognised in its Resolution on the follow-up of the European Year, specialised equality bodies are, or could be, key driving forces in combating discrimination and promoting equality in every Member State; in particular they have a critical awareness raising role. The Race Equality Directive, the Gender Goods and Services Directive and the Recast Gender Directive⁽²⁰⁾ require Member States to establish specialised equality bodies to support equality rights on grounds of racial or ethnic origin and sex, but there is no requirement to establish equality bodies for religion or belief, disability, sexual orientation or age. The specialised bodies established in Member States vary widely in terms of the grounds within their competence: some are limited to racial and ethnic origin and others include all Article 13 grounds plus additional grounds⁽²¹⁾. The Equinet network⁽²²⁾ operates at European level, made up of autonomous or governmental authorities responsible within the Member States for applying anti-discrimination legislation.

6.5 The EU Agency for Fundamental Rights, after reviewing legal protection against sexual orientation discrimination across the EU⁽²³⁾, recommended EU legislation to ensure equal rights to equal treatment for all grounds within Article 13.

6.6 The EESC believes that there is no valid justification for a system of EU anti-discrimination legislation based on a Treaty commitment to combat discrimination on the grounds of sex, racial and ethnic origin, religion or belief, disability, age and sexual orientation that permits and perpetuates a lower degree of protection and more limited guarantees of equal treatment on certain of these grounds.

(18) *Op.cit.* Comparative Tables pages 36-45, and see M. Bell, I. Chopin and F. Palmer (see footnote 15).

(19) *Op. cit.* Comparative Tables pages 83-113.

(20) 2006/54/EC.

(21) See M. Bell, I. Chopin and F. Palmer, 'Developing Anti-Discrimination Law in Europe — The 25 EU Member States Compared', July 2007, Office for the Official Publication of the European Communities, 2007, ISBN 978-92-79-06572-9, pages 108-113.

(22) See www.equineteurope.org.

(23) Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States: Part I — Legal Analysis, European Union Agency for Fundamental Rights, 2008 (author: Olivier De Schutter).

6.7 Without consistent legislation covering all grounds at EU level there is no real incentive for Member States to enact consistent legislation, and there is no legal basis for intervention by the Commission or the Council where there are inadequate or uneven levels of protection against discrimination, as is currently the case.

6.8 The EESC accepts that the enactment of legislation prohibiting discrimination does not of itself rid a country of the scourge of discrimination, but it could at least be said to reflect the state's recognition of the harm discrimination causes to individuals and society and its commitment to use legal means to bring it to an end. The absence of anti-discrimination legislation conveys quite different messages, indicating a (mistaken) belief that such discrimination does not exist or that such discrimination is not a problem of sufficient gravity to warrant formal preventative measures, or, in political terms, indicating that the objections of potential discriminators to any form of regulation overshadow concerns to improve the quality of life for all citizens and to achieve greater social cohesion.

6.8.1 There is good evidence that informal non-legislative measures intended to promote good practice have failed to eradicate entrenched patterns of discrimination.

6.8.2 Anti-discrimination legislation on its own, however, without a comprehensive programme of awareness-raising and education, as well as effective enforcement, will not achieve its aims.

7. A hierarchy of rights to equality operates against the achievement of the aims of the EC

7.1 The EESC believes allowing the present inconsistent hierarchical system of EC protections against discrimination operates against the achievement of the aims of the EC:

- It impedes the freedom of movement of workers, who have fewer enforceable rights to non-discrimination in some States than in others. For example, 69.2 % of individual respondents to the Commission's on-line survey, Discrimination — Does it Matter, indicated that the level of legal protection against discrimination outside of work on grounds of age, disability, religion and sexual orientation would influence their decision to move to a different Member State ⁽²⁴⁾.
- It may impede freedom of movement of goods, as suppliers must meet different equality standards for goods and services in different Member States. For example, 26.3 % of companies participating in the European Business Test Panel on Anti-Discrimination ⁽²⁵⁾ indicated that the level of legal protection offered by another Member State against discrimi-

nation on grounds of age, disability, religion and sexual orientation, in terms of access to goods and services, as well as housing, would affect their ability to do business there.

- It affects the quality of life, since, without a legal ban, discrimination and harassment are likely to remain unchecked, and barriers to full and equal enjoyment of economic and social rights will remain in place.
- It militates against social cohesion, since it fails to give full and equal recognition to all groups within the society.
- It limits the degree of participation in civil society by major groups and communities.

7.2 With its stated concerns regarding continuing discrimination, the Council, in its Resolution on the follow-up of the European Year:

- noted that '*discrimination can lead to poverty and social exclusion by preventing participation and access to resources*'; and
- noted that '*the European Parliament and civil society have called for extending legal protection against discrimination to areas beyond employment and occupation*'; and
- invited Member States and the European Commission to '*strengthen efforts to prevent and combat discrimination ... inside and outside the labour market*' and to '*secure and strengthen the effectiveness of specialised equality bodies*'.

8. A new directive is required

8.1 To respond to the Council's concerns and to ensure a consistent minimum standard of protection across the EU, there is a need for new legislation implementing the principle of equal treatment irrespective of disability, religion or belief, sexual orientation or age outside the field of employment.

8.2 The nature and scale of the matters affected by the current levels of discrimination and their impact on the achievement of the objectives of the EU and the need for a common high level of protection in all Member States cannot be sufficiently met or achieved by the Member States and therefore requires action at Community level, consistent with the principles of subsidiary and proportionality as set out in Article 5 TEC.

8.3 The EESC recommends that this should be in the form of a single directive prohibiting discrimination on grounds of disability, religion or belief, sexual orientation or age in relation to all areas outside the field of employment within the scope of the Race Directive and requiring the establishment or enlargement of an equality body with full competence to work across all matters within the scope of the legislation. This was a main recommendation of EU Agency for Fundamental Rights ⁽²⁶⁾.

⁽²⁴⁾ Consultation on-line July-October 2007.

⁽²⁵⁾ 12.7.2007-31.8.2007, question 4a.

⁽²⁶⁾ Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States: Part I — Legal Analysis, European Union Agency for Fundamental Rights, 2008 (author: Olivier De Schutter).

8.3.1 While recognising that protections under the existing anti-discrimination directives could be strengthened, including a clearer recognition of institutional discrimination, the current priority of the EESC is to secure protection for the above grounds at the same standard as now exists for racial and ethnic origin.

8.4 The EESC accepts that the initial reaction of many organisations, especially small business, to any proposal for new regulation will be genuine concern about the costs of compliance. For businesses, multiple layers of rules make compliance 'extremely difficult'.⁽²⁷⁾ The EESC is not persuaded that enactment of a single directive establishing a common EU standard of protection against discrimination outside the field of employment would result in significant new costs; in many cases the costs of bringing practice in line with the law would be more than outweighed by the resulting wider customer base that would result from the eradication of discrimination. It was the view of 89.8 % of the European Business Test Panel on Anti-discrimination that there should be legislation to 'guarantee the same level of protection against discrimination all over Europe'⁽²⁸⁾.

8.5 The EESC is aware of arguments supporting separate directives for each of the relevant grounds, however the EESC considers that a single directive covering all four grounds is strongly to be preferred:

- to provide maximum clarity and transparency for individuals and providers of goods and services; we are aware that private business rarely welcomes new forms of regulation, and to set separate EC non-discrimination standards for each ground separately, at different times, without any certainty of consistent requirements will make compliance far more difficult, especially for small businesses with limited resources;
- to enable effective response to and remedy for multiple discrimination; if there is consistent, equivalent protection for all grounds then individuals who face discrimination or harassment based on more than one characteristic of their identity will be able to seek appropriate and relevant redress;
- to make the law understandable and accessible; in its Resolution on the follow-up of the European Year, the Council referred to the low level of public awareness of anti-discrimination legislation⁽²⁹⁾. The task of improving awareness will be many times more difficult if there are complex variations of rights to equal treatment based on different grounds in different fields in EU or national legislation;
- to avoid any form of hierarchy within a European system of rights to equal treatment; social cohesion depends on members of society feeling a shared commitment and sense of belonging; this will be far more difficult to achieve if

different groups can read from the content of legislation that the rights to equal treatment of some groups carry greater weight than the rights of others.

8.6 The Race Equality Directive has established the key areas outside the field of employment within the competence of the EU in which, to achieve the aims of the EU it is relevant and necessary to prevent discrimination on grounds of disability, religion or belief, sexual orientation and age; the EESC strongly recommends that these same areas should be fully within the scope of the new directive.

8.7 The EESC accepts that, in accordance with the principle of subsidiarity, in respect of certain areas of activity, for example housing, education or certain other public services, competence for organisation and delivery of provision and/or for other aspects of regulation is primarily within the competence of Member States, at national or regional level. The EESC believes that, pursuant to Article 5 TEC, to ensure the required comprehensive high level common standard of equal treatment in respect of all such areas of activity cannot be achieved other than by legislation at European level.

8.8 The EESC therefore welcomes the decision of the Commission announced on 2 July 2008 to propose a new directive that would implement the principle of equal treatment irrespective of religion or belief, disability, age or sexual orientation in the areas outside the field of employment covered by the Race Equality Directive. As earlier drafts of this opinion had been submitted to the Commission, it is hoped that the arguments and preliminary conclusions of the EESC Study Group recommending a directive in the form now proposed may have assisted the Commission in its decision-making. We further hope that this opinion in its final form may encourage Member States to recognise the value and importance of EU legislation for this purpose and assist them to contribute to its positive development and approval.

8.9 The EESC endorses the Commission's decision to propose a directive which to a maximum degree is consistent with other Article 13 directives, with the same definitions of direct and indirect discrimination, harassment and positive action, application to all persons present in a Member State including third country nationals and the same obligations on Member States to ensure rights to redress, effective, proportionate and dissuasive sanctions, protection against victimisation and incorporation of the shift of the burden of proof. Equally important are consistent obligations to raise awareness and to encourage dialogue with social partners and NGOs.

8.10 The EESC recommends that the Council and other EU institutions in scrutinising the proposed directive should consider the following matters to ensure that in its final form it achieves the purposes we have described:

⁽²⁷⁾ The Confederation of European Business, response to European Commission consultation 'Discrimination, does it matter?' 12 October 2007.

⁽²⁸⁾ 12.7.2007-31.8.2007, question 4b.

⁽²⁹⁾ Consultation on-line July-October 2007, page 1.

8.10.1 *Non-regression*: The development of a new directive must not be used to reduce protection against discrimination in any EU legislation and Member States should not be able to use implementation of the directive as grounds for reduction in their existing level of protection against discrimination.

8.10.2 *Equality rights and reasonable accommodation for disabled people*: Outside the field of employment disabled people meet the same or greater barriers to their full participation. The new directive should provide a framework for all Member States to meet their equality and non-discrimination obligations under the UN Convention on the Rights of Persons with Disabilities.

8.10.2.1 The new directive should require all persons engaged in the provision of social protection including social security and healthcare, social advantages, education and goods and services including housing:

- a) to anticipate accessibility needs, including access to physical environment, transportation and information, related to disability; and
- b) to make anticipatory reasonable accommodation, removing barriers to maximum participation and use by disabled people.

8.10.2.2 The new directive should define as a form of discrimination failure to ensure reasonable accessibility or to provide reasonable accommodation for a particular disabled person, unless the measures would impose a disproportionate burden on the provider.

8.10.3 *Multiple discrimination*: the directive should confirm that the principle of equal treatment includes protection in relation to multiple discrimination so that this is given effect in EU and national law.

8.10.4 *Positive action*: Inequality is well entrenched in areas of activity other than employment and occupation, for example in education, healthcare, housing and access to services such as hotels restaurants, financial services, and travel arrangements. Therefore, with a view to ensuring full equality in practice, the new directive should explicitly permit Member States to maintain or adopt measures to prevent or compensate for disadvantages linked to religion or belief, disability, age or sexual orientation.

8.10.5 *Preferential treatment on grounds of disability or age*: The new directive should acknowledge practices within Member

States of providing preferential treatment to persons based on their age or their status as a disabled person, many of which contribute to greater social inclusion of older or younger people and disabled people. The new directive should not discourage public or private sector organisations from offering such benefits where they are intended to overcome or ameliorate real, financial or attitudinal barriers to equal participation. It should enable Member States to permit such measures provided they have a legitimate aim that is consistent with the principle of equal treatment and the means of meeting that aim are proportionate.

8.10.6 Any exceptions must be narrowly defined. The EESC accepts that there will be circumstances in which differential treatment based on a protected ground may be appropriate and necessary but rejects the introduction of a general justification for direct discrimination. Exceptions to the prohibition of discrimination should not be so wide that they remove the impact of the protection the directive is intended to provide; on the other hand the directive should not be made unduly complicated with a long list of specific exceptions for particular circumstances or grounds. Differential treatment should be permitted within anti-discrimination legislation only where it serves to promote and enhance equality and human dignity and does not undermine the impact of the anti-discrimination provisions.

8.10.7 *Enforcement of rights*: The new directive, recognising the importance and value of organised civil society, should ensure that associations or organisations which have a legitimate interest in ensuring compliance may engage in judicial or administrative procedures either on behalf of or in support of persons affected by discrimination.

8.10.8 *Specialised bodies*: there is little doubt that awareness and enforcement of national laws and the promotion of equal treatment benefit greatly by the existence of an independent specialised body resourced and competent to carry out the functions specified in the Race Equality Directive ⁽³⁰⁾ or the Gender Goods and Services Directive ⁽³¹⁾. The new directive should require the establishment of a body or bodies (or the extension of an existing body) for religion or belief, disability, age or sexual orientation. Furthermore, these organisations should be made responsible for regularly evaluating the results of anti-discrimination policies.

Brussels, 18 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽³⁰⁾ Article 13.

⁽³¹⁾ Article 12.

Opinion of the European Economic and Social Committee on 'Multilingualism'

(2009/C 77/25)

In a letter dated 4 February 2008, Ms Margot Wallström, Vice-President of the European Commission, asked the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to draw up an exploratory opinion on

Multilingualism.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 18 July 2008. The rapporteur was Ms Le Nouail-Marlière.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 144 votes to eight, with 13 abstentions.

Summary of the opinion and its conclusions

— Considering that this subject is growing in importance, both in political and economic terms, the Committee regrets that instead of putting forward a concrete programme that follows up on the 'New framework strategy for multilingualism' adopted in 2005, the Commission has chosen to present a new strategy for the last part of its term of office.

— The Committee calls on the Commission and Member States to speed up the discussion on the objectives before specifying the initiatives to be pursued through coordination in the fields of culture and education.

— Regarding the choice of the first foreign language taught and learnt, it encourages the Member States and the Commission to promote the choice of languages other than Anglo-American English, and to promote the learning and use of European languages in extra-Community exchanges.

— The Committee notes the close correlation between European citizens' language needs, the European employment strategy, and the convergence objectives pursued by the EU Structural Funds, in particular the Cohesion Fund. It therefore calls on them to use these funds to help people to improve their command of their mother tongue, as well as two additional living languages, and even to make this a priority in the use of the funds. It adds that this objective should comprise two qualitative aims: to preserve the vitality of European languages, and to diversify knowledge of languages to include non-Community languages that are useful for the cultural, social, political and economic relations that Europeans engage in, as they help to promote knowledge of other cultures, as well as peace and friendship between peoples.

— Noting that little is being done for the people who have the least prospect of finding declared work with proper social

protection, or for those who live a long way from urban or tourist centres, the Committee calls on the Commission and Member States to make sure that the initiatives they undertake do not lead to discrimination and differences in treatment, nor to further exclusion and thus renewed frustration. In order to achieve this, it advises them to consult the social partners and civil society organisations actively engaged in that area.

— Given that the Commission is keen to conduct a consultation among its internal departments, the measures recommended should take into account the context of improvements to regulations, in order not to jeopardise SME competitiveness.

— The Commission and Member States should endeavour to evaluate both informal and formal learning undertaken, as part of the European certification system, in order to be able to assess its value and facilitate the transfer and recognition of qualifications for individuals and employees alike, whatever their status.

— In the context of social consultation the Committee also calls on the Member States and the Commission to provide support for language-based professions such as teachers, translators and interpreters so that the official languages can be used more fully in public communication. It points out that needs have not yet been adequately met, either here or in the business field.

1. Introduction

On 6 September 2006, shortly before the creation of a new Commission portfolio on multilingualism and intercultural dialogue and the appointment of Commissioner Leonard Orban, the EESC adopted an opinion on a 'new framework strategy for multilingualism' ⁽¹⁾.

⁽¹⁾ EESC opinion of 26.10.2006 on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — A New Framework Strategy for Multilingualism; rapporteur: Ms Le Nouail-Marlière (OJ C 324 of 30.12.2006).

Some time later, on 25 October 2007, the Commissioner attended the Committee plenary session, on the invitation of the EESC president, Mr Dimitriadis, and expressed his interest in the Committee's work.

In the light of his plan to present a new strategy in this area, the Commissioner asked the Committee to draft an exploratory opinion.

The Committee therefore proposes to:

- assess the follow-up to the previous Commission strategy and the recommendations it made at that time;
- sum up the measures taken by the Commission;
- respond in the more general context of the broad public consultation organised by the Commission and the hearing of 15 April 2008, in time for the Commission to take its recommendations into account in the communication due to be published in September 2008.

2. General comments

2.1 The Committee notes that this subject is growing daily in importance, not because it is currently fashionable, but because of the very real context of globalisation, bringing together an ever increasing number and range of players. New situations call for new solutions and responses. The world is changing in the economic and technical fields, as well as socially, politically, culturally and in terms of public life. Certain ever-present or long-standing phenomena are now growing in intensity and visibility, even becoming critical.

2.2 In very diverse areas, at work and in business dealings, in leisure and tourism, the cultural dimension is moving in ways that the EESC must attempt to understand from all angles, so as to understand the concerns of our fellow citizens and make practical and intelligent suggestions to the institutions, in particular by taking part in consultations and triggering debates.

The diversity and rich variety of opinions demonstrate the interest European citizens have in this issue, reflecting their shared humanity.

2.3 In its above-mentioned opinion, the Committee recommended that:

- 'the Commission should give *the Member States* precise indications about the *links which could be established and additional measures which could be taken in the national plans*, stressing that multilingualism or plurilingualism can help to promote cultural and political integration, and foster understanding and social inclusion;
- in order to achieve long-term results, *the language training on offer* needs to be coordinated at EU level, with the potential pool of language skills spanning a wide range of languages;

— *multilingualism in the professional, cultural, political, scientific and social fields should be developed and promoted;*

— *the experts involved in this work should be drawn not just from the ranks of specialists in social and scientific disciplines but should also include linguists, interpreters, translators, teachers and other language professionals;*

— *greater account be taken of today's young and older adult generation in developing this action, via *life-long learning* and, when the Commission reaches the programming stage, through *their cultural rights*;*

— *the Commission not only draws on university research but also on the work carried out by the networks of *associations working* in this area, and that it supports the grassroots initiatives taken within the civil society network'.*

2.4 Overall, the EESC pointed out the need to involve as many people as possible in these language learning, practice and skill strategies and to find realistic means of achieving that. It warned against creating new forms of social discrimination. It called for thinking to include the full range of languages available, so that the EU would not become constrained by language, cultural and economic barriers. It recommended striking a balance between economic, cultural and public interests, and working hard to catch up in the area of employment and work.

2.5 The Committee also recalled that language and cultural areas had evolved alongside political and economic groupings in the world, and that unfortunately the tendency for certain languages to become extinct went hand in hand with the assimilation or disappearance of certain social or political groups. Europe faces the same challenges as other world regions: firstly, the tendency for one language to dominate transnational relations, and, secondly, a diverse range of regional languages and the same threat that certain languages may disappear. One key difference, however, is the status of official national languages within this unified political and economic grouping (just how unified it is depends on one's opinion on EU integration).

2.6 Although the EU would face the same identity crisis irrespective of its cultural and linguistic approach, the integration process has developed certain plus-points: for instance instruments to promote social and territorial cohesion, common criteria for representative and participatory democracy, and social models founded on a degree of solidarity.

2.7 Nevertheless, demographic challenges and cultural interests when combined can raise a number of major issues, that must not be sidestepped: what interest do Europeans have in their own languages, in sharing them, preserving them, bringing them alive and not letting them die, in other words in speaking them among themselves and with others?

3. Specific comments

3.1 The Commission began a public consultation process on 14 September 2007, which ended on 15 April 2008 with a conference during which it presented various findings to a number of associations and organisations active in culture or education, garnered from the following sources:

- The Group of Intellectuals chaired by Mr Amin Maalouf
- The 'Business Forum', chaired by Mr Davignon
- The 'ELAN Report: Effects on the European Union Economy of Shortages of Foreign Language Skills in Enterprise', by the National Centre for Languages, UK
- Formal consultation of the Committees (CoR and EESC)
- Consultation of the Member States: Ministerial Conference, February 2008
- Recommendations of the High Level Group on Multilingualism
- Contributions received via the on-line consultation.

3.2 A number of challenges were mentioned during the discussions:

- Economic challenges
- Political challenges (multilingualism and regional integration)
- Challenges in the cultural domain (multilingualism and interculturalism)
- Personal and collective communication can lead one to consider that language is just one more communication tool. What future for literature?
- Multilingualism and plurilingualism: is it necessary for people to be plurilingual in a language environment that is becoming monolingual?
- The Council of Europe has stressed the need to protect minority languages and facilitate their use, in order to combat nationalism: multilingualism serving diversity should not present a danger of exclusion.
- A large number of participants mentioned frustration and inequality in the area of languages, European languages up against each other in the EU and the world, contrasting national cultural policies.
- Cultural rights and social rights? Many participants wondered what resources would be available for such commitments. Reference was made to the special case of the Roma, their integration in general and the possibility of learning and preserving their language in particular.
- The right to work in one's own language at work without having to acquire a level of knowledge which is dispropor-

tionate to the requirements of the job, as well as the safety issues that a badly managed or unmanaged multilingual environment could give rise to.

3.3 *The Commission's general objectives for promoting linguistic diversity, presented during the hearing*

3.3.1 Diversifying language skills within the EU (English is not enough)

The aim of Multilingualism Commissioner, Leonard Orban, as stated during his speech at this hearing and on other occasions, is clearly to attempt to reverse the trend towards 'English only'.

3.3.2 In the social field:

- underlining the role of languages in social cohesion;
- facilitating migrant integration, encouraging them to learn their host country's language, encouraging them to use, and preserve their mother tongue and pass it on to their descendants, and treating migrants' languages as a resource and a source of enrichment.

3.3.3 In the economic field:

- developing language skills with a view to improving workers' employment prospects and companies' competitiveness;
- weaving a multilingualism strand into all European policies, starting with a survey (inventory).

3.3.4 Multilingualism and EU foreign policy:

The Commission confirms the 'Barcelona objective', namely the decision to promote knowledge by every citizen of their mother tongue plus two modern languages, and goes one step further to specify the mother tongue plus one international language and one personal 'adoptive' language (a concept inspired by the report from the group chaired by Mr Amin Maalouf).

3.3.5 Ways and means:

The Commission wants to promote the informal 'business literacy system', which facilitates comprehension and ease of access, but has provided few details. According to the Commission, it means exposing European citizens to elements of foreign languages for instance in buses or other public places and involves learning by 'familiarisation'.

3.3.6 Concerning the future:

The Commission hopes to use structural cooperation in the context of a medium-term strategic framework between the Member States and to bring European value added to the development of this policy.

3.4 ELAN Report ⁽²⁾

The ELAN Report explores the benefits for businesses of having a multilingual, skilled workforce. However, it does not give a typology of needs according to jobs and positions held, or by economic sector. The Commission ought to ask the European Foundation for the Improvement of Living and Working Conditions, based in Dublin, (or another European organisation) to produce a more detailed typology of the vocational needs of both companies and workers.

3.4.1 Report from the Business Forum chaired by Mr Davignon ⁽³⁾

This report, published at the end of June 2008, shows why from the point of view of the Business Forum it is important to invest in language skills. It sums up what has already been done to promote languages in business and makes recommendations to businesses on how to improve their performance in the area of multilingual business communication, stating that they should: take stock of existing language skills within the company; revise recruitment policies and development strategies within HR management; invest in language training; employ native speakers of different languages; use language technology and work with translators, interpreters, communicators and cultural mediators; and enhance international mobility for staff. The report also addresses recommendations to Europe and its institutions and to local, regional and national governments. It argues in favour of multilingualism.

3.5 Report by Mr Amin Maalouf's group ⁽⁴⁾

The Committee approves the Commission's initiative of consulting a group of distinguished intellectuals, whose report was described by the group's representative at the hearing on 15 April as 'probably the best written and easiest to read of all the Commission reports ever produced', which is true in some ways. It puts forward the idea of learning one international language and one 'personal adoptive language', in other words a language which one learns out of personal interest rather than for economic reasons. Although a bold recognition of the role of languages as vectors in culture and communication, this assumes that everyone is equally interested in languages and has the time to devote to them, which is by no means the case, for cultural reasons but also because the majority of European citizens cannot afford to engage in what Pierre Bourdieu has defined as the requisite cultural practices.

It is true, for example, that a growing number of Europeans, or at least young Europeans, see the point of speaking living foreign languages, both European and non-European, but a

⁽²⁾ ELAN report: 'Effects on the European Economy of Shortages of Foreign Language Skills in Enterprise', at http://ec.europa.eu/education/policies/lang/doc/elan_en.pdf.

⁽³⁾ Business Forum report at http://ec.europa.eu/education/languages/news/news1669_en.htm.

⁽⁴⁾ Report by the Group of Intellectuals for Intercultural Dialogue, chaired by Mr Amin Maalouf: 'A rewarding challenge. How the multiplicity of languages could strengthen Europe', at http://ec.europa.eu/education/languages/pdf/doc1646_en.pdf.

growing number are also experiencing ever greater difficulties in making a living and raising their children. Without reducing everything to the class struggle, it remains a fact that European society is segmented and the cohesion funds should be used for example to help attain the Lisbon objectives.

The potential contribution of adult education and Grundtvig programmes, as well as lifelong learning, should be evaluated and calculated during discussions between the Commission departments, before being presented to the Member States, the Council and Parliament. This would ensure a European added value to complement the Member States' responsibility for education.

The Committee notes that this does not solve the question of the choice of English as the leading living language, apart from leaving it entirely up to the Member States and parents, and that the Commission does not properly raise the issue for debate. 'English is not enough' is all very well, but it remains the language accepted by the EU for international communication. The proposal is a start, not a solution. The Committee would draw the attention of the Commission, the Member States, the Council and the European Parliament to this point.

3.6 CoR draft opinion ⁽⁵⁾

The CoR's opinion concluded that the language issue was of the highest importance for local and regional authorities because it affected not only issues of employment but also the coexistence of Europeans and non-Europeans at all levels of society and in all economic sectors, from health ('labour shortages') to tourism, and including personal services, education in schools and at pre-school level, and the integration of migrants. It is also a crucial factor in the life of a growing number of regions. The CoR rightly called for cohesion funds to be used and wished to be consulted ahead of any strategic decisions.

3.7 Commission report on the implementation of the Action Plan 'Promoting language learning and linguistic diversity' ⁽⁶⁾

The Committee fears that denying the need to allocate European funding will lead to inertia, or a succession of measures that bears no relation to the evolving needs, and that the result will be disappointing in the medium and long term. The Committee calls on the Member States to think about this: television is not enough and informal learning has to be measurable. The Committee acknowledges that the coordination method chosen by the Commission would be a step forward administratively, but would not necessarily bring it any closer to the citizen.

⁽⁵⁾ Committee of the Regions opinion on multilingualism; rapporteur Mr Roberto Pella (CdR 6/2008).

⁽⁶⁾ COM(2007) 554 final/2 of 15.11.2007.

4. Conclusions

4.1 The Committee believes that, while obviously well-intentioned, the Commission is merely rehearsing the arguments and is not proposing any substantial action by the European Union beyond urging the Member States to adapt their educational systems.

4.2 **The Committee recommends that the Member States continue the approach that takes into account diversification into languages of international communication other than English.**

4.3 **The Member States should continue to promote local (whether in linguistic or geographical terms) and family ties in the European languages they offer at all levels of education: nursery, primary, secondary, higher and life-long learning, ensuring diversity.**

4.4 **Adult education, as envisaged by the Commission ⁽⁷⁾, should take into account the need to get more people involved in the effort required to meet the target of learning two living languages in addition to their mother tongue, by adapting the supply and stimulating people's interest and motivation by practical measures at local level, by drawing on the expertise of civil society organisations on the ground and professionals in the public and private sector, by promoting social and civil dialogue, and by ensuring that new initiatives do not create unfair discrimination between citizens with limited access to intercultural exchange.**

4.5 The democratisation and informal learning advocated by the Commission should be **carefully evaluated as part of the European certification system, in order to:**

- measure the impact of the actions taken by the Member States, the Commission and the other governmental and non-governmental bodies involved;
- ensure the transfer and recognition of qualifications for citizens and employees, whatever their status.

4.6 **Local and regional authorities should have a practical role in developing the educational provision of the future that is commensurate with the Commission's ambitions.**

4.7 Given that companies and employees are directly affected by the Commission's conclusions relating to firms' economic needs, the Member States and the Commission should **encourage the social partners to raise the issue in the social dialogue in order to discuss the problems together and find the best solutions and appropriate practices.**

⁽⁷⁾ See, for example, COM(2006) 614 final and COM(2007) 558 final.

4.8 **Immersion in the living language environment, which is necessary for speaking a language and an integral part of consolidated learning, must be allowed and encouraged at all levels and for all social groups. The need is perhaps particularly acute for those social groups least exposed to transnational exchanges**, i.e. those who are least mobile, and practical means and resources must be found for them. Nobody can be forced to travel, but some people have **fewer resources** than others. English is not enough, nor is television.

4.9 In the case of the **languages spoken by migrants**, it is important to stress that these **constitute a valuable resource**. There are several different schools of thought here. Some believe that migrants have a duty to learn the language of the host country in order to integrate or even to enter EU territory, while others believe that migrants have the right to learn the language of their host country in order to be able to work, live and defend their rights there and that the authorities have a responsibility to organise language teaching. Either way, there is a big gap between theory and practice. Experience shows that best practices have not always been promoted and, on the contrary, many associations have had their grants cut. The educational challenge is now enormous, because people do not learn in the same way at different ages. In this connection the Committee recommends **research into the intercultural exchange that underlies all language learning** ⁽⁸⁾. The Committee stresses the need to consult and involve professionals in the field of education from nursery education to life-long learning, including adult education. The two parties most closely concerned are students and teachers. This also applies to the future validation of informal skills ⁽⁹⁾.

4.10 The languages spoken in Europe comprise the regional and national languages and the languages spoken by migrants. They make a major contribution, and the management of cultural diversity in Europe will be characterised by two challenges: promoting European cultural diversity, and tolerance and respect for migrants. EU social and territorial cohesion is no longer just a matter of economics or politics; in future (and already today) it is inextricably bound up with its cultural dimension.

4.11 **Like the languages that are native to Europe, the languages of migrants should be passed on to their descendants, and as no language can survive without being spoken, migrants should also be seen as resources for transmitting or teaching their native language to those who want to diversify their communication skills.**

⁽⁸⁾ See <http://www.newcomersinturkey.com> — Mr Noureddine Erradi has worked for many years for training centres for migrants in the Netherlands and has produced educational tools for trainers and policy advisers in local and regional agencies and authorities.

⁽⁹⁾ SOC Section opinion of 11.9.2008 on the Proposal for a Recommendation of the European Parliament and of the Council on the establishment of the European credit system for vocational education and training (ECVET), rapporteur: Ms Le Nouail-Marlière (CESE 1066/2008).

4.12 This means that civil society in Europe today has other aspirations and it is not enough to preach the benefits of being plurilingual in a multilingual environment; civil society will want its own initiatives within associations to be recognised, its needs to be acknowledged and, in all cases, adequate resources to succeed, whether of public or private origin.

4.13 This also means that **the social partners must agree to take the long-term view and jointly decide on the qualifications required, the types of education and lifelong learning to be provided, and the public and private investment to be considered, while taking care to improve business competitiveness.**

4.14 If language learning is also regarded as essential for competitiveness and for meeting the Lisbon Strategy targets, the above recommendation becomes particularly compelling.

4.15 Articles 21 and 22 of the Charter of Fundamental Rights promote linguistic diversity and prohibit discrimination on grounds of language. The Commission should **determine which Member States have legislation on the subject, referring cases to the Fundamental Rights Agency if necessary, and examine whether the fact that Member States apply different systems creates distortions and unequal treatment between Europeans, particularly as regards mobility, recruitment, etc.** A distinction should be made between two levels that are relevant here: the degree of linguistic knowledge needed to perform the job-related tasks (contact with members of the public or clients who are foreign), and the communication of the instructions necessary for carrying out the tasks in the language of the person performing them.

4.16 As regards the implementation of this in particular, the Committee will look carefully at what the Commission proposes in the strategy it is due to present in September 2008 and the progress compared with its previous strategy.

4.17 On the matter of the cultural rights of European citizens and non-European residents and the EU's external

cooperation the Commission should perhaps **draw on the UNESCO convention on diversity and propose guidelines identifying the consequences for Europe of its ratification by the Member States, working with associations and NGOs that are already active in the field of culture.**

4.18 Mobility is promoted by the social partners and hailed by a number of employers, workers and public authorities, including the Commission, as a panacea for unemployment and labour shortages. Linguistic obstacles still receive too little attention. One such obstacle is the difficulty, in the context of life-long learning, of pursuing both vocational training and achieving set language objectives; another is parents' inability to enrol their children in the school of their choice when they move around for work, e.g. in the case of the Roma in various European countries or some groups of Italians in Germany. The Commission should not just leave it up to the Member States, but should request information about discrimination on linguistic grounds between children of different European nationalities in schools.

4.19 Mention should also be made of the difficulties encountered by Member State administrations in applying the directive on the posting of workers. The social partners have also experienced problems of comprehension on the ground, which the Commission is aware of but which need to be properly discussed by the parties concerned (Commission, Member States, social partners, local and national authorities, employment services, etc.), as discussed above ⁽¹⁰⁾.

4.20 Finally, more thought should be given to the language regime of the Community institutions as it applies to documents other than official communications. The Committee notes that this is still a difficult issue because many public documents are not translated, raising yet again the question of resources. One obvious example is the web pages that follow the European Institutions' website homepages, in particular those of the European Council and the EU presidency.

Brussels, 18 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹⁰⁾ EESC opinion of 29.5.2008 on the Posting of workers in the framework of the provision of services — Maximising its benefits and potential while guaranteeing the protection of workers, rapporteur: Ms Le Nouail-Marlière (OJ C 224, 30.8.2008).

Opinion of the European Economic and Social Committee on 'Taking into account the needs of older people'

(2009/C 77/26)

On 18 February 2008 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on

Taking into account the needs of older people.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 September 2008. The rapporteur was Ms Heinisch.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 106 votes to 32 with 20 abstentions.

1. Summary and recommendations

1.1 Justification

1.1.1 The demographic changes that are taking place in Europe are hallmarked by sharp rises in the number of older people, while overall population numbers are falling ⁽¹⁾. The Council has made a number of statements on ageing. This trend varies from region to region. The European Union is thus facing some major social challenges ⁽²⁾. The Commission will adopt a communication by the end of 2008 offering proposals on how best to take into account the needs of an ageing population with support from the Structural Funds.

1.1.2 This opinion places special emphasis on the acknowledgement and appreciation of older people, as well as preventing discrimination against them and preserving their dignity. It must be recognised that older people are not a homogenous group in terms of ability, financial security or health and social needs, so that policies and services should reflect that 'one size fits all' or age segmentation are not appropriate.

1.1.3 Therefore, this opinion touches upon the spectrum of issues which affect individuals from formal retirement into very old age. This of course includes — without it being reiterated on every occasion — men and women, older disabled people and older people with an immigrant background.

1.1.4 This document does not examine the requirements associated with older workers and dependent, older people needing care because a large number of proposals have already

⁽¹⁾ See the information report of the Section for Employment, Social Affairs and Citizenship CES 930/99 final; SEC (2007) 638 Commission Staff Working Document 'Europe's Demographic Future: Facts and Figures'.

⁽²⁾ See COM(2006) 571 final, 12.10.2006; SEC(2007) 638 final; EPC & EC (DG ECFIN): 'The impact of ageing on public expenditure', Special Report No 1/2006.

been drawn up on these matters ⁽³⁾. However, the EESC would stress the importance of the 'life cycle' approach to an ageing society to prevent discrimination and stereotyping and the need for integrated policies across the generations.

1.1.5 In order for older people to continue to participate in society and to live a decent life, it is essential that they have financial security and voluntary access to opportunities for meaningful activities, including lifelong learning, employment and voluntary work and the use of new technologies. In addition, transport, energy, housing and health care should be available, affordable and accessible.

1.2 Recommendations

1.2.1 In order to ensure that the growing numbers of older people living in urban and rural areas have sustainable living conditions and access to activities at a time of changing circumstances, the Committee calls for the following measures:

- regular drafting of national and regional **situation reports**;
- **compiling and disseminating of examples of best practices** of Member States;
- promoting a **new image of old age**, which acknowledges the lifelong achievements of older people (including those of migrants) and respect for old age in politics, business and society;
- **media campaigns on active ageing**;

⁽³⁾ See, among others, EESC opinion of 16.12.2004 on *Strategies for extending the age of exit from the labour market*, rapporteur: Mr Dantin (OJ C 157, 28.6.2005); EESC opinion of 28.10.2004 on *Health care and long-term care for the elderly*, rapporteur: Mr Braghin (OJ C 120, 20.5.2005); EESC opinion of 26.9.2007 on *Patients' rights*, rapporteur: Mr Bouis (OJ C 10, 15.1.2008); EESC opinion of 24.10.2007 on *Elder abuse*, rapporteur: Ms Heinisch (OJ C 44, 16.2.2008); EESC opinion of 13.3.2008 on *Guaranteeing universal access to long-term care and the financial sustainability of long-term care systems for older people*, rapporteur: Ms Klasnic (OJ C 204, 9.8.2008).

- **measures** should be taken, particularly with regard to services of general interest, infrastructure, the supply of goods and services, financing, housing, health care services, the organisation of the end of life and participation in social life.

Target group: **Member States, European Parliament, Committee of the Regions, European Economic and Social Committee.**

- establishment of an additional **Expert Group on Old Age** within the framework of the European Commission's expert group on demographic issues ⁽⁴⁾;
- establishment of a **European Alliance for an active life in old age** along the lines of the European Alliance for Families ⁽⁵⁾, which among other things organises workshops and conferences;
- establishment of a **European Centre for Age Research** to process, collate and exchange information, to ascertain a need for more extensive research and to promote research in this area;
- incorporation of an interdisciplinary **focus on older people** with its own budget in the 8th research framework programme;
- creation of a **European internet portal** providing the public with information from all directorates-general on initiatives relating to old age;
- creation of **local, regional and national internet portals** along the lines of the European internet portal;
- support for a **Demography Fund** ⁽⁶⁾ as part of the Structural Funds to provide financial compensation for regions which are taking active steps to deal with demographic change (e.g. active family policy);
- **inclusion of new priorities in the Lifelong Learning Programme** to train support workers to assist with the transition between various stages of life.

Target group: **EU council presidencies, European Parliament, European Commission.**

1.2.2 In order to achieve this, an approach to sustainable management must be pursued which is also capable of contributing to the implementation of the Lisbon Strategy for economic growth and jobs.

⁽⁴⁾ Commission decision 2007/397/EC.

⁽⁵⁾ See http://ec.europa.eu/employment_social/families/index_en.html.

⁽⁶⁾ See point 4.5.2 of EESC opinion of 13.12.2007 on the *Fourth Cohesion Report*, rapporteur: Mr Derrunne (OJ C 120, 16.5.2008).

2. General observations

2.1 This exploratory opinion focuses on the need for action in European regions. A redistribution of available resources is necessary in all countries ⁽⁷⁾, which will increase the burden on citizens living in urban and rural areas. At the same time, local infrastructure will be faced with significant demands to adapt ⁽⁸⁾. Innovative and integrated approaches are especially needed to ensure that regions and communes are able to respond to demographic changes.

3. The areas in need of action

Several fundamental requirements have to be met in order to ensure that older people have a secure, healthy and active life. These relate to the following areas:

3.1 Services of general interest

3.1.1 Services of general interest are an essential means of ensuring respect for human dignity and they safeguard the individual's right to comprehensive protection of his or her basic rights. They enable citizens to exercise their rights in practice. In concrete terms, these services affect, among other things, spatial planning and the environment ⁽⁹⁾, especially municipal infrastructures. Shrinking population numbers, especially in rural areas ⁽¹⁰⁾, mean that for economic reasons essential services will in future no longer be available or affordable, will be completely abolished or will be unable to meet new requirements. This is a question of providing basic services and ensuring that the whole population has access to them, while specifically taking account of the particular requirements of older people and those needing care. This concerns:

- energy supplies, in particular electricity, gas and heating;
- water management, waste management and prevention;
- safety and cleanliness of public spaces;
- public services administration.

⁽⁷⁾ See EESC opinions of 14.3.2007 on the *Economic and budgetary impact of ageing populations*, rapporteur: Ms Florio (OJ C 161, 13.7.2007) and EESC opinion of 15.9.2004 on *Research needs in the area of demographic change*, rapporteur: Ms Heinisch (OJ C 74, 23.3.2005).

⁽⁸⁾ See EESC opinion of 14.2.2008 on *An independent evaluation of services of general interest*, rapporteur: Mr Hencks (OJ C 162, 25.6.2008).

⁽⁹⁾ See EESC opinions of 18.1.2007 on *Structural Policy/Cohesion in the EU*, rapporteur: Mr Derrunne (OJ C 93, 27.4.2007) and of 25.4.2007 on the *Territorial Agenda*, rapporteur: Mr Pariza (OJ C 168, 20.7.2007).

⁽¹⁰⁾ For instance, rural areas in France, Spain and Portugal, eastern Germany, some Eastern European regions and outlying rural regions in Sweden and Finland; see 'The Spatial Effects of Demographic Trends and Migration', ESPON project 1.1.4, Final report 2002.

3.1.2 Transport infrastructures and the supply of goods and services to cover everyday needs

Independence and mobility are key requirements for quality of life and activity in old age ⁽¹¹⁾ ⁽¹²⁾. For this the following are necessary:

- shops that can be easily reached offering unfettered access and selling affordable goods for everyday needs as well as accessibility of key places such as the post office, the bank, pharmacy, cemetery, and public buildings and facilities, especially those of local and regional authorities which enable older people to participate in society, such as local authority offices, citizens' advice bureaux, etc.;
- availability, accessibility and affordability of (local) public transport;
- transport, especially in areas with low population density;
- availability and accessibility of public spaces (footpaths, places to sit, street lighting, transport safety, etc.).

3.1.3 Housing

The current housing supply may not meet the needs of an ageing population in Europe with the emphasis on continued independence in their own home. The design and standards for new-build housing need to take into account the loss of physical, sensory or mental abilities and to use energy and technologically efficient systems (e.g. *Ambient Assisted Living*) to enable continued independence. Such an approach would also be advantageous across the generations.

The authorities in Member States responsible for meeting housing needs should ensure that there are services in place to assist in adapting current houses as well as promoting new concepts in housing design and community living, including appropriate financial and legal measures.

3.1.4 Health services

Reliable health care located close to home and geared to older people's requirements becomes increasingly important as people get older ⁽¹³⁾. Such health care is seriously under threat in rural

⁽¹¹⁾ See EESC opinion of 29.5.2008 on the *Green paper: Towards a new culture for urban mobility*, rapporteur: Mr Hernández Bataller, co-rapporteur: Mr Barbadillo López (OJ C 224, 30.8.2008), the opinion of AGE — the European Platform of Older People — on this Green Paper (COM 2007) 551 final); http://ec.europa.eu/transport/clean/green_paper_urban_transport/index_en.htm; or Mollenkopf et al. (Eds.)(2005). 'Enhancing mobility in later life — Personal coping, environmental resources, and technical support'. Amsterdam: IOS Press.

⁽¹²⁾ Examples of additional measures to preserve independence exist in France (Hautes Corbières; CG VAL de Marne; France — conference speech ANDASS), in Germany (examples Berlin and Frankfurt/Main), UK (Newcastle).

⁽¹³⁾ See, for example, the DG SANCO publication on 'Healthy Ageing: keystone for a sustainable Europe' (http://ec.europa.eu/health/ph_information/indicators/docs/healthy_ageing_en.pdf).

and/or remote regions with low population density as a result of a further decline in the population coupled with the fact that many of the doctors still practising are themselves ageing. There is an urgent need to further develop comprehensive medical care, with good regional coverage. This entails (including protection of the rights of the older people as patients ⁽¹⁴⁾):

- medical, especially geriatric care and rehabilitation by doctors and service providers trained in gerontology and geriatrics;
- out-patient care services and basic assistance through outreach services;
- palliative care and psychological support services to families;
- advice and information on patient rights and support options;
- advice and information services and facilities and incentives for prevention (enabling people to learn about healthy diet, physical exercise, preventing falls, and healthy lifestyles associated with special bonuses);
- technical assistance resources and support systems without replacing human assistance (see section on access to ICT);
- promotion or creation of formal and informal social support systems, including citizens' advice bureaux, self-help groups, groups for family carers and neighbourhood help arrangements.

Tried and tested models for such support systems already exist in various Member States ⁽¹⁵⁾.

3.2 Arrangements for emergencies and a dignified end to life

3.2.1 Emergencies

Precautions must be taken so that older people who are not able to help themselves can be offered timely assistance in the event of an emergency, such as a flood, prolonged heatwave or disaster.

⁽¹⁴⁾ Cf. EESC opinions 1447/2004; 1465/2007; 1256/2007; and 501/2008, footnote 3.

⁽¹⁵⁾ Preventive work in Jyväskylä — Finland.ppt; France: Poitiers.pdf; Strasbourg.pdf; *Le Guide de l'Aidant Familial* (the family carer guide).

3.2.2 End of life

The way in which people die is a controversial issue and subject to different rules in the various Member States (active and passive euthanasia). Legal certainty must be ensured here so that older people's wishes can be taken into consideration even in the event of progressive cognitive problems, such as cases involving use of life-prolonging measures. Advance directives may be one solution, but the especially vulnerable must be protected. Palliative medicine and the hospice movement play an important role here. In short, dignity to the last must be the guiding principle.

In a Union in which 25 % of the population is aged 60 or over, a framework needs to be put in place to encourage the Member States to enact national law measures providing the legal security needed to enable people to prepare for the end of their lives in a composed way.

The EESC would therefore encourage a debate amongst the Member States on the potential of developing a framework around end of life issues which might lead to the development of legal measures in the Member States.

3.3 Social integration and participation in society

Social integration and participation in society are basic human needs which concern various aspects of older people's lives. The most important of these include family and friends, gainful employment, voluntary work and meaningful activities as well as lifelong education and participation in cultural and social life.

3.3.1 Social integration via family and friends

Older people's social environment is changing dramatically⁽¹⁶⁾. The number of older people living alone is rising. In cities, this proportion is sometimes 50 % of households. As a consequence, social policy and/or organisational measures are needed as well as technical innovations for:

- supporting family and non-family networks, by means of appropriate measures to improve the work-life balance of those caring for older people⁽¹⁷⁾;

⁽¹⁶⁾ See EESC opinion of 15.9.2004 on *Research needs in the area of demographic change*, rapporteur: Ms Heinisch (OJ C 74, 23.3.2005); also EESC opinion of 16.12.2004 on *Relations between the generations*, rapporteur: Mr Bloch-Lainé (OJ C 157, 28.6.2005), EESC opinion of 14.3.2007 on *The family and demographic change*, rapporteur: Mr Buffetaut (OJ C 161, 13.7.2007); EESC opinion of 11.7.2007 on *The role of the social partners in reconciling working, family and private life*, rapporteur: Mr Clever (OJ C 256, 27.10.2007), and EESC opinion of 13.12.2007 on *Promoting solidarity between the generations*, rapporteur: Mr Jahier (OJ C 120, 16.5.2008).

⁽¹⁷⁾ See the activities of the Flemish association VVSG (Flemish association Ageing VVSG-Vergrijzing-GRV-2006.pdf) and the Swedish Association of Local Authorities and Regions (Sweden — care for the elderly in Sweden today.pdf).

- in this connection the EESC notes the work being carried out by the Commission in the context of the renewed social agenda, and by the European social partners as regards reconciliation of professional and private life;
- contributing to cross-generational activities⁽¹⁸⁾;
- people's own initiatives and civic commitment generally; and
- promoting the construction of multi-generational housing.

3.3.2 Integration and participation through meaningful activities

Both paid employment and voluntary work can help people to integrate and become involved in society. There is therefore a need for action in both areas if people are to remain socially active for as long as possible:

3.3.2.1 Participation through paid employment

In order to make this type of participation through work possible for people wishing to follow this course after retirement (for the target group see point 1.1.3), whether for financial reasons or for professional fulfilment, changes such as the following could be made:

- in accordance with the Employment Equality Directive⁽¹⁹⁾, strengthening the ability of individuals to make the transition from work to retirement more flexible, with appropriate adjustment of pension and tax systems as part of a jobs strategy covering all generations of adults⁽²⁰⁾, and securing compliance with the principle of equal pay. In principle, age limits in the Member States should only refer to the right to stop working, and not be construed as a ban on voluntary continuation of employment;
- gearing jobs and the working environment to older people, by reducing the physical demands and improving health, safety and working time patterns and arrangements;
- applying and, if necessary, adapting techniques for making working procedures easier and more ergonomic;

⁽¹⁸⁾ See the model programme of the German Federal Ministry for the family, seniors, women and young people *Generationsübergreifende Freiwilligendienste* (inter-generational volunteer services).

⁽¹⁹⁾ Directive 2000/78/EC.

⁽²⁰⁾ The example of Finland shows how positive incentives (instead of financial losses) and flexible age limits (between 63 and 68) enable people to organise their retirement according to their individual needs or to continue working.

- dealing with potential obstacles and promoting new forms of contract relating to the transition period between pre and post-retirement life, and offering legal security, to ensure that they do not create new forms of insecurity;
- cultural change in business geared towards a comprehensive jobs strategy which specifically promotes individual skills regardless of age ⁽²¹⁾.

3.3.2.2 Participation through voluntary commitments and meaningful activities

In order to make more effective use of older peoples' potential, and at the same time to provide them with meaningful activities that match their various skills, it will be necessary to:

- compile and safeguard knowledge acquired through experience, including knowledge about social behaviour and special handicraft and artistic skills;
- promote innovative forms of knowledge transfer, including support for other generations ⁽²²⁾;
- facilitate a flexible transition between employment and retirement or enable older people to engage in a mix of paid and voluntary work without any financial loss and on a voluntary basis;
- support voluntary activities in an honorary capacity ⁽²³⁾ through further education and involvement in local and supra-regional projects;
- open up institutions to enable older people to carry out more voluntary work without replacing paid jobs.

3.4 Education and moves to keep people involved in society

Key prerequisites for older people participating in society and being actively involved are education and lifelong learning and involvement in projects geared to the needs of older people. To this end, the range of activities on offer at local, regional and supra-regional level should be adjusted accordingly:

- lifelong training to maintain the skills of older workers. Businesses should facilitate and support relevant measures here. At the same time, incentives must be put in place (e.g. tax incentives);

⁽²¹⁾ See Naegele, G. & Walker, A. (2006): 'A guide to good practice in age management. European Foundation for the Improvement of Living and Working Conditions', Dublin.

⁽²²⁾ For example, the ESF finances a project in the UK providing former managers aged over 50 with the opportunity to advise and mentor younger colleagues and postgraduates in over 200 SMEs.

⁽²³⁾ See EESC opinion of 13.12.2006 on *Voluntary activity: its role in European society and its impact*, rapporteur: Ms Koller (OJ C 325, 30.12.2006).

- general further education opportunities ⁽²⁴⁾ throughout life at all levels (from readily-accessible options to university education);
- quality assessment and quality assurance of training courses;
- EU-wide recognition of qualifications ⁽²⁵⁾, skills and competences obtained also in old age in order to facilitate cross-border mobility ⁽²⁶⁾, and appreciation of knowledge acquired through informal channels;
- training courses to help people prepare for retirement;
- training of support workers to help older people prepare for a new stage in their lives ⁽²⁷⁾;
- studies directed at all generations, not divided along age lines (mutual give and take);
- training courses to promote inter-generational involvement (e.g. services provided by grandparents);
- training in basic financial and legal matters ⁽²⁸⁾ (to protect the interests of older people, especially with regard to Internet commerce);
- training courses on new information and communications technologies;
- availability and accessibility of information (newspapers, radio, TV, Internet);
- variety of sport opportunities to suit different abilities and interests;
- leisure activities and tourism ⁽²⁹⁾ taking into account specific cultural needs ⁽³⁰⁾.

3.5 Older people as consumers

Older people have a variety of needs, relating both to the provision of everyday goods (see 3.2.1) and durable consumer goods, and to technical help and assistance (see 3.6) as well as services of all kinds, which should open up new job prospects for younger people.

⁽²⁴⁾ Cf. EESC opinion of 9.2.2005 on the *Integrated action programme in the field of lifelong learning*, rapporteur: Mr Koryfidis (OJ C 221, 8.9.2005); EESC opinion of 18.5.2006 on *Key competences for lifelong learning*, rapporteur: Ms Herczog (OJ C 195, 18.8.2006); EESC opinion of 30.5.2007 on the *European Qualifications Framework for lifelong learning*, rapporteur: Mr Rodriguez (OJ C 175, 27.7.2007); and EESC opinion of 13.3.2008 on *Adult learning*, rapporteur: Ms Heinisch (OJ C 204, 9.8.2008).

⁽²⁵⁾ Without prejudice to Directive 2005/36/EC on the recognition of professional qualifications.

⁽²⁶⁾ In connection with practical training or volunteering for older people, for example.

⁽²⁷⁾ The project *Transition — Ausbildung zum/zur Übergangsbegleiter/in für frühkindliche Bildungsprozesse* (Transition — training as transition expert in early childhood education), which is part of the Socrates Grundtvig 1.1 programme, could provide a model here (<http://www.elternverein-bw.de>).

⁽²⁸⁾ See Communication on financial education, COM(2007)808, 18.12.2007, p. 7.

⁽²⁹⁾ Cf. the project *Travelagents* (www.travelagentsproject.org).

⁽³⁰⁾ Cf. the project *AAMEE* (<http://www.aamee.eu/>).

To this end, the following is required:

- a general product design along the lines of 'Universal Design' and 'Design for All' ⁽³¹⁾ with readable and comprehensible instructions;
- prevention of discrimination on grounds of age and disability concerning the access to services, in particular financial services ⁽³²⁾;
- enforcement of consumer rights also for older people;
- the profile of retirement migrants has changed over the years. Many find themselves with fewer retirement resources and may have health and social care needs for which current health and welfare systems make little provision. Retirement migrants fall between the gap of national entitlements being no longer covered by their home country's policy and not covered by the host country. There needs to be a greater understanding and debate about this issue across the EU to effect change, for which the European level is relevant and beneficial for citizens.

3.6 Access to information and communication technologies (ICT)

As regards housing, health, participation in society and education, as well as access to e-government, the use of new technologies is increasingly becoming the key to living an independent, active life in old age. The same is true of services of general interest aimed at older people themselves and of related economic development activities at regional and supranational level ⁽³³⁾. Key to this are:

- moves to work at a very early stage of development on software to ensure maximum accessibility and on hardware to ensure optimum use of the functions of machines by people who are not (or are no longer) familiar with them;
- available and accessible information and communication technologies, including *Ambient Assisted Living* systems,

⁽³¹⁾ See the European Design for All e-Accessibility Network (EDeAN; <http://www.edean.org/>).

⁽³²⁾ Issuing small loans might be a useful way of providing older people with the basis for independent activity should they retire or become unemployed.

⁽³³⁾ See EESC opinion of 29.5.2008 on *Older people — new ICT*, rapporteur: Ms Darmanin (OJ C 224, 30.8.2008); EU Parliament Report RR\39694EN.doc, PE396.494v03-00; Malanowski, N., Özçivlek, R. and Cabrera, M.: 'Active Ageing and Independent Living Services: The Role of Information and Communication Technology'. JRC Scientific and Technical Report, EUR 2346 EN — 2008.

technologies for e-learning, e-health, e-care and e-rehabilitation. Technologies can help without substituting personal contact ⁽³⁴⁾;

- simpler access and use of relevant technical equipment and networks given the growing complexity of systems and adjustment to the specific needs of older people (e.g. sight problems, problems with sense of touch);
- considering the needs of older users and measures to boost interest in using such tools;
- involving all stakeholders and respecting ethical and legal points of view especially when it comes to the use of electronic monitoring systems in cases of dementia;
- accompanying measures such as integrated advisory, installation and maintenance services, as well as social services;
- considering the knock-on effects of social change and the new experiences and interests of the next generations.

3.7 Financial security

It is important to urge the Member States to create the conditions for the security and dignity of older people, whether they are contributing to the life of society or not, throughout their retirement.

Structural changes, the current reform of pension and social systems and rising living costs coupled with falling purchasing power mean that the proportion of people at risk of poverty in old age is increasing. It is predominantly older woman and those with a history of long-term unemployment who are living in poverty in certain Member States.

In order to ensure the long-term viability of social protection systems, the Member States must encourage people still in work to make use of collective or individual pension arrangements, and ensure that private operators active in this area are solvent. They must also guarantee a minimum level of income for all, enabling every older person to lead a decent life, whatever his or her personal circumstances.

⁽³⁴⁾ See the Action Plan on 'Information and Communication Technologies and Ageing' (COM(2007) 332 final), the *Ambient Assisted Living Joint Research Programme* (<http://www.aal-europe.eu/>), the research activities of the 7th framework programme for research and technological development (2007-2013) (http://ec.europa.eu/research/fp7/index_en.cfm), and 'Seniorwatch 2 — Assessment of the Senior Market for ICT, Progress and Developments' (http://ec.europa.eu/information_society/activities/einclusion/research/ageing/index_en.htm).

4. Specific comments and recommendations

The Committee calls for measures to be taken both within Member States and at European level to create a solidly-grounded basis for the restructuring and innovation strategies needed:

4.1 Measures within Member States

4.1.1 Compilation of national and regional situation reports

What is needed first and foremost is a precise analysis of the regional situations. The Committee urges the Commission to compile regular situation reports on the individual Member States accordingly, including information on the activity potential of older people.

4.1.2 Preparation and provision of information

The Committee believes it is vital that relevant information, knowledge and experience including previous research findings as well as newly acquired knowledge be made available to specialist committees, stakeholders and older people themselves. In particular, there should be better communication of research findings between the worlds of research, politics and users (older people and their representatives).

4.1.3 Processing and collating experience to date in the Member States

The Committee calls for regional best practice to be collated, compared and assessed to see whether it ties in with other areas and is transferable to other regions. The aim is to compile a list of *Best Practices* to be made available to others ⁽³⁵⁾.

4.1.4 Promoting a new image of old age

In an ageing society people can no longer be viewed as 'inactive' as soon as they stop work. A rethink at all levels (politics, economy, society) is required here. Countries and regions are particularly well-placed to undertake regular **campaigns on promoting active aging**.

4.1.5 The Committee proposes a **European media campaign** to promote an image of old age that acknowledges the lifelong contribution of older people to the life of society (including older migrants) and respect for old age.

⁽³⁵⁾ For example, in Wales there is a statutory Commissioner for Older People, building on the experience of the Children's Commissioner, who monitors policy and legislation and advocates and commissions research.

4.2 Measures at European level

4.2.1 **Establishment of an additional Expert Group on Old Age** within the framework of the European Commission's expert group on demographic issues.

4.2.2 **Establishment of a European Alliance for an active life in old age** along the lines of the European Alliance for Families ⁽³⁶⁾ with the goal of providing incentives for leading an active life in old age through the exchange of experience among Member States and promoting cooperation and mutual learning in the European Union. This alliance would be well-placed to organise European conferences and workshops.

4.2.3 Establishment of a European Centre for Age Research

Situation and experience reports will show which aspects and regional features require further research ⁽³⁷⁾. Findings from earlier research framework programmes and statistical data also need to be put together and disseminated more widely and incorporated into policy and practice ⁽³⁸⁾. A European Centre for Age Research along the lines of the US National Institute on Ageing would be a particularly appropriate means of consolidating, integrating and further developing bodies of statistical and other relevant information already available

4.2.4 Incorporation of an interdisciplinary focus on older people in the 8th research framework programme

The incorporation of an interdisciplinary focus on older people in the 8th research framework programme would bring together research activities.

4.2.5 Creation of a common European Internet portal

An internet portal of this kind should make available to the public and especially older people all measures taken by individual directorate-generals relating to old age. The information should be retrievable via special links.

⁽³⁶⁾ See http://ec.europa.eu/employment_social/families/european-alliance-for-families-en.html.

⁽³⁷⁾ See the EESC opinion of 24.5.2000 on the *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions — towards a European Research Area*, rapporteur: Mr Wolf (OJ C 204, 18.7.2000).

⁽³⁸⁾ A recommendation from the Sixth Framework Research Programme. See also EESC opinion of 15.9.2004 on *Research needs in the area of demographic change*, rapporteur: Ms Heinisch (OJ C 74, 23.3.2005).

4.2.6 Creation of local, regional and national internet portals along the lines of the European Internet portal

4.2.7 Support for a demography fund as part of the Structural Funds ⁽³⁹⁾

In view of the particularly precarious situation of regions with dwindling populations, the European demography fund should benefit rural regions and regions with below-average growth in particular and promote good initiatives.

Brussels, 18 September 2008.

4.2.8 **Inclusion of new priorities in the Lifelong Learning Programme** to facilitate the training of support workers to assist with the transition between various stages of life.

4.3 On the basis of the proposed measures, appropriate concepts can be devised for recommended courses of action and political measures. The EESC calls on the Commission to take account of these proposals in the planned communication.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽³⁹⁾ See Council Regulation (EC) No 1083/2006 of 11.7.2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund (EC) No 1260/1999; see also EESC opinion of 13.12.2007 on the *Fourth Cohesion Report*, rapporteur: Mr Derrunine (OJ C 120, 16.5.2008).

Opinion of the European economic and social Committee on 'Towards balanced development of the urban environment: challenges and opportunities'

(2009/C 77/27)

On 25 October 2007, pursuant to Article 262 of the Treaty establishing the European Community, Jean-Pierre Jouyet, Minister of State attached to the Ministry of Foreign and European Affairs, and responsible for European Affairs, asked the European Economic and Social Committee, on behalf of the future French Presidency, to draw up an exploratory opinion on

Towards balanced development of the urban environment: challenges and opportunities.

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 14 July 2008. The rapporteur was Mr van Iersel and the co-rapporteur was Mr Grasso.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 17 September 2008), the European Economic and Social Committee adopted the following opinion unanimously.

URBAN ENVIRONMENT: CHALLENGES AND OPPORTUNITIES

1. Conclusions and recommendations

1.1 Cities in their broad variety are at the core of demographic and socio-economic developments in Europe. Their impact and performances depend on their dimension, and on the range of activities as well as on the quality of life and work within their territory.

1.2 The EESC is supporting the basic ideas laid down in the Leipzig Charter on Sustainable European Cities and the Territorial Agenda of the European Union ⁽¹⁾. The EESC notes that a number of DGs of the Commission and European Programmes and Agencies increasingly address opportunities and challenges in the urban environment, often referring to the Lisbon Agenda. A Green paper on territorial cohesion is expected in the autumn of 2008.

1.3 Further deepening and broadening of the European debate is desirable with respect to resilient and sustainable cities, and city-regions or metropolitan areas across Europe. To that end the **EESC recommends the establishment of an EU High Level Group on 'Urban Development and Sustainability'**.

1.4 In this High Level Group a in-depth knowledge of specific interests of cities should be represented. The Green paper on territorial cohesion can be a welcome starting point.

1.5 In cooperation with the Commission — the Interservice Group Urban Affairs — such High Level Group may contribute to a more effective and targeted European debate on cities, amongst others by **setting a prospective agenda, a list of relevant issues for cities, metropolitan areas and**

governments ⁽²⁾. The discussion will be put on a new footing. The cooperation between Commission and Council will be streamlined in an operational way. It will also stress the own responsibility of governments.

1.6 As reliable data are crucial, Commission and Eurostat can be supportive to extend statistical reporting at NUTS ⁽³⁾ 3 and 2 level to data concerning cities and metropolitan areas and their networks. Arrangements with Member States, the National Statistics Offices, and research institutes ⁽⁴⁾ are desirable for building-up appropriate databases.

1.7 ESPON ⁽⁵⁾ is very well placed as a centre for analysis and knowledge, for monitoring developments, and as a platform for analytical exchanges between Member States.

1.8 In a number of areas governments are setting conditions, but implementation and concrete action take mostly place at decentralised level, such as regarding internal and external accessibility, environment, education, family life conditions,

⁽²⁾ As far as the content of this agenda is concerned, the words of Mr Falco, French Secretary of State for Regional Planning, before the EP REGI Committee on 16 July 2008 could act as a guideline: '... we wish, in partnership with local decisionmakers, to draw up a common frame of reference for the sustainable community-based city. More specifically, this means launching a shared process for drawing up common criteria and indicators so as to give an operational content to the recommendations of the Leipzig Charter'.

⁽³⁾ Nomenclature of statistical territorial units compiled by EUROSTAT. NUTS 2: from 800 000 to 3 000 000 inhabitants; NUTS 3: from 150 000 to 800 000 inhabitants.

⁽⁴⁾ TNO, a Dutch research institute, developed a monitor on a wide array of variables at metropolitan level: demography, economy (value added, labour productivity), labour market (unemployment, education, labour force), environment (air quality) infrastructure, offices market, tourism etc. Data come from Eurostat and additional sources to compare Randstad Holland with 19 other main European metropolises for 1995-2006. The data from Eurostat are made compatible with those from the OECD. They are annually reviewed. Other metropolitan areas could also be monitored.

⁽⁵⁾ European Spatial Planning Observation Network.

⁽¹⁾ 'Leipzig Charter on Sustainable European Cities' and 'Territorial Agenda of the European Union, Towards a More Competitive and Sustainable Europe of Diverse Regions', agreed on the occasion of the Informal Ministerial Meeting on Urban Development in Leipzig on 24/25 May 2007.

entrepreneurship, knowledge and research, employment, migration, minorities and ethnic and cultural diversity, public investment and public services, attraction of (foreign) investments, public-public and public-private partnership, including private funding, and so on.

1.9 Europe needs well equipped cities and metropolitan areas. Technological dynamics and international economic integration mean that cities are facing directly international trends and competition. It is not surprising, and promising, that many cities and metropolitan areas are defining new ambitions. The best among them are poles of skills and knowledge at all levels and poles of future-oriented investments.

1.10 Due to demographic shifts, migration, ecological requirements, and the fall out from global economic changes the same cities are often also facing substantial challenges which may put a heavy burden on them and sometimes create deplorable divisions, undermining positive prospects.

1.11 As similar trends and characteristics in cities, whatever their cultural and socio-economic differences, are manifest across Europe, a continuous European debate and approaches will add to national settings and contexts. Besides analyses and the definition of desirable approaches, especially benchmarking and transparent best practices in the field of integrated approaches, making use of the Open Method of Coordination, will bear fruit.

1.12 As governmental policy objectives and instruments (legal, fiscal and financial), and regional and local implementation are necessarily complementary, a high-level debate on a variety of scenarios as well as analyses and benchmarks are likely to open new perspectives whatever the cultural and institutional differences between Member States.

1.13 The EESC emphasises the need of a commonly agreed approach between the DGs of the Commission towards cities and metropolitan areas. The visibility of this common approach should also be an incentive for national governments to come to integrated approaches towards cities, a request that is often made by cities to governments and the EU.

1.14 The analyses and benchmarks have to focus on a wide range of issues which are summarised in 4.12: Interlinked aspects of an agenda for cohesive urbanised areas and for the sustainable city of the future. These aspects reflect largely a regional expression of the Lisbon Agenda, which provides a very appropriate framework. Much work is already being done by public and private institutes and agencies, and by a number of big cities themselves, but an overall transparent and consistent approach is still missing.

1.15 Most big cities and metropolitan areas are facing complicated and difficult choices. An all-European engagement and support in analyses can certainly be of help to them in dealing with opportunities and challenges. By way of illustration it would be recommendable to establish (annual) awards or European labels for urban issues. There are outstanding examples in all areas: city planning, building design, migration, minorities and diversity, mobility, technology and market, ecological projects, energy saving, quality housing etc. These should be highlighted across Europe.

1.16 Governance is a crucial and very critical issue ⁽⁶⁾. Often it is overlooked or neglected, who is responsible and accountable for what. For cities, leadership, vision and consistency seem to be a prerequisite anyway ⁽⁷⁾.

1.17 Complicated administrative structures across Europe that are usually dating from long ago are as a rule not designed to up-to-date long-term regional policies in densely populated areas. At European level a discussion on how to make multi-level governance more effective can be most helpful. The same goes for new forms of public-public and public-private partnership in cities which are increasingly an indispensable support.

1.18 **A long-term European agenda, increased commitment of the Commission, and monitoring at European level** can be helpful in defining a consistent sense of direction at regional level and in cities. The Lisbon agenda provides a framework. Consistency is also indispensable to commit other public and private stakeholders and urban professionals in programmes and projects. Among these are schools and training institutes, higher education, architects and city-planners, regional social partners, chambers of commerce, companies, developers, including private funding, health services, cultural organisations, and others.

1.19 An European Agenda would favour a new model of a balanced polycentric development in Europe giving rise to new forms of living communities, also to the benefit of society as a whole. This process is underway, and it should, in the view of the EESC, get full recognition and support.

2. Context

2.1 The demographic landscape of the world is changing. Since 2007, for the first time in history, more than half of the world population lives in cities. The phenomenon of increasing urbanisation occurs in all continents. The trend is tending to intensify.

⁽⁶⁾ See chapter 5 'Urbanisation and Governance'.

⁽⁷⁾ In this respect the purposeful development of BILBAO over the last twenty years presents an impressive and convincing example.

2.2 At the moment more than 80 % of the population in Europe lives in urban areas, and a large part of this percentage lives in cities and agglomerations of more than 500 000 inhabitants. In a number of cases these figures are tending to rise as well.

2.3 Besides the Greater London and Ile-de-France and the traditional big cities — mostly capitals — other, often ambitious, centres are arising in attracting people and economic activities.

2.4 EU policies take this demographic shift and its corresponding social and economic consequences to a certain extent into account. Cities and urbanisation matter increasingly in a number of DGs: Research, Environment, Energy and Transport, Enterprise and Industry, Employment, Social Affairs and Equal Opportunities. EU regional policy addresses urbanisation as well as expressed in urban programmes such as URBACT, JEREMIE and JESSICA⁽⁸⁾, and urban projects in the framework of the EU Social fund⁽⁹⁾. Within the Commission an Interservice group on Urban Affairs has been set up.

2.5 This picture reflects growing interest and focussed activity in the Member States themselves regarding the development of urbanisation and metropolitan areas.

2.6 In addition to an increasing number of analyses and studies concerning cities and urbanisation in the Member States numerous geographical maps are made by ESPON highlighting up-to-date demographic and socio-economic trends.

2.7 The Commission started an overall approach to cities in 1997 with a Communication *'Towards an urban agenda in the European Union'*⁽¹⁰⁾.

2.8 In a series of Informal Ministerial Meetings on Urban Development and Territorial Cohesion, from November 2004 in Rotterdam to Leipzig in May 2007, the Council of Ministers responsible for spatial development and urban affairs emphasised the significance of city development and territorial cohesion in Europe, and identified many areas of common interest.

2.9 This process resulted in May 2007 in Leipzig in the Leipzig Charter on Sustainable European Cities and the Territorial Agenda during the Slovenian presidency a follow-up was concretised in a project *'Territorial — Urban Coordination'*.

⁽⁸⁾ URBACT II (2007) is part of the Commission's initiative *'Regions for Economic Change'* in view of the implementation of the Lisbon-Gothenburg Strategy. JEREMIE, or Joint European Resources for Micro to Medium Enterprises, is a joint initiative of the Commission, the European Investment Bank and the European Investment Fund. JESSICA or Joint European Support for Sustainable Investment in City Areas (2006) is a joint initiative of Commission, European Investment Bank and the Council Europe Development Bank.

⁽⁹⁾ See also the Guide to *'The urban dimension of Community policies 2007-2013'* of the Commission's Interservice group on Urban Development.

⁽¹⁰⁾ COM(97) 0197 final, OJ C 226, 20.7.1998, p. 36.

2.10 Parallel to the Informal Ministerial Meetings contacts and exchanges between national top officials are also intensified. Sometimes research institutes are invited to deepen specific aspects around city development⁽¹¹⁾.

2.11 Notwithstanding analyses and enumerations of areas of the dynamic process of urbanisation an overall approach of the Commission and the Council vis-à-vis urbanisation and its future evolution in Europe remains unclear.

2.12 In February 2008 the European Parliament adopted a report of the *'Follow-up the Territorial Agenda and the Leipzig Charter: Towards European Action Program for Spatial Development and Territorial Cohesion'*⁽¹²⁾. This report emphasises the importance of an integrated approach to regional and town planning, aiming to enhance the ability of regions and cities to improve their adaptability to economic change in the interest of the quality of life of the European citizens.

2.13 In November 2007 the Committee of the Regions adopted an opinion on the *'Fourth Report on Economic and Social Cohesion'*⁽¹³⁾. In this opinion the Committee *'calls for the urban dimension to be dealt with in a separate chapter in the Fifth Cohesion Report, given the key importance of European cities for achieving the goals of the Lisbon and Gothenburg strategies and for social integration, for instance migrants'*.

2.14 There are substantial differences among European cities: big ones versus smaller ones, strongly urbanised versus less populated, different landscapes of for instance big cities and groups of cities, wealthy and less developed cities. But the common denominator is also striking: there is a spontaneous demographic shift to cities and the economic attractiveness of big cities is increasing whereas meanwhile these same cities are facing similar challenges.

2.15 The whole picture of opportunities and challenges becomes all the more visible as, nowadays, successful city planning is not only limited to spatial planning and housing, but takes also all relevant socio-economic factors explicitly into account in a so-called holistic approach. Increasingly future-oriented urbanistic and planning projects are developed on the basis of integral concepts of territorial, ecological, economic and social aspects.

⁽¹¹⁾ Noteworthy in this respect is a project of the Dutch branch of the European Knowledge Network on Cities, Nicis Institute, in cooperation with the Member States concerning, governmental, legal, and fiscal instruments to promote sustainable cities. This project is carried out in the framework of the French presidency at request of the Délégation Interministérielle de la Ville. The Knowledge Network on Cities is a network organisation in which 16 Member States participate.

⁽¹²⁾ P6_TA-PROV(2008)0069.

⁽¹³⁾ CdR 97/2007 fin.

2.16 Nonetheless, although governments are favouring a progressive development of cities, approaches remain often ambiguous. The way in which developments are realised and managed successfully differs, sometimes strongly, from country to country, and even from city to city. This is certainly also the case concerning the development of city-regions or metropolitan areas.

2.17 The EESC defined its overall views on urbanisation since 1998 in an Opinion 'Towards an Urban Agenda'. This was followed by others among which two specific opinions on 'European Metropolitan Areas: socio-economic implications for Europe's future' in 2004 and 2007. Equally in 2007 an opinion was published on the Territorial Agenda of the EU. Besides these, a number of EESC opinions discuss specific areas which are of interest for cities and urbanisation (see appendix).

3. Analysis and evolution

3.1 Cities and the way in which people live in communities mirror historical periods and the corresponding evolution of society.

3.2 Besides strategic and political reasons, economy and security were major driving forces in shaping communities and cities and their interconnection.

3.3 Modern history of cities in Europe starts when mature agricultural societies and their economic and commercial exposure shaped them across the continent. Later, subsequent stages of industrialisation changed existing cities, and gave also rise to new towns. From late 19th century onward industrialisation made these towns and cities grow exponentially. The long historical evolution, including cultural heritage, industrial areas, housing etc, is quite visible in most of them.

3.4 During the last decades traditional industrial basins changed fundamentally. A number of them often underwent, and are still undergoing, painful restructuring because traditional industrial processes are gradually dying out.

3.5 New processes are underway because of technological dynamics and internationalisation. There is a transition from bulk production to tailor made productions and numerous specialties and continuous renewal on the one hand, and on the other by a strongly extending services sector. Mobility increases tremendously and demographic shifts take place amongst others from rural areas to cities and through migration.

3.6 The environment for people among the western world is becoming limitless and virtual with very wide horizons, whereas the same developments affect also the daily physical environment of all fields of human activity.

3.7 This daily environment for very many people is no longer the individual village, town or city, but it increasingly embraces broader regional entities which creates a new kind of urbanisation.

3.8 Network-cities or network-regions are reinforcing spontaneously and/or deliberately. Look at the developments of big cities and metropolitan areas in Europe. One notices in the modern urbanised society, a new geographical reality coming up, consisting of dominant zones of economic influence and a large number of sub-zones which often as a rule do no longer correspond with existing administrative entities.

3.9 An essential characteristic of these new city-regions is their critical scale, needed to manage urbanisation properly to the benefit of all citizens, their quality of life and work. The critical scale may vary considerably from case to case, depending on specific geographical, economic and demographic circumstances.

3.10 After a decade of domestic studies and discussions on the 'future map' of Germany, in 2004 eleven metropolitan areas were identified, which are qualified as dominant zones of economic influence. Despite initial sceptical reactions further elaboration of the concept is now underway. The relationship and interdependence between metropolitan areas and rural areas is a topical issue.

3.11 In the same period studies were carried out by DIACT⁽¹⁴⁾ in France, followed by an identification of a number of metropolises. In January 2008 a policy paper was presented 'Imaginer les métropoles d'avenir'⁽¹⁵⁾ which can be an incentive for further promotion of these centres in France, and for appropriate legislation to that end. There has been a lot of activity on city-regions in the UK as well.

3.12 More or less similarly focused initiatives are taken by other governments and/or regional and local authorities. In countries such as Scandinavia, the Baltic countries, Ireland and Austria primarily in and around the capitals, in the Netherlands in the Randstad. In large Member States such as Spain, Italy and Poland, more predominant centres arise.

⁽¹⁴⁾ Délégation interministérielle à l'aménagement et à la compétitivité des territoires (ancienne DATAR) (Interministerial delegation for spatial planning and competitiveness (ex DATAR)).

⁽¹⁵⁾ 'Imaginer les métropoles d'avenir', report of Dominique Perben, MP, former Minister of Transport, on request of President Sarkozy and Prime Minister Fillon. Mr Perben presents a diagnosis of urbanisation and metropolisation in Europe and in France, followed by 'challenges and actions' for big cities and city-regions of more than 500 000 inhabitants in France. He presents also nineteen concrete proposals concerning actions and legislation. This subject will also be raised during the French presidency of the EU, second half of 2008.

3.13 Besides principal centres, a pattern of sub-centres arises which makes urbanisation, though certainly not equally spread over the continent, an important characteristic of the European landscape.

3.14 Social and economic developments give rise to a poly-centric urbanised Europe which will no longer be restricted to a limited geographical area like the traditional 'blue banana' or to an exclusive group of capitals.

4. Challenges and opportunities

4.1 A crucial issue is: what will be and what must be the sustainable city in future Europe as a promising community for its citizens? In view of a European discussion on the complicated urban developments one has to distinguish a number of predominant factors and trends which cover often different realities within and between big cities or city-regions across Europe.

4.2 A number of these factors and trends are the following:

- demographic changes, amongst these:
 - ageing population
 - cities as attracting poles of young professionals
 - increased ethnic and cultural diversity resulting from immigration;
- groups of cities and municipalities are identified as network-cities and regions or metropolitan areas;
- transport and mobility: zones of economic influence are more and more interconnected across Europe, and beyond;
- international investments and headquarters, implying also business services;
- an increasing number of knowledge and research centres;
- the rise of new industrial and service sectors and an emphasis on creativity;
- changing dynamic labour markets;
- development of gateways;
- modern housing and adjusted spatial planning;
- building-up of new alliances within urbanised areas;
- revitalisation of urban centres and reduction of urban sprawl;
- leisure and events;
- emphasis on culture (including historical and natural heritage) and cultural facilities.

4.3 Meanwhile existing problems in cities are sharpening and new challenges are arising:

- sustainability, environmental aspects, energy;
- depopulation of city centres;
- limitations on the extent of public urban spaces and challenges linked to the quality of such spaces;
- infrastructure, transport systems and accessibility;
- managing mobility;
- challenges for lowly qualified people: work, education, housing;
- challenges arising from an ageing population;
- lack of sufficient entrepreneurship, in particular in depressed areas;
- illegal migration;
- education and skills;
- failed or neglected spatial planning at an earlier stage, e.g. banlieues;
- marginalised communities and criminality;
- risk of terrorism.

4.4 The demographic landscape of big cities and metropolitan areas is often challenging, but offers also opportunities. The picture is differing from city to city: it depends on the composition of the population and on economic opportunities, but also on national policies. Successful integrated policies of host countries usually result in a high(er) degree of inclusiveness.

4.5 The relationship between rural areas and cities is a real challenge. Quite contrary to generally accepted popular and political views a harmonious relationship between rural areas and cities for living and working conditions within metropolitan areas is crucial and opposite to the often usual perception of either-or, or we-they. This fits perfectly well in the new model of polycentric development.

4.6 Although the points of departure for cities can be different due to diverging levels of development, most differences are gradual. Essentially the pattern of urbanisation in the new Member States reflects the same phenomena, be it as yet at a certain distance. Renovation is one of the primary goals. As economic growth will result in higher public expenditure, and in more private investment and higher income levels, urbanisation will progressively show the same characteristics across Europe.

4.7 In policy papers and project proposals regarding urbanisation the Commission refers nowadays systematically to the Lisbon Agenda. Increasingly the Council and national documents highlight the same link. In the Community Strategic Guidelines the Commission speaks of cities as motors of regional development and centres of innovation, but also of the need to improve internal cohesion by fighting social exclusion and criminality, and to enhance quality of life in deprived neighbourhoods.

4.8 The Lisbon Agenda started as a top-down process. Meanwhile Commission and Council have become convinced that bottom-up forces have to be activated as well. Among these bottom-up forces, cities in full development are important actors: a decisive part of the modernisation of European territorial and socio-economic structures is primarily taking place through public and private investments, and through concrete measures in regions and cities. Cities are usually the best geographical level for the public, private and universities sectors working with civil society to interact to create Europe's necessary innovation.

4.9 For that reason the EESC is of the opinion that big cities and metropolitan areas have to identify their own Lisbon Agenda in the areas of competitiveness, sustainable development and social cohesion and inclusion. Such an Agenda should offer a future-oriented structure and long-term programme to policy-makers and all other stakeholders at regional level. In doing so, self-confidence of cities and city-regions will be fostered increasing their expressiveness, nationally and internationally.

4.10 A long-term regional Agenda in more densely populated areas in Europe must be integral or holistic, i.e. all aspects should be interlinked. The better the conditions for private investment, the more opportunities for job creation and for public services and care about vulnerable groups, such as (lonely) elderly and lowly qualified people⁽¹⁶⁾. Specific and focused attention for sustainability and the overall quality of the built environment will help to make such cities and regions more attractive for the population as well as for (international) investment. Better provisions for social cohesion will facilitate job creation. Overall and maintained strategies will enhance credibility towards the population⁽¹⁷⁾.

4.11 It should also be kept in mind that markets often do not function as a consequence of spatial rigidities: housing, development policy, infrastructure, transport and mobility. The solution

of such rigidities has as a rule to be found at metropolitan level. Integration of markets can also bring with it that national borders are getting obsolete⁽¹⁸⁾.

4.12 Interlinked aspects of an agenda for cohesive quality urbanised areas and the sustainable city of the future are the following:

- creating conditions for an up-to-date economic development, SMEs as well as international investment and headquarters, promoting economic clustering;
- correct implementation of EU-legislation and simplification of regional and local regulations;
- employment policies and regional social dialogues;
- education and training at all levels for all categories including life-long learning, work-learn trajectories and e-learning;
- family friendly living conditions, such as affordable child care;
- R&D, i.e. research facilities, technology campuses and science parks, innovation;
- physical infrastructure:
 - participation in trans-European networks,
 - mobility management⁽¹⁹⁾,
 - multi-modal public transport systems,
 - public-private partnerships, including private funding;
- virtual infrastructure:
 - telecommunications,
 - ICT as basic requirement, and diffusion of broadband and interconnectivity;
- sustainable development:
 - implementation of environmental policies,
 - avoidance of negative aspects of urban sprawl, favouring urban density,
 - specific areas, such as waste management, water management and energy efficiency, e.g. in construction and housing, in (public) transport, via road-pricing etc.;

⁽¹⁶⁾ Conference DG Employment, Social Affairs and Equal Opportunities 'Harnessing an Entrepreneurial Spirit for Inclusive Local Employment Development', 25 April 2008.

⁽¹⁷⁾ In Germany a new concept of metropolitan area is called 'eine neue Verantwortungsgesellschaft', i.e. a 'new community of responsibility'. See Manfred Sinz, Federal Ministry of Transport, Building and Urban Affairs: 'From Metropolitan Regions to Communities of Responsibilities'.

⁽¹⁸⁾ An example is the absorbing capacity of the financial market in London. In another context can be mentioned examples of regions like Lille-Courtrai, Copenhagen-Malmö and Vienna-Bratislava.

⁽¹⁹⁾ See also 'A New Urban Mobility Culture', COM(2007) 551 final.

- social cohesion ⁽²⁰⁾:
 - sustainable city planning and architecture,
 - social housing for vulnerable groups,
 - equal services of public interest (health, education, security) across the region,
 - networks of public transport throughout the region including linkages to depressed neighbourhoods,
 - focussed attention for ethnic and cultural diversity and intercultural dialogue,
 - dismantling barriers which make the lives of city dwellers more difficult, particularly older people and people with disabilities,
 - public actions to diminish high rates of unemployment among young people in deprived neighbourhoods: education, new economic activities, promotion of entrepreneurship, events,
 - culture, cultural facilities, events,
 - sports and leisure,
 - tourism,
 - promotion of a commonly felt regional identity.
- commonly agreed definitions concerning big cities and city regions are desirable ⁽²³⁾;
- the division of labour between national governments and the big cities and metropolitan areas and what is expected from these varies considerably;
- there are often confusion and misunderstandings in countries where more than one ministry is responsible for aspects of urban affairs;
- what should be the role of the Commission?
- existing regional and local administrative barriers concerning 'governance' at regional or local level is often a barrier to necessary actions;
- complicated problems are often caused by unsatisfactory multi-level government;
- there are considerable differences in the way cities communicate with the population and valuable actors, in the organisation of 'participative democracy';
- the role of specialised non-governmental organisations, e.g. regarding 'housing', education, minorities, business, and others is often vaguely defined and so does the extent to which cities and city-regions take profit from these;
- there is a not always consistent approach to public-public and public-private partnership in view of city programmes, decisive investments and creative solutions;
- there is a need of long-term approaches concerning the sustainable city for the future;
- transparency and legitimacy are indispensable tools for long-term strategies.

4.13 For the modern city and city-region state-of-the-art 'Baukultur' ⁽²¹⁾ is decisive, i.e. the overall architectural concept that is based on a holistic approach in which architects, planners, designers, the construction industry, developers and end users work together to create and maintain a quality built environment to provide solutions for sustainable cities ⁽²²⁾.

5. Urbanisation and Governance

5.1 Europe needs resilient and sustainable cities, and city-regions or metropolitan areas that are able to present themselves internationally.

5.2 This places 'governance' at the top of the agenda. There is a broad agreement on the analysis of opportunities and challenges, there are increasingly exchanges of view among cities, but apart from the difference of conditions between cities it remains unclear who is responsible for what in concrete situations:

⁽²⁰⁾ This subject is deepened in a French report '*Une Nouvelle Politique pour les Banlieues*', Palais de l'Élysée, 8 February 2008. The report makes a number of proposals to fight the danger of ghettos in cities. In particular, the report presents state and regional/local initiatives concerning education, training, and job and company creation in deprived neighbourhoods. The French presidency is planning several EU-conferences on this issue.

⁽²¹⁾ '*Baukultur as an impulse for growth. Good examples for European Cities*' — study of German Federal Ministry of Transport, Building and Urban Affairs, published in April 2007.

⁽²²⁾ Conference of the Architects' Council of Europe: '*Designing for the Future: Architecture and Quality of Life*', Brussels, 10 April 2008.

5.4 As big cities and metropolitan areas are poles of attraction and the daily environment for so many people, and as their potential socio-economic significance for Europe is unquestionable, the EESC considers a profound discussion of their impact in its entirety necessary, not only nationally, but also at EU-level.

⁽²³⁾ See as a useful example also the Metropolitan Statistical Area (MSA) in the United States, formerly the Standard Metropolitan Statistical Area since 1959.

5.5 As the Treaty until recently had no provisions concerning spatial development, and due to subsidiarity, the role of the Commission and the Council remained ambiguous. Via direct consultation with cities, DGs of the Commission meanwhile carry out increasingly a wide variety of projects in urbanised areas. Issues are R&D, environment, employment and transport ⁽²⁴⁾.

5.6 Cities tend to become also more pro-active towards Brussels, because EU-legislation affects them directly. Themes are environmental regulation, public procurement, youth unemployment, public order and security, migration, deprived areas.

5.7 The same goes for the Lisbon Agenda at large. European criteria for the various topics are increasingly being assessed for regional application: which are the effects of the implementation of proposals and/or adopted regulation at urban and metropolitan level. Examples prove that without taking into account of specific urban circumstances implementation can turn out to be more costly than the benefit of contributions to projects by the Structural Funds.

5.8 Against this background the EESC welcomes the initiative of the Commission to present shortly a Green Paper on Territorial Cohesion. A discussion on the Green Paper will also be an opportunity to deepen the Leipzig Charter on Sustainable European Cities.

5.9 The above-mentioned agenda in 4.12 is a heavy one. Situations are usually very complicated. Up till now a consistent strategic view on big cities and city-regions was developed only in a limited number of cases. In many cases a clear sense of direction is rather lacking which is partly due to ambiguous positions of governments and differing views within national administrations and at metropolitan level itself.

5.10 On the other hand, a long-term vision and consistency at metropolitan level is indispensable for the building of commitment of existing and, eventually, new communities, for private stakeholders, and for the creation of beneficial alliances within organised civil society. At the moment this looks all the more difficult because the concept of metropolitan areas is a rather recent phenomenon, which makes a fruitful debate in Europe only more desirable ⁽²⁵⁾.

5.11 This is not to say that all cases are similar, on the contrary. Apart from demographic and socio-economic differences across Europe, there is a wide range of different administrative and cultural traditions between countries and regions. Concrete situations, lifestyles and views on organisation vary considerably. In some cases a single leading idea or vision for towards the future has been decisive. More generally, the Lisbon Agenda may be helpful to identify a common ground for discussion and approach.

5.12 Often the central government does not create sufficient room of manoeuvre for cities to determine their own destiny. Policies are primarily top-down, and so are bureaucratic procedures. By contrast, promotion of self-determination could create the right conditions to implement adequately desirable strategies and policies. By a redefinition of the position of big cities and city-regions or metropolitan areas these could become real 'communities of responsibility'.

5.13 Self-determination and mutual respect between cities and their surroundings will boost responsibility and accountability of local and regional authorities, and will contribute to a desirable pro-active attitude of civil society and the private sector.

5.14 To be effective, in many cases it will be necessary to redesign existing local and regional administrative entities (municipalities and others) and their competences.

5.15 The population of Europe's cities may turn still more diversified both in terms of jobs and income, and culturally. Potentially all ingredients are in place to create an enriched urbanisation, but if processes are not managed properly potentialities are not developed and the cohesion of society may be jeopardised.

5.16 Targeted discussions, agenda-setting, and effective monitoring at European level can be most helpful to define a consistent sense of direction at regional level. Such consistency is not only needed for public actors, but it will be indispensable to commit other public and private stakeholders and urban professionals.

Brussels, 17 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽²⁴⁾ An illustrative example is the report of DG Regional Policy on a wide range of projects 'Regions and Innovation', March 2007.

⁽²⁵⁾ Social and Economic Councils at national or regional level can also play a positive role. An illustrative example is a Report on the future of the Randstad in the Netherlands presented by the Social and Economic Council in April 2008, http://www.ser.nl/~media/Files/Internet/Talen/Engels/2007/2007_04.ashx.

Opinion of the European Economic and Social Committee on ‘The EU Economy: 2007 Review — Moving Europe’s productivity frontier’

(2009/C 77/28)

On 17 January 2008 the European Economic and Social Committee decided, under Rule 29(2) of its Rules of Procedure, to draw up an own-initiative opinion on

The EU Economy: 2007 Review — Moving Europe’s productivity frontier.

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 3 June 2008. The rapporteur was **Mr Morgan**.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 18 September 2008), the European Economic and Social Committee adopted the following opinion by 108 votes to 4 with 5 abstentions.

1. Conclusions and recommendations

1.1 This opinion is the latest in the series prepared by the EESC dealing with issues of economic governance in the EU. It is based on the Communication from the Commission COM(2007) 721 final entitled *The EU Economy: 2007 Review — Moving Europe’s Productivity Frontier*.

1.2 The 2007 Review starts from the fact that while the European Union is one of the most advanced and productive economies in the world, a sizeable gap still exists in living standards, as measured by GDP, between the EU and the most advanced economy in the world — the United States. The root cause lies in a divergence in productivity developments in various industry sectors and Member States.

1.3 While data on the USA provide a useful yardstick by which to measure relative Member State performance, the focus of the opinion is on inter country comparisons in the EU. Factors such as social models, working hours and workplace participation rates affect transatlantic comparisons, but those issues are not the point of this opinion. This opinion is simply about why some EU countries create more wealth and more jobs than others.

1.4 The central idea of the Commission Report is that implementation of the Lisbon agenda will at the same time help Member States to increase both employment and wealth. A number of key policies can make an important contribution. These must aim at:

- Promoting higher levels of R&D investment,
- Developing world-class research and educational establishments working in close partnership with industry,
- Establishing a fully functioning open and competitive single market,

- Promoting an integrated approach to enhance both security and flexibility in the labour market (whereby the EESC would point out that this approach must be negotiated by the social partners),

- Improving the quality of public finances.

1.5 These policies become even more relevant in the light of the changes to the global economy which have emerged since the Lisbon EU Council in 2000. The new challenges include not only the present financial crisis but the supply-demand balance for fossil fuels, the evidence of climate change, the growing shortages of food and the soaring demand for commodities generally. These issues make R&D investment and world-class research even more vital. They highlight the need for a competitive Single Market underpinned by effective flexicurity provisions in the labour market and high-quality public finances.

1.6 Macroeconomic factors on both the demand and supply side were discussed in depth in the earlier EESC opinions on EU economic governance detailed in the Introduction in which the Committee stressed that supply-side measures to improve competitiveness must be accompanied by a macroeconomic policy mix that promotes incomes, demand and jobs. The focus of this opinion is to show that, demand factors notwithstanding, there is a significant correlation between the supply side reforms in the Lisbon agenda and GDP growth.

1.7 In the recently published Lisbon Scorecard for 2007 ⁽¹⁾ the top seven countries were, in order, Denmark*, Sweden*, Austria*, Netherlands*, Finland*, Ireland* and the UK* followed by Germany and France ⁽²⁾. The leading New Member States were Slovenia* and Estonia*. The lowest ranked of the EU 15 were Spain, Greece, Portugal and Italy. Overall, Netherlands,

⁽¹⁾ Centre for European Reform: *The Lisbon Scorecard VIII, Is Europe ready for an economic storm*, (Feb. 2008).

⁽²⁾ Member States denoted with an asterisk form part of a ‘Watch List’ of best-performing countries as explained in point 4.9.

Austria and Estonia were awarded the accolade for the most effective Lisbon implementation. Greece and Italy were judged to be the least effective. How does leadership in implementing the Lisbon programme affect productivity and employment?

1.8 Although there are many other relevant factors, the conclusion to be drawn from the analysis in this opinion is that there is indeed a close correlation between the Lisbon implementation and progress in the growth of employment and GDP per capita. In general, the reverse is also true, with countries failing to implement the Lisbon reforms tending to underperform. On the basis of this conclusion, the EESC encourages Member States to implement the full Lisbon programme as soon as possible.

1.9 The importance of each element in the programme must be emphasised. The Committee is particularly anxious to see greater investment in knowledge, education and R&D. There is no doubt that competition stimulates innovation, so EU economies need to face competition to meet the challenges of globalisation. The redeployment of the factors of production from failing industries and sectors to emerging and thriving industries and sectors is required in order to maximise the productivity of Member States' economies. In turn, this means a Member State commitment of resources to flexicurity. Finally, it is clear that Member States' economic performance is heavily dependant on the good management of public finances.

1.10 In the opinion submitted by the EESC to the Lisbon Council in March 2000 ⁽³⁾, we said: *'It is our conviction that in Europe we do have the necessary innovation, creativity, knowledge and enterprise to excel in the new paradigm (i.e. the information society). But we must release these capabilities. Obstacles must be replaced by opportunities. Penalties must be replaced by incentives. The last decade saw the liberalisation of European industries. Now we have to liberate the energies of European men and women'*. In 2008 there is still a great deal left to do, but the Lisbon agenda is the way forward.

2. Introduction

2.1 This opinion is the latest in the series prepared by the EESC related dealing with issues of economic governance in the EU. It has been prepared in response to the Communication from the Commission COM(2007) 721 final entitled *The*

⁽³⁾ Opinion of the Economic and Social Committee on *Employment, Economic Reform and Social Cohesion — Towards a Europe of Innovation and Knowledge (Lisbon Summit — March 2000)*, OJ C 117 of 26.4.2000, p. 62, point 2.16.

EU Economy: 2007 Review — Moving Europe's Productivity Frontier. The previous opinion, in September 2007, dealt with the 2006 Review — Strengthening the Euro Area: Key Policy Priorities.

2.2 In this present opinion the EESC sought to relate Member State employment growth and GDP per capita to the various policy recommendations contained in the Communication from the Commission. In this respect it is rather different from the conclusions of the previous opinion on the 2006 Review which explained the domestic socio-economic circumstances and divergent political objectives which govern Member State actions.

2.3 Earlier opinions, October 2006 ⁽⁴⁾ and February 2006 ⁽⁵⁾, dealt with the Broad Economic Policy Guidelines (BEPG) 2005-2008, while in March 2004 we gave our opinion on *The Broad Economic Policy Guidelines 2003-2005* ⁽⁶⁾. Although the EESC has received the Commission recommendation for BEPG 2008-2010, it notes that they are unchanged from those for 2005-2008. In view of its previous work on the BEPG, the EESC has decided to use the Review of the EU Economy in 2007 as the basis for this present opinion.

2.4 In October 2006 the EESC examined the rules which affect the overarching objectives of price stability, growth and employment. In this opinion we concentrate on the policies rather than the rules. In February 2006 the EESC published its opinion on the 2005-2008 BEPG. Although this opinion was wide ranging in its scope, it generally endorsed the same policy agenda for growth of employment and productivity that forms the basis of the present opinion. In both of these opinions the EESC considered the economic factors affecting demand. In this opinion we deal with the Commission's proposals for supply side reforms.

2.5 Even so, the Committee stresses that supply-side measures to improve competitiveness must be accompanied by a macroeconomic policy mix that promotes incomes, demand and jobs. The Committee addressed the question of an appropriate policy mix in its still-topical March 2004 opinion.

2.6 The Commission document 'European Economy' No 8/2007 includes the Communication 'Moving Europe's Productivity Frontier' together with four chapters amounting to 149 pages in all:

1. Productivity trends in Europe: finally turning the corner?
2. Assessing productivity at the industry level.

⁽⁴⁾ Opinion of the Economic and Social Committee on *The Broad economic policy guidelines and economic governance — The conditions for more coherence in economic policy-making in Europe*, OJ C 324 of 30.12.2006, p. 49.

⁽⁵⁾ Opinion of the Economic and Social Committee on *The Broad Economic Policy Guidelines (2005-2008)*, OJ C 88 of 11.4.2006, p. 76.

⁽⁶⁾ Opinion of the Economic and Social Committee on *The Broad Economic Policy Guidelines (2003-2005)*, OJ C 80, 30.3.2004, p.120.

3. Is there a trade off between productivity and employment?

4. Policies in pursuit of higher productivity: another look.

The Committee regrets that the Commission's recommendations for bolstering competitiveness are confined to the supply side

This opinion evaluates the policies advocated in chapter 4.

3. Gist of the Communication from the Commission

3.1 The 2007 review starts from the fact that while the European Union is one of the most advanced and productive economies in the world, a sizeable gap still exists in living standards, as measured by GDP between the EU and the most advanced economy in the world — the United States — remains. The root cause lies in a divergence in productivity developments in various industry sectors and Member States.

3.2 By adopting the Lisbon Strategy in 2000, the EU attributed the highest importance to improving its productivity performance along with achieving robust employment growth. The main elements of this strategy were building knowledge, strengthening competitive forces and enhancing flexibility.

3.3 Knowledge building requires more and better investment in R&D and human capital. The effectiveness and cost-efficiency of education needs to be secured throughout the European Union.

3.4 Stimulating competition is crucial for both the level and growth rate of productivity. Empirical research confirms that opening markets to competition not only has a positive effect on productivity and growth, but also on employment.

3.5 Enhanced flexibility is needed to smoothly adjust production structures towards further specialisation and diversification into new areas of relative comparative advantage. Measures have been taken by Member States over recent years to facilitate firm and labour mobility, but more and broader action is warranted.

3.6 The conclusions are that a change in 'mindset' is called for. A number of key policies can make an important contribution. These must aim at:

- Promoting higher levels of R&D investment
- Developing world-class research and educational establishments working in close partnership with industry
- Establishing a fully functioning open and competitive single market
- Promoting an integrated approach to enhance both security and flexibility in the labour market (whereby the EESC would point out that this approach must be negotiated by the social partners)
- Improving the quality of public finances.

3.7 Many widely held beliefs have been discredited: not only large countries and large companies can be technology leaders; trade is not the main vehicle for technology diffusion; small countries can lead in specialised fields; small companies often introduce innovative new technologies; international mobility of workers and financial capital are the main vehicles for technology diffusion.

3.8 A broad consensus is now emerging on what is constraining productivity growth and the measures needed to increase it. Restrictions concerning labour and product markets, lack of openness to foreign direct investment and barriers to access or the creation of new technologies and their diffusion can act as key impediments to productivity growth over longer periods of time.

3.9 Since the realisation of productivity gain is influenced by the exit of the least productive entities from the market, policies that foster resource reallocation are important. If productivity gains lead to higher income, consumer demand can be expected to shift towards services. While many service industries have high added value and productivity, the economy can then also afford to create new jobs in sectors with genuinely low productivity.

4. Productivity and Employment

4.1 GDP per Capita depends on more than the Lisbon agenda. GDP depends on factors such as the development of emerging markets, Eastern Europe and Russia, trends in energy and commodity prices and markets, technological change and globalisation generally. Domestic demand is influenced by wage and employment levels as well as purchasing power. Control of demand is very much a function of fiscal and monetary policy while credit to fuel both business and consumer demand depends ultimately on central banks. While financial markets remain in crisis, credit is likely to be in short supply, demand will suffer and GDP will be affected.

4.2 Macroeconomic factors were discussed in depth in the earlier EESC opinions on EU economic governance detailed in the Introduction. The focus of this opinion is to show that, demand factors notwithstanding, there is a significant correlation between the supply side reforms in the Lisbon agenda and GDP growth.

4.3 Relative GDP per Capita data is provided in Table 1. Two time periods have been chosen: 1999, the year that the euro was introduced, and 2007. For the New Member States (NMS) this period brackets their accession to the EU. During the period the USA has declined from 161.8 % to 150.9 % relative to EU27. Even so, the so-called old Member States have been unable to take advantage of this relative decline in the USA, with EU15 declining from 115.3 to 111.7 and the Eurozone declining from 114.5 to 109.8 relative to EU27.

4.4 Given this GDP data, what do the employment statistics tell us? Table 2 shows employment data for the years 1998 (the year that the first accession negotiations were started with the NMS) to 2006 (the last available data). Unemployment data is shown for the period to 2007. Employment in the USA declined from 73.8 % to 72 % of the workforce in this period while unemployment rose from 4.5 % to 4.6 %. At the same time the Eurozone started to catch up with employment rising from 59.2 % to 64.8 % and unemployment falling from 10.1 % to 7.4 %. Data for the EU15 is slightly better than the Eurozone while for the EU25 it is slightly worse.

4.5 In the recently published Lisbon Scorecard for 2007 the top seven countries were Denmark*, Sweden*, Austria*, Netherlands*, Finland*, Ireland* and the UK* followed by Germany and France. The leading NMS were Slovenia* and Estonia*. The lowest ranked of the EU 15 were Spain, Greece, Portugal and Italy. Overall, Netherlands, Austria and Estonia were awarded the accolade for the most effective Lisbon implementation. Greece and Italy were judged to be the least effective. How does leadership in implementing the Lisbon programme affect productivity and employment?

4.6 In relative GDP per Capita, Luxemburg and Norway are ahead of the USA. Countries within 20 % of the USA are Ireland* (outstanding), Netherlands*, Austria*, Sweden*, Denmark*, Belgium and (just) UK* and Finland*. Outside of the EU, Iceland, Switzerland and Japan are all within 20 % of the USA. Amongst the NMS, Cyprus and Slovenia* are closest to the EU27 average, while Estonia* has made the most dramatic progress, followed by Latvia, Lithuania, Hungary and Slovakia.

4.7 On the employment front there are many parallels to the GDP picture. US employment is just over 70 % of the workforce. In the Table, all the non EU countries, including Japan and all three non Eurozone countries (Denmark*, Sweden*, UK*) have employment levels over 70 %. In the Eurozone only the Netherlands* and Austria* are over 70 %, while Ireland* and Finland* are close. Amongst the NMS, Cyprus and Estonia* lead with totals close to 70 %.

4.8 US unemployment is 4.6 %. Ireland*, Netherlands*, Austria*, Denmark*, Cyprus and Lithuania are better than the USA, as is Norway. Luxemburg, UK*, Czech Rep, Estonia* and Slovenia* are all within one point of the USA. Sweden*, Latvia and Malta are within two points of the USA.

4.9 From the above analysis, it is clear that we should be looking at the policies and trends in the leading countries from the Lisbon Scorecard — Denmark*, Sweden*, Austria*, Netherlands*, Finland*, Ireland* and the UK* — and the leading NMS — Estonia* and Slovenia*. For the purpose of this opinion, these countries will constitute a 'Watch List' and are denoted with an asterisk. We will examine the extent to which

policies relating to knowledge, competition, innovation, and public finances have contributed to the relative success of these countries. By way of contrast, the policies of Spain, Greece, Portugal and Italy will be monitored as a 'Control Group'. In addition, policy initiatives in the heavy-weight French and German economies remain very important for the EU. Both countries are characterised by polarised politics which have made reform difficult although, to an extent, the results are now coming through.

5. Investment in Knowledge

5.1 The OECD programme for international student assessment is called PISA. Table 3 is a composite taken from the 2006 survey of the reading, mathematics and science competencies of 15-year-old children in OECD and other states.

5.2 Apart from Korea, Japan and Switzerland, the countries with straight 'A's are Finland* (the clear winner), Netherlands*, Belgium and Estonia*, Countries with two 'A's are Czech Rep., Austria*, Slovenia* and Ireland*. Countries with one 'A' on the list are Denmark*, Sweden*, the UK*, Germany and Poland. Germany and the UK gain their 'A's in science. The UK* has the third highest competency in science at level 6 after Slovenia* and Finland*. All the countries on the watch list achieve 'A' grades. The countries in the control group are clustered with the USA at the bottom of the ranking.

5.3 Given the considerable correlation between the performance of the education system and the performance of Member State economies, the EESC believes that the Commission is certainly correct to make the quality of education a flagship policy for the EU.

5.4 The Jiao Tong University in Shanghai has developed a methodology for ranking universities. There are other methodologies in use to rank universities, but the Jiao Tong is in line with the EU focus on science and research.

5.5 The performance of the US School system as measured by PISA is very ordinary. It is in higher education that the USA maintains its competitive edge. Table 4 is extracted from the Jiao Tong rankings. There are 17 American universities in the top 20, two British and one Japanese. The UK, with ten entries in the top 100, is on the watch list. Outside of the EU, Japan (6 entries), Canada (4), Australia (2), Switzerland (3), Norway (1) and Israel (1) also feature. Five of the watch list appear in the top 100: the UK*, the Netherlands* (2), Denmark* (1), Sweden* (4) and Finland* (1). None of the control group appears. It is time for Bologna, Salamanca and Coimbra to regain their former glory. In addition there are 6 entries for Germany and 4 for France.

5.6 Outside the UK, only six Member States are represented in the top 100 universities; twenty EU countries are unrepresented. The policy of the Commission appears to be to fill this gap with an EU Institute of Technology. Despite EESC support for this project, it is difficult to see how it can flourish without weakening the EU presence in the top 100. An alternative strategy would be to review and revise Member State policies for the development of their leading universities. The biggest need is a closer partnership between universities and industry to develop the knowledge and skills to harness 21st century science and technology for wealth creation and employment.

5.7 A further measure of Member State university education is the Eurostat data on the number of tertiary graduates in science and technology per thousand of population in the 20-29 age bracket. The figure for the USA is 10.6. Member States within a percentage point of the USA are Belgium, Germany, Greece, Italy, Latvia, Austria*, Poland, Romania, Slovenia* and Slovakia. Member States with a much greater output are Denmark* (14.7), Ireland* (24.5), France (22.5), Lithuania (18.9), Finland* (17.7), Sweden* (14.4) and UK* (18.4). All countries flagged with an asterisk (*) are on the watch list. Italy and Greece are the control group countries which qualify here. Developing graduates in science and technology must be a focus for Member State secondary and tertiary education systems.

5.8 One of the goals of the Lisbon project is to raise EU R&D spending to 3 % of GDP. Of this 2 % should come from the private sector. Two of the watch list, Sweden* and Finland*, spend more than 3 %. Two more, Denmark* and Austria*, spend between 2 % and 3 %, as do Germany and France. Those spending between 1 % and 2 % are Belgium, Czech Rep., Estonia*, Ireland*, Netherlands* Slovenia*, Spain and the UK*, most of which are on the watch list. All other Member States spend less than 1 % with the exception of Hungary and Italy, both at 1 %, Italy and Spain feature in the control group. To close the gap it does not seem unreasonable to expect governments to contribute a full 1 % of GDP to R&D. Ideally, this would be channelled into universities and research institutes to help build their reputations and presence in the global scientific community. At the moment EU15 governments spend in the range 0.30 % to 0.40 % while NMS governments spend in the range 0.50 % to 0.60 %. More could and should be done, not least to develop the science needed to tackle climate change and pollution.

5.9 With regard to tax relief for private sector R&D, the EESC has already presented its Opinion to the Commission (?). In the view of the EESC, all Member States should adopt best

practice and introduce tax incentives to encourage more private sector R&D investment, especially by SMEs.

5.10 There is a circular relationship between education, research, innovation, technical knowledge and employment trends. In a virtuous circle, the national knowledge and skill base attracts inward investment, knowledge transfer and immigration. Without that base, skilled people are tempted to look for a knowledge environment where their skills are at a premium. This can lead to a vicious circle of emigration and a brain-drain.

5.11 The policy conclusions for research and education are that many Member State secondary and tertiary education systems need to be overhauled and that Governments should increase their spending on R&D. There is clearly a correlation between effectiveness of policies and employment and productivity, as has been demonstrated by the record of both the watch list and the control group.

6. Competition and Innovation

6.1 The Communication from the Commission outlines three policies to foster competition. These are the liberalisation and regulation of network industries, competition policy and gains from the positive effects of the Internal Market

6.2 The Internal Market benefits include the stimulus to innovate which results from exposure to foreign competition, the economies of scale in production, distribution and marketing which are available in the larger market and the technology transfers which follow from openness to foreign investment.

6.3 EU Member States have not been uniformly attractive to and open to FDI (Foreign Direct Investment). In terms of technology transfer, management methods, market presence and capital investment this will have been a handicap for those Member States which have not benefited from FDI. Ernst & Young data on FDI show that for the period 1997-2006 the top 10 FDI recipients in Europe by number of projects were:

UK	5 539	France	3 867
Germany	1 818	Spain	1 315
Belgium	1 190	Poland	1 046
Hungary	1 026	Ireland	884
Czech Republic	849	Russia	843

(?) See EESC Opinion *Towards a more effective use of tax incentives in favour of R&D*, OJ C 10 of 15.1.2008 p. 83.

6.4 FDI has been of great importance for the economic growth of the NMS. As competition for FDI grows from countries all over the world, including India and China, the NMS are going to have to embrace the knowledge economy to guarantee growth and jobs. Asian countries excel in the PISA competency tests and hundreds of thousands of graduates with ordinary and master's degrees in science and technology are graduating from their universities.

6.5 Liberalisation and regulation of network industries has considerable potential to reduce costs and improve productivity throughout the economy. There are three phases to this policy: First privatisation, then regulation to allow new entrants to challenge incumbents and finally an ownership split between networks and network services. In its *Report on progress in creating the internal gas and electricity market* ⁽⁸⁾ the Commission used switching by customers between suppliers as a measure of effective competition. The following table is illustrative:

Percentage Switching			
		Electricity	Gas
Germany	Big Business	41	(*)
	SMEs	7	(*)
	Households	5	(*)
France	Big Business	15	14
	Households	0	0
Spain	Big Business	25	60
	SMEs	22	60
	Households	19	2
UK	Big Business	50+	85+
	SMEs	50+	75+
	Households	48	47

(*) Data on the gas market is not available from Germany.

Competition is generally most advanced in some of the watch list countries although Italy and Spain have also made progress

⁽⁸⁾ Communication from the Commission to the Council and the European Parliament *Report on progress in creating the internal gas and electricity market* — COM(2005) 568 final of 15.11.2005.

6.6 The implementation of Competition Policy is designed to favour efficiency and productivity where the consumer benefits. This policy is very much in line with the balance the EESC seeks to maintain between the interests of its component constituencies.

6.7 The Communication concludes that competition is crucial for both the level and growth rate of productivity. It is striking that the watch list economies are the most open in the EU. They have the highest productivity, the highest levels of employment and the greatest capacity to absorb migrant workers. It is a mistake for Member State governments to try to put barriers around their economies out of fear of competition.

7. Reallocation Policies

7.1 By Reallocation the Commission means the redeployment of the factors of production from failing industries and sectors to emerging and thriving industries and sectors.

7.2 The core thesis of the Communication is that to the extent that economic growth is driven by an expansion of the technology frontier, the economy will be exposed to structural change. New high technology sectors may gain market share at the expense of shrinking sectors. New firms may become important players and well established firms may be forced to adapt or disappear.

7.3 Since the economy will anyway be exposed to structural change, the adjustment capacity of the economy is crucial to ensure that maximum benefit is derived from technological change and knowledge mobility. However, the Commission feels that Member States have limited capacity to make the necessary adjustments due to the limited flexibility allowed for by labour market institutions and rule books.

7.4 The Communication proposes four key policy measures to improve resource reallocation: facilitating market entry, reducing the administrative burden, labour market regulation and financial market integration.

7.5 Policies to facilitate market entry include a number on which the EESC has already written Opinions. These involve reductions of the administrative burden associated with company formation, a variety of support schemes for new SMEs and changes to the laws governing bankruptcy. Access to finance and a competition policy to ensure contestable markets are important elements in any strategy for reallocation via new company formation.

7.6 While big and small firms alike may face administrative costs, the burden is much greater for smaller firms, given their smaller size. The reduction of administrative burden is one of the five most important goals on the EU agenda but as the Communication acknowledges, the reduction of regulation and administrative costs is difficult because most of the measures were introduced for specific reasons. 'They serve to correct market failures, to protect market participants, or to provide policy makers with information' ⁽⁹⁾. Many EU constituencies would argue that the social protection underpinned by these regulations is a key element of the *acquis*. Even so, the cumulative impact of such regulation imposes substantial economic costs.

7.7 The UK-based Better Regulation Task Force, corroborated by work of the Dutch Central Planning Bureau (CPB), suggests that the costs could be 3-4 % of GDP ⁽¹⁰⁾. It has been estimated that a 25 % reduction in the administrative cost burden in the EU would initially result in a 1 % increase in real GDP. The long run effects would be even larger. Reduction of this cost burden is highly desirable, but there has been no evidence to suggest that anything will come of this initiative. Since the EU is institutionally pre-occupied with the possibility of market failure, such improvements are unlikely to be achieved. Furthermore the EESC, with its concern to provide every protection to market participants, is unlikely to support any significant reduction of the administrative burden.

7.8 Labour market structures have an important impact on labour redeployment. The impact of market reforms on productivity and employment is greater when labour markets are flexible. While there are no reliable studies of labour market flexibility, the employment levels of the watch list countries is certainly a measure of the capacity of their employment laws to accommodate change.

7.9 Employment protection legislation in the EU is understandably controversial. Rather than amend the protection given in permanent contracts, many Member States have introduced temporary contracts in parallel. It is these temporary contracts which have accounted for much of the increase in employment discussed in point 4 above. While the data does not give the actual full-time employment measure, the scale of employment growth is encouraging and structural unemployment is reducing.

7.10 It is, of course, necessary to mitigate the disruption caused when labour regulations are sufficiently flexible to optimise reallocation. Therefore Member States are urged to introduce flanking policies in parallel. Flexicurity is critical in this

process. Resources need to be made available so that life-long learning can reinforce adaptability and employability, social security systems can provide incentives to participate in the labour force and facilitate redeployment while labour market policies should help people to deal with change and the unemployment involved in the transition to new, secure employment. Such policies are indispensable when employment protection is relaxed.

7.11 Financial market integration is the last of the reallocation policies. In general, the degree of fragmentation in the financial system in the EU could be seen as an impediment to productivity and employment especially in respect of start-up companies. These shortcomings are being addressed by the Financial Services Directives. In parallel with this Opinion the EESC is preparing an Opinion on cross-border venture capital activity ⁽¹¹⁾. The role of an efficient financial system in structural change is most evident in the financing of start-up companies.

8. Improving Public Finances

8.1 Table 5 contains Eurostat data on Member State finances. The average government debt of the Eurozone 12 at 68.8 % of GDP exceeds both the EMU convergence goal of 60 % and the averages for EU15 (63.0) and the EU25 (61.9). In general, government debt in the watch list states is below 50 % of GDP and, in many cases, far below. The exception is Austria* (61.7 %). Furthermore, all the watch list states have reduced government debt over the period 1999 to 2006. The reduction in Ireland*, Netherlands* and Sweden* has been particularly dramatic. Of the control group, only Spain has government debt at under 50 % of GDP, following a dramatic reduction during the period. Italy (106.8 %) and Greece (95.3) are at the bottom of the league.

8.2 In the EU 15, Belgium, Ireland*, Spain, Luxemburg, Netherlands*, Finland*, Denmark* and Sweden* had positive budget balances. The remaining countries had negative balances of less than 3 % except for Italy (- 4.4 %) and Portugal (- 3.9 %). Amongst the NMS, Bulgaria and Estonia* have positive balances while Hungary, Poland and Slovakia are more than 3 % negative. At only 1.2 % negative, Cyprus and Slovenia* stand out. Amongst the watch list the UK, at 2.7 % negative, has lost its way. It failed to balance its budget in years of favourable economic activity so that its position amongst the leaders is now in jeopardy. In the control group, the Spanish performance stands out while Italy and Portugal confirm their generally low standing in the league.

⁽⁹⁾ Moving Europe's Productivity Frontier — the EU Economy 2007 Review, European Commission, Directorate General for Economic & Financial Affairs, p. 136.

⁽¹⁰⁾ Moving Europe's Productivity Frontier — the EU Economy 2007 Review, European Commission, Directorate General for Economic & Financial Affairs, p. 137.

⁽¹¹⁾ *Removing obstacles to cross-border investments by venture capital funds*, (INT/404).

8.3 In its annual Opinions on the EU economy the EESC has argued for sound public finances. The relative record of the countries on the watch list and the control group shows that sound public finances are an important component of employment and productivity performance in Member States.

8.4 In examining the relative performance of the watch list and the control group a question arose about the impact of taxes. The Eurostat report on EU tax in 2005 shows that the average tax rate as a % of GDP in the EU 27 was 39.6 %. This is about thirteen percentage points more than the rates for the USA and Japan. Amongst all the non-EU OECD countries, only New Zealand has an effective tax rate greater than 35 %. After an attempt by Member States to reduce the burden of tax, the trend has been reversed and the average tax rate is now back to the 1995 level.

8.5 In terms of tax burden, Sweden*, Denmark* and Finland* are in the top 5, together with Belgium and France. Austria*

and Slovenia* are in the next 5, together with Italy. The Netherlands* and UK* stand at 12th and 13th respectively. Only Estonia* (22nd) and Ireland* (23rd), numbers 22 and 23, enjoy a significantly low level of tax. In the control group, the Italian tax burden is lower than or equal to five of the watch list countries. Spain, Portugal and Greece have tax burdens lower than all the watch list except for Ireland and Estonia. There is no prima facie argument that the control group countries are over taxed.

8.6 The EU is more highly taxed than competitor regions. Specific Member State tax regimes are heavily influenced by the amount of money spent on social protection. Taking a purely EU view, it is difficult to make the case for tax reductions while the leading EU economies have the highest tax rates. However, taking a global view, competitor regions have lower tax levels and it is likely that this contributes to their high levels of innovation and enterprise.

Brussels, 18 September 2008.

The President of the
European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee — The application of anti-abuse measures in the area of direct taxation — within the EU and in relation to third countries’

COM(2007) 785 final

(2009/C 77/29)

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

Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee — The application of anti-abuse measures in the area of direct taxation — within the EU and in relation to third countries.

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 14 July 2008. The rapporteur was Mr Burani.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 17 September), the European Economic and Social Committee unanimously adopted the following opinion.

1. Conclusions and recommendations

1.1 The Commission document lays the foundations for a discussion between Member States on direct taxation in cross-border transactions. In particular, it proposes ‘coordinated’ solutions for the implementation of anti-abuse measures, an area in which cooperation between the different administrations is poor, with wholly national approaches.

1.2 The EESC welcomes the initiative — which is envisaged as long-term — particularly because it would result in the creation virtually of a Community body of laws (or at least that is the intention), based on the numerous judgments of the European Court of Justice. ECJ case law is extensive enough to be a good point of reference for national tax authorities, although the latter are not always willing to use it.

1.3 The starting point is the agreement between Member States on what is deemed ‘abuse’ — i.e. on the distinction between ‘tax evasion’ and ‘tax avoidance’. The EESC stresses the importance of the ECJ judgments, which have established that, while there is no doubt that the former is an offence, a distinction needs to be made as regards the latter: avoidance is only an offence if ‘wholly artificial arrangements’ are set up, i.e. if fictitious situations are created. The setting-up of establishments with the intention of taking advantage of state aid granted in other countries does not count as an offence either: if the aid were not in line with the Treaty the distortion would be addressed at source by other means without involving individual parties.

1.4 A particularly important aspect is ‘thin capitalisation’, i.e. providing foreign subsidiaries with funds instead of increasing capital. The approach taken by administrations is somewhat subjective, and it is particularly difficult to judge when it comes to financial institutions.

1.5 Case law (see below) aside, the EESC draws attention to a number of fundamental principles on which Member States should agree, maybe introducing them as of now. Firstly, a balance needs to be struck between the interests of the state and those of the taxpayer, with the proportionality principle always applied when deciding on cases of ‘wholly artificial arrangements’. This means that rules are needed for fair distribution of the burden of proof and, in particular, establishing the procedures to be followed by tax authorities when collecting proof, with due regard for the law.

1.6 In conclusion, the EESC feels that on such a multi-faceted, varying matter Member States’ goodwill and willing cooperation is needed: they have to strike a balance between protecting their finances and focusing on the public and respect for their rights. At the same time, it feels that it is its duty to highlight the role that tax administrations should play in combating both abuse and, most importantly, artificial (or even genuine) arrangements serving as a front for criminal activities.

2. Introduction

2.1 As promised in 2006 ⁽¹⁾, the Commission has started work on **coordinating Member States’ direct tax systems**. The issue is quite clear: when implementing tax measures involving taxpayers’ cross-border activities each national authority is required to ensure that its country receives the appropriate revenue, but the diversity of systems could lead to **differences in interpretation or application** by other authorities. Taxpayers could take advantage of these differences and abuse them to avoid some or all of their obligations. On the other hand, double taxation also needs to be prevented.

⁽¹⁾ COM(2006) 823 of 19.12.2006.

2.2 To this end, most Member States have adopted a number of ‘anti-abuse rules’ — specific or general rules which differ from country to country. This situation can — and does — give rise to disputes in respect of taxpayers and sometimes between Member States themselves. The European Court of Justice (ECJ), called on to decide on various individual cases, has returned judgments which, in the absence of Community legislation on the matter, provide useful case law as a guide. The Commission has referred to this in drawing up the Communication in question.

2.3 The Communication is ‘intended to provide a framework for further discussion with Member States and stakeholders with a view to exploring the scope for **coordinated solutions**’. The Commission believes that there is an **urgent need** ‘to strike a **proper balance between the public interest** of combating abuse and the need to **avoid disproportionate restrictions** on cross-border activity within the EU’; moreover, it will be necessary to coordinate application of anti-abuse measures in relations with third countries.

2.4 The Commission intends to launch a discussion between the Member States on these issues involving stakeholders, so as to reach conclusions on which all agree. This should lead to **voluntary coordination of rules and procedures**. There is no question of ‘harmonisation’ — which would be too difficult to achieve in the short term — or of legislative measures, which would be practically impossible to prescribe.

3. Gist of the Communication

3.1 The Commission document takes particular care to define **the relevant terminology and background to the issue**, taking as basis ECJ judgments which have laid down a number of **basic principles**. Firstly, **an abuse is defined**: it ‘occurs *only* where, despite formal observance of the conditions laid down in the relevant Community rules, their purpose is not achieved and there is an intention to obtain an advantage by artificially creating the conditions for obtaining it (2)’. A distinction must be made between an abuse and tax **avoidance**, which is defined as ‘wholly artificial arrangements aimed at circumventing the application of the legislation of the Member State concerned’.

3.2 Another basic principle is that ‘the need to prevent tax avoidance or abuse can constitute an overriding reason in the public interest capable of **justifying a restriction on fundamental freedoms**’. However, the legitimacy of restrictive rules is dependent on their compliance with **proportionality** principles; the rules must, in addition, ‘serve the **specific purpose of preventing wholly artificial arrangements**’.

3.3 The ECJ has used **specific criteria to define** what does **not constitute a ‘wholly artificial arrangement’**: the fact that

(2) *Emsland-Stärke* C-110/99, #52-53; *Halifax* C-255/02, #74-75 (Commission document footnote).

a subsidiary is established in another Member State cannot, of itself, be said to be covered by this definition, even where activities carried out by a secondary establishment in another Member State **could just as well be pursued by the parent company**. The argument that decisions to set up secondary establishments are based on **tax considerations** is not sufficient alone: provided that there is no abuse, it is perfectly legitimate to take advantage of a more favourable tax regime in another Member State. Lastly, the fact that a secondary establishment is set up in order to **take advantage of state aid** granted by another Member State does not constitute such an arrangement either: the distortion brought about by state aid which is not in line with the Treaty should be resolved at source by other means, but this does not warrant unilateral measures to counter its harmful effects.

3.4 However, the ECJ did place limits on broader interpretation of these principles: **they do not hold where a further element of abuse is present** such as the establishment of a ‘letterbox’ or ‘front’ subsidiary, or where terms and conditions of financial transactions between related companies resident in different Member States deviate from those that would have been agreed upon between unrelated parties. A **substance-over-form** rule is therefore applied.

3.5 The Commission points out that the above criteria apply to **specific cases** but that it would be worth exploring the **practical application of those principles to different types of business activities and structures**.

3.6 As regards **proportionality**, the ECJ allows Member States to adopt ‘safe harbour’ criteria to target **situations in which the probability of abuse is high**: the setting-out of **reasonable presumptive criteria** is in the interest of both **legal certainty** for taxpayers and workability for authorities.

3.7 The Commission points out the need for **criteria ensuring fairness**: the **burden of proof** should not lie solely on the side of the taxpayer, who should be able to defend himself without excessive administrative burdens and with the guarantee that tax authorities’ assessments are subject to **independent judicial review**. Moreover, the adjustments to the taxable income as a result of the application of the anti-abuse rules should be limited to the extent that is attributable to the purely artificial arrangement. In addition, **intra-group transactions** should be assessed using the arm’s length principle. Ultimately, however, these criteria should not prevent Member States from imposing penalties on taxpayers guilty of making use of **abusive schemes to avoid tax**.

3.8 After establishing general principles, the Commission document moves on to the practical application of the rules; this part of the document will be discussed on a case-by-case basis in the Specific comments section (see below).

4. General comments

4.1 The EESC views the Commission's initiative very favourably: firstly, it aims to **coordinate rules and procedures** without giving way to the temptation of imposing constraints from above, adopting a realistic approach which takes into account the provisions of the Treaty but also Member States' concerns; secondly, it aims to **strike a balance** between the 'public interest' (in each Member State) and the 'need to avoid disproportionate restrictions' on the internal market.

4.1.1 The EESC for its part recommends that the **focus be on the individual/taxpayer**. If and when coordination is attempted, it must first and foremost be based on **fairness** in respect of the taxpayer: while this principle seems to underpin the ECJ's judgments it does not always seem to be observed in practice.

4.2 Moreover, the EESC's concern seems to be shared by the ECJ and the Commission: when the **proportionality principle** (see point 3.2 above), to be adopted to prevent **excessively restrictive rules applying in cases of 'wholly artificial arrangements'** (see point 3.3), is mentioned, this is clearly not a reference to hypothetical situations. There are numerous breaches of the rules and some may well never come to light, but there are just as many subsidiaries established abroad whose legitimacy is called into question or disputed. If tax authorities were to take on board the principles set forth in ECJ judgments then businesses would be able to operate in an environment of legal certainty, without unnecessary red tape and without running the risk of double taxation.

4.3 The EESC endorses the Commission's comment (see point 3.5) that the catalogue of lawful and unlawful cases is too varied to form the basis of **general principles** and that it is therefore necessary to explore the practical application of those principles to different types of business activities and structures. *However, looking at individual cases in the light of ECJ judgments* would as a first step enable businesses themselves to make an **initial assessment** of the likelihood of their decisions to set up subsidiaries abroad not being opposed — **provided, of course, that the authorities decide to act in line with ECJ case law**, albeit adapting it to each individual case. Taking a case-by-case approach would allow individual situations to be assessed fairly, avoiding standardised solutions based on form over substance.

4.4 If both businesses and authorities act in this way, it will be **easier to isolate 'letterbox' or 'front' subsidiaries** (see point 3.4), which constitute explicit fraud. Looking at case law in this area could help Member States when they establish **'safe harbour' criteria** (see point 3.6) **restricting fundamental rights**.

4.5 The point raised by the Commission relating to **criteria ensuring fairness** (see point 3.7) warrants particular attention. One principle of common law relating to criminal justice is the presumption of innocence, which places the burden of proof on the prosecution. Although tax law is not always based on these

rules, there is no doubt that any oppressive measures taken by authorities would be a burden for both businesses and private individuals.

4.5.1 The EESC endorses the recommendation to establish **rules for fair distribution of the burden of proof**: respect for fundamental freedoms and the presumption of innocence must underpin tax administrations' relations with taxpayers. **Rules** are needed which establish the procedures to be followed by **tax authorities when collecting proof** and which determine where their autonomy ends when it comes to **offences subject to criminal sanction**, as in the case of tax avoidance achieved by unlawful means, which is tantamount to tax evasion.

5. Specific comments: application of rules within the EU/EEA

5.1 The Commission refers to the principle that '[a]nti-abuse measures must [...] be accurately targeted at wholly artificial arrangements designed to circumvent national legislation (or Community rules as transposed into national legislation)'. Although it would be difficult to disagree with this principle, it is still very much open to interpretation. The same can be said of the recommendation that rules should not be disproportionate to the aim of curbing abuses.

5.2 The EESC believes that the only way of coordinating measures adopted — *assuming there is a sincere desire so to do* — is for the Member States to work with the Commission and examine these measures together. The purpose of the rules in each administration, though the underlying philosophies derive from different traditions and situations, is to safeguard the common good. One may hope for these differences to be mitigated, but it will be some time before the practical results are visible.

5.2.1 The EESC entirely agrees with the Commission document that **anti-abuse measures designed to curb cross-border tax avoidance must not be applied to purely domestic situations** where there is no possible risk of abuse. The ECJ also finds such measures unnecessary, as well as counterproductive in terms of competitiveness.

5.3 One important point is the **interpretation** of the terms **debt and equity financing**. One Member State may view a transaction as an equity injection and another merely as a loan on which interest is tax deductible. The same holds for hybrid entities, regarded as corporate bodies by one Member State and as transparent entities by another. This may lead to **double exemptions or double taxation**. These are familiar instances that benefit, or suffer, not only from differences in the rules applied in different Member States, but also from the different approach of administrations, prone to either favour or discourage cross-border investments.

5.3.1 The EESC finds this one of the more sensitive issues and one which should be the **basis of future discussion**.

5.4 Also germane to this are the rules on **Controlled Foreign Corporations (CFC)**. Customarily, the profits of a CFC are attributed to the parent company and taxed — albeit under a special regime — in the country where the latter is established. In the Commission's view, this difference in treatment constitutes **discrimination** unless there is 'an objective, relevant difference of situation such as to justify it'. These rules also constitute 'an obstacle to the ability of the latter to establish itself in other MSs by way of subsidiaries'.

5.4.1 The EESC calls for the rules on CFCs to be scrutinised and, if necessary, revised. Important for all companies, they are **particularly so for those in the financial sector**. As the Commission says: '[I]t is crucial that taxpayers are given the opportunity to demonstrate [...] that their transactions served bona fide business purposes'. While this can sometimes be a difficult requirement for commercial businesses to meet, **for the financial sector it could become a crucial problem**. The rules that apply in this sector on both judicial review and prudential control actually serve as a guarantee for **companies that are properly controlled**. At the same time, their complexity and the differences from country to country could provide easy loopholes for a range of **improper dealings**. Prime among these is the establishment of — sometimes fictitious or even seemingly 'normal' — companies for speculative or downright criminal ends which use sophisticated techniques to avoid tax and prudential controls. **Targeted fiscal rules** can be more useful than prudential controls in bringing these activities to light.

5.5 The rules on **thin capitalisation** (capitalisation through debt financing, a surreptitious form of equity financing) mentioned in point 4.3 are another central concern. They often diverge radically between different Member States as a result of different views and legal traditions. The advantage or otherwise of financing subsidiaries by means of equity rather than debt lies in the different treatment of dividends and interest, and businesses make this decision based on the tax regime operating in the country of the controlled company. It is not unusual for the same parent company to choose between the two systems when financing controlled companies in different Member States.

5.5.1 The Commission would like to see **thin cap rules abolished** or at least changed to exclude agreements with lenders in other Member States. This would eliminate the difference in treatment between resident subsidiaries according to the seat of their parent company. The Commission also adds that 'MSs should [...] be able to protect their tax bases from **artificial erosion through structured debt financing**, also within the EU/EEA'. The EESC **warns against making generalisations**: there could be cases where it really is necessary, or at least preferable, to use debt financing, quite apart from tax considerations.

5.5.2 The EESC's reservations would appear to be echoed in the European Court of Justice's *Thin Cap* ruling, which recognises that 'measures to prevent thin capitalisation **are not per se impermissible**. Their application must however be **confined to purely artificial arrangements**'. This form of capitalisation should not, therefore, be excluded: all that is needed is to make controls to forestall abuse more effective and to set tighter rules to ensure the transparency of transactions.

5.6 In the light of all the preceding remarks, the EESC concludes that the various arguments put forward employ concepts that are vague or interpreted in different ways — either strictly or loosely — in the various Member States. Before the discussions that the Commission would like to see can begin, there must therefore be **agreement on the terminology to be used and on the scope of every term**.

5.6.1 The same can be said of **tax avoidance**. In the view of the ECJ — though not of some taxation authorities — this is **not per se an offence** and only becomes one if '**a wholly artificial arrangement**' is involved, in which case it constitutes a **fraud** subject to administrative and/or criminal sanction. On this principle, too, a preliminary agreement is needed on not only the scope but also the interpretation of the term 'wholly artificial arrangement'.

6. Specific comments: application of anti-abuse rules in relation to third countries

6.1 Generally speaking, rules on CFCs also apply to subsidiaries of third-country companies established in the EU and to subsidiaries in third countries of companies established in the EU, except in the many cases where there are bilateral agreements. Moreover, **discriminatory treatment** is compatible with Community law where the establishment of Member States' citizens or companies in third countries, and vice versa, is concerned. This should also be the case for provisions to ban or regulate the injection of thin capital, for corporation tax and especially for specific anti-avoidance rules.

6.2 The Committee has no particular comments to make on this aspect, but would like to stress the need to pay great attention to the application of anti-avoidance rules to **new or recently established companies from certain third countries and subsidiaries of EU companies in those countries**. There is a disturbing proliferation of crime — not only financial — throughout the world. Committed and effective collaboration on this front would be even better and quicker than coordination between administrations. The problem is far less about taxation than about security: the tax authorities can make a huge contribution here.

Brussels, 17 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European economic and social Committee on the 'Governance and partnership at national and regional level, and a basis for regional policy projects' (European Parliament referral)

(2009/C 77/30)

On 22 April 2008 the European Parliament decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on

Governance and partnership at national and regional level, and a basis for regional policy projects.

On 25 May 2008 the Committee Bureau instructed the Section for Economic and Monetary Union and Economic and Social Cohesion to prepare the Committee's work on the subject. The draft opinion was prepared by Mr van Iersel, rapporteur and Mr Pásztor, co-rapporteur.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr van Iersel as rapporteur-general at its 447th plenary session, held on 17 and 18 September 2008 (meeting of 18 September 2008), and adopted the following opinion by 96 votes to 1 with 2 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the initiative of the European Parliament aiming at European, national and regional governance and partnerships in regional policy.

1.2 In the EESC's view good governance implies 'multi-level government' and partnerships with representative organised civil society at regional level.

1.3 Consequently, the EESC agrees with the Council and the Commission as to the desirability of effective 'multi-level government' and better governance in applying EU-Funds and implementing EU-policies. The question is not 'if', but 'how'. It is a matter of fine-tuning bottom-up initiatives and top-down framework conditions.

1.4 The EESC endorses the Parliament's proposal to set up a formal Council of Territorial Development. It would underline 'multi-level government' and it would make discussions and agreements more obligatory.

1.5 In the view of the EESC, 'multi-level government' is a flexible structure of relations between Commission, governments, and regional and local authorities, tailor-made according to specific situations and thematic considerations rather than a hierarchical framework of competences between governmental layers. Good governance is characterised by open-minded relations and a less strict application of the 'subsidiarity' principle.

1.6 Europe needs self-confident resilient and sustainable regions and cities. As a number of examples show, regions and cities often get positive impulses from the dynamics of economic internationalisation. They find new ways to put themselves successfully on the map.

1.7 Notwithstanding the wide and often complicated variety of administrative structures in the Member States, for the future

the EESC strongly pleads procedures and working methods that enhance responsibility and accountability of regions and cities ⁽¹⁾.

1.8 Practical evidence shows that decentralised responsibility and accountability foster leadership and vision. These usually form a firm base for public-public partnerships as well as for public-partnerships with a number of stakeholders such as social partners, chambers of commerce, companies, development agencies, housing organisations, quangos, environmental agencies, social organisations, schooling facilities at all levels, architects, and artists.

1.9 Consequently, representative organised civil society at regional level should be given the opportunity for responsible and transparent involvement in defining and executing EU regional programmes. Taking local and regional (non-governmental) views on board will contribute to the acceptance of the values of the Union by the citizens.

1.10 The EESC is of the opinion that well-structured consultations can lead to successful partnerships with non-governmental stakeholders in the whole chain of defining, monitoring and evaluating regional policy ⁽²⁾.

1.11 Flexible 'multi-level government' and good governance, and corresponding synergies focussed on tailor-made solutions can be most helpful to respond to the ultimate objective of EU and national regional policy, which is to activate existing forces and hidden potentials of regions and cities.

⁽¹⁾ In the EESC's view, 'regions' and 'cities' are not necessarily similar to corresponding existing administrative entities, but it is rather a dynamic concept consisting of coherent socio-economic areas embracing network-regions, cities and their surroundings, interconnected municipalities and metropolitan areas.

⁽²⁾ See EESC Opinion 'Partnership for implementing the Structural Funds', OJ C 10 of 14.1.2004, p. 21.

1.12 A European exchange programme can be set up for officials in regions and cities as well as a well-structured system of exchanges of experiences and the disseminating of good practices. Specialised research institutes and universities can be supportive.

2. Context

2.1 Since 2001, 'governance' rightly came to the foreground because of the growing need to link EU policies more directly with compliance and implementation by and in Member States ⁽³⁾.

2.2 In the same perspective, the EESC welcomes the forthcoming report of the European Parliament on national and regional governance and partnership ⁽⁴⁾. It is a positive signal that the EP as a European Institution is showing an increasing interest in the way regional policy is shaped concretely in the Member States.

2.3 More generally, the EP paper demonstrates that the dynamics of developments, such as economic internationalisation and continuous change inevitably ask for adjustments in the strict application of the principle of 'subsidiarity'. More flexible interaction and synergies between the various levels of government are needed to keep pace with worldwide developments and to implement commonly agreed European policies successfully. The changed procedures as to the realisation of the Lisbon Strategy, in which Commission, Council and Member States share responsibilities, is an illustrative example of such interaction and implementation.

2.4 'Multi-level government' in which the Commission, national administrations and governments, regional and local authorities each have their place and also share responsibilities in a common framework, is the footprint of the same dynamics.

2.5 Regional policies and projects are shaped in the framework of national and regional administrative practices which are usually tremendously complicated and varied. But it is obviously in the interest of citizens and business that policies and projects are carried out correctly and in a consistent way across Europe.

2.6 The attention of the EP for this subject as well as the many questions to be answered to promote convergence of practices across the EU in view of attaining optimal successes in regional policies boil down to corresponding considerations worked out in documents of the Commission and the Council.

2.7 A number of these considerations and corresponding principles are worked out in the Commission's staff working

document 'Innovation and regional policy' ⁽⁵⁾ in preparation of the Informal Ministerial Meeting on Territorial Cohesion and Regional Policy in the Azores ⁽⁶⁾. They were already applied and to a certain extent implemented in the period 2000-2006. Time and again the Commission argues that enhanced '*competitiveness cannot be achieved by individual Member States or by regions alone: close cooperation is required amongst all relevant public authorities, business, citizens and social partnerships in a partnership with the European Commission and the European Institutions*' ⁽⁷⁾. Moreover, successful evaluation requires up-to-date administrative and institutional capacity.

2.8 The Commission argues that progress will be only possible by developing multi-level systems for innovative government, which includes strategic coordination, an adequate strategy mix for each region — there is no single 'miracle strategy' — in which networks, clusters, poles of excellence are identified, possibly supported by regional agencies, for selection.

2.9 For the programming period 2007-2013, the Commission deepened its objectives in the Community strategic guidelines on cohesion with a focus on competitiveness, growth and human resources. It developed a European territorial objective focussing on '*cross-border cooperation through joint local and regional objectives and initiatives, trans-national cooperation aiming at territorial development, and interregional cooperation and exchange of experience*' ⁽⁸⁾.

2.10 The Ministers for Territorial Cohesion and Regional Policy defined an Agenda for regions and cities in the Leipzig Charter and the Territorial Agenda ⁽⁹⁾. In the Azores, the Informal Ministerial Meeting took the next step in defining the way in which the Agenda for regions and cities must be carried out. The Ministers underlined strongly in the First Action Programme ⁽¹⁰⁾ their '*belief that multi-governance is a fundamental tool for a balanced spatial development of the EU and offer ourselves to convene with selected stakeholders and local and regional authorities the implementation of the Territorial Agenda priorities*'.

2.11 In this programme, the Ministers further underlined that the aims of the Territorial Agenda can be best pursued 'according to the institutional arrangements within each Member State, through a strong involvement of national, regional and local powers and stakeholders and a dialogue with the European Commission and the other European Institutions' ⁽¹¹⁾. Here again, one notices the emphasis on the need of mutual discussion, support and action in the whole governance chain, from local actors across Europe to the Commission and vice versa.

⁽³⁾ *European Governance*, COM(2001) 428 final presented amongst others a new vision on the way the EU could and should function, creating better involvement and more openness, identifying sharply the link between policies, regulation and concrete delivery. It was explicitly intended to improve the connection of Europe with its citizens.

⁽⁴⁾ PE407.823v01-00 — Rapporteur Jean-Marie BEAUPUY.

⁽⁵⁾ SEC(2007) 1547 of 14.11.2007.

⁽⁶⁾ Meeting during the Portuguese Presidency, 23 and 24 November 2007.

⁽⁷⁾ *ibid.* pag. 6. See also pag. 18: decisive factors for a successful region.

⁽⁸⁾ *ibid.* pag. 17.

⁽⁹⁾ '*Leipzig Charter on Sustainable European Cities*' and '*Territorial Agenda of the European Union, Towards a More Competitive and Sustainable Europe of Divers Regions*', Informal Ministerial Meeting on Urban Development on 24/25 May 2007.

⁽¹⁰⁾ '*First Action Programme for the Implementation of the Territorial Agenda of the European Union*', 23 November 2007.

⁽¹¹⁾ *Ibid.* pag. 8.

2.12 In the five lines of action the Ministers emphasised the need for strengthening multi-level territorial governance, new forms of partnerships and territorial governance as well as the need to give a territorial/urban dimension to sectoral policies.

2.13 It is nonetheless disappointing — if not typical — that in the Action Programme the responsibility for concrete implementation, at least in its definition, still remains nearly exclusively in the hands of the Member States, and that regional and local authorities and other stakeholders are rarely mentioned as an indispensable part of the process. The traditional concept of 'subsidiarity' still prevails.

3. General comments

3.1 There are obstacles to transparency, consistency and efficiency in planning and implementing regional policy. These are partly due to the organisation and working methods of and between Directorates General and European Funds at EU-level. For a large part, however, they are due to defaults and gaps in the functioning of 'multi-level government' and in the implementation of policies and programmes.

3.2 The draft report of the EP rightly demonstrates that a number of positive initiatives have been taken to improve governance at EU-level, such as URBAN I and II, LEADER and Urbact.

3.3 According to the EESC, some of the initiatives, however, are rather vague, such as the Territorial Agenda. Besides, there is no practical evidence to what extent 'multi-level government' is a success factor in the above-mentioned programmes.

3.4 Although 'multi-level government' is becoming a more accepted practice across the Union, transparent and consistent working methods, and communication are still lacking. This is largely due to the fact that the EU does not operate as a unitary state.

3.5 Also the way in which national governments and stakeholders such as decentralised authorities perceive the place of the EU in the concept of 'multi-level government' sometimes differs greatly depending on national interests and cultural traditions.

3.6 A third consideration as to possible problems with 'multi-level government' flows forth from the broad variety of administrative and political concepts that exist in Member States themselves, and which are deeply rooted and usually not apt for change.

3.7 These considerations demonstrate that a one size fits all approach at EU level in regional planning and programming is almost impossible. National and often also regional structures, approaches and attitudes remain decisive. Nonetheless, practical circumstances, such as actual international financial and socio-

economic developments, force to a re-examination of procedures in order to make regions resilient and fit for change.

3.8 EU regional policy should be a bottom-up as well as a top-down process. Bottom-up because regions have to identify and improve their social and economic, environmental and competitive conditions, and because European (and national) regional policy has necessarily to be implemented on site. Top-down because of the financial resources and framework conditions which are provided and defined at EU and national level. It never is one-way traffic.

3.9 The initiatives taken at EU level and the good intentions of Member States to promote more effective and convergent administrative approaches across Europe must be judged positively. Good governance in regional policy, however, requires first and foremost adjustments in rigid forms of 'multi-level government', which boils down to adjustments in governmental style and mentality.

3.10 The above-mentioned documents in Chapter 2 demonstrate that the Council largely shares this view. This is certainly a big step forward. But from words to practical implementation is often a long road.

3.11 Effective implementation is easier to accomplish in countries and regions with a decentralised tradition than in administratively centralised systems. Additional complications arise in the some Member States, where a fine-tuned regional policy does not exist and where regional authorities are still not fully established.

3.12 The EESC emphasises the need of better and accurate European statistics as a basic requirement for effective regional policy.

3.13 The EESC supports all endeavours to improve European governance. It should result in a better and more transparent link between 'policies' and delivery. For delivery, the participation of regional and local stakeholders, public and private, is indispensable. They must be taken on board more visibly. Involvement usually leads to shared commitment and responsibility. In the view of the EESC this is crucial.

4. 'Multi-level government': interaction between Commission, governments and regions

4.1 At the level of the Commission, the presentation of the various Community funds, related to regional policy, should become more coherent. The overall picture of principles, targets and objectives of Community policies in this field is rather confusing for outsiders.

4.2 There is a need for a commonly agreed approach between the Directorates General of the Commission. In this respect the Interservice Group Urban Affairs ⁽¹²⁾ can be very helpful.

⁽¹²⁾ The Interservice Group Urban Affairs dates from ... All DG's dealing with specific fields of interests of cities are represented.

4.3 A more cohesive presentation and the visibility of a common approach at EU-level may also set an example for governments and ministries to come to integrated approaches to regions and cities where these at national level usually are lacking. It will be helpful anyway to close to a certain extent the gap between the EU-level and regions and cities.

4.4 A flexible implementation of 'multi-level government' and corresponding synergies can be a welcome incentive for adjusting administrative practices in Member States. As the ultimate objective of regional policy is to activate as much as possible the (hidden) potentials of regions and cities, governmental structures must be organised accordingly in a transparent and consistent way.

4.5 The EU Funds, in close coordination with national programmes, have to offer stimulating incentives to foster these potentials.

4.6 The Commission has also a wider role in linking regions and cities to Europe and in supporting self-confident resilient and sustainable regions and cities: by explaining, also at decentralised level, the significance of the Lisbon Agenda (which up till now is still not well understood); by building awareness among the future role of cities and metropolitan areas; by disseminating successful approaches across Europe⁽¹³⁾. Specialised research institutes and universities can be supportive in this respect.

4.7 In the view of the EESC, this certainly does not mean new bureaucratic procedures, but rather less bureaucracy and red tape, and a targeted and consistent decentralisation.

4.8 According to the EESC, decentralisation is very promising in that it accentuates the responsibility of regional and local authorities and fosters accountability.

4.9 Responsibility and accountability are key. They are the building blocks for the basic requirements of any regional development, which are leadership, vision and consistency. There are outstanding examples of these in Europe⁽¹⁴⁾.

4.10 The EU and national governments should take into account the mechanisms and working practices in successful regions and cities, including metropolitan areas. These are not tiny 'states'. They are of a different nature; their management differs fundamentally from state-level management.

⁽¹³⁾ The Commission has worked out expertise for 26 regions in France in a form of benchmarking.

⁽¹⁴⁾ One outstanding example is Bilbao, where twenty years of leadership, vision and consistency have produced a modern, future-oriented metropole in a region that was totally depressed and in bad shape in the early eighties. This leadership in Bilbao was financially supported by the Central and Basque government and by the province, an example of efficient public-public partnership as well as by a convincing partnerships with organised civil society and with the private sector.

4.11 Their approach is often inspired by concrete objectives that are drivers for the total development⁽¹⁵⁾; their image is most of the time determined by improvement of conditions for (foreign) investment, clusters and human resources. At the same time, nowadays, sustainable development is high on the agenda, and so is social inclusion, and quality of work and living conditions.

4.12 A European exchange programme can be set up for officials in regions and cities. Cross-border knowledge of one another's approaches and strategies, e.g. regarding spatial development, promoting economic attractiveness and social housing will be very beneficial.

4.13 The EESC suggests to set up twin programmes between regions and cities across Europe as these already exist in a number of other policy areas, in order to make their regions accustomed to decentralised programmes and procedures.

4.14 Such well-structured exchanges within Europe can add to a change of mentality and attitude to promote expressiveness and resilience of regions and cities. As a number of examples demonstrate, regions and metropolitan areas often get positive impulses from the dynamics of economic internationalisation. They find new ways to put themselves on the map.

4.15 Community programmes can support this awareness, either by projects co-financed by the Funds, or by targeted communication and advice given by Commission officials. They can be helped by specialised advisory bodies operating across borders. Support of the EP favouring to structure this process, that is already on its way, would also be most helpful.

4.16 The EESC endorses the proposal of the EP to set up a formal EU Council of Territorial Development. It would underline the significance of 'multi-level government'. It would be a good platform for developing ideas about a holistic approach for regions and cities. It would make discussions and agreements in the Council more obligatory.

4.17 On the basis of the First Action Programme (2007)⁽¹⁶⁾ a European discussion could be started on the modernisation of administrative systems and practices as to the relationship state — regions/cities. Its objectives should be: reduction of bureaucratic procedures, confidence building, promotion of resilient and sustainable regions and cities transparency, shortening of lines between decentralised levels and EU-level.

⁽¹⁵⁾ Among these, interesting examples are the junction of fast trains in Lille, the Olympic Games and the 500th anniversary of the discovery of America by Columbus in Barcelona, and a future-oriented new city-centre in Birmingham. In all three cases these driving objectives were a fresh starting point for a new development.

⁽¹⁶⁾ See *First Action Programme*, pag 5: 'New forms of territorial governance are required to foster a better integrated approach and a flexible cooperation between different territorial level'.

4.18 These suggestions are to be seen as part of a better 'governance' of the relationships between public authorities at all levels. These should not or no longer be seen in the framework of a hierarchy of competences between governmental layers. By contrast, in the view of the EESC 'multi-level government' is a flexible model of relations between Commission, national governments, and regional and local authorities, tailor-made according to specific situations and thematic considerations.

5. Good governance implies partnerships with organised civil society

5.1 In the EESC's view up-to-date local and regional management requires active involvement of the various segments of the local and regional communities. They can bring in varied competences and views, responding to specific needs. Explicitly or implicitly this is also recognised in a number of considerations of the Council ⁽¹⁷⁾.

5.2 The central reference concerning 'partnership' is article 11 of the general regulation on the structural funds that calls for partnership, i.e. consultation and involvement of socio-economic actors and organised civil society ⁽¹⁸⁾.

5.3 In the view of the EESC good governance in regional policy includes responsible and transparent participation of representative and legitimate civil society, consisting of well-defined actors at regional level. Consultation and involvement should take place in defining, programming and evaluating regional projects. This cooperation should also be accomplished in case of interregional and cross-borders projects, amongst others in the framework of a European grouping of territorial cooperation ⁽¹⁹⁾.

5.4 In more general terms the EESC's view is that decentralisation is salutary in fostering responsibility and accountability

of local and regional authorities that will also activate non-governmental stakeholders like social partners, chambers of commerce, companies, development agencies, housing organisations, quangos, environmental agencies, social agencies, schooling facilities at all levels, health care, architects, and artists.

5.5 Despite intentions expressed by the Council and a continuous dialogue between the Commission, and Member States and regions to foster such partnerships, these are still only practice in a limited number of cases ⁽²⁰⁾. In many cases they simply do not exist. Good examples should be published.

5.6 For its part, representative civil society has also to be organised satisfactorily at regional level, and it has to dispose of the right competences. These conditions are not easy in those cases where civil society is weakly developed or when it reflects a wide variety of sometimes opposing interests.

5.7 The Commission should be given the opportunity to act as a catalyst and as a promoter of learning curves in decentralised governance.

5.8 Also the awareness and the vision on the need of change and adjustment in regions and cities can foster more and better partnerships. Experience shows that a consistent vision among public authorities creates room for intensifying cooperation with other stakeholders. Article 11 on Partnership in the general provisions on the Structural Funds should be taken in consideration in the same perspective.

5.9 There are many opportunities. Better governance at decentralised level will make societies as a whole more resilient and fit for the future.

5.10 In view of the fact that the European Commission intends to publish a document on the issue of partnership in the framework of the EU Cohesion Policy later this year, the EESC proposes to return to this matter in more detail in a separate Opinion.

Brussels, 18 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹⁷⁾ See Chapter 2.

⁽¹⁸⁾ Council Regulation (EC) 1083/2006, July 2006, that is to be applied on all EU cohesion policy programmes for 2007 to 2013. It goes without saying that partnerships at national level, however important they are, cannot be a substitute for partnerships with regional civil society.

⁽¹⁹⁾ Regulation (EC) 1082/2006, July 2006. This regulation regarding cross-border operations is limited to administrative practices.

⁽²⁰⁾ At several occasions the EESC has pleaded partnership in the implementation of regional policy, e.g. 'Partnership for implementing the Structural Funds', OJ C 10 of 14.1.2004, p. 21, and the 'Role of civil society organisations in the implementation of EU cohesion and regional development policy', OJ C 309 of 16.12.2006, p. 126. Regional partnership should be guaranteed in other fields, such as the Competitiveness and Innovation Programme and FP7, see the EESC opinion on 'The territorial governance of industrial change: the role of the social partners and the contribution of the Competitiveness and Innovation Programme', OJ C 318 of 23.12.2006, p. 12.

Opinion of the European Economic and Social Committee on the ‘Proposal for a Council Directive on tax exemptions applicable to the permanent introduction from a Member State of the personal property of individuals (Codified version)’

COM(2008) 376 final — 2008/0120 (COD)

(2009/C 77/31)

On 18 June 2008, the Council of the European Union decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on

Tax exemptions applicable to the permanent introduction from a Member State of the personal property of individuals (Codified version).

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it decided unanimously, at its 447th plenary session of 17 and 18 September 2008 (meeting of 17 September), to issue an opinion endorsing the proposed text.

Brussels, 17 September 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the ‘EU-Africa Strategy’

(2009/C 77/32)

In a letter dated 11 July 2007, Commissioner Louis Michel, Commissioner for Development and Humanitarian Aid, asked the European Economic and Social Committee to draw up an exploratory opinion on

The EU-Africa Strategy.

The Section for External Relations, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 17 July 2008. The rapporteur was Mr Dantin.

At its 447th plenary session, held on 17 and 18 September 2008 (meeting of 18 September 2008), the European Economic and Social Committee adopted the following opinion by 89 votes to none, with no abstentions.

1. Conclusions and recommendations

1.1 In the globalised context of this new century, **there is a need for considerable evolution in the relations between Europe and Africa, by drawing on the lessons of the past**, in particular by working towards a partnership based on equal rights and obligations. After decades of cooperation and development aid, extreme poverty in Africa is worsening and deepening; the fruits of misdirected growth, characterised by low job creation, are unevenly distributed and therefore entrench inequalities; over 55 % of the sub-Saharan population lives on less than a dollar a day; over 70 % of the total number of jobs are in the informal subsistence sector, and over 57 % of them are in agriculture. The picture that emerges is one where decent and productive jobs are dramatically scarce.

1.2 The stakes are high, especially in terms of Africa’s development and stabilisation, but also in terms of Europe’s security and ability to achieve steady sustainable growth.

1.3 **The development policies** followed up to now by the European Union pursuant to the various agreements (Lomé, Yaoundé, Cotonou) and the funding devoted to them **have not achieved the desired results**, especially as regards creating decent jobs. That said, **this state of affairs cannot continue**, and change being indispensable, the Committee welcomes the success of the EU-Africa Summit held in Lisbon on 8-9 December 2007.

1.3.1 It particularly welcomes the fact that employment is treated as a cross-sector issue.

1.4 The EESC believes that developing decent employment is central to reducing inequality and poverty, fostering social integration and living with dignity, which are vital for stemming extremism and conflicts and achieving the stability required.

1.5 The Committee believes that in order to create decent employment, measures geared to this essential objective must be taken by acting on the parameters set out below, and which, although intrinsically different, are linked by strong synergies that generate interactive reactivity and form a single policy.

1.5.1 Growth is mainly natural-resource based and creates little employment. **It must be re-directed to the primary processing and refinement of products.** Investment should be geared to this end, with emphasis on sectors with high added value.

1.5.2 **The private sector is of the utmost importance, and through it, SMEs.** The EU should make SME development a pillar of its cooperation policy.

1.5.3 Current rises in raw material prices are an additional reason for **making the agricultural sector a strategic development priority.** Since agriculture accounts for a considerable proportion of land use and rural employment, it should contribute to self-sufficiency in food, the development of processing industries, and to halting the rural exodus at the same time.

A short, medium and long-term agricultural policy must be set up and priority given to ensuring that there is a budget for its implementation. This policy should be drawn up and implemented in coordination with agricultural organisations.

1.5.4 **Developing human resources** is an indispensable factor in all development strategies. Thus, there is a need to analyse employment needs and the labour market, make forecasts, **and anticipate the major challenges involved in adapting vocational training to employment.**

1.5.5 **While regional and sub-regional economic integration** has progressed significantly, trade potential has yet to be fully exploited. In particular, measures should be coordinated in order to harmonise customs procedures, improve infrastructure and guarantee the free movement of citizens. From this perspective, the Committee regrets that **regional negotiations** on economic partnership agreements, which include economic integration among their objectives, have not been concluded at the time of writing.

1.5.6 **Social dialogue** should accompany and enhance all development policies, especially through collective bargaining. **For this reason, there is a need to establish or foster strong and independent employer and employee organisations.**

1.5.7 **The involvement of non-state actors is indispensable for creating decent jobs and should therefore be central to the common EU-Africa strategy.** They should therefore be involved in drawing up national and regional indicative programmes.

1.5.8 **'Good governance'** is the key to investor confidence. From this perspective alone it is essential for job creation. It should be considered in its entirety and include respect for human rights and workers' rights, including trade union freedoms, labour standards and action to **combat corruption.** On this last point, the EU and its **Member States should make financial aid contingent upon the traceability of aid flows to the end-user.**

2. Introduction

2.1 In a letter dated 11 July 2007, Commissioner Louis Michel, Commissioner for Development and Humanitarian Aid, asked the European Economic and Social Committee to draw up an exploratory opinion on *the diverse issues raised in the Communication entitled 'From Cairo to Lisbon — The EU-Africa Strategic Partnership'*, in particular the question of **how to reduce the employment deficit in Africa.**

2.2 The EESC welcomes this request which, whilst in keeping with the spirit of the development policies applied in Africa for many years, seeks to raise new questions as to the future situation, in particular with reference to the decisions of the EU/Africa Summit, outlined in the declaration entitled *The Strategic Partnership*, which is accompanied by a *First Action Plan (2008-2010)* for its implementation.

2.3 By requesting the opinion of the Economic and Social Committee on **employment**, the Commission is making it clear that it has identified employment as the primary objective of its development policy and that economic and social stakeholders have a role to play in **eradicating poverty by creating decent jobs.** The EESC is delighted to note this.

After taking a brief look at the policies of the past and their results and following an overview of the situation in Africa today and its future policies, this opinion will highlight the key areas where the Committee believes action needs to be taken to help create decent jobs. This research will take into account the guidelines and action plan which were adopted at the EU/Africa summit held in Lisbon on 8 and 9 December 2007. Accordingly, it will be based, in particular, on the EESC's previous opinions on development in Africa ⁽¹⁾.

⁽¹⁾ CESE 1205/2004 *The role of women's organisations as non-state actors in implementing the Cotonou Agreement* Rapp. Ms Florio. September 2004.

CESE 1497/2005 *How to integrate social aspects into the Economic Partnership Agreement* Rapp. Mr Pezzini and Mr Dantin. December 2005.

CESE 753/2006 *Prioritising Africa: European civil society's perspective* Rapp. Mr Bedossa. May 2006.

CESE 673/2007 *Migration and Development: Opportunities and challenges* Rapp. Mr Sharma. December 2007.

Reports by the EESC's EU-ACP Follow-up Committee: *Human resources for development* Rapp. Ms King and Mr Akouete. May 2007.

3. General comments

3.1 Africa is a continent of many faces. It is made up of states that are often different in terms of history, culture, their ethnic make-up, own resources (minerals, oil, diamonds ...), climate or indeed as regards democracy, good governance and respect for human rights ... This has led to a whole variety of differing economic and social levels. It is therefore difficult to understand or to view this continent in a general and uniform manner. That being said, its countries share a number of common traits, most importantly their relations with Europe, both past and future, or indeed a shared history which will give rise to a common future as part of a joint movement for change.

3.2 In the globalised context of this new century, there is a need for **considerable evolution** in the relations between Europe and Africa, by drawing on the lessons of the past. This must be structured around an understanding of the need to build a shared future which must be developed around common challenges and common risks, an approach based on mutual interest, rather than on a short-lived shared history, on compassion or loyalty, at the risk of forcing certain partners, on both continents, to confront their own conflicting positions.

3.3 Much is at stake. Only fifteen kilometres from Europe, the African continent concentrates all of the 'major risks' of the modern world on its territory: uncontrolled migration, emerging epidemics, climatic and environmental disasters, the threat of terrorism ... But it also has the most potential, both in terms of natural resources and in foreseeable consumer and investment demands.

3.4 Undoubtedly, the European Union remains Africa's principal economic partner and its most important donor. Yet this historical monopoly is now being broken up by an offensive from the 'emerging backers' — firstly China, but also India, the larger Latin American nations and the Gulf Kingdoms, even Iran, as well as by the return of the USA, which is keen to maintain the security of its energy supplies, to combat the threat of terrorism, to extend Christian values and democracy into new territory, and to counter the 'entry into the game' of the Chinese, something they see as a worrying development ^(?).

3.5 Yet it is also clear that the future security of the European continent, such as its capacity to maintain steady sustainable growth, will be closely and immediately dependent on Africa's development and stability. Europe cannot continue to exist as an island of prosperity over the medium and the long term being located only fifteen kilometres away from a continent whose defining characteristic is misery. At stake is the sustainable development of the European Union, which must realise that now it is Africa which is its border.

3.6 'Europe's strategy towards Africa has long been characterised by an unequal **donor-recipient** relationship, coupled with an ideologically misguided clean conscience, and a

unilateral vision of our interests. This antiquated, unrealistic vision has been extremely damaging. There is a need to turn a new page and establish a new form of partnership, between partners who are equal both in terms of rights and responsibilities, who share an approach based on such factors as sustainable development, good economic, fiscal and social governance and the transfer of technology ...' ^(?).

3.6.1 This strategy, based on an unequal 'donor-recipient' or 'financial backer-recipient' which has been given a concrete form through the contents of the various agreements that have governed or govern relations between the EU and Africa can only be termed a 'failure' ^(?), given the economic and social situation in Africa today. **Clearly, this state of affairs needs changing.**

It has reduced the African countries to a state of dependence, particularly in terms of financing, leading them to mortgage the dynamism needed for successful access to the world's economy.

3.6.1.1 After decades of development aid as practised by the European Union, by numerous Member States (often former colonial powers), and by international organisations such as the World Bank, the extreme poverty of Africa is only getting worse.

3.6.1.2 Whereas emerging economies or regions such as China, India, South-East Asia or Brazil are developing into economic powers, and taking their share of international trade, Africa has, bar a few exceptions, yet to take off economically.

3.6.1.3 Why has a country like South Korea which, only a few years ago, lived 'for rice and on rice' managed to become one of the world leaders in electronics, shipbuilding, IT services and car manufacturing ... and not Africa?

3.6.1.4 Europe still remains the first importer of African products. However, despite nearly twenty-five years of favourable customs tariffs, the volume of exports from Africa to the EU has more than halved, falling from 8 % in 1975 to 2.8 % in 2000, in relation to the volume of trade worldwide. This preferential customs treatment has not been sufficient. It is the uncompetitive nature of African goods which has compromised the continent's ability to export its goods to Europe.

3.6.1.5 The fruits of Africa's growth, primarily derived from the exploitation of its natural resources, have been unevenly distributed, widening inequalities still further, making the poor as poor or even poorer than they were, while the rich become even richer. All of which is a long way from good economic governance, raising a whole host of ethical concerns. Numerous Africans have spoken out against this state of affairs:

— '(We must) repatriate the funds illegally obtained in the countries of origin and stored away in foreign bank accounts' ^(?).

^(?) Union Européenne/Afrique: *Le partenariat stratégique* Nathalie Delapalme, Elise Colette. Notes de la Fondation Robert SCHUMANN December 2007.

^(?) Speech by Commissioner Louis Michel at the EU-China-Africa conference organised by the European Commission in Brussels on 28 June 2007.

^(?) Response from Commissioner Michel to a speaker at the Joint Parliamentary Assembly at Kigali. 18, 19, 20, 21, 22 November 2007.

^(?) African Union Extraordinary Summit on Employment and Poverty Reduction in Africa. From 3 to 9 September 2004 in Ouagadougou. Final Declaration (Article 16).

— ‘We are ill with poor governance some countries are even poorer than they were before oil or diamond mining began...others are ruled by leaders whose personal assets outstrip their countries’ national debt! This evil hasn’t come from outside but from within, from ourselves’ ⁽⁶⁾.

4. From Cairo to Lisbon: a new EU-Africa strategy

4.1 Policies implemented to date, and the funding they receive, have not always delivered the desired results, especially where creating decent jobs is concerned. That said, and changes being indispensable, the Committee is delighted with the success of the Lisbon Summit on 8 and 9 December 2007. It takes pleasure in the political will which has made it possible to extend cooperation or even to redesign it through a change of direction, and to thus develop both trade and political relations between the two continents.

4.2 Seven years after the Cairo summit, the Lisbon summit has laid the foundations for a new strategic partnership of equals between Africa and the European Union, based on a set of common values, principles and interests which will enable them to address the global challenges on the international scene together: peace and security, governance and human rights, migration, energy and climate change, trade, infrastructure and development.

4.3 Its contents aside, what makes this strategy original and ground-breaking is the implementation, alongside the declaration of an operational phase, of eight priority action plans (cf. Appendix 1 to this opinion), a type of roadmap or working plan which will translate into concrete terms the implementation of strategic priorities and choices identified by the two continents. The progress made in achieving these eight action plans, which like the Cotonou Agreement are extremely ambitious, will be assessed at the next summit in 2012.

4.4 The EESC views as positive the fact that, in addition to the declarations which are undoubtedly important, a whole working framework has been set up, which will make these declarations an operational reality and, in particular, allow evaluation of their implementation in 2010.

4.5 The EESC emphasises that each of the eight partnerships, set out as action plans, can contribute to the development of decent jobs once the necessary political decisions have been taken and provided that it is accompanied by specific employment policies (See Chapter 7).

4.6 However, despite these achievements, the good will demonstrated by those at the summit was nonetheless unable to conceal a number of difficulties and potential dangers raised by certain African leaders. They felt that while the new strategy was indeed innovative through its creation of a balanced partnership, it would not lead to a rapid improvement in relations which were even today still seen very much in terms of dominant and dominated partners:

— There was harsh criticism of the EU’s bureaucracy whereas ‘with China, it is so easy to obtain the tractors that we need straight away ...’

— The EU was expected to either compensate Africa for its colonisation and despoiling or to accept Africa’s immigrants ...

— Doubts were expressed as to whether it would be possible to conclude the economic partnership agreements in a true spirit of partnership ...

— There was condemnation of the divergent views on the Zimbabwe crisis ...

A long and winding road still lies ahead of the two sides if they are to achieve their aims in a spirit of renewed confidence.

4.6.1 In this context, the EESC believes that it is primarily the responsibility of the African governments themselves to **assume, within the framework of a balanced partnership, the responsibility for good governance, the fight against corruption** and to attract direct or foreign investment to reduce poverty in their countries. This assumption of responsibility, a concomitant of their sovereignty, is indispensable for a renewed partnership. This means that adherence to the cause of the balanced partnership between Africa and the European Union will be a vital principle from now on and will find its full expression and move towards the creation of decent jobs.

4.7 The EESC notes with satisfaction the role given to civil society, not only in the institutional sense (relations between the EESC, and the UN’s ECOSOC) ⁽⁷⁾ but also with regard to the non-state actors who make up organised civil society ⁽⁸⁾. From this point of view, if the political will which has been expressed is to take shape and be turned into action, the difficulties encountered in the implementation of these issues in the Cotonou Agreement must be taken into account, even at the risk of failure.

All in all, the Committee approves of the general direction towards progress which the EU-Strategy brings to the continent as a whole.

5. Decent employment, a vital objective for an effective EU-Africa Strategy

5.1 Article 55 of the EU-Africa Strategy stipulates that: *Employment issues, notably social protection, the shortage of employment opportunities and the promotion of decent work in Africa, will be jointly addressed, with priority being given to creating productive jobs in the formal economy, improving poor living and working conditions in line with the UN decent work agenda and integrating the informal economy into the formal.*

5.2 The Committee is delighted that the employment question has been formally taken into account in the EU-Africa Strategy and believes that developing this issue lies at the heart of all efforts, both in terms of quality and quantity, to tackle inequality, poverty and social integration, which are necessary to absorb extremism and conflicts and are therefore necessary for the stability of the countries of Africa.

⁽⁶⁾ Statement by the President of an ESC from a Francophone country of West Africa at the general assembly of the UCESA (Union of African ESCs) 13 and 14 November 2007 in Ouagadougou.

⁽⁷⁾ See Articles 104 and 105 of the declaration.

⁽⁸⁾ See Articles 106-110 of the declaration.

6. The employment situation in Africa

The participation rate is high (68.6 %). While the unemployment rate is also high (10.3 %), **it is the shortage of decent and productive jobs that presents the gravest problem: 46.2 % of the population, of which 55.4 % are in sub-Saharan Africa, live on less than a dollar a day.** In other words, a substantial proportion of the active population is employed in informal, mostly subsistence, jobs. The informal economy accounts for 68 % of total employment, 57.2 % of which is in the primary agricultural sector. These jobs are mostly filled by young people and women; since the latter play a decisive role, being at the heart of their economic communities and families, they constitute the woof and warp of Africa's economic and social organisation (cf. Appendix II to this opinion).

7. Creating decent and productive jobs

In view of the foregoing, the priority for Africa is to create decent and productive freely chosen jobs. Nothing else will contribute effectively to eradicating poverty, living in dignity and setting up effective social protection for all, while incorporating the gender aspect at all levels, as well as youth issues since young people are Africa's future and to ensure solidarity among generations.

Indeed, without productive employment, decent living standards, economic and social development and personal development will remain elusive. These objectives come before anything else for the development of human resources and private sector businesses. To reach its full potential this process must form part of a facilitating framework that includes democracy, rule of law, good governance, and respect for human and social rights ...

The EU-Africa strategy adopted at the Lisbon summit addresses employment as a horizontal issue. The purpose of this chapter is to take an in-depth view of this central question through analysis and proposals for guidelines by discussing the key levers liable to contribute to the objective's approach: This is essentially a macroeconomic strategy. However, in order to deal with the diversity of actions required, it would be useful to draw up, at a later stage, an inventory of the development aid activities carried out by European NGOs in Africa, highlighting the range of successful programmes, especially where these programmes are implemented in cooperation with local communities and/or groups (cooperatives, market gardeners, educational or health facilities) and contribute to creating jobs.

Nevertheless, and in addition to the foregoing, the Committee emphasises with force that the **development of Africa, and hence the creation of decent and productive employment can only be achieved through greater stability in the countries that make up the continent.** A considerable number of these countries are still plunged in interminable conflicts. Over the last ten years, conflicts in Guinea, Liberia, and Sierra Leone, resource-rich countries, mainly in diamonds and wood, have plunged the region into severe crisis, generating a large outflow of refugees. And this is not to mention the conflict in Darfur crippling Sudan, the 'forgotten war' in North Uganda, persistent

insecurity in the east and west of the Central African Republic, and instability in the Congo ... Given the situation, the European Union and, more generally, the international community have an important role to play when faced with such a decisive issue for the continent's future because, compounding the atrocities committed, there lies a fact that nobody seems able to ignore or accept, namely that whereas employment can contribute to the stability of States, the instability of States prevents their development and hence job creation.

7.1 Job-creating growth

7.1.1 In terms of economic growth, 2006 was a boom year for Africa, with rates of 6.3 % in North Africa and 4.8 % in sub-Saharan Africa, though with contrasts between one country and another.

7.1.2 These figures are considerable, especially when compared with results in the European Union. However, due to stagnating, not to say regressing, productivity, badly targeted investments, low added value on essential industrial and agricultural production, the population explosion and a massive shortfall in decent employment, **growth would have to be in double figures in order to generate a quantitative and qualitative improvement in the employment situation.** According to estimates, a minimum growth rate of 9 % is required if we are to begin to have a more positive understanding of the Millennium Goals, which in any case, regrettably, do not include employment objectives.

7.1.3 Growth is creating few jobs because it is badly targeted. It is usually fuelled by stepping up the exploitation of natural resources, often characterised by working conditions bordering on the unacceptable, the viability of which has recently soared, especially in oil-producing countries, mainly due to the rise in the per barrel price of crude oil. In addition to being unstable, since it depends on fluctuating rates, this situation does not create additional jobs. This is equally true of other natural resources insofar as they are usually exported unrefined. Moreover, when the middle classes reap the benefits of renewed activity, they generally consume imported products. This type of consumption also does nothing to generate employment locally.

7.1.4 The profits from extracting crude oil (it is not always clear where and how they are used) have to be invested in manufacturing processed products with high added value, which would lead to growth and employment. The same applies to other natural resources and agricultural produce, which could themselves foster the development of an agri-food industry as part of a structured, financed and prioritised agricultural policy (cf. Point 7.4 and Appendix IV to this opinion).

7.1.5 Growth that creates jobs in optimum numbers will not come from the mere exploitation of raw materials or traditional and mass agricultural produce (sugar cane, cotton, bananas, peanuts, cacao ...). This will also be achieved by developing processing industries for products with high added value, which, in the long term, is the best way to avoid the deterioration of terms of trade, participate in sub-regional, regional and ultimately in the world economy in order to benefit from a new phase in development.

7.2 Redirecting investment towards diversification

There is no, or hardly any, job creation without growth and there is no growth without quality investment.

It is generally agreed that maintaining a substantial growth rate over several years (cf. 7.1.2) requires an investment rate ranging from 22 to 25 % of GDP, whereas it has been no more than 15 % in recent years. Two sources of investment are liable to achieve such growth rates.

7.2.1 Endogenous investment

7.2.1.1 First of all, there is a need to invest in sectors with high added value and (or) a high production capacity with a strong potential for job creation; infrastructure, sustainable development and agriculture, environmental, conservation, the culture industry, transport, fisheries, logging, ICT, industry (first processing and finished products) ... There is also a need to invest in areas that contribute to developing a favourable framework for foreign direct investment (FDI). Furthermore, there is a need to take steps towards creating a virtuous circle: endogenous investment → production → trade → profit → new endogenous investment ...

7.2.1.2 Endogenous investment, or rather the mobilisation of internal financial resources, will, unlike FDI, enable Africa to set its own development priorities.

7.2.1.3 Where would endogenous investment come from?

- The mobilisation of vast visible or hidden profits generated from the exploitation of natural resources (oil, gas, coal, diamonds, wood, minerals: chrome, platinum, cobalt, or, manganese, copper, iron, uranium ...) ⁽⁹⁾. (What becomes of them at the moment? And what becomes of profits from sugar sold at three times the world's rate, for example?).
- The introduction of value added tax (VAT) has only had limited and partial success in boosting public revenue. This could be improved.
- Improved tax collection could double the tax revenue of some countries.
- Significant variations in tax revenue/GDP ratios (ranging from 38 % in Algeria and Angola to less than 10 % in Niger, Sudan and Chad) indicate that countries with poor ratios could substantially increase their revenue.
- A transition from undeclared to declared employment, which would raise tax revenues, would increase the resource base.

⁽⁹⁾ Almost all the world's chrome reserves (mainly in Zimbabwe and South Africa), 90 % of its platinum reserves (South Africa) and 50 % of cobalt reserves (DRC, Zambia) are located in Africa.

The sum of these improvements should contribute to the quantitative and qualitative growth of public policies.

- In a number of countries, the funds sent by immigrant workers are an important resource for development ⁽¹⁰⁾. They amounted to some US\$16 billion in 2004. Registered and unregistered funds are thought to exceed the financial resources from public development aid (PDA) and foreign direct investment (FDI). These funds, which do not give rise to debt, could have a considerable impact on investment capacity if channelled through the official banking system in African countries, once it is reliable, credible and efficient. From this point alone, we can appreciate the **importance of immigration for African countries**. This level of importance signifies that all amendments to regulations concerning migratory flows warrant in-depth discussion between the EU, Member States singly, and the African countries concerned ⁽¹¹⁾.
- Capital flight continues to deprive African countries of vast investment resources. **This capital flight is twice as high as the African continent's total debt** ⁽¹²⁾, which leads some experts to claim that Africa is a 'net creditor' vis-à-vis the rest of the world. If these resources were dedicated to productive investment, they would create employment and provide revenue for large segments of the population. In addition to stemming the flow, as has been done in some European countries, governments could also consider a temporary amnesty for the repatriation of such capital.

With this in mind and by undertaking the necessary reforms, especially in the financial and budget sectors, Africa could easily mobilise its internal resources in order to finance productive investment of its own choice.

7.2.2 Foreign direct investment (FDI)

The contribution of foreign direct investment is crucial to the continent's economic development. Indeed, it plays an important role, when properly directed, in the host country's development process, mainly by providing capital as well as technology, skills, know-how and market access, which contributes to greater efficiency in the use of resources and increased productivity.

7.2.2.1 Although average annual FDI flows to Africa doubled during the 1980s to reach USD 2.2 billion in comparison with the 1970s, they rose sharply to reach USD 6.2 billion in the 1990s and to USD 13.8 billion between 2000 and 2003. Nevertheless, the continent accounts for less than 2 to 3 % of world flows, having reached a peak of 6 % during the mid-seventies, and less than 9 % of flows to developing countries, as opposed to an earlier peak of 28 % in 1976.

⁽¹⁰⁾ Cf. CESE 673/2007 'Migration and development: opportunities and challenges', Rapporteur. Mr Sharma, December 2007.

⁽¹¹⁾ Second joint EESC/UCESA meeting, Presidents' Conclusions (UCESA — Union of Economic and Social Councils and Similar Institutions of Africa).

⁽¹²⁾ 'Economic development in Africa', UNCTAD Report, 26 September 2007.

7.2.2.2 A specific characteristic of FDI flows to Africa is the pull exerted by natural resources. This explains the unequal distribution of FDI across the continent. Twenty-four African countries classed as dependent on oil and minerals have received on average three-quarters of FDI during the last two decades.

7.2.2.3 FDI needs to be re-directed, mainly, to the manufacturing sectors with a broad range of diversification of competitive production facilitated by technological transfers. In order to attract diversified FDI, and in order for them to be efficient, Africa must keep up its efforts to create a generally facilitating and attractive framework. Indeed, FDI will only take place and contribute to development if certain prerequisites are met: the quality of the economic fabric and infrastructure, size of the relevant market — hence the importance of regional integration, a trained workforce (cf. ‘Human resources’), strengthening and stability of public authority and good governance. Moreover, in order to be efficient, FDI must fit into a national economic perspective and hence into the sub-regional, regional and world perspective. To this end, a genuine national strategy must be set out, as was the case in South-East Asia during the seventies and eighties.

7.2.2.4 However, FDI cannot solve everything and will certainly not bring about good governance, democracy, the rule of law, respect for human rights, nor will it put an end to corruption, capital flight ... In view of the foregoing, it is useful to underline that FDI from China has increased significantly in recent years, mainly as a result of diplomatic efforts, which culminated in the Sino-African Summit. FDI from China is mainly focused on the extracting industries for the purposes of securing raw materials to fuel its economic growth.

7.2.2.5 There has been a twenty-fold increase in Sino-African trade during the last ten years, from USD 3 billion in 1998 to USD 55 billion in 2006. However, viewed from the perspective of African interests, the Chinese approach raises several questions. It often reassures governments with policies that are not conducive to democracy, rule of law and poverty reduction ⁽¹³⁾. From this perspective, the Darfur crisis is very telling, as is China’s attitude towards Zimbabwe. Furthermore, from the development perspective, the Chinese approach is daunting (cf. Appendix III to this opinion).

7.2.2.6 EU Member States have a strong presence in Africa in terms of investment. In order to build on this situation, the following options could be considered:

- offer tangible incentives to EU businesses, for instance through import credits;
- use existing development instruments after reviewing and strengthening them. For instance, strengthen the EIB’s investment performance and facility, and improve its performance in such a way as to make it a useful tool for the private sector;

⁽¹³⁾ The ACP-EU Joint Parliamentary Assembly: draft report on the Impact of foreign direct investment (FDI) in the African, Caribbean and Pacific States — Rapporteurs: Astrid Lulling and Timothy Harris, Kigali, November 2007.

- set up an adequately financed investment guarantee facility/body, as set out in Article 77(4) of the Cotonou Agreement.

7.3 SMEs as an economic investment tool

The private sector — its reinforcement and diversification — is of capital importance for sustainable development, job creation and hence for poverty reduction.

However, in most African countries there is, in a manner of speaking, a missing link between, on the one hand, the informal sector and very small enterprises (VSEs), which have more to do with social survival than with economic generation as such, and on the other hand, the branches of major foreign companies, whose function is virtually autarchic and therefore contribute little to the local economy.

This raises the question of how to foster the emergence of small and medium-sized enterprises (SMEs), which would form the basis of a coherent economic framework able to contribute to **developing a private sector, which is vital for the continent’s development.**

Fostering SME development mainly entails:

- strengthening regional integration (cf. Point 7.8) to overcome the limitations of local markets;
- reducing administrative burdens, increasing the credibility of the Courts, adapting infrastructure, including immaterial infrastructure (communications infrastructure), to their needs;
- creating financing opportunities (cf. Point 7.2.1: endogenous investment) for establishing and financing them; more specifically, this involves improving the business environment, e. g. by setting up market and marketing aid, providing them with the support they need to meet formal financing requirements, and increasing the range of financing opportunities through greater use of the non-financial private sector;
- **the European Union needs to make SME development a linchpin of its cooperation policy in Africa.** It should endeavour, through its Member States and their companies, to facilitate and promote the establishment of SMEs, mainly by providing tax incentives for investment (tax credits, soft loans, the EIB’s role);
- through systematic technological transfers (know-how, information), which might in due course give rise to research and development programmes. Any European company entering into a supply contract for equipment, industrial products, etc. should undertake to transfer its technology (Since this is done with China in the nuclear and aeronautical sectors, why not with Africa for less sophisticated products (even if the financial stakes are lower)?;

- through hiving off and by creating business incubators, which could be encouraged by fostering entrepreneurship during vocational training; and
- by developing co-businesses or joint enterprises made up of African and European components (capital, labour, management, etc.)

7.4 *Developing modern and competitive farming practices*

Since farming, fishing and forest management, are key aspects of rural development, they should be the first strategic priorities for Africa's development. These sectors are fundamental to primary development and by their very primacy, given the vast geographical areas they cover, they structure economic and social life. Food self-sufficiency cannot be achieved without rural development because it is a key area for African economies, which helps stabilise populations and offers great potential in terms of job creation. With regard to the importance of African agriculture — 57.2 % of the total active population is engaged in it, as opposed to 5 % in industrialised countries — it is striking that only 1 % of the 9th European Development Fund has been dedicated to agriculture. This reinforces the argument that civil society has to be involved — and farmers in particular — in drafting National Indicative Programmes. By comparison, the World Bank has dedicated 8 % of its resources to agriculture, which it has acknowledged to be insufficient.

At a time when the international market price of raw materials, and therefore of food, is rising, the gradual development of the agricultural sector is all the more important and can only be managed through the implementation of a serious, structured agricultural policy based on short, medium and long-term planning. **This policy should be assigned budgetary and financial priority in the broad sense of the term** and should be adapted to the specific constraints of each African country, albeit within the context of an integrated regional approach.

In order to ensure optimum success for this policy, it must not be drawn up and implemented without the involvement of African agricultural organisations and must, in particular, include safeguard mechanisms. For instance, does it make sense for Senegal to import rice from Asia when riverside irrigation potential is not properly exploited?

More specifically, a reasoned policy for promoting employment in the agricultural sector could be based on the points raised in Appendix IV.

7.5 *Making human resources central to labour policies*

Developing human resources is an indispensable factor in all development strategies. Education and training play a key role in this process by creating a flexible, versatile and good quality workforce. This is why human resource planners, in cooperation with the socio-economic stakeholders, have to analyse the job supply and labour market, make medium and

long-term forecasts, and anticipate the major problems and challenges ahead for adapting vocational training to employment. In general, the examples of emerging or recently developed countries, such as Korea, are edifying in this respect.

The EU and its Member States, with their experience in vocational training, and through targeted and selective funding with guaranteed traceability, should play a central role. The European Union has many educational projects in which African students may participate. This is important because Africa's development depends on well-educated people.

The various measures liable to place human resources at the heart of employment promotion policies are set out in Appendix V to this opinion.

7.6 *Regional integration*

It is generally agreed that there is considerable potential for developing intra-African trade and creating larger economic areas.

While regional and sub-regional economic integration has progressed significantly, mainly through the establishment of the African Union, trade potential has yet to be fully exploited. Measures should be better coordinated in order to harmonise customs procedures, reduce tariff and non-tariff barriers, improve transport and communications by stepping up investment in regional infrastructure development, and guarantee the free movement of citizens, primarily by abolishing visas. All the foregoing would be implemented in the context of a **land use policy** in order to ensure overall consistency.

Africa's economic development depends first and foremost on deepening its internal market so that it is able to develop the type of endogenous growth that would stabilise and establish the continent in the world economy. Regional integration and internal market development are the pillars and springboards that will enable Africa to participate positively in world trade.

From this perspective, the Committee regrets that **regional negotiations on economic partnership agreements**, which specifically include economic integration among their objectives, have not been concluded at the time of writing.

7.7 *Social dialogue*

It is essential and central to creating decent and productive jobs. This being the case, it should be an integral part of the implementation of a common strategy. The full participation of the social partners in social and economic life, particularly through collective bargaining, is not only in keeping with the requirements of democracy but is also a source of social development, social peace and economic competitiveness. Social dialogue is the privileged instrument whereby socio-economic consensus conducive to development can be reached. Optimum

economic development cannot be achieved without parallel social development. These concepts should be applied in tandem to generate the growth needed for the total efficiency of economic progress liable to improve lives and provide decent jobs and public welfare. For this reason, there is a need to establish or foster trade union and collective bargaining freedoms, and strong and independent employer and employee organisations with the capacity and technical know-how to fulfil their roles thoroughly.

7.8 Organised civil society

Non-state actor involvement is indispensable for creating decent jobs and should therefore be central to the common strategy. Involving non-state actors not only meets the requirements of participatory democracy but also contributes the on-the-ground knowledge of those who trade, produce, and farm on a daily basis. They should therefore be involved in drawing up the National Indicative Programmes (NIPs) and the Regional Indicative Programmes (RIPs) and should be considered as development actors in their own right, benefiting from public development aid and the capacity building provisions of the Cotonou Agreement. In this context, it is worth recalling the third section of EESC opinion 1497/2005 on the need for the structural and even institutional organisation of organised civil society (platforms, networks, committee ...) in order to fix a time and place for debating and defining courses of action. In this respect, **the establishment of a civil society consultative committee under the EC-CARIFORUM Economic Partnership**

Brussels, 18 September 2008.

Agreement (EPA) concluded in December 2007, is one example worth following in Africa (cf. the final declaration of the 25th Meeting of ACP-EU Economic and Social Interest Groups held on 4, 5, and 6 March in Brussels: 'An Improved Partnership for a Better Development'.) In fulfilling the mandate entrusted to it under the Cotonou Agreement, the EESC, through its ACP-EU follow-up committee, has played a significant role in contributing to coordination, joint discussions, and the networking of organised civil society.

7.9 Good governance

'Good governance' is the key to investor confidence. From this perspective alone it is essential for Africa's development. Promoting democratic governance — required at all administrative levels — is therefore central to EU-Africa partnership dialogue. It should be considered in its entirety and include respect for human rights and workers' rights, including trade union freedoms, labour standards, the rule of law, institutional building and bolstering state mechanisms, whose weaknesses and inadequate capacity often hinder the implementation of cooperation activities, civil society involvement in participatory democracy or even action to combat corruption. On this last point, **the EU as well as its Member States should use the partnerships to make financial aid contingent upon the traceability of aid flows to the end-user**, since out of a sum of 100 billion dollars in annual aid, 30 billion disappears ⁽¹⁴⁾. (Cf. points 3.6.1.5 and 7.2.1.3, final indent)

The President of the
European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹⁴⁾ 'Economic development in Africa', UNCTAD Report, 27 September 2007, interview with the French Minister of State responsible for Cooperation and Francophony, which appeared in 'Le Monde' on 16 January 2008.

Opinion of the European Economic and Social Committee on 'EU-Ukraine relations: a new dynamic role for Civil Society'

(2009/C 77/33)

At its plenary session held on 16 and 17 January 2008, the European Economic and Social Committee, under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

EU-Ukraine relations: a new dynamic role for Civil Society.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 17 July 2008. The rapporteur was Ms Mall Hellam.

At its 447th plenary session, held on 17-18 September 2008 (meeting of 18 September 2008), the European Economic and Social Committee adopted the following opinion by 129 votes to 4 with 8 abstentions.

1. Executive summary

1.1 With this opinion, the EESC wishes to encourage better implementation of the joint ownership and partnership principle between Ukrainian civil society, the Ukrainian government and the EU institutions, by deepening the EU-Ukraine relationship and making the EU's policy towards Ukraine an effective instrument to support the reform process and the modernisation of Ukraine.

1.2 The European Union is both a goal and an agent of change for Ukraine. The EESC believes that Ukraine's integration with the European Union and its reform process requires a strong and sustainable civil society⁽¹⁾, involving a long-term civil society development policy for Ukraine, both on the part of the EU and the Ukrainian government.

1.3 Giving a stronger role to civil society calls for a favourable overall policy environment in EU-Ukraine relations.

1.4 The prospect of EU membership for Ukraine would be important in this respect. Similarly, the visa-free prospect should be made credible and the visa-free roadmap offered to Ukraine. The EESC proposes that these elements be included in the new Association Agreement⁽²⁾ between the EU and Ukraine so that it may serve as an instrument to promote the reform process and give a solid role to civil society.

1.5 Where specific civil society policies are concerned, the Ukrainian government should aim at creating a 'civil society-friendly' regulatory environment in Ukraine, and civil society

players should be given a lasting role in the policy process and civil dialogue. Meanwhile, the EU should help to develop a capacity-building strategy for Ukrainian civil society. Particular attention and constant support must be given to developing social dialogue at all levels.

1.6 The EESC recognises the progress made by Ukraine towards consolidating democracy, strengthening the rule of law and respect for human rights, which will contribute to enhanced relations with the EU, deeper economic integration and privileged political links.

1.7 The EESC calls for the rapid conclusion of the negotiations on Association Agreement. It also proposes, in close collaboration with Ukrainian civil society, that this agreement includes a provision setting up a civil society joint body which would give a strong voice to civil society in the context of EU-Ukraine relations.

2. EU and Ukraine: overall progress of cooperation and opportunities presented by the current situation

2.1 Promoting democracy, good governance and market economies in its neighbourhood remains a core priority of the European Union's external policies. To this end, the EU launched the European Neighbourhood Policy, based on the key principles of partnership and joint ownership, differentiation and tailor-made assistance.

2.2 Within the European Neighbourhood Policy, consultations with Ukraine on the EU-Ukraine Action Plan were launched in January 2004, and in December 2004 this Action Plan was adopted by the Council of the EU. The aftermath of the 'Orange revolution' in December 2004, which demonstrated the strong potential of civil society in Ukraine, and the pro-European stance taken by the Orange government of President Viktor Yushchenko and Yulia Tymoshenko encouraged the EU to supplement the Action Plan with additional incentives. The Action Plan was officially adopted at the EU-Ukraine Cooperation Council on 21 February 2005 for a period of three years. It provided a comprehensive and ambitious framework for work

⁽¹⁾ Civil society in this opinion is representing 3 groups according to their activities: 1) interest organisations which represent and promote the interests and values of particular groups or society as a whole, 2) service organisations which provide services for their members or a broader spectrum of clients, and 3) support organisations which provide resources to assist the needy or to enable certain activities. Civil society organisations include trade unions, employers, business associations, advocacy organisations, organisations providing social services or representing vulnerable segments of society, and special interests, like youth organisations or consumer associations. Zimmer, A. and Priller, E. (eds.), *Future of Civil Society. Making Central European Nonprofit Organisations work*. VS Verlag für Sozialwissenschaften, p. 16.

⁽²⁾ Previously this agreement was called 'a new enhanced agreement'. The EU-Ukraine Summit Joint Declaration (9 September 2008) calls for conclusion of an Association Agreement between the EU and Ukraine.

with Ukraine, identifying all the key areas for reform (political dialogue and reform, economic and social reform and development, trade market and regulatory reform, cooperation in justice and home affairs, transport, energy, information society and environment, people-to-people contacts).

2.3 Ukraine was given the prospect of opening negotiations on the new contractual framework (Association Agreement) subject to free and fair parliamentary elections in 2006 and the prospect of opening negotiations on the deep free trade area once Ukraine joins the WTO. Visa facilitation, increased funding and more people-to-people opportunities were other incentives offered to Ukraine within the framework of the Action Plan.

2.4 Negotiations on the Association Agreement were launched in March 2007 and negotiations on the deep free trade provisions were launched in February 2008 following Ukraine's accession to the WTO. Nine rounds of negotiations took place between March 2007 and July 2008. As of 2008 the visa facilitation agreement signed in 2007 came into force.

2.5 The negotiation process on the Association Agreement will have far-reaching implications for EU-Ukraine relations and for Ukraine's domestic reform process. It offers a unique opportunity for Ukrainian public authorities to set up a transparent and systematic consultation process with civil society organisations that could ensure internal support for reforms envisaged in the new agreement. It also offers Ukraine's civil society the chance to consolidate in order to identify their interests and bring them to the attention of the authorities negotiating the agreement.

2.6 It is important to ensure that the EU-Ukraine negotiation process is transparent and takes into account the potential implications that the agreement will have for various societal groups and different areas of the internal reform process in Ukraine. This agreement will be an unprecedented one as the level of political cooperation and the size of the stake in the common market is not predefined. The EU does not have a blueprint to follow while negotiating this agreement thus involvement of different stakeholders in Ukraine and the EU will be needed. Moreover, the new agreement with Ukraine is to become the template for agreements negotiated by the EU with other neighbours.

3. EESC activities concerning Ukraine

3.1 Since 2003, the EESC has been developing relations with Ukrainian civil society organisations. In 2004, the Committee devoted a study and an opinion to civil society in Ukraine, Russia, Moldova and Belarus. EU-Ukraine relations have speeded up in recent years. Negotiations on the Association Agreement are ongoing, and civil society and the EESC have been called to play a wider and more important role in future relations. In February 2006, the EESC organised a conference in Kiev on the role of Ukrainian civil society in the implementation of the European Neighbourhood Policy. The final declaration committed the EESC to supporting the development of civil society in Ukraine.

3.2 Some months later, the Ukrainian National Tripartite Social and Economic Council (NTSEC) was established. On

24 and 25 October 2007 a delegation of the NTSEC led by the Ukrainian Minister of Labour visited the EESC. A special meeting of the Contact Group on European Eastern Neighbours was devoted to Ukrainian civil society.

3.3 There is general agreement on the willingness to start structured cooperation between the EESC and the NTSEC. However, the EESC wishes to make sure that Ukrainian civil society is represented more broadly, including active non-governmental organisations along with trade unions and employers, which are represented on the NTSEC. Ukrainian civil society should therefore create a platform representing both the NTSEC and representatives of other civil society organisations (CSOs).

4. Political situation and economic and social affairs in Ukraine

4.1 Since 2004 and following the Orange Revolution, Ukraine has emerged as a young democracy, leaving the majority of its post-Soviet neighbours behind. Free and fair elections have become common practice in Ukraine and the freedom of speech and of assembly that were won during the Orange Revolution have been preserved.

4.2 However, since 2005, when the euphoria of the Orange Revolution died down, Ukraine has found itself mired in political instability and rivalry, leading to major political crises that left all the branches of power in conflict with each other and discredited Ukraine's judiciary and law-enforcement authorities. Since then, political instability and the inability to launch far-reaching reforms have marked Ukrainian politics. The European Neighbourhood Policy and its Action Plan, while providing some sort of a blueprint for reforms in Ukraine, by and large failed to rally the political elite and society at large to the goal of European integration.

4.3 Ukraine's economy has continued to grow. However, the level of inflation has become increasingly high, reaching over 16 % in 2007 and continuing to grow in 2008, the government having failed to introduce anti-inflation measures. Although Ukraine has seen a sharp decline in poverty in recent years, more than 20 % of Ukrainians still remain below the poverty line and the average income in Ukraine being around EUR 150 per month. Ukraine still remains a country where the regulatory environment poses a lot of obstacles for foreign direct investment and setting up businesses. Overall, Ukraine has failed to introduce far-reaching macroeconomic reforms and economic growth has taken place mainly due to factors beyond governmental policy.

4.4 Despite numerous political declarations, there has been no substantial progress in tackling corruption in Ukraine. According to the 2007 Transparency International survey, some 70 % of Ukrainians do not believe that the authorities are effective in their struggle against corruption. Established lobbying interests and cronyism predominate in influencing the decision-making process. There is urgent need to improve the structure of representation, forms of mediation between the State and society, the rule of law and anti-corruption practice in Ukraine.

5. State of civil society and its role in Ukraine's European integration

5.1 *State of civil society in Ukraine*

5.1.1 According to official statistics there are more than 50 000 registered civil society organisations. State officials have claimed that 90 % of CSOs have budgets of USD 50 000-USD 300 000 per year. On the other hand, the fact that over 80 % of Ukrainian citizens are not active in any type of voluntary organisation shows that Ukrainians have a low level of civic involvement compared to citizens of Western democracies and Central-Eastern European states.

5.1.2 There are many reasons for the low levels of civic involvement in Ukraine: popular distrust of organisations and of the political process in general resulting from the Soviet legacy of 'forced ritual activities,' disillusionment with the results of democratic and market reforms, the absence of a strong middle class and the persistence of informal social networks. These characteristics, together with the State's distrust of grassroots activism, have led Ukraine to stagnate in its current semi-democratic state.

5.1.3 However, some progress is being made. In 2005-2006, a number of civil society organisations were working on a Civil Society Doctrine to formulate requirements to public authorities. The majority of the doctrine's proposals have been included in the Concept for the Support of the Civil Society Institute by Public Authorities. In November 2007, suggestions to the new government and parliament on civil society development and civil dialogue were formulated at the nationwide conference on 'Public Policies to Promote Civil Society Development. New Priorities'.

5.1.4 In order to complete CSO legislation, there is a need for a new civic organisations act providing for a simpler and less expensive CSO registration procedure, permission for legal entities to set up organisations, cancellation of the current territorial restrictions on the activities of CSOs, and permission to protect the rights of all individuals.

5.1.5 Another issue for civil society development in Ukraine is the lack of State funding. According to some sources, funding from the State constitutes only 2 % of CSOs' revenues. This is extremely low when compared to the figure of 30-40 % in neighbouring Central European countries. In the majority of the old EU Member States, such funding is the key source of CSO revenues.

5.2 *Social dialogue*

5.2.1 Trade unions have been brought together under the Federation of Trade Unions (FTUU), the National Confederation of Trade Unions and Free Trade Unions of Ukraine. The National Confederation of the Trade-Union Organisations of Ukraine (NKPU) is a national trade union centre in Ukraine founded in 2004. It was formed as a breakaway union from the

Federation of Trade Unions of Ukraine. Despite these formally developed structures, trade unions have so far played a modest role in protecting the interests of their members, for instance in promoting safety in the workplace.

5.2.2 Where Ukrainian employers and business associations are concerned, some are fairly strong and able to promote their interests (Federation of Employers of Ukraine, Ukrainian Chamber of Commerce and Industry, etc.). However, there is no lobbying legislation or forms of structured consultation in Ukraine for the promotion of respective interests.

5.2.3 Pursuant to the Presidential Decree ⁽³⁾ on the Development of social dialogue in Ukraine, the National Tripartite Social and Economic Council (NTSEC) was established in 2006 as an advisory and consultative body under the President of Ukraine. Also, territorial tripartite social and economic councils were set up at regional level in Ukraine.

5.2.4 These institutions aim to develop social dialogue and involve workers' and employers' representatives in the shaping and implementation of the State social and economic policy.

5.3 *The role of civil society in Ukraine's European integration process*

5.3.1 Although civil society in Ukraine is somewhat weak, as indicated above, a number of active civil society organisations have played an important role in promoting European values, monitoring public authorities and advocating specific policies, providing expertise to public authorities, monitoring public opinion and raising public awareness about the EU. Such activities are usually carried out with financial support from the international donor community, despite the fact that they are often in line with the objectives of relevant State programmes and that there are legal means of supporting CSO activities from the State budget.

5.3.2 The impact of these actions on the actual progress of Ukraine's European integration or Ukraine's Europeanisation is rather limited. This has to do with the weak position and low capacity of civil society which is not consolidated or organised enough to influence the decision-makers. Moreover, the link between civil society organisations and average citizens is rather blurred. Thus civil society organisations and activists have little potential to mobilise citizens and shape public opinion. In addition, the unstable political situation creates another major obstacle preventing civil society from having an impact.

5.3.3 When civil society organisations do manage to promote certain policy decisions, it is due to individual politicians or civil servants who are open and cooperative. The appointment of the Vice Prime Minister for European integration in December 2007 stimulated civil society participation. Civil society experts are now involved in drafting State programmes in the field of European integration and are consulted on various matters within the remit of the Vice Prime Minister.

⁽³⁾ Decree of the President of Ukraine No 1871 dated 29 December 2005.

5.3.4 Apart from what appears to be an active role played by a limited number of NGOs, civil society at large perceives European integration as something abstract. Unless different civil society organisations (trade unions, professional associations, consumers' organisations, etc.) comprehend that European integration is relevant to everyday life and the reforms will have implications for everyone, their role will remain passive.

6. Conclusions and recommendations for a new dynamic role for civil society in EU-Ukraine relations

6.1 Giving a stronger role to civil society requires both a favourable overall policy environment in EU-Ukraine relations, and specific measures aimed at strengthening the role of civil society.

6.2 Where the overall policy environment and the dynamic of EU Ukraine relations are concerned, the following elements seem to be essential:

6.2.1 The prospect of EU membership should be offered to Ukraine in the Association Agreement. It will empower pro-reform constituencies, including reform-minded civil society. The incentives that potential EU membership offers will help to implement reforms in society and override the veto players. According to both Ukrainian and international experts, even the reference to Article 49 TEU which stipulates that any European country that fulfils the criteria can apply, would already send a strong signal to Ukraine.

6.2.2 The visa-free prospect should be made credible and the visa-free roadmap should be offered to Ukraine. With the current obstacles to travel, civil society players have limited possibilities for building effective partnerships with their EU-based counterparts. Overall, the visa-free regime will enhance people-to-people contacts and help to introduce European norms, values and practices in Ukraine.

6.2.3 Both the EU and Ukraine should do their best to ensure that Ukraine benefits to the fullest from the EU Community Programmes and Agencies available to it⁽⁴⁾. At the same time new possibilities for strengthening the people-to-people dimension must be found and expanded.

6.3 Specific measures aimed at strengthening the role of civil society should be based on the following three pillars:

6.3.1 Firstly, civil society players should be given a strong role in the policy process (policy development, policy imple-

mentation and monitoring), in particular where EU-related policy is concerned.

6.3.2 Civil society players must be consulted in the process of negotiating of the Association Agreement between the EU and Ukraine, developing priorities for cooperation on an annual basis (currently through the work of joint institutions set up by the PCA and once the Association Agreement comes into force, under the institutional provisions of the new agreement), conducting a mid-term review of the current financial perspective (ENPI Country Strategy Paper 2007-2013 for Ukraine), and developing annual programmes within the ENPI (in particular, defining priorities for funding to Ukraine as budgetary support within the ENPI).

6.3.3 Independent monitoring by civil society should be encouraged and supported and taken into consideration by the EU and Ukraine.

6.3.4 Secondly, the EU and the Ukrainian government should aim at creating a 'civil society-friendly' regulatory environment in Ukraine. This would provide, *inter alia*, opportunities for domestic funding (including State funding via subcontracting of services, for instance) to Ukrainian civil society organisations and thus reduce the current dependency of Ukrainian CSOs on foreign donors.

6.3.5 Thirdly, the EU should help to develop the strategy of capacity-building for Ukrainian civil society. For the time being, Ukrainian civil society is rather fragmented with little or no impact on the policy process. The EU's policy and that of the Ukrainian government should be aimed at making civil society a strong partner, with capacity-building an extremely important component. This would include the following:

- better and more accessible funding opportunities on the part of the EU, especially for grass-roots level CSOs, focusing not only on projects but also on institutional development and overall sustainability;
- capacity-building training programs for Ukrainian CSOs, which would focus on project management, networking, advocacy skills, etc. and make Ukrainian civil society better informed of the opportunities already offered to it by the EU (including funding opportunities);
- assistance aimed at strengthening individual civil society initiatives, including building coalitions and platforms among Ukrainian CSOs.

⁽⁴⁾ Communication from the Commission to the Council and to the European Parliament on the general approach to enable ENP partner countries to participate in Community agencies and Community programmes COM(2006) 724 final.

6.3.6 Moreover, the Association Agreement between the EU and Ukraine must serve as an instrument of the reform process and give a stronger role to civil society. Apart from the EU membership prospect as mentioned above, the Council decision on the Association Agreement should make the reference to the Article 310 of the TEC ⁽⁵⁾. This article gives the mandate to the EU to conclude association agreements with third countries.

6.3.7 The agreement should explicitly mention the commitment of both sides (the EU and Ukraine) to further strengthening civil society in Ukraine and enabling it to participate in the civil dialogue and policy process.

6.4 The agreement should include the creation of a civil society joint body as part of the EU-Ukraine institutional framework. In this context, the EESC recommends building a sustained and forward-looking relationship with Ukrainian civil society, beginning by structuring our relations, for example, via the organisation of a workshop in October 2008, to discuss further the establishment of this joint body with Ukrainian civil society

6.4.1 The joint body would be composed of an equal number of members from the EESC and from a body representing organised civil society in Ukraine. The Ukrainian delegation could be composed of members of NTSEC (representatives of employers, trade unions and the government) with the addition of representatives of civil society not represented within

NTSEC. The joint body would be jointly chaired by two co-chairs appointed from each side. The joint body will meet twice a year (once in Brussels and once in Ukraine) and could be consulted by the Joint Council or by own initiative to discuss different topics of mutual interest and relevance for civil society. The main purposes of the EU-Ukraine civil society joint body could be:

- to ensure the involvement of organised civil society in EU-Ukraine relations;
- to foster public debate and awareness in Ukraine about relations with the EU and Ukraine's European integration;
- to promote the involvement of Ukrainian civil society in the implementation of the National Action Plan and the new Association Agreement once it enters into force, and enhance civil society participation in the national decision-making process;
- to facilitate the process of institution-building and the consolidation of civil society organisations in Ukraine in various ways, including informal networking, visits, workshops and other activities;
- to enable Ukrainian representatives to become acquainted with the process of consultation taking place within the EU and, more generally, with the dialogue between social and civil partners in the EU.

Brussels, 18 September 2008.

The President of the
European Economic and Social Committee
Dimitris DIMITRIADIS

⁽⁵⁾ See Sushko, O., Khorolsky, R., Shumylo O., Shevliakov, I. (2007), *The New Enhanced Agreement between Ukraine and the EU: Proposals of Ukrainian Experts*. KAS Policy Paper 8 for further details. See also Hillion, C. (2007), 'Mapping-Out the New Contractual Relations between the European Union and Its Neighbours: Learning from the EU-Ukraine "Enhanced Agreement"', in *European Foreign Affairs Review* 12, pp. 169-182.

APPENDICES

APPENDIX I

COMPOSITION OF THE CIVIL SOCIETY IN UKRAINE AND LEVEL OF ACTIVITY BY REGION

52 693	NGOs and their centres
20 186	religious organisations
18 960	trade unions
15 867	political parties and their offices
10 705	charity organisations
6 003	unions of co-owners of multi-storey buildings
5 480	consumer societies
982	credit unions
473	consumer society unions

Data as of 1 July 2007. All registered civil society organisations are included. However, experts claim that out of this multitude of registered organisations no more than 2 500 are socially active.

The most active regions include:

L'viv and Kyiv City	more than 4 000 CSOs
Zaporizhzhia oblast (region)	about 1 500 CSOs
Dnipropetrovsk oblast	almost 1 000 CSOs
Odesa oblast	approximately 1 000 CSOs
Luhansk oblast	more than 750 CSOs

Source: Latsyba, M. (2008), *Development of Civil Society in Ukraine*. Ukrainian Independent Centre for Policy Studies.

APPENDIX II

PRIORITY AREAS OF ACTIVITY FOR UKRAINIAN CSOS

Work with children and young people	45 %
Solution of social issues	35 %
Protection of human rights	31 %
Public education	28 %
Development of the CSO sector	19 %

As of 1 January 2007, the Ministry of Justice registered **1 791** All-Ukrainian CSOs:

412 professional organisations	77 associations of veterans and disabled individuals
332 physical training and sport organisations	56 environmental organisations
168 education and culture associations	45 women organisations
153 science, technology, and art associations	36 Chernobyl disaster protection organisations
153 youth organisations	13 children organisations
137 organisations for national and friendly relations	9 employer organisations
114 trade unions and their associations	3 historical and cultural monument protection organisations

Sources: Latsyba, M. (2008), *Development of Civil Society in Ukraine*. Ukrainian Independent Centre for Policy Studies and Creative Centre Counterpart (2006), *NGO Status and Development Dynamics, 2002-2005*. Cited in Latsyba op.cit.

APPENDIX III

COMPARATIVE STRUCTURE OF CSOS REVENUES

Studied Counties	CSO Funding Sources, %		
	Public Subsidies	Payment for CSO Services	Private Subsidies, Cost of Volunteers' Working Time Excluded
UK	45 %	43 %	11 %
Germany	64 %	32 %	3 %
France	58 %	35 %	8 %
Poland	24 %	60 %	15 %
Romania	45 %	29 %	26 %
Hungary	27 %	55 %	18 %
Slovakia	21 %	54 %	25 %
Czech Republic	39 %	47 %	14 %
Russia	1 %	36 %	63 %
UKRAINE	2 %	25 %	72 %

Source: Latsyba, M. (2008), *Development of Civil Society in Ukraine*. Ukrainian Independent Centre for Policy Studies based on the following sources:

Lester M. Salomon et al. (2003), *Global Civil Society. An Overview*. The Johns Hopkins University, USA;

Civil Society Institute (2005), *NGO Funding in Ukraine. Analytical Study*. Kyiv;

Municipal Economy Institute Foundation (2003), *The Role of Non-Commercial Sector in the Economic Development of Russia*. Moscow.