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I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

466TH PLENARY SESSION HELD ON 19, 20 AND 21 OCTOBER 2010

Opinion of the European Economic and Social Committee on 'Employee financial participation in Europe' (own-initiative opinion)

(2011/C 51/01)

Rapporteur: **Alexander Graf von SCHWERIN**Co-rapporteur: **Madi SHARMA**

On 17 February 2010 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:

Employee financial participation in Europe.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 September 2010.

In view of the renewal of the Committee's term of office, the plenary assembly decided to vote on this opinion at the October plenary session and to appoint **Alexander Graf von SCHWERIN** as rapporteur-general in accordance with Rule 20 of the Rules of Procedure.

At its 466th plenary session (meeting of 21 October 2010) the European Economic and Social Committee adopted the following opinion by 170 votes to nine with 22 abstentions:

1. Summary and recommendations

1.1 Employee financial participation (EFP) offers an opportunity for businesses, employees and society as a whole to participate more, and more effectively, in the success of the increasing Europeanisation of economic activity. The European Economic and Social Committee therefore wishes, with this own-initiative opinion, to raise public awareness of this issue. **The aim is to encourage Europe to draw up a framework concept** which promotes Europe's economic and social cohesion by facilitating the application of EFP at various levels (e.g. profit-sharing, employee share ownership schemes, save-as-you-earn schemes).

1.2 As Europe has grown, businesses, particularly SMEs, have also expanded their area of activity across borders. **One of the flagships of the EU2020 Strategy** is to give a strong focus to

the delivery of the Small Business Act, in particular with a view to improving the financial situations of SMEs. Here EFP can be one of the mechanisms implemented to support this goal and thus **enhance the competitiveness of European SMEs**. Independently of the size of the companies, the EFP models must respect company-based solutions and protect employee rights, accounting for the variations in companies and countries.

1.3 *This own-initiative opinion therefore intends to:*

- re-launch the debate on EFP at the European level and **give new impulses for an EU-wide discussion**;
- **raise awareness** and encourage social partners at European level and in the Member States to take up the issue in more depth;

- identify obstacles for cross-border EFP and **suggest possible solutions**;
- **urge the European institutions** to elaborate solutions where appropriate;
- **raise questions** that need to be further examined.

1.4 **The introduction of EFP must be voluntary.** It is **in addition to existing remuneration systems** and not a substitute while not impeding collective wage bargaining. It must be readily understandable for employees and to this extent complement other forms of employee participation. It must be independent of pension schemes but may be an individual complementary resource for employees once they are retired.

1.5 EFP may bring desirable benefits such as:

- **improvements in local purchasing power**, which in turn can boost a company's chances of success in a given region,
- a high-quality **component of good corporate management** which helps to improve incomes through participation in a company's success,
- as part of the process of **asset formation** it can have a **motivating effect** and thus contributes to a greater sense of identification with the company, reducing staff turnover.

1.6 Therefore **the EESC calls for a new Council recommendation** (like 92/443/EEC of 27.7.1992) concerning the promotion of EFP and proposals to deal with obstacles to cross-border plans.

1.6.1 The following measures should be adopted at an EU level as the next steps:

- (1) The application of EFP should be facilitated EU-wide **on the basis of common principles**.
- (2) The increased share and the diversity of forms of EFP should be analysed and made comprehensible in practical terms in order to **facilitate their application, particularly in SMEs**.
- (3) **Businesses operating across borders** should be offered help, particularly in overcoming tax obstacles in specific EU/EEA countries, in order to improve staff loyalty and their sense of identification with the company more effectively by means of EFP.

(4) **Forms of EFP** should be developed, with a view to improving the **offer** by companies as well as the take-up by employees, individual incentives to asset formation, increasing employees' share in the results of the company, the cross-border transfer of entitlements.

(5) The positive participation of employees based on ownership and the associated sense of responsibility could help to **strengthen corporate governance**.

(6) **Examples of best practice** should continue to be publicised, thus contributing to the greater dissemination of EFP schemes. Related activities should be **supported by the EU budget through a dedicated budget heading**.

(7) The implementation of **employee-buy-outs as a vehicle for business succession** should be encouraged since it can boost the continuity and thus the competitiveness of European enterprises while at the same time rooting them in the regions.

(8) Wages and purchasing power of employees have remained behind productivity growth and revenues for shareholders ⁽¹⁾. The backlash of the current crisis will also be tough for wage earners. EFP could, depending on its form, be a – **partial – compensation for losses of purchasing power and correct for recurring fluctuations** but it should not replace wage progression.

(9) **Information sources on the implications of EFP** for businesses and employees as well as training and advisory services by impartial bodies, i.e. NGOs, **should be established**.

(10) Where collective bargaining is practised, the conditions for EFP should also be the subject of collective agreements.

2. Background

2.1 Council of the European Union and European Commission

As early as 1992 a Council (later Council of the European Union) recommendation concerning the promotion of participation by employed persons in profits and enterprise results ⁽²⁾ set out the **following principles, which the EESC supports**:

- Regular application;

⁽¹⁾ See with further details D. Vaughan-Whitehead, *The Minimum Wage Revisited in the Enlarged EU*, 2010, Edward Elgar-ILO.

⁽²⁾ 92/443/EEC.

- Calculation in accordance with a predefined formula;
- Application complementary to the traditional remuneration system;
- Variable participation depending on company results;
- Benefits for all employees;
- Application to both private and public enterprises;
- Application to enterprises of all sizes;
- Simple models;
- Information and training for employees on models;
- Voluntary introduction and participation in models.

The 2002 European Commission Communication on a *Framework for the promotion of employee financial participation* ⁽³⁾ confirmed these principles.

2.2 The PEPPER reports drawn up at the instigation of the European Commission

2.2.1 Results. Positive dynamic of EFP

The PEPPER reports underline the continuing importance of this subject for European policy. The PEPPER-IV report ⁽⁴⁾ notes the **significant rise in EFP in the EU 27 over the last decade**. In the period 1999-2005 the proportion of firms which offer employee share ownership schemes open to all employees grew by five percentage points from an average of 13 % to 18 %, in the case of profit-sharing schemes by six percentage points from an average of 29 % to 35 % (CRANET data, weighted average of all countries). In the same period the number of employees actually participating in these schemes also grew, although less rapidly (European Working Conditions Survey (EWCS) data).

2.2.2 Recommendations

The PEPPER IV Report calls for a **Council Recommendation on a European platform for EFP**. In accordance with the voluntary principle, the transnational 'Building Block Approach' includes all forms of financial participation practised:

- 1) Profit-sharing (cash, deferred or in shares),
- 2) Individual share ownership (employee shares or stock options),
- 3) The ESOP concept (collective employee share ownership model financed from a profit share additional to remuneration).

This at the same time leaves scope for new forms of EFP. **All modules could be combined** for custom-made solutions.

2.2.3 Promoting optional tax incentives

While tax incentives are not a precondition for EFP, they have proved a positive and important leverage in those countries which offer them. Without prejudice to national Member States' exclusive competence over taxation, **coordination, streamlining and mutual recognition** may help to stimulate EFP in cross-border operating companies. The **calculation of 'effective tax rates'** for standardised scenarios would permit direct comparison between the EU 27 and thus ensure further harmonisation. As long as the European measures remain optional, conflicts with national law can be avoided.

2.2.4 Overview of the status quo

Social partners and political decision-makers need a clear, detailed overview of the range of national models currently used and their take-up. There are to date no specific, transnational data from surveys of EFP. This shortcoming should be remedied, for example by means of regular surveys.

2.3 Projects supported by the Commission: 'Building Block Approach' for an EU model

2.3.1 In order to link the many and very varied EFP models which exist in the EU Member States, the European Commission has **promoted work on a 'Building Block Approach'**. ⁽⁵⁾ Here a distinction is drawn between the three basic forms of EFP in Europe (profit-sharing, individual share ownership and the ESOP concept; see also appendix).

2.3.2 The 'Building Block Approach' **reflects the postulates of the European Commission** (being transparent, broad-based, etc.) and neither relies on nor excludes tax incentives. All of the different elements are voluntary for both enterprises and employees. They can be put together in any combination with the different building-blocks tailored to the specific needs of the given enterprise

⁽³⁾ COM(2002) 364 final.

⁽⁴⁾ The PEPPER IV Report – Assessing and Benchmarking Financial Participation of Employees in the EU-27, Berlin, 2009; see <http://www.eurofound.europa.eu/areas/participationnetwork/pepperreports.htm>; summaries in English, French and German downloadable at <http://www.intercentar.de/en/research/focus-financial-participation-of-employees/>.

⁽⁵⁾ For the results see J. Lowitzsch et al. *Financial participation for a new Social Europe*, Berlin/Paris/Brussels 2008; Rome 2009, Krakow 2010; downloadable in English, French and German at <http://www.intercentar.de/en/research/focus-financial-participation-of-employees/>.

2.3.3 The PEPPER IV report suggests that an EFP model that was used across borders and which benefited from uniform support in all EU Member States would improve the attractiveness of EFP for all concerned. Businesses operating in several countries would in particular benefit from the reduced administrative load of a uniform model, which at the same time facilitated portability from country to country. SMEs would benefit from the transparent uniformity and comparability of participation models.

2.3.4 Pending the establishment of an EU-wide model of this kind, efforts should in the meantime be channelled towards **mutual recognition** of the various national forms of financial participation, including their tax treatment.

3. Advantages of more widespread use of EFP

3.1 Advantages of financial participation for businesses

- I With a view to the EU 2020 Strategy, the introduction of EFP can help businesses in Europe, especially **SMEs, to improve their competitiveness** by increasing employees' loyalty and identification with the company, in good times and bad. EFP thus contributes to securing the future in a sustainable way.
- II A proportion of company profits are distributed to employees locally, which in turn helps to **increase regional purchasing power**.
- III EFP could help to **deal with the problem of demographic change**, by offering sought-after, highly skilled employees an attractive place to live and work. This **makes it easier to recruit specialist employees**.
- IV Improved motivation as a result of EFP helps to **increase company productivity** and to **improve the quality of corporate management**.
- V EFP could, depending on whether it is structured as equity or external capital, increase a company's return on equity or its ratio of equity capital to liabilities. This can **make it cheaper to obtain external capital, thus improving the company's credit rating**.
- VI A full or partial employee buy-out provides an appropriate **vehicle to facilitate transitions in ownership** and management of family enterprises and SMEs in order to secure their continuity.⁽⁶⁾

⁽⁶⁾ This field of action has been highlighted in the Commission Recommendation on the transfer of small and medium-sized enterprises, 94/1069/EEC; reiterated in the Commission Communication on the transfer of small and medium-sized enterprises, OJ C 93, 28.3.1998, p. 2.

3.2 Advantages of financial participation for employees

- I Through EFP **employees can voluntarily benefit** from remuneration which is supplementary to the income from their labour and/or wage agreed by collective bargaining.
- II Employees are in this way given an opportunity to build up **long-term investment capital** simply, which can form additional resources for them once they are retired.
- III Employees who can participate financially in the company are likely to feel that their contribution to the company's success is taken more seriously. **Thus, they have greater self-esteem**.
- IV EFP offers them the opportunity to increase their autonomy in the workplace and to participate and **have their say in the company's strategy for the future**. In this way employees can help to secure their job in the long term.
- V As a complement alongside wages, EFP **improves the worker's financial situation** and provides a cushion in difficult times or when changing jobs.
- VI Given that the labour market is becoming increasingly European, however, it would be appropriate for **forms of EFP from one country** to be recognised in, and transferred to, another country when an employee goes to work abroad.
- VII In the event of **crisis or restructuring**, being tackled by management and workforce jointly, employees, who keep their jobs and their remuneration, can - temporarily - support their company in the interests of preserving their jobs.

3.3 Business succession and share ownership

3.3.1 The European Commission⁽⁷⁾ points out that as a result of an ageing European population 'one third of EU entrepreneurs, mainly those running family enterprises, will withdraw within the next ten years'. This highlights the **enormous increase in transfers of company ownership**, which will affect up to 690 000 unquoted companies and 2.8 million jobs annually. As the largest sector of employers, SMEs and micro-enterprises are a major factor in labour market policy. A related question is whether companies affected by generational change and the jobs they provide can be maintained. Confronted with this increasing need for business transfers an **appropriately designed long-term EFP model which could perpetuate employees' jobs could facilitate the process**.

⁽⁷⁾ Communication entitled Implementing the Lisbon Community Programme for Growth and Jobs COM(2006) 117 final.

3.3.2 In respect to business succession above all **proven ESOP models can be useful** (see appendix). One of the main characteristics of the ESOP model is that it is especially tailored to the needs of unquoted companies. It encourages business owners to sell their enterprise to their employees and not to a third party and foresees the gradual acquisition of up to 100 % employee ownership. This makes it possible to buy out one or more shareholders while not forcing other shareholders to give up their equity position. Employees do not have to invest their savings since the acquisition of the enterprise by its employees is financed by a profit share granted in addition to their salaries. For this reason **employees do not incur additional risk** under this concept. If the aim is the acquisition of a larger package of shares in a short time frame, financing by bank credit is employed; the loan is paid back from company profits usually over an average period of 7 years.

3.3.3 The proven model of **workers cooperatives** should certainly be borne in mind when drawing up a future European framework. There are a number of good practices (see appendix) when a worker buy-out of a company in the form of a cooperative may be an alternative to the closure of a company that does not have any successors. The EESC considers that the very specific question of the link between financial participation and business transfers should be dealt with in a separate text.

3.4 Enterprise crisis and employee share ownership

3.4.1 Businesses may experience financially difficult times. In this situation the **priority is securing the business's future**. Where a crisis or restructuring is tackled jointly by management and workforce, EFP ought to be possible in this emergency but potential pitfalls must be considered. A sustainable solution is therefore needed, which allows employees, who have kept their jobs and their remuneration (having regard to flexibility and periods of unemployment/retraining), to participate in the long-term in the recovery of the company and the economy. Employees' justified self-interest in the company's profitability and thus its long-term success will have a positive impact.

3.4.2 Financial participation in the company for which you work is often seen as posing a **twofold risk**. Critics of EFP often argue that, in the event of the company's insolvency, the employee would risk losing both his job and his invested capital. A clear distinction needs to be made between share ownership which is on top of the employee's salary and the kind where employee's savings are invested in the employer company. In the latter case the claims of employees should have priority, i.e. rank higher than those of other creditors in the event of failure and/or liquidation. Furthermore, **pooling of risks and re-insurance solutions** should be stimulated also for cross-border situations.

3.5 Corporate governance and employee share ownership

3.5.1 Without prejudice to other forms of co-determination and employee influence on corporate decisions, employee share

ownership may, depending on the way it is structured, lead to **participation in decision-making processes, via shareholder voting rights**, executed individually or collectively, i.e., via an intermediary entity.

3.5.2 Companies which issue large numbers of **employee shares** have a group of demanding but **patient and loyal shareholders**, their own employees, supporting them in resisting the prevailing short-termism of the financial markets. **Sustainable corporate decisions** and acceptance of **long-term corporate social responsibility (CSR)** by managers rather than excessive risk-taking are the desirable side-effects of this kind of EFP.

3.5.3 Capital participation of employees as shareholders ensures that the long-term interests of the company tend to dominate. **Good corporate governance**, which helps to ensure the long-term continuation of the company, is most likely the consequence.

3.5.4 Anyone whose stake in a company is his own job naturally wants full transparency on company accounts and participation in company decisions. In this way participation based on share ownership complements participation based on information, consultation and participation rights.

3.6 Share ownership and participation in decision-making

3.6.1 Contrary to widespread concerns – especially in companies without previous experience in this field – **EFP does not restrict the employer's autonomy**, but rather supports him in his decision-making processes.

3.6.2 For other shareholders in the company it is an advantage to know that they have the company's employees on board as shareholders, who are pursuing the same objectives. Positive **participation by employees based on ownership rights** and the resulting sense of responsibility can contribute to better corporate governance⁽⁸⁾ and offers the opportunity to exchange suggestions concerning enterprise strategy, thus enriching the choice of company decisions, within the limits described above. Employee shareholders must have the same rights as other shareholders.

3.6.3 Finally, it should be made clear that ownership rights acquired through EFP cannot and should not change either acquired co-determination rights in the Member States concerned or the contractual employer-employee relationship. These remain unaffected by EFP.

⁽⁸⁾ In Austria, for example, there is the option of structuring EFP in the form of an intermediary entity.

4. A European approach: building blocks for practical problems and solutions

The development and promotion of easily understandable and practicable models for European EFP would be of great political significance for the shaping of the European economic and social area. In principle participation in such models should remain voluntary for employers and employees. Their financing is supplementary to remuneration of labour and/or wages agreed by collective bargaining or profit-sharing.

4.1 *Combination of employee share ownership and profit-sharing as future trend in EFP*

4.1.1 With respect to deferred share-based profit-sharing – especially concerning the possible deferred taxation of employee's benefits – three steps should be distinguished:

- The initial phase of sharing company profits with the employees.
- An intermediate phase when accumulated monies are invested in company stock.
- The final phase when the acquired shares are released to the employees.

4.1.2 Forms of share ownership, where the **acquisition of shares via a trustee fund** is financed by a profit share paid in addition to wages, already exist. This is normally done via a separate intermediary entity, which manages the shareholding held in trust for employees⁽⁹⁾. The governance of these trusts should be direct expression of all employee shareholders, with no influence from the management, in a democratic elective way. **Best practice examples of intermediary entities holding employee shares** are: AUCHAN⁽¹⁰⁾ (France); HOMAG AG⁽¹¹⁾ (Germany); Pfalz Flugzeugwerke (PFW Aerospace AG)⁽¹²⁾ (Germany); Voestalpine AG⁽¹³⁾ (Austria); Oktogonen Foundation⁽¹⁴⁾ (Sweden); Herend-ESOP⁽¹⁵⁾ (Hungary); Tullis Russell-ESOP⁽¹⁶⁾ (UK); Eircom-ESOP⁽¹⁷⁾ and Aerlingus-ESOP⁽¹⁸⁾ (Ireland).

⁽⁹⁾ In continental Europe usually a limited company, foundation or association, in the UK and North America a trust.

⁽¹⁰⁾ Purpose: enhancing loyalty and employee motivation; <http://www.groupe-auchan.com/emploi.html>.

⁽¹¹⁾ Purpose: financing of growth; <http://www.homag.com/de-de/career/Seiten/mitarbeiterkapitalbeteiligung.aspx>.

⁽¹²⁾ Purpose: EADS spin-off; <http://www.netz-bund.de/pages/mitarbges.pdf>, p. 32 et seq.

⁽¹³⁾ Purpose: privatisation and strategic shareholding; http://www.voestalpine.com/annualreport0809/en/management_report/employees.html.

⁽¹⁴⁾ Purpose: enhancing loyalty and employee motivation; see Handelsbanken, Annual Report 2009, [http://www.handelsbanken.se/shb/inet/icensv.nsf/vlookuppics/investor_relations_en_hb_09_eng_ar_rev/\\$file/hb09eng_medfoto.pdf](http://www.handelsbanken.se/shb/inet/icensv.nsf/vlookuppics/investor_relations_en_hb_09_eng_ar_rev/$file/hb09eng_medfoto.pdf), pp. 53, 56.

⁽¹⁵⁾ Purpose: privatisation as well as enhancing loyalty and employee motivation; <http://www.herend.com/en/manufactory/story/>, lacking details on ESOP, see year 1992.

⁽¹⁶⁾ Purpose: business succession; <http://www.tullis-russell.co.uk/group/about/>.

⁽¹⁷⁾ Purpose: privatisation and strategic shareholding; <http://www.esop.eircom.ie/>.

⁽¹⁸⁾ Purpose: privatisation and strategic shareholding; <http://www.aerlingus.com/aboutus/investorrelations/shareregister/>.

4.1.3 In order to permit the wider dissemination of intermediary entities facilitating employee share ownership, work should be done on the best practice examples (see also appendix).

4.2 *Tax incentives and mutual recognition of EFP schemes*

4.2.1 It has been demonstrated⁽¹⁹⁾ that tax incentives are not a precondition for EFP, but surely an **effective instrument for promoting their dissemination** in countries that offer them. Although they are the most widely used promotion instrument, a European regulation of tax incentives would go beyond European Union competences and conflict with national legislative powers. But as in reality transnational activities and career profiles are increasingly common, the fact that forms of EFP continue to be purely national in scope means that it cannot be expanded in Europe to the extent desired. Often the only way of introducing EFP in foreign branches is therefore to buy in expensive local expertise, which makes introduction so expensive that the idea is generally dropped. An **optional simple, uniform incentive model, with the same tax arrangements and incentives throughout the EU**, could considerably boost the number of cases where there is a willingness to introduce EFP, as this would make it easy to structure schemes available throughout a group of companies⁽²⁰⁾.

4.2.2 **Deferred taxation** could be taken as a lowest common denominator basis principle for a proposed model.

4.2.3 Before a European model with uniform tax incentives is established, **mutual recognition of the schemes** of the individual EU Member States should be the aim. This would improve the attractiveness and practicability of EFP even without a uniform European solution.

4.2.4 Besides tax incentives, companies can also grant effective incentives such as the discounting of shares issued to employees.

4.3 *EFP in cooperatives*

4.3.1 **Workers' cooperatives are a good example** for EFP, particularly when a majority of employees are both owners and workers. In compliance with the cooperative values and principles recognised world-wide, all worker-members have full participation rights in decision-making⁽²¹⁾. When workers own, control and manage their enterprises, experience shows that these guaranteed rights lead to better economic results and a higher capacity to survive the crisis and therefore the long-term maintenance of their jobs in their regional living environment. Legally constituted representation will stimulate a framework for increased financial participation.

⁽¹⁹⁾ The PEPPER IV Report, Part. I, Chapter IV, pages 56-58.

⁽²⁰⁾ See Thyssen Krupp: <http://www.thyssenkrupp.com/de/investor/belegschaftsaktie.html>.

⁽²¹⁾ See for instance ILO recommendation 193 on the Promotion of Cooperatives.

4.4 EFP in the public sector

4.4.1 The vast majority of EFP schemes apply to limited or public limited companies, where implementation is relatively simple. Certain types of enterprise, particularly in the non-profit sector - and thus their employees - are either excluded from this possibility by definition (public sector, non-profit organisations) or have very limited access to this arrangement (associations, foundations etc). There are, however, large

numbers of people working in these areas, who should also have access to EFP.

4.4.2 Notwithstanding the principle of subsidiarity, the aim should therefore be to develop a model which offers the opportunity of financial participation to **all vocational groups and forms of enterprise**, taking into account the specific situation of the public sector.

Brussels, 21 October 2010.

*The President
of the European Economic and Social Committee*
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Changes and prospects for the metalworking industry' (own-initiative opinion)

(2011/C 51/02)

Rapporteur: **Mr RODRÍGUEZ GARCÍA-CARO**

Co-rapporteur: **Mr GIBELLIERI**

On 16 February 2010 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

Changes and prospects for the metalworking industry.

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 September 2010.

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

At its 466th plenary session, held on 21 October 2010, the European Economic and Social Committee adopted the following opinion by 72 votes in favour with eight abstentions.

1. Conclusions and recommendations

1.1 Strategic importance

The metalworking industry is absolutely key in the move towards a resource-efficient, low-carbon economy, in line with the objectives of the EU 2020 strategy. The objective of increasing efficiency in the use of resources is a challenge for the sector and at the same time presents a business opportunity: the metalworking industry will have an essential role to play in creating a resource-efficient economy. The metalworking industry is a robust sector that creates significant numbers of jobs, and is a key industry in creating added value. The sector serves to strengthen the European value chain and is an important link in the value chain towards creating a resource-efficient economy.

1.2 The metalworking industry is also extremely important as a sector for innovation and as a supplier, particularly as regards the Resource efficient Europe initiative which aims to help de-couple economic growth from the use of resources, support the move towards a low-carbon economy, increase the use of renewable energy sources, modernise the transport sector, and promote energy efficiency.

1.3 Visibility

The metalworking industry does not have a high enough profile.

1.4 The metalworking sector should not be confused with the production of metal. In European Facts and Figures (a Eurostat publication), the production of iron, steel and ferro-alloys (Nace 27) is analysed together with activities for making metal products – in other words the metalworking industry

(Nace 28). This makes it very difficult to carry out an accurate analysis of employment and industry trends in metalworking. The sector's low profile has meant that impact assessments do not sufficiently take into account the major micro-economic implications of new regulations in the sector. It is essential to support the development of its potential, particularly in the field of export growth, and to learn practical lessons from its culture of entrepreneurship and innovation.

1.4.1 The EESC therefore calls upon the European Commission to take due account of this branch of the downstream industry with regard to its own organisation and in allocating human resources, and to improve the level of the industry's representation and contacts in DG Industry and Entrepreneurship and DG Trade, in keeping with its specific weight and its job-creating capacity, providing 4.3 millions jobs in the European Union. For this reason, the EESC recommends that the European Commission provide the metalworking industry with better formal representation in the Commission's services and activities (e.g. in the EU-China dialogue).

1.5 Applying the 'think small first' principle would create the right conditions for doing so.

The administrative burden of providing authorities with the data required under local and EU regulation is heavy. As a result life for SMEs is not becoming easier. Moreover, given the general investment climate in many countries, it is increasingly easy, convenient and profitable for companies to purchase part of their products outside the EU, rather than to increase production, to develop technology, and to invest in innovation. Such practice will compromise long-term competitiveness and alienate young technicians.

The EESC urges that the 'think small first' principle be effectively taken into account when applying the EU 2020 strategy in the area of the industrial policy, as stated at the European Council of June 2010, and in the forthcoming communication on an industrial policy agenda for Europe, which is supported by the flagship initiative An industrial policy for the globalisation era.

1.5.1 The EESC also urges the Member State authorities to provide crucial support for entrepreneurs at all levels, making business start-up procedures easier to use and fostering entrepreneurship.

Social and employment policies are another vital aspect of the general conditions under which companies operate. The EESC calls upon the Member States to strive together – particularly in the area of social policy – to help create a more supportive environment for the growth of competitive and profitable companies, as these make sustainable jobs in the metal industries in Europe possible. It is important to ensure that the industry can anticipate potential business changes or changes in client strategies or in the production of materials, through social dialogue, the provision of information, and timely and effective consultation. Promoting exchanges among EU Member States and social actors in order to learn from each other and identify effective instruments, together with the role of flexicurity, could be envisaged in this area.

1.6 *Skilled personnel, anticipating training needs, and ensuring the sector connects with young people*

Given the average size of companies, it is increasingly important to have sufficient availability of skilled personnel. Measures to combat the shortage of skilled personnel, whether high calibre apprentices, qualified workers, technicians, engineers or researchers, as well as adequate education (both formal and vocational) and training for them, therefore represent a key issue.

1.6.1 The EESC stresses that it is essential to work at all levels to improve the industry's image and attract more young people to the industry. It is essential to ensure that such a relatively labour-intensive sector can retain and if possible upgrade its workforce, in terms of both quantity and quality. The EESC calls upon the Commission to consider the possibility of carrying out a Europe-wide study on the education and technical skills needed in the metalworking industry in order to anticipate training needs. This could be a major reference document for stepping up cooperation between the sector and technical universities and vocational training institutions. The EESC recommends that the recently-established European social dialogue for the metals sector should lead and direct this study, sounding out all opportunities for exchanging

information considered useful in improving the situation of SMEs and their workers.

1.7 *Innovation*

For research and development to be successful, cooperation between metal producers and metalworking industry is particularly important. More European research funds should be dedicated to the metal producing and metalworking industries and in particular to materials technologies and nano-technologies, in order to improve the mechanical properties of metallic materials in corporate research and thereby enhance and promote the sector's competitive and innovative edge. The EESC recommends that when determining the structure of the 8th Framework Programme, the European authorities, and particularly the European Commission, should do all they can to facilitate general access to projects. Cooperation with SMEs should be supported in particular, as they have only limited human resources with which to identify, present and carry forward potential innovation projects.

1.7.1 Given that, generally speaking, innovation in industry is not due to new scientific knowledge alone but rather to a range of forms of innovation, such as new concepts for logistics or marketing, organisational innovation, business model innovation, and product design for example, the EESC calls for EU innovation policies to better reflect this.

1.7.2 As product design and development are transferred down or up the product chain, protection of IPR and the issue of counterfeiting become an ever-greater challenge. Here again, few metalworking companies can afford the resources that larger companies allocate to protect their intellectual property.

1.8 *Non-image*

The metalworking sector suffers from a 'non-image'. Providing an adequate image for the sector and its opportunities is a task for the industry, and would also benefit from support from the authorities. To this end, the EESC recommends that the national and European authorities analyse the sector's condition from the point of view of its role as an industrial barometer and a reliable 'health check' indicator for the industrial production chain and the contribution to its state of health made by small and medium-sized enterprises.

Industry and industrial projects are generally not widely accepted, which is due to the fact that the industry has been depicted in a negative light for decades. Politics, industry and public authorities need to work together in new ways to ensure that companies have a better image and are shown to be complying with all the legal requirements.

1.9 Trade policy

Both DG Trade and DG Industry and Entrepreneurship should have sufficient knowledge of the metalworking industry and adopt a balanced approach when taking measures that have an impact on companies in the sector. The EESC therefore recommends that the European Commission take the appropriate measures and, in its decision-making concerning specific sectors, take account of the Community interest and the ensuing impact at all levels of the value chain and the industrial fabric as a whole. The European Commission should uphold the principle of reciprocity, particularly in trade policy, in its relations with third countries.

1.10 Clusters

There is a clear interest in developing a vision for the metalworking sector, based on the various clusters present throughout the European Union. The following in particular have already been identified: the Basque Country (Spain), Brescia (Italy), Flanders (Belgium), Lithuania, Pays de la Loire (France), Silesia (Poland), South Westphalia (Germany), Vorarlberg (Austria) and Valencia (Spain). However, further research should be carried out in order to assess the implications, major trends, changes in the industrial fabric and opportunities for comparative benchmarking in the different areas.

1.11 Funding

The EESC would welcome a stronger emphasis on the need to provide adequate liquidity mechanisms for the manufacturing industry, especially for SMEs in this sector. This could lead to better practices across Europe.

2. Introduction

2.1 The Lisbon Treaty provides a new operating framework for the European Union, a new European Commission has started work and a new term commenced at the European Parliament in 2009. In the meantime, the European Union in general and the European manufacturing base in particular are facing global dynamics and challenges of a kind unprecedented since the creation of the EU.

2.2 Those challenges must be met decisively if rising unemployment, increasing destruction of the entrepreneurial and manufacturing fabric and the growing loss of public confidence are to be halted.

2.3 With the present own-initiative opinion on the European metalworking sector, the EESC sets out to provide some possible answers to those questions which, in the long run, will decide whether the innovative strength, economic resilience and global competitive position of European metalworking manufacturing can be sustained. The CCMI is exploring the challenges and opportunities for the sector that are emerging in the move towards a sustainable economy and a more efficient use of resources, as defined in the EU's 2020 strategy.

2.4 These questions include the following: How are these challenges to be met? Are the EU institutions going to deliver? Where can they bring value-added? Is *Europe 2020 - A strategy for smart, sustainable and inclusive growth* the right recipe for success?

3. Metalware is everywhere

3.1 Metalworking companies are located across the whole of the EU, in almost every European region and city. They are flexible, innovative, often (relatively) small, pragmatic, service-oriented, job-creating (and job-maintaining) companies, and are entrenched in our familiar industrial supply chain landscape. These companies are so much part of the scenery that they are often taken for granted. The first steps towards improvement have been taken and are to be welcomed, notably a first European-wide study recently published by the European Commission. However, some companies in the metalworking sector - possibly due to their size, diversity, versatility and endurance, - have to a large extent remained out of the public eye.

3.2 This invisibility is reflected, for instance, in Eurostat's *European Facts and Figures* publication, where manufacturing of iron and steel and ferro-alloys (Nace 27) is analysed together with the downstream activity of the manufacture of fabricated metal products, in short, metalworking (Nace division 28). This makes it very difficult to properly analyse employment and industrial trends in the metalworking sector separately.

3.3 There is no longer any justification for this invisibility. The metalworking sector is the 'hidden' fundamental link, central to the EU's manufacturing supply chain and, despite the relatively small size of its individual units, boasts some strikingly impressive figures within the European economy.

3.4 The following data illustrate in a nutshell the size and strategic importance of the metalworking sector for the European economy and workforce.

3.4.1 It contains myriad SMEs: 400 000 metalworking companies across Europe, most of which (some 95 %) employ less than 50 people.

3.4.2 The metalworking industry provides jobs throughout Europe: 4,2 million people work for the metalworking industry, i.e. about 12 % of total manufacturing employment.

3.4.3 It is an employment-generating sector: it is significant that, unlike most other sectors, employment rates in the industry in Europe over the last decade had risen consistently until the recent economic downturn. For example, employment in the industry rose by some 8 % between 2000 and 2006.

3.4.4 It represents a sizeable economic sector: production value (in 2008) was estimated at EUR 530 billion.

3.4.5 It plays a pivotal role in the EU's industrial fabric, producing components for other industries.

4. Strategic importance of the metalworking sector

4.1 A fundamental link in the supply chain

The European metalworking sector is a fundamental link in the European manufacturing supply chain, producing components and finished products for all other sectors of manufacturing:

- Components are supplied essentially to the automotive, aerospace, transport and engineering industries, and in particular to mechanical engineering, which is a key element in helping the sector move towards an economy which manages resources more efficiently.
- Steel profiles and sheets are essential to the civil engineering industry (steel frame buildings, reinforcing bars, steel frame infrastructure, cladding for buildings, hardware, etc.).
- Vessels for the processing industries, such as food, pharmaceuticals, chemicals, petrochemicals, etc.
- Products such as fasteners (screws, nuts and bolts) and tools used both by industry and by consumers.

4.2 A robust industry

The metalworking sector is a structurally robust sector which does not suffer from enormous overcapacity.

4.3 A job-creating sector

The metalworking sector employs around 12 % of the total EU27 manufacturing workforce and accounts for around a fifth of the total number of manufacturing enterprises operating in the EU27.

4.4 A value-added generating sector

The European metalworking sector delivered 10 % of the total manufacturing value-added in the EU27, while (in 2006) accounting for 7,4 % of manufacturing output. In this respect the metalworking sector (gross operating output and manufacturing turnover) is a European 'value-adding' champion clearly outperforming other manufacturing sectors.

4.5 A large sector made up of small companies

The European metalworking sector is a major manufacturing sector in its own right even if (or maybe, because) it is predominantly composed of a rich variety of individually mostly small-sized companies ⁽¹⁾ (more than 90 % are small and medium-sized enterprises and are family owned). Moreover, in many countries – Germany being the main exception – the sector is dominated by micro enterprises (10 or fewer employees), accounting for 80 % of enterprises in the sector (2006).

4.6 A sector strengthening the European supply chain

4.6.1 The industrial structure of the metalworking sector is probably not due to any random factor, but rather to a practical adaptation to market needs, which have ultimately shaped the manufacturing supply chain in Europe to provide the required flexibility, innovative and niche function that the metalworking industry boasts today. In this respect, the small/medium sized profile of the average metalworking company should not be interpreted as a perceived weakness but rather as a relative strength.

4.6.2 All the more so, since research shows that the European metalworking industry is and will, to a great extent remain, an SME sector. They are effectively becoming smaller in proportion to their large supply chain partners who, unlike the metalworking industry, are engaged in a major consolidation process. In contrast, the opportunities for consolidation within the metalworking sector are, generally speaking and for structural reasons, very limited.

4.6.3 There is a need for close cooperation at every stage in the supply chain. In this regard, the EESC calls upon the European Commission and the Member States to look into the important issue of enhancing partnership and stepping up cooperation throughout the chain, and in particular advocates creating channels through which the metalworking sector can identify and influence the development of new qualities and classes of steel, in line with expressed requirements.

⁽¹⁾ European Commission FWC Sector Competitiveness Studies - Competitiveness of the EU Metalworking and Metal Articles Industries, final report, 18 November 2009, p. 91. Industry structure and size distribution of companies, point 2.7.1 - Extent and role of SMEs in the MMA sector: 'An analysis of the MMA sector by firm size (by employment) [...] shows that the sector is dominated by micro enterprises (less than 10 employees), which accounted for 80 % of all enterprises in the MMA sector in 2006. At the same time, around 17 % of all enterprises in the MMA sector could be classed as small in 2006 (10-49 employees). Thus, over 95 % of all MMA enterprises employed less than 50 people in 2006; 3 % could be classed as medium-sized (50-249 employees), while only around ½ % of enterprises were large (250+ employees).'

4.7 A sandwich sector

Where size and economies of scale are concerned, the metalworking industry's relations with its clients and suppliers will become increasingly asymmetric in the years to come. As a result, the metalworking industry (increasingly) finds itself in a sandwich position, which diminishes its scope to control its own fate and influence its business environment. This situation exerts ever-growing pressure on fixed costs and the quality of employment in the sector.

4.8 Answers for the future based on accurate analysis

Based on these strategic elements, the own-initiative opinion sets out to draw answers from the real life experience of the metals sector, a sector with companies and clusters which invigorate every major European region with jobs, training and opportunities. A versatile, resilient and innovative sector with an extraordinary capacity to adapt and to maintain jobs under the most varied circumstances, which could serve as a model for identifying responses to the challenges ahead and in particular on how to champion change.

5. What needs to be done at European level

5.1 The metalworking industry: a champion of SMEs

5.1.1 Although there are regional differences in absolute terms (German metalworking companies tend for instance to be comparatively larger than companies in the rest of EU), the metalworking sector, relative to the size of other economic sectors, is clearly marked out by the predominant, widespread presence of small and medium-sized enterprises.

5.1.2 The EESC feels that this aspect should not simply be briefly acknowledged and then put aside by politicians with no further action. Recent analysis has shown that this distinctive SME aspect should not be classified as a marginal feature of the metalworking sector or as an accidental attribute, but rather as a crucial factor in the sector's strength.

5.1.3 The EESC encourages the European Union to continue to examine all the key attributes of the industry in detail, and to clearly and precisely identify which aspects of the metalworking sector are beneficial, constitute its core strengths and consequently represent factors for value-added within the EU manufacturing chain.

5.1.4 The European Union should subsequently provide suitable European SME policies to meet these specific needs. Best practices and optimum policies should be devised, where

appropriate using benchmarking tools, to accommodate the specific needs of European metalworking SMEs. This would enhance and support the qualities and strengths of the sector and support it in retaining its position as the European SME manufacturing champion.

5.1.5 In addition, strengths-based studies of the sector would also serve to confirm that it is one of the driving forces behind innovative manufacturing in Europe, to highlight its strengths and to boost its image, which is badly needed if the sector is to attract workers (especially young people). Political vision is needed to position European manufacturing on the political front as a 'job creator' and an innovator within the manufacturing chain.

At a time when theoretical, rhetorical and often vague pledges regarding the importance of European SMEs are emanating from various administrations across Europe, it is important to precisely and accurately define practical, down-to-earth, realistic measures designed to understand, strengthen and champion this key sector instead of issuing vague, 'one-size-fits-all' approaches.

5.1.6 As the companies in the sector are medium-sized, most employees in the metalworking industry do not have access to European works councils or similar European networks to represent their interests. However, most companies in the sector are already working as part of the European value chain or have competitors in other companies in the sector operating from outside the EU. As a result, pay, hours and working conditions are often subject to direct competition. In order to avoid variations in the amount of information provided, the EESC advocates the proper and timely provision of information, consultation of employees, and promotion of social dialogue. Given the number of people employed in SMEs in Europe, European policy should be able to meet the needs of these employees.

5.2 Availability of raw materials, particularly steel

5.2.1 Securing availability of raw materials at fair prices is a key issue for the metalworking industry, as the impact of raw materials in a transformed, globalised market is increasing.

5.2.2 EU metalworking companies cannot compete on labour costs within the EU and neither, due to their small size as individual companies, can they achieve the economies of scale that their suppliers, for example the steel mills, can. This makes access to inputs – in particular raw materials and energy – at competitive market conditions essential.

5.2.3 The EESC also recommends that in its relations with third countries, the European Commission insist on upholding the principle of reciprocity and that, in this regard, it look closely at a series of factors that put European businesses at a disadvantage in gaining access to raw materials compared to companies from other countries, such as China, that compete within Europe to buy scrap metal, while European firms do not have the same opportunity to buy scrap since this market is closed.

5.2.4 It is also important to support the ability to plan ahead and respond to volatility and a range of various scenarios (risk management), as well as to ensure that the regulatory environment for the European steel industry does not put obstacles in the path of investment in this EU sector. The shift from multiannual or annual contracts to ever-shorter term contracts or, increasingly, to spot transactions, is likely to accentuate this trend and increasingly constrain the planning capacity of metalworking companies. The EESC recommends that the European institutions take account of this trend in order to formulate measures so that the growing price volatility facing the metalworking SME sector can be managed. More specifically, the EESC recommends that this important aspect be taken into account when the forthcoming communication on the European Raw Materials Strategy is drafted.

5.2.5 Similarly, the EESC would draw attention to the growing concentration in the iron ore mining sector, and calls upon the European Commission to take account of the risks that the creation of virtual worldwide monopolies could entail for the European industry, as reflected in the stance taken by the European steel sectors, the engineering sector and the automotive sector with respect to the announced merger between the BHP Billiton plc and Rio Tinto plc mining companies.

5.3 Energy

5.3.1 Securing a stable supply of electricity is of vital importance to the EU metalworking industry, which needs to ensure supply of all energy sources under competitive market conditions.

5.3.2 The creation and funding of infrastructure and the necessary cross-border connections, together with the removal of barriers at national borders, in particular for the transmission of electricity, is a key issue in ensuring competition between electricity suppliers and distributors.

5.3.3 Furthermore, it is important to strike the right balance, when adopting energy policy decisions, between the environmental aspect and the economic effects on both the stability of supply and supply prices: this balance is a key factor for the competitiveness of this sector.

5.4 Competing on a level playing field

5.4.1 EU-based companies are also faced with ever tougher international competition both in the internal market from imported products and also on the export markets. The situation is exacerbated given that conditions vary so much across the EU in terms of energy prices, permission procedures for installations / plants, and operating conditions for example. The EESC urges the European Commission to ensure that competition within the EU and international competition with other countries takes place on a level playing field.

5.4.2 The EESC urges the European Commission to ensure that international competition with other countries takes place on a level playing field.

5.4.3 Lastly, competition authorities should keep a much closer eye on possible abuse arising from the size of this sector relative to that of its clients and in particular suppliers.

5.5 Financing

5.5.1 Financial institutions play a major role in attaining industrial political objectives through either taking or not taking risks, and through their degree of accessibility. The financial crisis which has clouded the outlook for the real economy since late 2008 has not left the metalworking industry unaffected. While loan demand was relatively slack in the adverse economic climate of 2009, the stronger than predicted upswing during 2010 is increasingly leading to shortages in the supply of finance to businesses as loan demand is picking up. Such shortages are felt more acutely by SMEs, which almost exclusively depend on bank financing. The metalworking industry with its high percentage of SMEs is feeling a pinch which threatens to turn into a serious crunch.

5.5.2 Banking institutions have not been risk averse when investing in hedge funds and other securities and yet seem to have rediscovered risk aversion when it comes to their basic job of providing funds for the real economy. It is important to emphasise that the financial sector must serve as a means to an end. At this juncture the banking sector is bracing itself for the implementation of the EU capital requirement directive (CRD) which will impose additional deleveraging pressures on the banks and a much more restrictive stance on risk-taking. Closer inspection of the regulations is needed to avoid negative side effects for the availability of credit for the entire sector.

5.5.3 The EESC would welcome a stronger emphasis on the need to provide adequate liquidity mechanisms for the manufacturing industry, especially in this sector where SMEs are concerned. This could lead to better practices across Europe.

5.5.4 The metalworking industry is an important European exporting sector. The EESC would welcome steps to support the development of its potential, particularly in the field of export

growth. Part of this will certainly be about improving their access to finance and export credits.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on 'The implications of the sovereign debt crisis for EU governance' (own-initiative opinion)

(2011/C 51/03)

Rapporteur: **Mr SMYTH**

On 29 April 2010 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

The implications of the sovereign debt crisis for EU governance.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 September 2010.

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

At its 466th plenary session, held on 21 October 2010, the European Economic and Social Committee adopted the following opinion by 120 votes to seven with five abstentions.

1. Conclusions and recommendations

1.1 The sovereign debt crisis - triggered by financial and fiscal crises - threatens the very existence of EMU and requires effective financial, economic and political responses. It has highlighted the inadequacies of the Stability and Growth Pact as a mechanism for ensuring fiscal responsibility in member states.

1.2 The EESC supports the actions taken to date by the Council and ECOFIN to support member states in financial distress via the European Stabilisation Mechanism (ESFM) and the European Financial Stability Facility (EFSF). This is an interim solution but it may form the basis of a more permanent procedure and framework for conditional financial support through the establishment of a genuine European Monetary Fund. The case could also be considered for setting up a European sovereign debt agency that issues Eurobonds.

1.3 The EESC recommends that in order to avoid jeopardising the aims of the European Economic Recovery programme, debt reduction programmes should be set up in the euro area to ensure the area's economic and monetary stability. This should be done in a way that is compatible with the economic recovery and the employment objectives set out in the Commission's Communication 'Europe 2020: A strategy for smart, sustainable and inclusive growth', which have been seriously compromised by the crisis.

1.4 There are many lessons to be learned from the debt crisis for future EU governance. The initial proposals from the working group on economic policy in terms of surveillance and sanctions represent moves in the right direction. The

EESC nevertheless believes that sanctions have to be balanced with greater European solidarity in the management of sovereign debt but the EESC notes that as yet there is no formal mechanism for dealing with a sovereign debt default. This remains a structural weakness in the architecture of EMU that must be addressed by policymakers. The sanctions, however, should be both political and economic, to avoid further exacerbating the debt of the countries concerned.

1.5 Much of the blame for the sovereign debt crisis can be laid at the door of irresponsible fiscal policies pursued by some EU Member States. Some of the blame can be attributed to imprudent bank lending which fuelled construction and asset bubbles and some to the imprudent behaviour of credit rating agencies. The huge taxpayer-funded bail-outs of banks in some Member States and the subsequent fragility of the global financial system was also an important contributory factor to the crisis. For the future there must be effective reforms of global banking that prevents a recurrence of such behaviour.

1.6 The EESC hopes that the strengthening of European economic governance, to be launched in January 2011 with the European Semester, bringing closer economic policy coordination among the Member States⁽¹⁾, will aim to safeguard European jobs which are seriously threatened by the crisis.

1.7 The Committee believes, however, that economic policy coordination alone is not enough – at least for the euro area countries; rather, a genuine common economic policy is needed, as well as coordination of budgetary policy, at least in the first phase.

⁽¹⁾ COM(2010) 367: *Enhancing economic policy coordination for stability, growth and jobs – Tools for stronger EU economic governance.*

2. Background to the crisis - fiscal policies underpinning Economic and Monetary Union

2.1 Fiscal discipline is one of the key elements of macro-economic stability and this is particularly true in a monetary union, such as the euro area, which is made up of sovereign states that retain responsibility for their fiscal policies. In the euro area national monetary and exchange rate policies to respond to country-specific shocks are no longer available. Fiscal policies are therefore all-powerful but they can adjust better to such shocks if they start from a sound position.

2.2 Several mechanisms and arrangements were put in place to ensure sound fiscal policies and to limit the risks to price stability. These arrangements are enshrined in the Articles 121, 123, 124, 125 and 126 of the Treaty on the Functioning of the European Union (TFEU) and comprise the Stability and Growth Pact (based on Articles 121 and 126), the excessive deficit procedure (Article 126), the prohibition of monetary financing (Article 123), the prohibition of privileged access to financial institutions (Article 124) and a no-bail-out-clause (Article 125).

2.3 The basic rule of budgetary policy enshrined in the Treaty is that Member States shall avoid excessive government deficits. The basis of compliance with this is that Member States should observe an annual general government deficit limit of 3 % of GDP and keep gross national debt in relation to GDP at or below a limit of 60 %.

2.4 In exceptional circumstances a temporary excess of the deficit over the limit can be exempt from being considered excessive provided that it remains close to that limit. The decision as to whether a Member State is in a situation of excessive deficit lies with the ECOFIN Council, acting upon a recommendation from the European Commission. If the Council decides that a Member State is in a situation of excessive deficit, the excessive deficit procedure provides for the necessary steps to be taken. These could ultimately lead to imposing sanctions on the country concerned.

2.5 The rationale for the Stability and Growth Pact is to ensure that sound budgetary policies are adopted on a permanent basis. The Pact lays down the obligation for Member States to adhere to the medium term objectives for their budgetary positions of 'close to balance or in surplus', as defined under country-specific considerations. Adjusting to such positions is supposed to allow Member States to deal with normal cyclical fluctuations without breaching the 3 % of GDP reference value for the government deficit. In reality, the concept behind and the operation of the Stability and Growth Pact have been very far apart. As the European Central Bank (ECB) recently commented:

'However, the compliance of individual Member States with the budgetary norms of the Maastricht Treaty and the Stability and Growth Pact has been uneven. Breaches of the 3 % of GDP reference value for the government deficit have been repeated and persistent in some countries, leading to the conclusion that at least in these cases the implementation of the Pact has lacked sufficient rigour and political will. To varying degrees across countries, deviations from fiscal plans have been caused by over-optimistic growth forecasts, ex post data revisions, larger than expected revenue fluctuations and persistent expenditure slippages.' (Ten years of the Stability and Growth Pact, ECB Monthly Bulletin article, October 2008.)

2.6 The apparent breakdown in compliance with the fiscal rules underpinning EMU pre-dates the current global financial crisis but it could be argued that the risks of sovereign debt default within the monetary union represent a second phase of the crisis. After a decade or more of easy credit growth which led to housing and construction bubbles, the subsequent economic implosions in some Member States has left them with spiralling debt problems. It is somewhat ironic that the governments of Greece, Spain and Portugal did not have to undertake taxpayer funded rescues of their banking systems during the banking crisis but their sovereign debt difficulties now threaten to de-stabilise banks right across the EU. This illustrates the point that taxpayer-funded bail-outs of banks were not the main cause of the increase in public debt.

2.7 During the banking crisis it was often claimed that some banks were 'too big to be allowed to fail'; now there is talk of Member States, struggling with mounting public debt, being 'too important to be allowed to default'. Just as there was a painful acceptance by taxpayers of the need to bail out delinquent banks now, in turn, a potentially even more painful adjustment in public finances of some Member States is being demanded by international bond markets. The uncertainty which the sovereign debt default issue has created has also begun to undermine the euro itself and has prompted fears that it could engulf a number of euro Member States.

2.8 The sovereign debt crisis is a crisis of confidence for the EU in general and the euro zone in particular. It requires a political as well as a financial solution. It has brought into question the adequacy, or otherwise, of the fiscal arrangements outlined above to ensure the stability of the single currency. It could be argued with some justification that the Stability and Growth Pact has failed and that Europe now needs to create a new fiscal and monetary framework that could cope more effectively with seriously adverse economic outcomes or even the failure of a Member State. If this is correct, then what might such a framework look like?

3. Alternative Fiscal and Monetary Frameworks

3.1 There have been a number of developments at both the policy theory and policy implementation levels in recent months. One interesting proposal that has been put forward to address the sovereign debt crisis and the issue of sovereign default is the creation of a European Monetary Fund (EMF) ⁽²⁾. The idea behind this proposal is the argument that the International Monetary Fund (IMF) is not experienced in dealing with the threat of a sovereign debt default in a member of a monetary union and that the EU would have much stronger enforcement mechanisms if an EMF were in operation.

3.2 The notion of a European Monetary Fund should be seen as analogous to the kinds of policy responses to the recent financial meltdown when the objective of policy was to prevent the failure of large financial institutions. As the EU emerges from the banking crisis the policy debate has centred on reforms that would enable the orderly default of financial institutions and the self-financing of rescue funds for larger banks with solvency difficulties. In other words, having stabilised financial systems, European policy makers are now concentrating on ensuring that, in future, financial institutions and not taxpayers do the heavy lifting in times of crisis. Banking reform proposals include higher capital ratios, tighter supervision, capping bankers' bonuses and the drawing up of 'living wills'. In terms of EMU, to protect the single currency, the system must also be strengthened to cope with the instability caused by the default or failure of one of its members.

3.3 The proposers of EMF argued that it would be consistent with the notion of enhanced cooperation established in the Treaty and thus may not need an amendment to the Treaty. An EMF, properly constituted, addresses the weaknesses in the EMU architecture caused by the failure of the Stability Pact to date and the apparent lack of credibility of the no bail out clause.

3.4 How would such a fund be financed? In order to minimise the moral hazard problem now facing Germany and France in co-financing the emergency package for Greece, only those countries in breach of the Maastricht criteria would contribute to the EMF. Their contribution rates would be determined by two rules:

- 1 % annually of the stock of 'excess debt', which is defined as the difference between the actual level of public debt (at the end of the previous year) and the Maastricht limit of

60 % of GDP. For Greece, with a debt-to-GDP ratio of 115 %, this would imply a contribution to the EMF equal to 0.55 %.

- 1 % of the excessive deficit, i.e. the amount of the deficit for a given year that exceeds the Maastricht limit of 3 % of GDP. For Greece, the deficit of 13 % of GDP would give rise to a contribution to the EMF equal to 0.10 % of GDP.

For 2009, the total contribution for Greece would have been 0.65 % of GDP - considerably less than the levels of austerity now being demanded.

3.5 In addition the EMF would be able to borrow in the markets so that it would have sufficient resources on top of accumulated contributions to meet any requirements. The EMF could intervene to provide financial support by either liquidating part of its holdings or by guaranteeing a sovereign debt issue by a member state. To illustrate, and with the benefit of hindsight, using the suggested funding mechanism, the EMF would have been able to accumulate EUR 120 billion in reserves since the start of EMU. Combined with appropriate levels of market borrowings, this would provide enough to finance the rescue of any of the smaller euro area Member States.

3.6 With respect to enforcement, the EU has a number of options, ranging from cutting off structural funds, withdrawal of new funding guarantees or even cutting the country off from the euro area's money market. These penalties would be used progressively as individually they impose significant economic pressure on Member States that do not implement previously agreed reform programmes.

3.7 One of the claimed advantages of the proposed EMF is that it could manage an orderly default of a euro area member that does not comply with the terms of a reform programme. In comparison with the uncertainties of debt restructuring on international bond markets, the EMF could offer holders of the sovereign debt of the defaulting member state to exchange this debt at a standard discount against claims on the EMF. In this way the disruption caused by the default would be limited and the losses suffered by financial institutions would also be reduced.

3.8 Advocates of an EMF claim that it offers important advantages over simply calling in the IMF. The EMF could preside over an orderly sovereign default that would minimise disruptive spill over effects in bond and other financial markets. Just as with the lessons learned in the banking crisis, policy should now be geared up not just to prevent a future crisis but also to prepare for it. So too with the sovereign debt crisis. When and if the present crisis has passed, Europe must prepare for it to happen again.

⁽²⁾ This proposal is set out in full in D. Gros and T. Mayer, 'How to deal with sovereign debt default in Europe: Towards a Euro(pean) Monetary Fund,' Policy Brief No 202, Centre for European Policy Studies, May 2010. Many of the arguments in this document are drawn from this insightful paper.

3.9 Another interesting set of ideas centre on the tension between the need for European economic recovery and debt reduction. Research has shown that in the euro zone the fiscal disciplines of the Maastricht criteria and the Stability and Growth Pact have had a dampening effect on economic growth compared with the US and the UK ⁽³⁾. The irony is that the financial crisis started in the US and there the policy reaction has been an enormous fiscal and monetary counter cyclical boost. Euro area macroeconomic policy has suffered from inertia due to a policy bias towards monetary stability rather than growth. This is understandable in the context of establishing the credibility of the single currency and the ECB but it could now be viewed as potentially hindering economic recovery. Indeed there is a case for arguing that a relaxation of the limits of the Stability and Growth Pact might help to stimulate economic recovery and bring the debt crisis to an end.

3.10 It is argued that any policy or institutional response to the sovereign debt crisis should deal with the issues of debt reduction without endangering the aims of the European Economic Recovery Programme. One possible way of achieving this might be to combine a debt reduction process with an expansion of investments to counter the deflationary effects of the debt reduction. This proposal is based on the Delors 1993 White Paper on Growth, Competitiveness, and Employment and has a debt transfer option as its centrepiece. Thus a proportion of each member states' sovereign debt would be transferred to European Union bonds. The transfer would still oblige the member states to service their shares of their debt now in euro bonds. It would therefore not be a debt write-off nor would it increase the borrowing of member states faced with debt difficulties; rather it would lower the service costs of the portion transferred. Supporters of this proposal argue that it could be accommodated within existing Treaty guidelines. In tandem with the debt transfer, it is also proposed that European Investment Bank (EIB) and national financial institutions borrowing be expanded to finance the European Economic Recovery programme and to mitigate a contraction of employment income and trade resulting from aggressive debt reduction ⁽⁴⁾.

3.11 The official response to the debt crisis was set out following the Council extraordinary meeting on 9 May 2010. It involves the establishment of a European Financial Stabilisation Mechanism, based on Article 122.2 (exceptional occurrences) of the TFEU and an intergovernmental agreement of euro area Member States. The EFSM has 60 billion Euros at its disposal and it operates under conditionalities similar to those of the IMF. In addition a Special Purpose Vehicle (SPV), referred to subsequently as a European Financial Stabilisation

Facility has been established. The SPV will last three years and it will have up to 690 billion Euros to support euro-area Member States facing exceptional financial difficulties. Furthermore the European Central Bank (ECB) has started to intervene in bond markets by purchasing the debt of governments in financial distress.

3.12 There are several important aspects of these new arrangements. First of all they are not a cheap finance option; all interest and loan principal will be repaid by the relevant Member State via the Commission. In this sense the EFSM is not a bail out and is therefore compatible with Article 125. Secondly, the EFSM and EFSF represent credit lines, not budget lines and therefore they stay within the 'own resources' decision. Thirdly, the EFSF will operate for a three year period but its effects could extend for several years beyond this if it issues bonds with longer term maturities. Fourthly, it is envisaged that the EFSF will issue bonds that will be guaranteed up to 120 % by all EU Member States; it is intended that these bonds will carry an AAA rating thereby minimising their servicing costs ⁽⁵⁾. Finally the EFSM represents tangible evidence that EU solidarity remains the ultimate underpinning of EMU.

3.13 The extent to which the EFSM proposals deal effectively with the present debt crisis will become clear in the months ahead and will depend upon the extent to which individual Member States undertake the fiscal adjustments required by the EU and IMF. The EU has reaffirmed its desire to strengthen fiscal discipline and to find a permanent crisis resolution framework. The latter has prompted speculation that the EFSM and EFSF could be made permanent but this might be difficult to achieve as it would require unanimous approval of all Member States. The lack of any substantive proposals that deal with the possibility of a sovereign debt default implies that policymakers will not permit such an eventuality. While this is entirely understandable it does not eliminate the potential for such defaults.

4. Lessons to be learned

4.1 It is becoming clear that the debt crisis could have been avoided if there had been better governance in member states and in the EU and it is imperative that the governance weaknesses of the past are not repeated. To this end the working group on coordinating economic policy has announced a series of measures to strengthen budgetary surveillance consistent with the Stability and Growth Pact. These measures deal with the

⁽³⁾ See Fitoussi, J.P. and F. Saraceno: 'Europe: How deep is a Crisis? Policy Responses and Structural Factors Behind Diverging Performances' *Journal of Globalisation and Development*. Volume 1 Issue 1 Berkeley Electronic Press, 2010.

⁽⁴⁾ For a full outline of these proposals see Holland, S.: 'A European Monetary Fund, Recovery and Cohesion' in *Insight*, <http://www.insightweb.it/web/node/136> (accessed on 10.6.2010).

⁽⁵⁾ On 21 September each of the main Credit Rating Agencies declared that they would assign AAA ratings to debt issued by the EFSF.

peer scrutiny of member states' draft budgets, earlier application of sanctions in respect of the 3 % and 60 % debt thresholds, triggering of the excessive deficit procedure if debt reduction is not sufficiently timely, and greater independence for national statistical offices from the respective national governments.

4.2 The role and behaviour of the main ratings agencies throughout the financial and debt crises have been unsavoury to say the least ⁽⁶⁾. A new independent European rating agency has been proposed by Chancellor Merkel that would compete with the existing big three ⁽⁷⁾. It has also been suggested that Eurostat should be given the power to issue ratings of member states' public finances. If such powers had already been in place then Eurostat might have given earlier warnings of the Greek debt crisis ⁽⁸⁾.

4.3 The Commission has been criticised for lack of vigilance and proactivity in the quality assurance of national public finance data. This point relates to wider issues of surveillance, scrutiny and compliance which go to the heart of the failure of the mechanisms in the Stability and Growth Pact. Any longer term solution must address these issues effectively.

4.4 While there were no taxpayer-funded bail-outs for banks in Greece, Spain and Portugal, the scale of such bail-outs elsewhere in the EU and the US has contributed to an unprecedented level of pressure on sovereign bond markets and has precipitated this crisis. It is essential that effective reforms of global banking are implemented which would prevent the recurrence of such financial, economic and social instability.

Brussels, 21 October 2010.

*The President
of the European Economic and Social Committee*
Staffan NILSSON

⁽⁶⁾ For a comprehensive discussion of ratings agency shortcomings see U.S. Securities and Exchange Commission: (SEC) 'Summary Report of Issues Identified in the Commission Staff's Examinations of Select Credit Rating Agencies' <http://www.sec.gov/news/studies/2008/craexamination070808.pdf> (accessed on 10.6.2010).

⁽⁷⁾ Irish Times reports that the German Chancellor said that the new agency would 'naturally not be politically dependent' but would 'act in the spirit of sustainable economics that is not so oriented around the short term'. Irish Times from 21 May 2010.

⁽⁸⁾ During our visit to Eurostat we were informed that Eurostat had repeatedly given earlier warnings of the Greek high deficit and public debt crisis but nobody listened to them.

Opinion of the European Economic and Social Committee on ‘Transatlantic relations and the international promotion of the European social model’ (own-initiative opinion)

(2011/C 51/04)

Rapporteur: **Ms BATUT**

On 14 July 2009, 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

Transatlantic relations and the international promotion of the European social model.

The Section for External Relations, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 3 September 2010.

In view of the renewal of the Committee’s term of office, the Plenary Assembly decided to vote on this opinion at its October plenary session and appointed Ms Batut as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 466th plenary session, held on 21 October 2010, the European Economic and Social Committee adopted the following opinion by 110 votes to 34, with 16 abstentions.

1. Summary and recommendations

1.1 The EESC is supportive of the gradual integration of the Euro-Atlantic free market and wishes to deepen Euro-American relations and in particular to place emphasis on the social context in order to anticipate the consequences of transatlantic economic integration, thus ensuring that both America and Europe draw equal benefit from it and that both emerge from it more competitive, particularly in relation to the emerging economies.

1.2 The EESC draws attention to the fact that the signatories to the Treaty of Lisbon chose to promote the European social model (ESM) because they saw it, because of the globally unique constellation of economic and social elements that make it up, as a basis for successful development ⁽¹⁾ and a powerful shock absorber for the populations affected by the current crisis. The EESC would like the legitimacy of the following to be developed as part of transatlantic dialogue:

- 1) European identity,
- 2) European values and culture, including environmental protection,
- 3) the EESC, which represents organised civil society in the European Union through its members.

1.3 The European social model is symbolised by collective social protection systems, public services and social dialogue.

The EESC invites all EU institutions not only to represent this model, which citizens identify with, but also to promote it wherever possible, particularly in transatlantic dialogue.

1.3.1 Furthermore, making the social aspect one of the EU’s general priorities would enable Europeans to be present and better prepared to do this within the framework of the existing dialogues, both the TEC and the TALD ⁽²⁾.

1.3.2 In order to encourage greater awareness of the European Union’s social values in the United States and ensure that increased understanding between both sides of the Atlantic ultimately leads to convergence in the advancement of their social interests, and in order to promote social understanding, the EESC would like the EU to inform American civil society about the ‘European social model’. The TEC and the TALD could be one way of achieving this. For the EESC, ‘promoting’ the ESM ⁽³⁾ entails raising the EU’s profile in the United States.

1.4 In addition to new financial regulations, the EESC calls for the Euro-Atlantic zone to develop common rules on ratings agencies and new competition rules that are more respectful of citizens’ interests. It expects the EU to adopt strong positions which guarantee people’s standard of living, and it expects transatlantic dialogue to listen to civil societies on both sides of the Atlantic.

⁽¹⁾ As demonstrated in the increases in GDP in the Member States since the creation of the EU. See also footnote 6.

⁽²⁾ TEC: Transatlantic Economic Council; TALD: Transatlantic Labour Dialogue.

⁽³⁾ OJ C 309, 16.12.2006, pp. 119–125.

1.5 It is a question of promoting dialogue with civil society organisations and the world of work both internally and as part of relations with business representatives, beginning in the existing Euro-American bodies. The European Commission, which has increased its aid for dialogue from EUR 600 000 to EUR 800 000 for 2011/2012, could help to facilitate this. **The EESC would be ready to organise a Euro-American civil society council with its American counterparts.** Ways need to be found between the two civil societies to give a voice to workers and to develop information and consultation measures, above all in this critical period following the 2008 financial crash. The EESC considers that this crisis, which has now been going on for three years, could have been averted had there been more civil and social dialogue and more transparency.

1.5.1 The objectives of transatlantic dialogue should include learning from each other and contributing in practical terms to promoting human, political and civil rights, but also economic and social rights. People's economic and social rights should be presented by the EU in the transatlantic dialogue as an integral part of its own position.

1.5.2 The EESC believes that dialogue between Europe and the United States would be enriched by discussing social matters which are so crucial for the cohesion of societies on both sides of the Atlantic: for example, initial and lifelong education, which are both national and 'federal' competences, are crucial to the knowledge-based service economy in both societies. With a view to creating jobs and raising Europeans' standard of living, productive investment and innovation should be placed at the top of the political agenda, since this is an area in which the United States has developed a capacity for creation and promotion way ahead of Europe.

1.5.3 The EESC believes that jointly established indicators would allow evaluation and comparison of the social and working conditions of both sides in the dialogue.

1.6 The EESC sees the question of migration as important for democracies and believes that it should be the subject of transatlantic social dialogue, possibly with the involvement of the European Integration Forum (EIF).

1.7 The EESC believes that transatlantic dialogue could accelerate the growing awareness of the need for sustainability and environmental protection and that the two civil societies and their consumers have a role to play here.

1.8 The EESC would like to be innovative by including the representatives of organised civil society in transatlantic dialogue on an institutional basis. It believes that, in this dialogue, the EU must, at last, take a more 'European' stance on social issues. In the Committee's view, all phases of transatlantic dialogue should take account of the social dimension.

1.9 By adopting a cooperation programme and setting up the TEC ⁽⁴⁾, both sides have committed themselves to stepping up genuine integration with a view to achieving a unified transatlantic market by 2015 ⁽⁵⁾. There are numerous obstacles, especially legislative ones, but the objective has been set and the EESC wishes to look ahead to ensure that the historical European choices which have shaped its European social model ⁽⁶⁾ do not disappear. European and American societies, which are united by their fundamental values, are not so easy to integrate socially. Europeans acknowledge the need to change some aspects of the model as a result of the current economic crisis, but with the aim of safeguarding its principles more effectively in the long-term.

2. Economic integration

2.1 The United States is the engine of the North American economic area created under the NAFTA agreement. The Member States of the European Union and the United States together produce 60 % of global GDP and account for 40 % of world trade and 62 % of the total stock of direct investments. Seven million jobs on both sides depend on transatlantic relations.

2.2 In a study ⁽⁷⁾ published before either side was hit by the crisis, the OECD estimated that full integration of the two economies could produce 3 % growth for each partner, affording them economic leadership over almost every other country in the world.

2.3 The EESC believes that the crisis could transform Euro-American relations and that a discussion on the models should be held by the social partners as a matter of urgency in the context of the TEC and the TALD. It is possible that the crisis might delay integration and provide a space for exploring issues such as the utility of dialogue institutions, which are

⁽⁴⁾ Agreement signed at the White House by George W. Bush, Angela Merkel and José Manuel Barroso.

⁽⁵⁾ EP resolution 'State of transatlantic relations in the aftermath of the US elections', 26 March 2009.

⁽⁶⁾ References to the European social model: see the Preamble to the Treaty of Lisbon, 'Confirming their attachment to fundamental social rights as defined in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers ...'; see TEU Articles 3, 6, 32; see TFEU, Article 9 and Title X; see the Treaty of Lisbon – Charter of Fundamental Rights, Articles 28, 34, 35, 36.

⁽⁷⁾ OECD, Economics Department, 2005, 'The benefits of liberalising product markets and reducing barriers to international trade and investments: the case of the USA and the EU'.

uncommon in the USA, or immigration, which both sides need to address from a social and employment perspective, as a way of forming a pool of labour to compensate for population ageing.

2.4 It is generally accepted that the EU and US recovery plans are not compatible, but the consequences of both have been the same: to increase public deficits, strengthen public action and step up demand for controls and the redistribution of wealth. These differences and common aspects could be taken up in the TALD and the consultative bilateral structure that is to be created.

2.4.1 The impact of the crisis is discussed at the highest level (EU/US summits) as are numerous other topics as part of the existing dialogue between the Commission and its partners within the US administration and the US agencies responsible for finance, the economy and the domestic market. In Europe, civil society is suffering as a result of the lack of regulation of banking practices and rating agencies⁽⁸⁾ and their lack of transparency. Furthermore, it is paying for the recovery plans and, whilst one of the objectives of the treaty is 'to promote economic and social progress' for the peoples of Europe, the public is seeing social protection being scaled back because it is deemed too costly. It is the financial systems which have failed and severely damaged the real economy. They have brought added problems to those of the social systems which were already suffering from the lack of growth and employment. The EESC is aware that protectionism is not synonymous with jobs and thus supports unfettered trade and investment, provided that social rights are not neglected. However, the high-priority exercise of rebuilding trust must be achieved through new, smart regulation of the financial markets. For the EESC, another priority of the transatlantic dialogue must be to promote the social dimension of the economy and trade. The EESC would like the EU's representatives in transatlantic dialogue, in their capacity as the public's representatives, to continue to promote the ESM in economic and trade matters. The Commission, for its part, acts in accordance with the Treaty and ensures the implementation of its provisions.

2.4.2 The EESC believes that it would be useful for economic links to be strengthened between both sides of the Atlantic and for economic solidarity to be established among the EU's Member States. These two steps would encourage a return to economic growth and development, whilst giving equal weight

to developing the social aspect. The Europeans would therefore have material to discuss within the framework of a civil society dialogue.

2.5 The public is not well informed about the proposed transatlantic marketplace⁽⁹⁾. The North American integration experience (NAFTA) gave low priority to social and environmental aspects, with no attempt to promote decent work on either side. An evaluation is called for: in the USA, Canada and Mexico, the environment has deteriorated, wages have fallen and jobs are being lost to China. For its part, European integration has generated wealth (an increase in GDP) but has also led to the closure of mines and shipyards, the loss of the iron and steel and textile industries and restructuring of whole sectors including fishing, agriculture and the automobile industry. However, from the beginning of the Common Market, a number of compensations were factored in. The EESC calls for an opportunity to anticipate and discuss the social and environmental consequences of the current integration (e.g. GMOs). They are already being felt in some areas, specifically in relation to jobs in the cinema industry and the protection of personal data in SWIFT.

3. The possible effects of transatlantic integration

3.1 The economic and trading structures of the EU and the United States are quite similar. The first possible effect would be greater competition, less in terms of costs than of product quantity, quality and differentiation. The dollar exchange rate has allowed the USA's exports to regain competitiveness. Interest rates are lower in the United States and the Fed is quicker to respond than the ECB. In the absence of any radical change, the euro area would not currently have the necessary reaction capacity to develop into a large transatlantic market.

3.2 Integration could have an impact on labour costs and conditions; it would lead to greater insecurity made all the easier by increased flexibility in the labour market, stronger wage restraint, intensive relocations, within a strategy of competitive disinflation. Europeans are afraid of the downward pressures on their social, health and environmental standards, their living standards and their level of employment, whereas such integration ought to benefit both sides. Improved economic performance and productivity are part of the solution, but some of those who lose their jobs will not find another one. The Member States, which rebuilt themselves after the war on

⁽⁸⁾ Chapter 1, OJ C 277, 17.11.2009, pp. 117-124.

⁽⁹⁾ The initiative, presented jointly by commissioners Leon Brittan (external trade), Martin Bangemann (industry and telecommunications) and Mario Monti (internal market) in March 1998, concerned EU/USA relations and had four elements – a free trade area for services; elimination of technical barriers to trade, especially on the basis of mutual recognition agreements; liberalisation of public procurement, intellectual property and investments; possibly the gradual elimination of customs duties on industrial products by 2010. It has since been delayed until 2015.

the basis of a strong internal socio-economic consensus, are already suffering from the tensions stemming from the divergence of their respective systems, which have been thrust starkly into relief since May 2010 with the speculation on their common currency.

3.3 Against the backdrop of a more fragmented production process⁽¹⁰⁾, the emerging economies could be the main winners of transatlantic integration, intensifying competition between the two biggest economies in the OECD area. For the EESC, this is one of the issues that must be discussed as a priority in any transatlantic dialogue.

4. Integration arrangements

4.1 The creation of a Euro-Atlantic bloc cannot be achieved by keeping the people concerned in the dark. The EU could proceed democratically here and promote dialogue with the public and the world of work both internally and within the Euro-American bodies created for this purpose. The European Commission could help to facilitate this by allocating still more resources on top of recent increases⁽¹¹⁾. The EESC would be ready to organise a Euro-American civil society council with its American counterparts.

4.2 Furthermore, the EESC believes that, in line with the Lisbon treaty, transatlantic integration should be subject to a public consultation. Unless there is a clear position by the decision-making institutions on promoting the European social model internationally, any Euro-Atlantic integration runs the risk of breaking up the European 'social pact' and the public must be consulted.

4.3 The EESC would like the legitimacy of the following to be developed as part of transatlantic dialogue:

- 1) European identity,
- 2) European values and culture, including environmental protection,

⁽¹⁰⁾ Deindustrialisation is continuing both in Europe and in the United States, where, over the past decade, manufacturing jobs have fallen by 30 % and the United States' share of world trade has dropped from 13 to 9 %. Relocation of production continues in the EU. See study on working time by Rones et al, 1997, quoted in 'Revue Internationale de l' IRES' No 54, 01.2001.

⁽¹¹⁾ In 2009, the European Commission's DG Relex launched a call for proposals of EUR 800 000 for civil society projects encouraging dialogue between the EU and the USA.

- 3) the EESC, which represents organised civil society in the European Union through its members.

5. Banking regulations

5.1 Urgent reforms of the globalised economy are required. The EESC finds it regrettable that reform of international financial institutions is progressing so slowly, to the detriment of fair competition and general social equilibrium.

5.2 There is an urgent need to work together to define common standards for rating agencies in order to avoid their actions having negative repercussions⁽¹²⁾: A short time ago they were awarding good ratings to banks which caused the crisis and now they are giving bad ratings to countries on account of the debts and deficits they have run up by bailing out the very same banks, for which the public will pay. The actions of the banks and rating agencies are two points which civil societies in the EU and the USA could discuss in the transatlantic dialogue.

6. Freedoms and human rights

6.1 Some principles, although generally accepted, are not respected in the same way by both sides: freedom of travel is not treated in the same way by all Europeans and by the Americans. There should be greater harmonisation as regards visas, passports and security checks on the basis of a jointly defined model.

6.2 SWIFT⁽¹³⁾ is an illustrative example: in its legislative resolution of 11 February 2010⁽¹⁴⁾, the European Parliament opposed the renewal of an agreement on the processing and transfer of EU bank data to the USA by SWIFT. What was at issue was whether or not the USA should have direct access to European servers for the purpose of counter-terrorism surveillance. The EP's new powers allowed it to put into perspective this bulk transfer of Europeans' confidential bank transfer data, which equates, de facto, to the loss of the rights and guarantees they enjoy under European national and Union law. MEPs wished the European Union to set out its vision of the transatlantic market in relation to the protection of civil rights, preferring to move towards a more European system, with a new role for Europol and a right to redress for individual citizens. Although the guarantees still fall short, the agreement signed on 8 July 2010 does include a yearly review mechanism.

⁽¹²⁾ OJ C 277, 17.11.2009, pp. 117-124.

⁽¹³⁾ SWIFT : Society for Worldwide Interbank Financial Communications, an American company, governed by Belgian law, which manages international exchanges of financial data concerning more than 200 countries.

⁽¹⁴⁾ EP (05305/1/2010REV1-C7-0004/2010-2009/0190(NLE). SWIFT Agreement II, EP 8.7.2010 (11222/1/2010/REV1 and COR1-C7-0158/2010-0178-(NLE)).

This is very much in line with Commissioner Barnier's wish that the internal market 'must serve a society-based project, defined collectively by the European institutions' ⁽¹⁵⁾. Through this Opinion, the EESC is calling for the same thing: for the European Union to set out its own conception of the transatlantic market and to promote its ESM with due regard for its large American neighbour.

6.3 The right to life and bioethics, areas where the EU adopts progressive positions, should be protected and supported by a joint agreement outside trade agreements.

6.4 **The EESC would like the transatlantic partnership to make a contribution to respect for human, political, civil as well as economic and social rights.** The United States has a long history of promoting civil and political rights and the European Union has added the development of economic and social rights. The interest of both continents lies in the political willingness to ensure that all their citizens and residents benefit from the full scope of rights and possibilities in place on each side.

7. Social rights

7.1 The EESC has already noted that transatlantic 'social' dialogue has yielded little ⁽¹⁶⁾. Social rights appear to be included under the term 'fundamental rights', but the meaning is actually that of civil and political rights.

7.2 The EESC believes that it is not enough on its part to reiterate regularly that the United States and the EU share the same values and that, beyond the economy, they are united by the defence of liberty, democracy and human rights. The EU should consistently point out in its external action that social rights are also 'fundamental' rights and integral to its own positions. The EU's basic texts include a 'horizontal social clause' which states that in defining and implementing its policies and activities, the Union 'shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health' ⁽¹⁷⁾.

7.3 It is the 'social state', social systems and respect for social rights inherent in human rights that distinguish Europe from other continents.

The ESM combines protection of public freedoms, mechanisms of the social market economy and a positive approach to public action. It comprises three pillars: collective social protection systems, public services and social dialogue. It encapsulates the 'European Way of Life'. The EESC finds it regrettable that this is not promoted by the EU. All of these aspects are mentioned in the Lisbon treaty. This model must be promoted politically — inter alia, in the transatlantic negotiations — by stressing that Europe means 'wellbeing for all'. The EESC believes that the EU must insist that the components of this social state be given a central place in Euro-Atlantic discussions, because failure to do so would be detrimental to Europeans and to Europe's identity and diversity.

8. Social protection systems

8.1 Europeans have accepted a certain redistribution of national wealth through national systems of collective social protection, which has been weakened as a result of the increased globalisation of trade. By not defending the European social model, the EU runs the risk of ensuring its demise. The whole of society experiences a better quality of life when working time is limited, thus allowing more time for the family, one of the pillars of European society. The provision of extended periods of paid maternity and parental leave to aid young children's development, and intensive care and help for the elderly do not represent free hand-outs from the State, since heavy one-off costs are avoided and spread out through the contributions and/or taxes paid by the beneficiaries over many years.

8.2 Transatlantic relations are presently unequal in this respect. The USA is currently a federation of states without a social state (either at federal level or within individual states) but considering social changes (see the federal law on health insurance); the EU has social states at national, but not yet for all three pillars at the 'federal' level, which recommends convergence objectives through the open method of coordination. The EESC believes that this inequality between the EU and the USA should not be removed by scaling back the ESM. The EESC is concerned about the durability of the rights of Member States within the framework of transatlantic integration if there is no Community action and no political will to promote the European model, particularly during the current crisis.

8.3 The EESC believes that the transatlantic social dialogue it is calling for should tackle the challenge of 'opening up/security' which is at the heart of the changes currently under way. At issue is the wellbeing of 300 million people on one side of the Atlantic and 500 million on the other.

⁽¹⁵⁾ Discussion held on 17.3.2010 by Euractiv.fr with the Commission's Permanent Representation in Paris, and the support of the Depositary Trust and Clearing Corporation, in *Questions d'Europe* N° 165 of 6.4.2010 Fondation Robert Schuman.

⁽¹⁶⁾ OJ C 288, 22.9.2009 pp. 32-39.

⁽¹⁷⁾ TFEU, Article 9.

8.4 Social systems in Europe are often the equivalent of state budgets. The 16 % share of American GDP devoted to health spending is high for a coverage that is more limited than that of Europe, which is provided with lower costs (average of OECD countries: 8.9 % of GDP). Their mass enables the real economy to function and they are a crucial way of softening the impact of a crisis for the state and the public, unless private, funded schemes are used, invested in financial instruments which are subject to the vagaries of the market. The EESC believes that the decision-making authorities should prevent a situation wherein full opening up to competition within the framework of a major integrated European-American economic zone weakens citizens' protection. The EESC therefore welcomes the successful efforts of the current American administration to establish an innovative health insurance system in the United States.

8.4.1 Health

8.4.1.1 The EU's objective of upward social convergence together with the principle of preventing social regression enjoys public approval and must be maintained. European women would, for example never accept a reduction in their rights to maternity leave, which is very short, and sometimes unpaid, in the United States.

8.4.1.2 The EESC believes that dialogue between Europe and the United States would be enriched by discussing these matters, which are so crucial for the cohesion of societies on both sides of the Atlantic. American society is strongly divided over the proposal for regulated, socialised health care funded from tax revenues and subject to control by elected representatives. The EESC believes that this may point to a lack of information about the European model which, without being entirely centralised, offers collective, solidarity-based guarantees to all, including non-EU citizens, on the basis of systems of universal sickness cover which contribute to GDP. The EESC would like the EU to inform American civil society about this. Civil society dialogue could be a way of doing so.

8.4.2 Pensions

8.4.2.1 As for other aspects of social protection systems, differences exist and the impact on the economy as a whole is significant. The representatives of civil society should be given a voice on this matter in Euro-American dialogue, considering the changes that may affect them as a result of trade agreements integrating the two communities.

8.4.3 Unemployment

8.4.3.1 All EU Member States have public systems of unemployment benefit. The integration of the Atlantic zone runs the risk of introducing, in the name of competitiveness, greater

flexibility without greater security. Europeans, like Americans, may fear that their situation will worsen⁽¹⁸⁾. In the United States, the situation of workers has deteriorated since 1970. With the crisis, job insecurity is on the rise on both sides of the Atlantic, together with the number of 'working poor'. Confronted with a historic economic crisis, there are fears on both sides of the Atlantic that the situation will get worse if flexibility is increased. The EESC believes that flexicurity can sometimes help employees, when the promised security is delivered, but that nothing can replace a stable job with a decent salary and pension. The European Union has a tradition of social dialogue that takes into account the respective interests of participants. It has texts on social dialogue and it has institutions. Representative, 'battle-hardened' employers' and employees' organisations are required in order to carry out negotiations.

9. Public services⁽¹⁹⁾

9.1 Education

9.1.1 Fee-paying universities in the United States are recognised as the best in the world and are highly sought after by Europeans as a place to study and to teach. Like Europeans, Americans think that the jobs of the future will go to 'well-trained and highly-skilled workers'.

'They will be best positioned to secure high-wage jobs, thereby fuelling American prosperity. Occupations requiring higher educational attainment are projected to grow much faster than those with lower education requirements, with the fastest growth among occupations that require an associate's degree or a post-secondary vocational award.'

[Executive Office of the President of United States - CEA Council of Economic Advisers in 'Jobs of the Future'.]

9.1.2 Training is the bridge to the future. In Europe, where education is generally free, cuts in public services and constraints on national fiscal policies have given rise to greater inequality of opportunity. With the Lisbon Strategy, the EU advises its Member States to gear their universities and perhaps also their secondary schools to the needs of businesses.

⁽¹⁸⁾ 'Middle Class in America'.

⁽¹⁹⁾ OJ C 128, 18.5.2010, pp. 97-102.

9.1.3 The EESC believes that education for all, the gender equality it ensures, and work/family balance should guarantee people access to all avenues of opportunity. This, together with lifelong education and ways to finance it, is a possible topic for discussion and dialogue between societies on both sides of the Atlantic, with a view to ensuring that the knowledge-based service economy benefits both societies and finding ways to take account of those who are excluded from it.

9.2 *General Agreement on Trade in Services (GATS)*

9.2.1 EU citizens have fought to save their film industry and to maintain the special nature of European culture in the face of the risks incurred as a result of the global liberalisation of services. Defending European identity requires more dialogue between cultures in order to preserve the richness born of diversity: many issues are related to this, such as employment, heritage conservation, and the development of innovation and creativity.

9.2.2 Culture is not just a commodity. The EESC believes that it must form part of transatlantic civil society dialogue.

9.3 *The special case of immigration and integration*

9.3.1 These two ageing societies must manage their immigration. The challenge is to reconcile an ageing population with the need for labour, while finding a threshold of tolerance for societal cohesion. This depends on integration policies, which must be viewed over the long-term, with a global, two-way approach, involving immigrants and the host society. There are strong external pressures. The EESC sees the question of migration as important for democracies and would like it to be the subject of transatlantic social dialogue, possibly with the involvement of the EIF.

10. Social dialogue

10.1 This is one of the points on which the two societies are most dissimilar. Social dialogue which became imperative in European history now has a cultural value: this is something that Americans do not have, which deprives them of the means to be heard. Further progress is needed between the two societies to give employees a voice and develop information and consultation, especially in this critical period following

the 2008 financial crash. The EESC believes that jointly established standards especially working hours and social benefits, are required to evaluate and compare the social and working conditions of the two blocs, with a view to obtaining a clear picture of the competitiveness of each side, as long as the globalisation of trade uses wages as a variable.

10.2 A 2009 EP resolution envisaged a policy mix involving the US congress and close ties between the US and EU central banks. However, the ILO conventions have not been ratified by the United States. One study⁽²⁰⁾ paints a picture of an American world of work where fundamental protections, such as the right to be paid a minimum wage, the right to be paid for overtime, to have lunch breaks, accident allowances, or the right to request better working conditions, are denied to a significant number of workers.

10.3 The EESC believes that transatlantic social dialogue currently pays too little attention to listening to the concerns of representatives of civil society and workers in particular.

11. Environment

11.1 An American policy for the environment would have an impact on budgetary choices and employment. The EESC believes that transatlantic dialogue could accelerate the growing awareness of the need for sustainability and that civil society and consumers have a role to play here in 'greening' the economy.

11.2 The EU and the United States should together be able to develop new industries responding to renewable energy needs. California and Portugal have made the same choices as regards the role to be given to solar and wind power. The EESC believes that it would be disastrous for the future of both powers to come up with ideas and then to use Chinese technologies (as in the case of photovoltaic technology).

12. Institutions

12.1 The previous EESC opinion on transatlantic relations referred to a number of possible developments in the TALD and the TEC.

⁽²⁰⁾ Under the direction of Annette Bernhardt, Ph.D., Policy Co-Director, of the National Employment Law Project NELP.

12.2 The EESC wishes to find innovative ways of including representatives of organised civil society in a transatlantic civil society dialogue in an institutional framework. Any dialogue, report, study or agreement developed as part of transatlantic relations should include a chapter on the social impact of planned measures, beyond the creation of jobs. The Member

States have not yet provided the EU with an integrated social policy, but it does in fact have a genuine common model and could promote its point of view in dialogue with the United States. The EU must promote its ESM by developing a higher profile in the United States.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee
Staffan NILSSON

APPENDIX

to the opinion of the Committee

The following amendment, which received at least a quarter of the votes cast, was rejected:

Point 1.4

Amend as follows:

'In addition to new financial regulations, the EESC calls for the Euro-Atlantic zone to develop common rules on ratings agencies and new competition rules that take better into account societal expectations. ~~are more respectful of citizens' interests. It expects the EU to adopt strong positions which guarantee people's~~ It considers it vital to put competitiveness as a top priority on the political agenda in order to create new jobs and to ensure that citizens not only maintain but improve their standard of living, and it expects transatlantic dialogue to listen to civil societies on both sides of the Atlantic.'

| | |
|--------------|----|
| For: | 66 |
| Against: | 76 |
| Abstentions: | 21 |

Opinion of the European Economic and Social Committee on 'Renewal of the Community Method (Guidelines)' (own-initiative opinion)

(2011/C 51/05)

Rapporteur-general: **Mr Henri MALOSSE**

Co-rapporteur-general: **Mr Georges DASSIS**

On 17 December 2009, 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

Renewal of the Community Method (guidelines).

The subcommittee on the Renewal of the Community Method, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 19 May 2010. The rapporteur was Mr Henri Malosse and the co-rapporteur, Mr Georges Dassis.

Due to the renewal of the Committee's term of office, the European Economic and Social Committee appointed Mr Malosse as rapporteur-general and Mr Dassis as co-rapporteur-general at its 466th plenary session, held on 19, 20 and 21 October 2010 (meeting of 21 October 2010), and adopted the following opinion by 187 votes to five with six abstentions.

1. Conclusions and recommendations

1.1 In spite of some outstanding successes and an ever-widening influence, the European Union continues to doubt itself and to cause others to doubt it. Even the dazzling success of the euro has been unable to prevent economic and monetary union from being badly undermined by the present financial crisis to a degree unseen anywhere else. The Lisbon strategy has failed to allow the Union to take up a leading position in the knowledge-based economy. Confronted by these difficulties, Europeans are gradually losing patience, and indeed many wonder whether or not the Union will prove itself capable of addressing the major challenges of our time such as globalisation, climate change and recovery from the economic and financial crisis.

1.2 In moments of doubt, it is however worth revisiting the 'fundamentals' of the European project. The Community Method, the underlying foundation of the European Union's 'halcyon days', must be renewed and relaunched.

1.3 The EESC advocates applying the Community Method in those areas where Europeans' expectations are at present highest: relaunching the European economy, making our education, innovation and research systems more dynamic, ensuring secure energy supplies, supporting sustainable development and the fight against the serious problems caused by climate change, promoting equality of opportunity and entrepreneurship, freedom of movement and the mobility of people whilst respecting social rights and developing services of general interest in a European context, in particular in relation to communications, the environment, health, security and civil protection.

1.4 The full potential of this relaunch of the Community Method can only be realised if it is equipped with sufficient resources such as a corresponding increase in the European budget, the development of public/private partnerships, improved coordination between national and European budgets and the consolidation of a European Monetary Fund.

1.5 The EESC thus concludes that this decade's Community Method will not resemble that of the 1960s or 1980s. Today, Europeans must be encouraged to engage with and take an active part in society via participatory democracy and those working on behalf of civil society. The EESC, therefore, calls for European civil society to take on an increasingly important role not only in initiating European policies, but also in measuring their impact so that their effective implementation may be ensured and any serious shortcomings remedied.

1.6 Applied to today's pressing problems and to the expectations of Europeans, equipped with effective implementing resources and renewed with improved civil society participation, the Community Method can, and indeed must, resume its position as the driving force behind the relaunch of European integration.

2. Why renew the Community Method?

2.1 Since the European project's very inception, it is the Community Method which may be credited with making European integration original and successful, and shaping the European Union into what it is today. It is characterised by:

- pooled resources used in the pursuit of common objectives,
- projects informed by the general interest,
- open and democratic debate bringing in civil society,
- decisions made on a majority basis with due regard to the law,
- effective administrative and judicial monitoring of their implementation,

— direct impact and interface with economic and social interest groups.

It is the espousal of this Community Method which has secured Europe's key achievements.

2.2 The Member States have retained very considerable, often exclusive competence in areas not directly covered by the treaties, ranging from traditional matters of sovereignty such as defence and the police to other matters with specific political, cultural and historical dimensions such as taxation and social relations. Intergovernmental cooperation in such areas is itself an important aspect of the European project which would also be worthwhile analysing so that its practical consequences may be measured and its appropriateness for dealing with what is really at stake in today's Union evaluated.

2.3 The success of the Community approach in achieving the main common objectives has gone hand-in-hand with economic development and a deeper political dimension in the process of European integration. Successive enlargements, first westwards, northwards and southwards, and then to the East with the fall of the Iron Curtain, likewise testify to the powerful and unrivalled attraction that these achievements have exerted on other countries in Europe.

2.4 Recent years, however, have seen a diminution in the Community Method's momentum and its ability to persuade countries to make common cause. The European Commission has often appeared to lack both the means and the will to take initiatives which fulfill expectations and rise to challenges. Today, however, the European Union is grappling with new problems in the shape of ever more merciless globalisation and an economic and financial crisis which is not only causing difficulties for many businesses, SMEs in particular, but is also at the root of a widening social divide which has seen a growing number of people excluded from society, or at the very least, become increasingly hard-pressed. Europeans are becoming less and less convinced of the European project: it appears to create more problems than it solves.

2.5 Europe's failure to make a mark at the World Climate Change Summit held in Copenhagen in 2009 plus the Union's inability to present a unified front in reacting to the financial difficulties encountered by one of the euro area's Member States served to underline this sense of drift which also led to instability in the financial sector.

2.6 As globalisation picks up speed, the European Union appears off the pace, mired in its own contradictions, complexities and delays. With the coming into force of the Lisbon Treaty, the EESC advocates renewing the Community Method which will prove crucial to determining Europe's position on the world economic and political stage. The EESC's recommendations touch on the main issues listed below:

- highlighting the European identity and general interest;
- matching of objectives and resources;
- involving civil society.

3. Highlighting the European identity and general interest

3.1 The lack of a stronger definition of a common European identity, which takes precedence over national interests and differences, will make it impossible to relaunch the Community Method. As long as the notion of 'European' remains synonymous with 'foreign' and the Member States and their national administrations lack any true incentive to 'buy European', fearful of treading on the toes of 'their' taxpayers and under pressure from 'their' companies, there is little to be gained by a further raft of legislation opening up public procurement. And yet, in a globalised world, it is only a Europe solidly united around its key common objectives which will be able to attain them.

3.2 A definition of the general Community interest is therefore needed. The Commission should encourage a wider exchange of ideas here and not stand on the sidelines as happened recently during the financial crisis and when one of the euro area's members fell into difficulties. All too often it seems to pander to the Member States' and national administrations' immediate sensitivities whilst the widely-understood common interest would often have required a solution based on collective responsibility and on the idea of a set of common interests.

3.3 The European Commission seems to be encountering ever-increasing difficulties in defining and representing this general European interest. And yet this is the very substance of its role. It must try to regain the momentum of the 1960s and 1980s. These days it no longer stands alone, and the establishment of a new triangle of institutions which includes a strengthened Parliament and a President designated by the European Council should encourage it to assume its role as the proposing and monitoring body in the fullest sense.

3.4 As the representative of the European citizen, the European Parliament must henceforth play a major role in determining the general European interest. Flanking the European Parliament, the two consultative Committees, (EESC and CoR), should be able to use their leverage to support and bolster European Commission initiatives whilst nonetheless upholding the citizen's right of initiative and all other aspects of civil society's bridging role.

3.5 The renewal of the Community Method will have a substantive impact only if the concept of 'subsidiarity', which has often fallen victim to an excessively one-sided reading, i.e. as an instrument which reins in the application of this Community Method and the implementation of new Community policies, is reviewed. A fresh, more dynamic approach to this concept is needed, based on the principle which accepts, that for reasons of efficiency and economies of scale, it will over time more often than not prove preferable to transfer those sectors which require substantial resources, infrastructure, research and development, industrial policy, defence, foreign policy, security, the fight against poor health, for example, to European level. Provided that their national political leaders do not seek to fudge the issue Europeans citizens are capable of understanding this.

3.6 With a gulf opening up between the citizen and the European institutions, it is crucial that the Union map out new areas of application for the Community Method which match its citizens' high expectations.

3.6.1 The time has come, therefore, to build up European services of general interest in those sectors where changing circumstances and challenges make them necessary, such as civil protection, international emergency aid, customs services, transport, research centres, high-speed networks, for example. From these new bases, European concessions of general interest could be promoted via public/private partnerships to develop Transeuropean Networks (transport, energy, telecommunications), thereby enhancing our cohesion and competitiveness.

3.6.2 The lives of citizens and companies could, in addition, be made easier and their awareness of the reality of the Single Market raised, by immediately taking a number of initiatives whose usefulness in terms of the general interest has long been accepted: a European industrial policy which, by harnessing synergies, addresses the challenge of globalisation, a European statute for SMEs, and for foundations and associations, a one-stop shop for taxation for cross-border SME transactions and a Community patent. A range of legislative instruments guaranteeing the free movement of persons whilst upholding their social rights and the right to collective bargaining must be developed. Citizens' initiatives channelled via the Parliament and the EESC could also give rise to other initiatives relating to security of energy supply, sustainable development and consumer protection, for instance.

3.6.3 As the EESC has emphasised on a number of occasions, the decision to use directives in the area of public procurement led to a resounding failure, probably the most serious in the Single Market's history. More than thirty years after the Single European Act, public procurement is still too fragmented. The absence of Community spirit has led to a piling up of highly detailed European directives, supplementary national legislation and multiple derogations and resulted in the continued ring-fencing of the equivalent of 15 % of European GDP. In this area, and in others where it may be deemed to be advantageous, the European Commission should give preference to the directly applicable regulation over the directive, the implementation of which requires transposition into national law.

3.6.4 The European Union must step up its investment in the 'knowledge triangle': education, research and innovation. Education, widely recognised as essential to Europe's recovery, cannot be kicked into touch by the European Union. Building on the successful Erasmus initiative, more ambitious mobility programmes, exchanges supported via a European network of universities, special initiatives designed to promote key competences, the development of entrepreneurial flair and

actions for specific target groups should be generated at European level via a new approach founded on the general interest. With regard to research and innovation, the Eighth European Framework Programme must become the symbol of the new Europe and focus on areas such as nanotechnology which, via Community research centres, and with the appropriate human and financial resources, would become a truly European industrial project.

3.6.5 Economic and monetary union should become established at the core of European identity and cohesion. This is far from being the case today, as the disparate national policy responses of the euro area Member States to the economic and financial crisis showed only too clearly. The euro area should become a state-of-the art testbed for economic and financial integration by stepping up cooperation which would generate a positive knock-on effect for the dynamism and effectiveness of the European Union as a whole. The EESC welcomes the Commission proposal to set up a system to 'monitor' the economic policies of the Member States. The task outlined in the proposal is not merely one of accounting, in the OECD sense of the role, but one endowed with far greater scope, which takes into account the political priorities of the citizens of the Union with regard to social cohesion, the fight against exclusion, job creation and developing creativity and entrepreneurial flair.

3.6.6 The European Union, with the strength of the euro behind it, must also speak with a single voice at international economic and financial meetings, the G20 in particular, and consolidate its participation in the IMF and the World Bank.

3.6.7 Strengthening Europe's foreign policy is a key element of the Lisbon Treaty. It comprises the establishment of a diplomatic service, a post of High Representative (amalgamated with the functions of Commission Vice-President) and the setting up of European Union delegations in third countries which would replace the European Commission delegations. It is crucial to implement the Treaty ambitiously, so that Europe can speak from a position of authority with a single voice, its pronouncements carrying more weight and coherence for those outside. At the same time it must structure its political, economic, cultural, scientific and commercial activities so that its ongoing external actions demonstrate true coordination instead of the petty rivalries which only serve to weaken the Union's position.

4. Ensuring the matching of objectives and resources

4.1 The fact that many Community objectives have been only partially realised can often be traced back to a lack of will in following through on full implementation and a failure to allocate the necessary common resources.

4.1.1 With regard to the relaunch of the internal market, Mario Monti's report⁽¹⁾ contains some very apt proposals with regard to ensuring its full and effective implementation: boosting the SOLVIT network, evaluating the implementation of directives, gaining the involvement of national administrations, national parliaments and civil society, removing the last remaining sticking points in respect of free movement of people. The EESC recommends, therefore, that subsequent to the appropriate consultation being undertaken with the various quarters of civil society, this report be followed by a precise action plan with a timetable for implementation.

4.1.2 Budgetary support from the Union in the appropriate form (budgetary allocations, loans and public/private partnerships, etc.) will be needed to respond to the challenges posed by the Community Method's new areas of application. The key to the ECSC's success in 1951 was the matching of objectives and resources. The Union's current budget (less than 1 % of GDP) falls far short of the level needed to achieve the objectives expected by Europeans in all the sectors where more effective intervention would be required. A regular increase in the budget between 2013 and 2020 towards a target of 2 % of GDP seems a realistic target to which no objection can be raised given the economies of scale and the requirements for the Member States to reduce their public debt. This also means that the principle of making budgetary transfers from national to European level must be understood by governments and set out clearly to their citizens. It would also allow investment and major networks to be financed, it would support the knowledge triangle (education, research, innovation), strengthen cohesion policy and equip the Union with the human and financial resources needed for its external policy.

4.1.3 In order to finance this increase by 2020, the EU will stand in need of both its own resources and improved co-ordination between national and European budgets. Growing public debt after the 2008 financial crisis will make it simple to prove that debt can be brought down more quickly without posing any threat to growth, by pooling resources to finance public spending such as defence, border security, external aid, research and industrial policy, for example. The Member States must demonstrate the political will to undertake this.

4.1.4 Against the backdrop of the financial crisis, an important first step in this direction would have been the establishment of a European Monetary Fund (a sort of European Federal Reserve) which could intervene in and stabilise the euro area and which is equipped to respond collectively to difficulties encountered by any one of its members. It took a plunge in the value of the euro and a worsening of the crisis within one Member State for the euro area members to set up an embryonic fund and to take the decision to intervene collectively rather than bilaterally, whilst nonetheless requesting additional support from the IMF.

4.1.5 It is obvious, therefore, that achieving integration and cohesion objectives would be contingent on improved allocation of European resources to provide greater support for

cross-border programmes. At present these receive a mere 1 % of the budget despite their role in strengthening and ensuring the successful operation of the Single Market. The success of the 2020 Strategy depends both on the issue of resources and on the people's effective engagement with its objectives, which is at present lacking.

4.2 A Europe of twenty-seven can no longer operate like the Europe of six. The institutional triangle rightfully accords a position of greater importance to the European Parliament. The institutions and an early deployment of the citizen's right of initiative must make the latter into a democratic instrument of real substance.

4.2.1 The extension of Community competence has gone hand-in-hand with the extension of the codecision procedure between the Parliament and the Council. The successive treaties which have formulated these new rules, however, have paid scant attention to adjusting consultative procedures accordingly. At present, the Commission refers plans to the EESC at the beginning of the codecision procedure whereas this should be done at a much earlier stage.

4.2.2 The EESC would be better able to fulfil its consultative role if referrals were made before the codecision process is set in motion, as soon as the preliminary impact analysis has been drawn up. The notion of the exploratory opinion would then assume its full meaning. The Committee opinion together with the impact analysis could then be appended to the Commission proposal which is to be submitted to the Council and the European Parliament. The EESC rapporteur should also be given a hearing in the relevant European Parliament committee.

4.2.3 Should it wish to withdraw any proposal, especially one which directly involves actors in civil society, the Commission should also ensure that the appropriate consultations take place. The Commission should not have withdrawn its proposal for a European Associations Statute without consultation.

4.2.4 With regard to governance, the Union must be more actively engaged in ensuring respect of the principle of gender equality and allow women the opportunity to participate equally at the core of decision-making and consultation procedures.

4.3 The Lisbon Treaty has once again increased the number of areas in which decisions are taken by a qualified majority vote, making it the default mechanism for a twenty-seven member European Union. Unanimity, however, is still required for certain matters closely connected to Community business such as taxation. Experience shows indubitably that in the areas where unanimity is still the rule, a requirement of this nature can easily result in gridlock. It is thus paradoxical, to say the least, that, in spite of repeated declarations from the European Council, the European Patent, which continues to be subject to unanimity, has yet to be adopted by the Union, despite the latter aiming all the while to be the world's most competitive and dynamic knowledge-based economy.

⁽¹⁾ 'A new strategy for the Single Market – at the service of Europe's economy and society' - Report to the President of the European Commission submitted by Mario Monti on 9 May 2010.

4.3.1 Several precedents, do, however, indicate that the Community Method has sometimes, when necessary, provided the means for circumventing the problem of unanimity. The Social Protocol and the Charter of Fundamental Social Rights of Workers were able to proceed with eleven participating countries, the United Kingdom joining only later. Could we not draw inspiration from such flexibility for other areas where matters are currently at a standstill, such as the Community Patent or the harmonisation of companies' tax bases?

4.3.2 EMU probably furnishes a good instance of successful enhanced cooperation. Beginning with a small number of countries, it remains open to any other countries able to join. But the Eurogroup, even with a European Central Bank which is federal in nature, has as yet not managed to develop a common system of economic governance to match monetary union. Time lost over the last ten years is now a cause for concern. Unless this is gradually clawed back over the course of the next ten years, it will place the cohesion, competitiveness and jobs of the euro area at risk, not to mention the long-term viability of the euro. To remedy this, it is absolutely necessary to review the effectiveness and transparency of the Eurogroup by facilitating regular (and not only crisis) meetings between heads of state or government in the euro area and by inviting other ministers affected by the euro's value such as those responsible for social affairs, industry, etc.

4.4 In a Europe of twenty-seven, the issue of the correct transposition of directives and euro-compatibility of national policies obviously assumes crucial importance. There is little sense in making it easier for directives to be adopted if the Member States balk at implementing them within the set timeframe or gold-plate them.

4.4.1 The Commission should extend the use of its scoreboards for the transposition of directives which are often effective in bringing pressure to bear on those Member States which are dragging their feet. The various components of organised civil society should be consulted in these situations.

4.4.2 Where necessary, Community support mechanisms should be more sharply focused on improving the conditions in which the Member States transpose and apply common regulation and on removing obstacles and sticking points which remain in these areas.

5. Promoting the involvement of civil society

5.1 There has been too great a tendency to overlook the aim of European integration, as expressed by Jean Monnet: We are not forming coalitions of states, we are uniting men. In recent

consultations held to discuss Europe's future path, the electorate's mistrust has been evident: this must prompt an examination of ways in which the clearly inadequate involvement of civil society can be improved.

5.2 Community rules continue to be drawn up in conditions which are too remote from the people. Their legitimate expectations in terms of freedoms, security and simplification are too often traduced by deadlock and compromises bought too cheaply from Member States and their national administrations. This is why representatives from civil society, in particular users, must be accorded a higher profile in regulatory committees, much in the same way as was done in the SLIM simplification plans, but this time upstream, when the legislation is being framed, rather than downstream, when it has already been adopted and there is a rush to correct the most serious shortcomings experienced by those very users.

5.3 It is likewise vital to grant civil society actors European spaces where they have both the freedom and responsibility to define common rules in which they have an interest, through independent self-regulation or to clarify certain aspects of public regulation in their sectors on the basis of requests from the legislator to draw up core regulations. The contractual independence of the European social partners was enshrined in the Maastricht Treaty at their express request. Although the treaty does not explicitly provide for this, similar ways forward have also come into existence in other areas: technical standardisation, recognition of professional qualifications, service provision, commerce, especially e-commerce, security of delivery and payment, consumer rights, energy and the environment. The Committee has made a survey of these and given them its backing in an information report. A 2003 European interinstitutional agreement provides the procedural framework. Now the European legislator must incorporate free spaces into the regulations promoting these practices, monitoring them and maintaining synergies. This support should likewise extend to alternative forms of dispute settlement, such as conciliation and mediation.

5.4 Unless European citizens are encouraged to consider themselves European and to act accordingly, Europe will be unable to continue making headway. They must be given common tools thus far lacking: clearer economic and social rights, simpler procedures, more independent legal resources, genuine common statutes (i.e. associations, companies, foundations). In the primary instance, it is at local level (individual citizens, associations, locally elected officials) where Europe must be perceived as a necessity, becoming a jointly-held ambition and source of pride.

5.5 A multiannual programme with a precise timetable for the decade from 2010 onwards must be embarked upon so that European citizens themselves may be given the wherewithal to join forces and play a pivotal role: without this, it will be impossible to renew the Community Method.

5.6 With the backing of the European Parliament a prerequisite, the EESC, the CoR and major European organisations of civil society represented in the three Committee groups (Employers, Employees and Various Interests) could

envisage launching a wide-ranging consultation on the major subjects of general interest for the next decade which would be likely to benefit from a relaunch of the Community Method, which in reality, would mean new common policies.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee
Staffan NILSSON

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

466TH PLENARY SESSION HELD ON 19, 20 AND 21 OCTOBER 2010

Opinion of the European Economic and Social Committee on the ‘Amended proposal for a directive of the European Parliament and of the Council on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent’

(Codification)

COM(2010) 388 final — 2008/0173 (COD)

(2011/C 51/06)

On 9 September 2010 the European Parliament decided to consult the European Economic and Social Committee, under Article 50(1) and (2)(g) and Article 304 of the Treaty on the Functioning of the European Union, on the

‘Amended proposal for a Directive of the European Parliament and of the Council on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent’

COM(2010) 388 final — 2008/0173 (COD).

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it decided, at its 466th plenary session of 21 October 2010, by 123 votes with two abstentions, to issue an opinion endorsing the proposed text.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Amended proposal for a directive of the European Parliament and of the Council concerning mergers of public limited liability companies’

(Codification)

COM(2010) 391 final — 2008/0009 (COD)

(2011/C 51/07)

On 16 September 2010 the European Parliament decided to consult the European Economic and Social Committee, under Article 50(1) and (2)(g) and Article 304 of the Treaty on the Functioning of the European Union, on the

Amended proposal for a Directive of the European Parliament and of the Council concerning mergers of public limited liability companies

COM(2010) 391 final — 2008/0009 (COD).

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it decided, at its 466th plenary session of 21 October 2010, by 114 votes with 4 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee — A European strategy on clean and energy efficient vehicles’

COM(2010) 186 final

(2011/C 51/08)

Rapporteur-General: **Mr MORGAN**

On 28 April 2010 the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee - A European strategy on clean and energy efficient vehicles

COM(2010) 186 final.

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

At its 466th plenary session, held on 21 October 2010, the European Economic and Social Committee adopted the following opinion by 183 votes with 14 abstentions.

1. Conclusions and Recommendations

1.1 The EESC supports the development of an EU strategy on clean and energy efficient vehicles. This will meet EESC concern about hydrocarbon depletion, carbon emissions and atmospheric pollution. It is essential that the strategy be holistic. Nothing will be gained if pollution and emissions are simply transferred to electricity generation and vehicle production or if bio strategies lead to bio damage such as deforestation. EU compliance with the Kyoto targets has been compromised by road transport; this strategy is overdue.

1.2 In the next two decades, vehicles powered by internal combustion engines (ICVs) will still be the most important mode of transport, so the EESC would expect the strategy to incentivise breakthrough technology for ICVs as well as the more innovative forms of propulsion. It is too early to make definitive technology choices. In this phase we must let ‘all the flowers grow’.

1.3 The strategy must enhance the global competitiveness of the EU automotive industry. Regulations should ensure that vehicles become progressively ‘clean and lean’ but future competitiveness will also depend on radical ICV innovation in cars, buses and HGVs in addition to electric vehicle (EV) development.

1.4 The development of EVs has been an ambition for more than a century, but various issues, especially battery life, have

meant that EVs have not been a viable alternative to ICVs. The environmental question has changed the ground rules. The more EVs that can be brought into service, the better will be the environmental performance of both manufacturers and users. In the meantime, small ICVs can contribute to the reduction of urban congestion.

1.5 In July the EESC approved an opinion by Mr Osborn-CESE 429/2010 fin – *Towards the wider uptake of electric vehicles*. The recommendations of that opinion are adequately addressed by the Strategy.

1.6 This is an EU strategy, but its success depends on Member State (MS) national and local government policies, their industrial capacity and consumer affluence and attitudes. It is inevitable that implementation will proceed at different speeds, given that MS are at very different starting points. It is essential that the more advanced cities and states step up to the challenge of the USA and Asia.

1.7 European society must be involved in making the strategy work. Directive 2009/33/EC engages the public sector. Companies in the private sector must be engaged through their environmental reporting. Individuals who make buying decisions, whether for personal or company cars, should receive a mixture of financial incentives and disincentives to steer them towards clean and efficient vehicles.

1.8 Since most of the transport used by EU institutions is for short range journeys in Brussels, Luxembourg and Strasbourg, the EESC believes that there is an opportunity for EU institutions to develop an exemplary clean and efficient transport plan.

1.9 The EESC would emphasise the scale of the investment needed in future distribution networks and physical facilities in order to replace trillions of dollars invested in the hydrocarbon economy.

1.10 The following recommendations are taken from section 5 below:

1.10.1 EU and MS should support ICV R&D for innovative small vehicles and revolutionary production systems and remove obstacles to market entry.

1.10.2 Targets similar in scope to those in force for car manufacturers should also apply to heavy duty vehicles.

1.10.3 Programmes for clean and efficient HGVs and buses should be supported consistently until the vehicles are competitive in the global market place.

1.10.4 Since biofuels are expected to satisfy 7 % of EU fuel needs by 2020, the EESC urges the Commission to confirm this target or modify its policy.

1.10.5 MS should encourage manufacturers and potential users to innovate with gaseous alternative fuels.

1.10.6 MS should incentivise early adoption of EVs so that the take-up of EVs in the EU does not fall behind the other regions.

1.10.7 Major automotive manufacturers should be encouraged to start up and scale up battery manufacture in Europe.

1.10.8 The Commission must ensure that the standards bodies move quickly in respect of EV.

1.10.9 The Commission and MS must work together to secure future supplies of scarce rare earth elements and noble metals.

1.10.10 The long term strategy for hydrogen FCVs should include other options in the event that FCVs do not prove to be viable.

1.10.11 Public authorities, public service undertakings and large public and private companies should operate under guidelines and targets for fuel consumption and emissions.

1.10.12 Guidance should be set for the various criteria to be used for procurement under Directive 2009/33/EC.

1.10.13 Public and private company reporting of hydrocarbon usage and CO₂ emissions should be modified to identify the transport content.

1.10.14 The global action plan lacks a WTO component.

1.10.15 Representatives of civil society with a commitment to environmental issues should be included in the new high level CARS21 group.

1.10.16 As the EU refines its approach to industrial strategy, the automotive industry should be one of the first sectors to be addressed. The EU needs to establish a strong governance structure with an urgent mission to drive forward regulatory changes and incentive measures and to mobilise the necessary investment and market creation.

1.10.17 The EU should not to be left behind. The Commissioners involved have to get their act together while the countries, companies and research facilities with the necessary resources must act urgently. This Action Plan must be seen as a call to arms.

2. Introduction

2.1 The Commission's strategy aims to provide an appropriate and technology neutral policy framework. In the short term it is twin track, involving both internal combustion engines (ICVs) and battery electric vehicles (EVs).

2.2 The ICV strategy is itself twin-track. It requires the further improvement of conventional petrol and diesel engines as well as the introduction of alternative fuels including both liquid biofuels and gaseous fuels. Gaseous fuels requires modified ICVs, dedicated on-board fuel storage and an appropriate distribution network; biofuels do not.

2.3 The EV strategy includes battery electric vehicles (EV) such as the Nissan LEAF, hybrid electric vehicles (HEV) such as the Toyota Prius and plug-in hybrid electric vehicles (PHEV) such as the Chevrolet Volt. The HEV is not a true electric vehicle because it cannot be plugged into an electric power source.

2.4 If the R&D in hydrogen technology is finally successful, the ultimate electric vehicle will be powered by hydrogen fuel cells - the FCV (Fuel Cell Vehicle).

3. Commission Action Plan for Green Vehicles (The Action Plan)

3.1 Regulatory Framework

- Type approval for two- and three-wheelers and quadricycles.
- Implementing the Regulation on CO₂ emissions from cars by 2011.
- Marketing of 'green additionality' of vehicles.
- Regulating the fuel consumption of mobile A/C systems.
- Additional measures on CO₂ and pollution emissions.
- Revision of test cycle to measure emissions.
- An inventory of measures offering environmental benefits.
- Amended Directive on noise emissions.
- Sustainability criteria for biofuels.
- A strategy for clean, efficient heavy duty vehicles.

3.2 Research and Innovation

- Improvement of conventional engines, electric drive trains, battery technologies, hydrogen technologies.
- Simplified rules for research grants.
- Long term research strategy.
- EIB support.

3.3 Market Uptake

- Guidelines on MS financial incentives.
- Revision of energy taxation Directive.
- Guidance to MS on vehicle taxation.
- Monitoring implementation of Directive on clean and energy efficient vehicles.
- Research into consumer expectations and buying behaviours.
- Amended Directive on car labelling.
- Electromobility demonstration project.

3.4 Global Issues

- International cooperation, especially standardisation.

- UNECE harmonised regulation.

- Raw materials initiative in respect of scarce rare earth elements and noble metals.

3.5 Employment

- European Sectoral Skills Council.

- European Social Fund.

3.6 Mid-Term Review of Emissions Legislation

- Emission performance standards for new passenger cars in the 2020 and 2030 perspective.
- Reducing CO₂ emissions from light commercial vehicles in the 2013 and 2020 perspective.

4. Specific Actions for Electric Vehicles

4.1 Safety

- Electrical safety requirements.
- Crash safety requirements.

4.2 Standardisation of charging interface

- Development and implementation of the standard.
- Interaction with global standards development.

4.3 Infrastructure

- Refuelling infrastructure.
- Investment in infrastructure and services.

4.4 Power Generation and Distribution

- Life-cycle approach.
- Low carbon energy sources.

- Load management.

4.5 Batteries

- End of life vehicles/Recycling of batteries.
- Research on batteries.
- Transport of batteries.

4.6 Governance

- CARS 21 High Level Group to be relaunched to address the barriers to market uptake of alternative technologies.
- European Climate Change Programme (ECCP) – strategy on CO₂ reduction to be implemented.
- White Paper on European transport policy.
- Internal Market – avoid fragmentation and ensure critical mass.

5. EESC Perspective on the Action Plan

5.1 Conventional ICV Improvement

5.1.1 The EESC supports the improvement of ICVs and, in particular, the measures relating to CO₂ and pollution emissions, the revision of the test cycle to measure emissions, R&D improvement of conventional engines, incorporation of vans into the scope of the regulations and the mid-term review of emissions legislation.

5.1.2 Advanced materials offer considerable scope for innovation in the design and manufacture of small cars. Revolutionary new production processes are now emerging based on the use of these materials. New company formation is being stimulated in the automotive industry. These are challenging the established players. Such innovations deserve to be backed by R&D support and new entrants should be assisted by the rigorous application of competition law to the automotive industry.

5.1.3 The EESC is pleased that the Action Plan targets fuel consumption and CO₂ emissions from heavy duty vehicles. Any plan must target this segment of the market, starting with buses, heavy goods vehicles and special purpose vehicles such as those for garbage collection. Targets similar in scope to those in force for car manufacturers should also apply to heavy duty vehicles and, as with cars, targets should be extended to users.

5.1.4 With so many heavy vehicle manufacturers domiciled in Europe, there is scope for constructive cooperation between users and producers to develop new and innovative vehicles. There are examples already in Asia, America and Europe of pioneering projects such as low carbon emission buses (LCEB)

which use 30 % less fuel and produce 35 % less CO₂. Hydraulic hybrid vehicles (HHVs), which take power from braking, can be 30 % more efficient and work very well in stop-start applications like garbage collection. There are many hybrid electric projects. Some MS are using seed money to support this sort of innovation, often by subsidising the experimental vehicles. Programmes of this sort should be supported consistently until competitive vehicles are coming down the production line and European manufactured export orders are being won.

5.2 Alternative ICV Fuels

5.2.1 The Commission's biofuels programme is reported to be in disarray. The present situation has been characterised as a war that pits the European Commission's agriculture experts against its climate experts, and Europe's auto and farming lobbies against environmentalists. The debate involves the relatively new concept of 'indirect land use change'. It centres around the potential impacts on the global environment that would be caused by the land use change needed to provide the crops to meet EU biofuel targets. Since biofuels are expected to satisfy 7 % of EU fuel needs by 2020, the EESC urges the Commission to confirm or modify its policy. The policy may only be fully viable when technology finally delivers the second generation of biofuels

5.2.2 The Communication highlights the restrictions which apply to gaseous alternative fuels such as LPG, CNG and Biogas. Vehicle engines and fuel tanks have to be modified and accessible refuelling facilities are needed. However, these conditions can be satisfied where multi-vehicle fleets operate within the range of a depot. Some private companies and many public authorities and public service undertakings can satisfy these conditions. In addition to requiring public authorities and companies to introduce clean and efficient vehicle programmes, MS should encourage manufacturers and potential users to innovate in this area in order to meet their targets.

5.3 EV, HEV, PHEV

5.3.1 Mr Osborn's opinion was visionary. It defined the preconditions for a substantial switch from ICVs to EVs in the market for private cars. The reality is that such a switch will not happen in the short term, so the campaign for green cars needs to be more broadly based.

5.3.2 As Bain & Company has pointed out, EVs are the iPhones of the auto industry. Before the iPhone, mobile phone users worried about battery life. Because iPhone apps are a revolution, users accept that their phones will need charging every day. The EV experience is so very different from driving an ICV that EV early adopters are not expected to worry about the limited range of the EVs and PHEVs coming to the market in 2011 and 2012.

5.3.3 Early adopters will buy EVs as second cars. They will be used for commuting to work by road, for parking at railway stations, and for neighbourhood mobility. The range will be adequate for a day's driving. The EV battery can be recharged overnight from the domestic power supply in the owner's garage.

5.3.4 Battery charging at the place of work can extend the daily range. No complex charging infrastructure is needed. International standardisation is hardly needed with the present range limitations. The load on the electricity grids should be minimised by overnight charging which can use electricity which would not otherwise be used at night.

5.3.5 Many Member States, including the UK, France and Germany, will offer generous incentives to electric car buyers. Although EVs will still be priced at a premium to ICVs, even after the subsidy, the appeal of the technology and the life style statement being made by the owner should be enough to support the up-take of initial production volumes. In addition, owner commitment will be reinforced by free parking, freedom from congestion charging and other inducements provided in the urban environment.

5.3.6 While the EESC endorses the proposal to provide guidelines for MS financial incentives, it urges MS to incentivise early adoption so that the take-up of EVs in the EU does not fall behind the other regions where incentives are also available.

5.3.7 The main cost component of an EV is the battery. For automotive use, the key issues are size, weight, capacity, safety, efficiency, reliability and longevity.

5.3.8 The strategic problem for the EU is that it has no major battery manufacturers, although Nissan plans implants in the UK and Portugal. Battery technology will become extremely sophisticated and its importance will increase because it will be the main factor affecting vehicle performance and competitiveness. Europe must be represented in this industry. The EESC recommends that the major automotive manufacturers work together to start up and scale up battery production in Europe. The new CARS 21 Group should consider this.

5.3.9 There are many ramifications to the battery business which will need to be addressed: warranties, replacement, exchange and leasing as well as end of life procedures, salvage, waste disposal and re-use. EU companies need to be in this business.

5.3.10 In the longer term, EV drivers will need access to recharging networks. The city-wide schemes being pioneered in, for example, London and Paris, and the country wide

schemes being developed in Denmark and Israel should provide valuable input to the plans out-lined in 4.2 and 4.3 above. Given China's drive for the electrification of five cities, it is imperative that the EU moves quickly, especially in respect of standards.

5.3.11 Raw material supply features in the Action Plan. Japan and South Korea are negotiating concessions and joint ventures in South America. South Korea has a \$12 billion investment linked to aid in Bolivia. There is no evidence that the EU is equally well placed. The Commission and MS should work with EU domiciled mining companies to secure future supplies.

5.4 FCV

5.4.1 The EU is financing research into a future hydrogen economy and the development of FCVs. In previous opinions the EESC has endorsed the Commission's hydrogen strategy. Nevertheless, according to some observers, the hydrogen economy concept will not work. They point out that there is no practical source of hydrogen, no good way to store hydrogen, and no good way to distribute hydrogen. Many of the problems with hydrogen stem from its physical and chemical properties. It is possible that technology cannot resolve these problems. Accordingly, the EU strategy should include options in the event that FCVs do not prove to be viable in the longer term. It is too early to make technological choices. In this phase we must 'let all flowers grow'.

5.5 Public Sector, Private Sector and Individual Engagement

5.5.1 Motor manufacturers have fuel economy and emissions targets which apply overall to the range of vehicles which they produce. The EESC recommends that public authorities, public service undertakings and large private companies should also be operating under guidelines and targets for fuel consumption and emissions. This is one way to incentivise the use of gaseous alternative fuels, but the opportunity is far greater than that.

5.5.2 The EESC is pleased that Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles will come into force in late 2010. However, the EESC would have liked to see guidance set for the various criteria to be used for procurement and also a process whereby these criteria become more demanding over time. Such criteria should be incorporated as soon as possible and the EESC would like to see them in force before the planned review in two years' time.

5.5.3 Following the public sector example, the EESC would also like to see company reporting of hydrocarbon usage and CO₂ emissions modified to identify the transport content so that progressive improvement can be measured.

5.6 International Competitiveness

5.6.1 The international situation is difficult. America, China, Japan and South Korea each have a single minded government intent on exploiting the clean and efficient transport opportunity. The EU has a 27 minded government, each having very different industrial and financial capacities and very different levels of affluence in their societies. Because green transport is radically different from what has gone before, it effectively resets industrial advantage to zero and so allows a China to overtake a Japan, especially since China's industry is sheltered by import tariffs. The EU must not be left behind. The Commissioners involved have to get their act together while the countries, companies and research facilities with the necessary resources must act urgently. This Action Plan must be seen as a call to arms.

5.6.2 Paragraph 3.4, Global issues, is of vital importance but it lacks a WTO component. In these revolutionary new circumstances, EU business needs market access without protectionist barriers.

5.7 Governance

5.7.1 The Commission will reinstate the CARS 21 High Level Group. The report prepared by the original Group was approved by the automotive industry but was criticised by environmental groups who felt that it failed to deliver a 'clean' and 'lean' strategy for new cars. In the new High Level Group, representatives of civil society with a commitment to environmental issues should be introduced as a counterweight to the interests of the industry.

5.7.2 China, Korea and the USA are forging ahead with innovation, development and investment in this field. Europe is in danger of being left behind, a victim of short-sighted conservatism and timidity amongst established industrial players and lack of political vision and leadership on the Governmental side. If the European industry is to avoid this fate the Union needs to establish a strong governance structure integrating progressive business, political and civil society leaders with a single-minded and urgent mission to drive forward the necessary regulatory changes and incentive measures and to mobilise the investment and market creation that is needed.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on 'Unlocking the potential of cultural and creative industries (Green Paper)'

COM(2010) 183 final

(2011/C 51/09)

Rapporteur: **Mr CAPPELLINI**

Co-rapporteur: **Mr LENNARDT**

On 27 April 2010, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union (TFEU), on

Unlocking the potential of cultural and creative industries (Green Paper)

COM(2010) 183 final.

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 September 2010.

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

At its 466th plenary session, held on 21 October 2010, the European Economic and Social Committee adopted the following opinion by 71 votes in favour with one abstention.

1. Recommendations and proposals

Prompted by the questions put forward by the Commission in the Green Paper (COM(2010) 183 final of 27 April 2010) and in the light of the recommendations earlier put forward by the Platform on the Potential of Cultural and Creative Industries, together with the internal dialogue underway – including ad-hoc hearings – the Committee has formulated a series of practical proposals in support of the European Cultural and Creative Industries (CCIs).

1.1 Recommendations:

The EESC:

a) Calls on the Commission to pursue its efforts for a better definition of the sector and for it to be more accurately reflected in statistics, paying particular attention to the economic and social situation of those working in artistic professions. There is indeed no single, agreed definition of 'cultural and creative industry', although this is a key requirement for:

i. fostering recognition of the specific features of CCIs;

ii. analysing their impact on long-term growth, international competitiveness, regional development and territorial cohesion;

iii. encouraging the adoption of policies taking into account the cultural specificities of the sector, through the effective implementation of former Article 151(4) TEC, now Article 167(4) TFEU.

b) Recommends that the Commission redouble its efforts to create a 'European space for creativity', by fostering a European regulatory framework based on fair access to the market, free competition, measures against abuse of dominant positions, support and development of SMEs and craft businesses, promotion of cultural diversity, protection of intellectual property rights and the fight against piracy, with a particular focus on the sector's digital potential.

c) Calls for the adoption of tax concessions and new models and instruments to encourage funding for the sector's future development, and the establishment of Participatory Public-Private Partnerships (PPPPs); in other words, the aim – in this sphere – is to provide for direct participation by citizens alongside conventional PPP models⁽¹⁾.

⁽¹⁾ See, in a different context, the opinion on *Improving 'participative public-private partnership models' in deploying 'e-services' for all in the EU 27* (TEN/402, adopted by the EESC at its September 2010 plenary session, not yet published in the OJ).

- d) Underlines the contribution made by CCIs to the strategic objectives of 'European cohesion', and recommends that local authorities (municipalities, regions, etc.) cooperate with other local and regional bodies (universities, banks, associations, public and/or private content providers, etc.) to promote the CCIs and make them part of regional development.
 - e) Points to the need for robust measures to offset the vulnerability of the sector's businesses, especially SMEs, and of those working in artistic professions, and at the same time, signals an urgent need to facilitate a 'critical mass' of investment in the sector, harnessing 'economies of agglomeration' in order to stem the penetration of the European market by cultural products which inculcate patterns of behaviour detrimental to European culture or which can lead to fully-fledged cultural colonisation.
 - f) Emphasises the role of ICTs (e.g. *EU Internet of the Future* initiatives) in providing new opportunities (broadband or creativity support services, particularly in disadvantaged or low-income areas), both in terms of producing creative products and services, and in their distribution and use by end users.
 - g) Highlights the importance of fostering greater knowledge of the creative industries in school programmes and vocational training, as already indicated at European level in the International Charter of Artistic Craftsmanship.
 - h) Points to the need to consider the most appropriate instruments for facilitating access to credit for creative companies and the various types of professionals in the sector, encouraging firstly, a sharper focus on the economic and financial sustainability of projects/works on the part of companies, and secondly, boosting the ability of credit institutions to assess the economic and financial potential of cultural and creative projects.
 - i) Stresses the need to foster greater debate within the Community institutions regarding a structured dialogue on the social impact of developing creativity clusters, and on improving the employment conditions of those working in the sector.
- and regions coming under the cohesion policy. The EESC is eager to encourage this structured dialogue and to work with the other Community institutions, offering its own technical know-how and network of links for this purpose.
- b) On the basis of pilot projects launched in some areas of the Union, creating physical locations for informal meeting and experimentation (modelled on the science shops, Future Centres, Multimedia Parks, etc.) that can promote the direct participation of target groups comprising members of the public/users/associations and organised civil society. The aim is to foster the involvement of every part of the EU's territory in developing the potential of the creative industry, and not only in large urban centres, which are often considered to be the sole promoters of creative development processes. In this setting, local and regional communities can play a key role in making the CCIs part of regional development (applying the 'think small first' principle contained in the European Small Business Act).
 - c) Fostering an 'internal market' for creativity, by promoting:
 - i) movement;
 - ii) effective use of the right of establishment;
 - iii) mutual recognition of occupational categories, qualifications and certifiable skills;
 - iv) development of a real support system for the sector (harmonised tax arrangements to protect those working in artistic professions and safeguard cultural heritage, agreements to prevent double taxation, etc.);
 - v) exchanging best practices and developing cross-border co-productions and partnerships in addition to public-private ones (e.g. multiple agreements between users and content providers), in part with the aid of new PPPP models at regional and local level.
 - d) Stepping up the dialogue between university-level institutions and SMEs, and between craft enterprises and their respective representative associations; enhancing students' computing and technological skills; and launching initiatives to set up new businesses in the sector, not least through forms of peer-coaching.

1.2 Proposals:

In the light of the above, the EESC draws the attention of the European institutions and of the Commission as a whole (rather than its specialist units) to a series of practical proposals in support of CCIs:

- a) Entering into a 'structured dialogue' with all stakeholders and, in cooperation with all the relevant Community institutions, launching a series of discussion and awareness-raising initiatives on the role of CCIs within 'European territory', paying particular attention to disadvantaged areas
- e) Supporting funding for creativity, firstly by drawing up Europe-wide business plan guidelines for creative and cultural projects/services/works, as well as specific performance indicators that can facilitate the technical and economic assessment of investment in the sector and, secondly, by means of credit facilities, joint public-private guarantee funds and rotating funds, and new types of association and partnership between the various stakeholders in the segments concerned (ICT, book publishing, film production, music, etc.).

2. What are the cultural and creative industries (CCIs)?

2.1 As recognised by the EU 2020 strategy, the cultural and creative industries play a central role in growth, competitiveness and the future of the EU and its citizens. By their very nature, they create innovation and jobs, and act as an interface between various branches of industry. In addition, they are generators of comparative advantage that cannot be reproduced elsewhere, factors for local development and drivers of industrial change.

2.2 The EESC also emphasises the role played by the CCIs within 'European society' in support of pluralism and cultural diversity, and as a tool for promoting a 'European identity'. They also contribute to a better quality of life, to tolerance and to countering behaviour contrary to human dignity, to integration and to visitor capacity.

2.3 The ambitious aim of this opinion is to reveal the full potential of the cultural and creative industries, a cornerstone of the new Europe 2020 strategy, as underlined also by the European Council and key actors in the area of European industrial change. This firstly requires adequate knowledge of the subjects under consideration, distinguishing between design, analysis of production and consumption processes and governance.

2.4 Although reference is generally made to CCIs, a distinction should nevertheless be maintained between *culture* and *creativity*. While culture is generally understood as the set of knowledge, customs and levels of artistic and scientific development that defines an era or social group ⁽²⁾, the term *creativity* is specifically interpreted as the capacity to think in an innovative way, or to produce new ideas that bring together existing elements in a new way (be they processes, objects, knowledge, etc.). This, in turn, should not be confused with the term *innovation* which refers more generally to processes and products developed from knowledge, techniques and tools ⁽³⁾.

This is a crucial distinction because, on the one hand, it isolates separate concepts that are often blurred in current language; on the other, it highlights the deep interconnections between culture, creativity and innovation (see also the *Council conclusions on the contribution of culture to local and regional development* of 29 April 2010).

2.5 The multifaceted nature of culture and creativity makes it difficult to pinpoint a single analysis approach: at one extreme there are those who would limit creativity to cultural activities alone; at the other extreme are those who think that all

industries are intrinsically creative. Thus the process of identifying the so-called *creative sectors* risks being somewhat arbitrary, and this could have a knock-on effect on the effectiveness of the policies driving EU2020.

2.6 The problem of defining the sector's boundaries is also linked to a problem of 'perception', both 'internal' (operators within the sector who do not see themselves as belonging to a particular single 'industry') and 'external' (societies that do not recognise the specific sectoral nature of those working in the cultural and creative industries).

3. Overview of Europe's CCIs

3.1 Based on the Commission's definition, CCIs as a whole contribute around 2.6 % of EU-27 GDP and provide employment to some five million people (source: Green Paper COM(2010) 183 final). Other sources indicate an even greater impact. This statistical diversity accurately reflects the diversity of assessments regarding the sectoral groupings covered by the CCI definition (see recommendation in point 1.1.a)).

3.2 In 2007, the EU-27 balance of trade in the main creative industries recorded a surplus of EUR 3 billion. According to UNCTAD (*Creative economy report*, 2008), the creative industries are among the most dynamic sectors in world trade in terms of growth. Over the period 2000-2005, global trade in creative goods and services grew by almost 9 %, thus confirming the industry's good long-term growth prospects.

3.3 Typical occupational profiles in the sector include artists, thinkers, producers, publishers and performers, but there are other more conventional profiles, for both technical and business aspects, such as craft activities. However, the lack of suitable legislation for the sector, the lack of specific recognition of occupational categories in the sector and of social protection geared to them (for example, providing protection for very short-term contracts, social security aspects or to facilitate international mobility) should be noted.

3.4 The CCIs nevertheless offer considerable potential for growth and employment in the EU. Creativity is universally seen as an engine for sustainable, smart and inclusive growth, and culture plays a fundamental role in developing an information and knowledge-based society. Moreover, both of these, as well as being tools for more competitive and better organised supply, serve to stimulate demand for content, provide education for cultural diversity and at the same time help to combat social exclusion and discrimination.

⁽²⁾ Cf. EESC opinion on *Europe's Creative Industries* (OJ C 108, 30.4.2004, p. 68).

⁽³⁾ Cf. EESC opinion on *Unlocking and strengthening Europe's potential for research, development and innovation* (OJ C 325, 30.12.2006, p. 16; and in particular point 4.12 and footnote 55).

3.5 Moreover, creativity plays a key role in relation to international competitiveness, generating 'immaterial value' and 'products', and transforming them into a particular form of 'experience'. More and more economic activities outside the sphere of the creative industries per se are now dedicating an ever greater share of resources to creative activities as an input for their products. The creative sector is thus not only fundamental to businesses' international competitiveness, but also generates spill-over effects on the rest of the economy ⁽⁴⁾.

3.6 Another aspect that should not be underestimated is the contribution made by the development of this sector to the 'quality of life' in the relevant local area: it influences the training system, models of behaviour for young people, and the growing interest in culture disseminated through the work of the CCIIs, helping to impart 'dynamism' to the towns and regions concerned.

3.7 Lastly, the potential offered by applying the new technologies to the sector should also be underlined, as illustrated by the social media phenomenon: means for sharing text, images, video and audio material by users. This sector could at the same time serve as a launchpad for interesting ideas, productive dialogues and fruitful comparisons (*Wikinomics*, for example), although they are also experiencing management difficulties, as for instance in intellectual property concerning shared content. And lastly, the new technologies can help fight digital piracy.

3.8 However, the sector remains vulnerable. On the one hand, it is dominated by SMEs, and on the other, it is susceptible to the formation of oligopolies which kill off competition (the so-called *bestseller effect*) – e.g. global multimedia or advertising companies.

3.9 The role played by SMEs remains crucial. It is this type of company that assumes the 'risk' arising from non-technological innovation, by investing in new talents and new aesthetic forms and attempting to provide varied and diverse products for consumers. However, the problem arises of a 'critical mass' of investment, capable of stemming the penetration of the European market by cultural products which inculcate patterns of behaviour and values that are alien to European culture. It would be helpful, in this regard, to put in place specific support and aid measures promoting 'local SME systems', and developing 'regional clusters' and 'economies of agglomeration'.

⁽⁴⁾ A study carried out by the KEA company at the Commission's request (<http://www.keanet.eu/report/BISScreativeindustries.pdf>) points to three key crucial channels in this regard: the link with local/regional development; cross-sectoral relations (e.g. between creative content and ICT, or between culture and tourism); and interconnections between 'creative' and 'non-creative' sectors. This study was prepared in conjunction with the Amsterdam seminar organised by DG Enterprise, during which the Amsterdam Declaration was also drawn up (<http://www.europe-innova.eu/creative-industries>).

3.10 Policies on the cultural industries in Europe still vary. In some Member States, the sector receives substantial public investment; in others, investment is mainly private ⁽⁵⁾. Quite apart from any assessment of how effective these policies may be, the fragmented state of national legislation and markets in this field unarguably constitutes a *de facto* distortion of competition in the European market. The Green Paper itself makes clear the importance of stepping up efforts to achieve greater European competitiveness in the sector, thus boosting cultural diversity. Furthermore, an effective boost for benchmarking remains crucial to fostering European policies in the sector.

3.11 At EU level, the objective of both the Commission (Communication of 10 May 2007 on a *European agenda for culture in a globalising world*), the Council (*Work Plan for Culture 2008-2010* of 10 June 2008) and the Parliament (see its *Resolution on cultural industries in Europe* of 10 April 2008) is to maximise the potential of the CCIIs, in particular that of SMEs. Planned measures worthy of mention include the *European Creative Industries Alliance*, to be launched in 2011 under the umbrella of the *Entrepreneurship and Innovation Programme* (EIP), itself under the *Competitiveness and Innovation Programme* ⁽⁶⁾. Other initiatives involve setting up a working group on CCIIs comprising Member States' experts, studies on the contribution of culture to creativity, on the entrepreneurial dimension of cultural and creative industries and on the contribution of culture to local and regional economic development; and the Green Paper on CCIIs.

4. Issues in the debate and priorities identified in stakeholder consultations

4.1 Publishing the Green Paper on 27 April, the Commission launched a debate on the growth potential of CCIIs, highlighting the role of cultural diversity, globalisation and digitisation as drivers of the process. It also stressed the need to equip the industry with the right enablers – facilitating experimentation and investment, providing easier access to funding – and to promote its development by re-orientating regional policies.

4.2 The Commission's efforts are to hinge around three major policy frameworks: the *Digital Agenda*, one of the seven flagship initiatives of the Europe 2020 strategy, whereby the Commission aims to create a single market for online content and services; specific actions to strengthen the role of CCIIs as a catalyst for innovation and structural change as part of the *Innovation Union* flagship initiative; and the strategy on intellectual property, seeking the requisite balance between protection, on the one hand, and developing new business models, on the other.

⁽⁵⁾ Of course, a detailed examination of the industrial policy models adopted in the different Member States would, once again, require a single, agreed definition of CCIIs. Public funding is, however, generally geared to promoting the cultural sector (theatre, cinema, the visual arts, foundations, etc.) with a significant impact on the entire sector, given the interconnection between cultural investment and the development of the creative industries.

⁽⁶⁾ The initiative will have a budget of EUR 7.5 million, and is expected to have a powerful financial leveraging effect (approximately EUR 100 million in three years).

4.3 The Green Paper also includes open questions aimed at sparking a debate broadened out to all European stakeholders in creativity (in its broad sense). The EESC's intention with the present opinion is to make its own contribution to the debate opened by the Commission, by offering suggestions and practical working proposals. In this regard, the Committee's principal frame of reference remains the recommendations issued by the *Platform on the potential of cultural and creative industries*. Further factors have however emerged from the stakeholder dialogue and in the course of relevant hearings at the Committee.

4.4 'Physical spaces' for creativity, clusters, and their role in territorial development

4.4.1 One aspect of the debate highlighted in the Green Paper is the issue of 'new spaces for experimentation, innovation and entrepreneurship in the cultural and creative sector' and the role played by the new ICT. In practice, this means creating meeting places for interdisciplinary collaboration, suitable for pioneering the creative industry's most innovative solutions and exploring with the public/users new language and forms of expression such as, for example, digital artistic content as a multi-sensory experience (future and/or business centres for creative-industry products and services, virtual reality and multimedia parks).

4.4.2 These physical places, marked by the 'pursuit of change', could also act as a stimulus to counter the marginality of certain regions relative to the main urban centres of creativity. The principal clusters of European creativity are generally considered to be the main urban centres, such as the Île-de-France, inner London, Milan, Amsterdam, Madrid, etc. ⁽⁷⁾ (see the *Priority Sector Report: Creative and Cultural Industries* by the European Cluster Observatory).

4.4.3 There are many factors that contribute to the development of *creative* industrial clusters such as the economic development of cities and regions; the development of the knowledge economy; creative tourism; the efficiency of production chains; the spill-over effects of innovation, etc. Drawing on this know-how, specific projects should be introduced to encourage the expansion of these clusters and their extension throughout EU territory, and to create Europe-wide networks.

4.4.4 This ties in with (see Council conclusions of 29 April 2010) the central role of the creative industries – and their networks and clusters – as a driver of regional development. The *Priority Sector Report: Creative and Cultural Industries* drawn up by the *European Cluster Observatory* provides empirical evidence of a direct link between the location of creative industries and regional development. The problem lies in choosing the most suitable forms of cooperation for fostering the integration of CCIs into strategic regional development.

4.4.5 A prominent feature of cultural and creative clusters is their dependence, especially in the start-up phase, on public support and the need for positive integration initiatives that

can draw in all regional actors: public administration, the business sector, the training and university system, cultural operators, the intellectual professions and civil society. The strong link between such clusters and their local communities of origin should certainly not be underestimated. These clusters spring from the 'shared knowledge' of the local area and are inextricably tied in with a favourable environment which cannot be reproduced elsewhere, fostering innovation and change (see case studies such as Bilbao, Valencia, Amsterdam, the Ruhr, etc.).

4.4.6 Local authorities (municipalities, regions, etc.), in cooperation with other territorial bodies (universities, banks, associations, public and/or private content providers, etc.) therefore play a key role in mainstreaming CCIs into regional development, geared to attaining the sector's strategic objectives. EU cohesion policy has recognised, for example, the CCIs' multiple contribution to its strategic objectives (convergence; competitiveness and employment, territorial cooperation and the inclusion of the most vulnerable sectors of society), although it is difficult to determine its specific impact.

4.4.7 Among practical examples of bringing cultures and forms of creativity together outside the major urban centres, often in disadvantaged and/or cross-border areas, and in addition to the consolidated experience of Valencia, the EESC points to the recent experiment with the Puglia Region's 'urban laboratories', in which disused buildings, including former schools, historic buildings, monasteries, markets and barracks across the region are renovated and equipped to become, with the region's support, fully-fledged cultural and creative 'containers' for young people.

4.5 A 'European space' for creativity: the regulatory framework

4.5.1 Another important factor in counteracting marginality is the mobility of artists and creative practitioners. Indeed, there is an ongoing need to exchange best practice in order to open up new perspectives and challenge the people of Europe to better know and understand each other's cultures.

4.5.2 However, there are numerous obstacles to mobility, mainly linked to visa regulations, tax systems and the varying regulatory environments applicable to the creative industries across the Member States, and often also to differing regional administrations.

4.5.3 Practical proposals to foster mobility include: promoting European co-productions and/or the exchange of experience and skills, in both the production and design phases, and both within and between sectors; allocating funding for translation into less-spoken and non-EU languages; promoting specific measures for the mutual recognition of activities, skills and qualifications; and reaching agreements to prevent double taxation. The intellectual professions contribute to a 'creative cultural economy'; they can help create a network pilot project capable of attracting creative contributions originating from beyond the European Union too.

⁽⁷⁾ These 'territorial concentrations' mainly concern specific sub-sectors such as computer media, sound recording and video recording.

4.5.4 Here, ICT can provide new opportunities both in terms of producing creative products and in their distribution and use by end users. In May 2010 the European Commission presented an ambitious *Digital Agenda for Europe* (the first of the seven flagship initiatives of the Europe 2020 strategy). Among the seven objectives forming its core, the Agenda advocates a new single market to deliver the benefits of the digital area, a significant increase in options for fast and ultrafast internet access for European citizens, and the aim of providing all European citizens with digital skills and accessible on-line services.

4.5.5 The main obstacle to the industry's digital potential is, however, the absence of a regulatory framework safeguarding intellectual property rights pertaining to cultural and creative content in digital form (the current rules are often geared solely towards the needs of large operators), and the right of access to that content for users/the public and SMEs, particularly those located in disadvantaged areas (often bound by unjustifiably restrictive access rules).

4.5.6 The issue of intellectual property rights should be viewed in conjunction with the problem of piracy and counterfeiting. In 2008 alone the EU's creative industries (film, TV series, recorded music and software) experienced estimated retail revenue losses of EUR 10 billion and losses of more than 185 000 jobs due to piracy (see the TERA study on *Building a Digital Economy: The Importance of Saving Jobs in the EU's Creative Industries*). Digital piracy is a criminal offence that is damaging to both large and small companies and requires more robust and coordinated measures at European level to boost consumer protection and tackle illicit productions on a larger scale.

4.5.7 The potential offered by the open source and Wikinomics models is worth assessing here, given their specific capacity to harness the work of small players, marked by fragmented production processes, highly individual creative contributions, variable production cycles and limited financial resources.

4.5.8 The CReATE project⁽⁸⁾ report on ICT and CCI identifies four key future trends through which ICT can drive the economic development of CCIs: digital distribution to facilitate the sharing of online content; enhancement of visual experiences; breaking down barriers and developing sustainable entrepreneurship, especially in disadvantaged areas of the EU; capacity to adapt work organisation to the resources that are spread out across regions and brought together simply by technology and by content providers under PPPPs.

⁽⁸⁾ For more information on the CReATE project, see <http://www.lets-create.eu/>.

4.5.9 A second question posed by the Commission concerns fostering partnerships between art and design schools and businesses, especially craft enterprises, and developing e-skills, particularly where they are lacking or still fragile. The manifesto issued during the European Year of Creativity and Innovation (2009) stressed the need to *reinvent education* so that it prepares people for the *learning society*. There is a specific problem here, however, in the lack of integration between education and business, particularly as regards fostering creativity and the so-called e-skills and, more generally the capacity to adapt human resources to the extraordinary development of the sector.

4.5.10 Some practical proposals in this regard include:

- a) fostering greater knowledge of the creative industries in school curricula; promoting creative entrepreneurship, not least by providing more opportunities for cooperation between schools and art and design institutes (for example internships and seminars);
- b) introducing competitions and awards for young talent and for institutions that foster young people's skills;
- c) fostering artistic and cultural education and, more generally, an interest in the work and products of the creative industry during primary and secondary education;
- d) support measures for recent graduates in the sector by means of financial facilities either directly for the graduate or for the companies employing them;
- e) employability support through lifelong learning and European recognition of qualifications;
- f) the development of IT and technological know-how among the students of art and design schools;
- g) launching partnerships with craft and SME associations, with the aim of making an effective contribution to the process of passing on know-how, entrepreneurship and all the 'immaterial' values that underpin creative development.

4.6 Funding creativity

4.6.1 A third question posed by the Commission concerns the issue of funding creativity, i.e. how to stimulate private investment and PPPPs, and improve CCIs' access to credit. It should be highlighted here that firstly, a greater focus by companies on the economic and financial sustainability of projects/works would undoubtedly increase access to credit and secondly, that credit institutions are unskilled in assessing the economic and financial spin-off of 'new ideas'.

4.6.2 Practical proposals here include:

- a) business plan guidelines for creative and cultural projects/services/works, as well as specific quality indicators on economic and financial processes and performance to facilitate technical and economic assessment of investment in the sector, avoiding unnecessary costs and red tape for SMEs;
- b) giving appropriate training to assessors; and developing targeted policies and programmes to help CCI using a 'holistic' approach;
- c) using only modest resources, providing soft loans for design and start-up or for preliminary project feasibility and sustainability checks (e.g. feasibility certification), making it easier to attract additional funding for the production phase and for circulating the results to a wider range of interested companies;
- d) introducing tax systems that do not penalise CCIs, and particularly SMEs either individually or collectively, by means of tax credits and/or exemptions (e.g. lower VAT for off-line and on-line products in the sector, as in the USA);
- e) developing various credit facilities including joint public-private guarantee funds for SMEs (European network of SME credit unions) and rotating funds;
- f) promoting new types of association and partnership between the various stakeholders in the sectors concerned (e.g. ICT, music, book publishing, etc.).

4.6.3 A related issue is EU support for investment in the sector. EU policies aimed at supporting the sector should also help encourage the harmonisation of national and regional legislation and policies aimed at promoting CCIs concerning public support and access to credit, both private and subsidised, with a view to setting up partnerships and projects between territories with different levels of development (see the KEA report *Business Innovation Support Services for Creative Industries* ⁽⁹⁾).

4.7 The social dimension of creativity

4.7.1 A final point to be highlighted is the social impact of the development of creativity clusters. A feature of the development of CCIs is the close link between economic growth and the social growth of the communities concerned. The sector remains intrinsically linked to its environment: clusters feed on local socio-economic relations, which cannot be reproduced elsewhere; CCI operators are rooted in local areas, and closely linked to the field of education and training. Hence the need for structured dialogue between CCIs and local authorities, upgrading of institutional/administrative skills through targeted training and the active involvement of local communities.

4.7.2 Consequently, the Committee stresses the need to foster a structural dialogue within the Community institutions on the social impact of developing creativity clusters, and on improving the employment conditions of those working in the sector. The sector needs targeted social protection measures in view of its specific features, such as the spread of insecure employment and the use of short and very short-term contracts, the absence of proper protection of intellectual property rights and the lack of legislation governing the mobility of workers, independent professionals and artists.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽⁹⁾ See footnote 4.

Opinion of the European Economic and Social Committee on the 'Proposal for a directive of the European Parliament and of the Council on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA'

COM(2010) 95 final — 2010/0065 (COD)

(2011/C 51/10)

Rapporteur: **Mr SIBIAN**

On 22 July 2010 the Council decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union (TFEU), on the

Proposal for a directive of the European Parliament and of the Council on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA

COM(2010) 95 final – 2010/0065 (COD).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 September 2010.

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

At its 466th plenary session, held on 21 October 2010, the European Economic and Social Committee adopted the following opinion unanimously.

1. Conclusions and recommendations

1.1 The EESC supports the EU's commitment to preventing and combating trafficking in human beings and to protecting the rights of those who are trafficked and welcomes the holistic, integrated approach of the proposed directive.

1.2 Trafficking in human beings is a serious human rights violation, a crime with multiple facets that must all be taken into consideration. The definition proposed by the directive covers various forms of victims and of exploitation including begging and exploitation of criminal activities – two new fields covered by this act. The definition also covers trafficking for the purpose of the removal of organs, an extremely serious violation of physical integrity and human rights. The EESC strongly supports this broad definition of the offences concerning trafficking in human beings.

1.3 The EESC endorses the opinion that criminal sanctions for trafficking offences have to be commensurate with the extreme gravity of these crimes. Therefore it recommends the adoption of harsher penalties and sanctions combined with the seizure of assets derived from illegal activities. Financial investigations must be part of investigations into human trafficking. Harmonisation of penalties and sanctions between Member States is imperative.

1.4 Besides establishing sanctions for offenders, another aspect of paramount importance in fighting this gross

violation of human rights is ensuring that sentences are served once they are pronounced by the Court. The EESC recommends that in cases of trafficking in human beings there should be no possibility of commutation of the sanction or of release from prison before completion of the period specified in the sentence.

1.5 The EESC endorses the view that victims of trafficking are in a vulnerable situation and should be protected from secondary victimisation and further trauma during criminal proceedings. In this respect, the EESC recommends that Article 7 of the directive, which currently reads 'Member States provide for the possibility of not prosecuting or imposing penalties on victims', should be re-worded, replacing 'possibility' with a stronger term, so that not prosecuting and not imposing penalties becomes the rule rather than the exception.

1.6 In view of the special situation of the victims of trafficking, the EESC proposes that they be provided with free, quality legal assistance starting from the moment that the person is identified as a victim of human trafficking.

1.7 In the case of minors, assistance and support should consist primarily of reuniting them with their families, if the latter have not been involved in trafficking.

1.8 In order to succeed fully in reintegrating victims of trafficking and avoid re-trafficking upon return, victims of trafficking should be offered a reflection period ⁽¹⁾, which in addition to medical help should provide them with an education and/or job training.

1.9 The principle of non-refoulement must also be applied in the case of trafficking in human beings, protecting the victims from being sent back to the country of origin if their lives or freedom are at risk.

1.10 The EESC shares the view that further action and decisions regarding trafficking in human beings should include prevention. In this respect, an in-depth knowledge and analysis of the root causes of trafficking is required in order to be able to combat these factors effectively and thereby reduce the incidence of human trafficking.

1.11 Human trafficking is both a global issue and a local problem. The EESC believes that law enforcement and prosecution policies can only be effective if there is an extensive partnership involving NGOs, employers' associations, the private sector, trade unions and all levels of government. A hostile environment must be created for the traffickers of human beings.

1.12 Civil society also plays a central role in the effort to combat trafficking. The EESC welcomes the fact that the directive envisages cooperation with civil society organisations. It is crucial that these bodies be involved in each phase of this process, from the identification of victims to the provision of assistance. Civil society organisations could play a vital role in the social reintegration of potential victims and could therefore have an indirect preventive effect and contribute to the prevention of further victimisation and involvement in human trafficking.

1.13 The EESC supports the idea that there is a lack of comparable data as regards human trafficking. Therefore there is a need to collect quality data on this phenomenon in a harmonised manner in EU Member States through the establishment of National Rapporteurs.

1.14 The appointment of national reporting bodies on this subject should become the rule, and their brief clearly specified. According to the directive, Member States are entitled to appoint national reporting bodies or establish equivalent mechanisms. The EESC considers that only one type of institution should be mentioned and this national body in each Member State should coordinate policies and action at regional level and with other Member States, so as to avoid major discrepancies between EU Member States.

1.15 The EESC looks forward to seeing consistent, satisfactory and decisive action as a result of the agreement reached by Member States regarding the appointment of a

European coordinator on combating human trafficking at EU level.

2. Commission proposal

The proposed directive builds upon the Council of Europe Convention and adopts the same holistic approach, including prevention, prosecution, victim protection and monitoring. Moreover, the proposal displays the following key elements of added value:

- Steps to make penalties commensurate with the severity of the offences;
- A broader, more binding extraterritorial jurisdiction rule, obliging Member States to prosecute nationals and habitual residents who have committed trafficking crimes outside the territory of the Member State;
- Broader scope for the provision on the non-application of penalties to victims for their involvement in criminal activities, whatever illicit means have been used by traffickers according to the Palermo Protocol;
- Improved assistance for victims, especially in medical treatment, as well as protection measures;
- Ensuring protection in the country of origin if victims are returned there;
- Special protective measures for children, women and other vulnerable groups who are the victims of human trafficking; and
- Moreover, the incorporation of provisions with similar content into the EU *acquis* demonstrates the advantages of stronger constraints imposed by the EU legal order, namely immediate entry into force and implementation monitoring.

3. Specific comments

3.1 The EESC supports the EU's commitment to preventing and combating trafficking in human beings and to protecting the rights of those who are trafficked. The aim of the proposed directive is to establish minimum rules for sanctions applying to human trafficking crimes and to step up efforts to prevent this phenomenon and protect its victims.

3.2 The EESC welcomes the holistic, integrated approach of the directive. Since trafficking in human beings is a modern form of slavery and a highly profitable business for organised crime and is also on the increase in Europe (based on Europol's 2009 assessment), it is essential that the EU's approach in the field be human rights-centred and holistic, focusing on external relations, return and reintegration policies, social affairs, social inclusion, migration and asylum.

⁽¹⁾ This reflection period could be of at least six months as in Norway.

3.3 The EESC notes that the directive tackles the recent developments in the phenomenon of trafficking in human beings and therefore the definition of the trafficking in human beings is in line with internationally agreed standards such as those stated in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organised Crime and in the Council of Europe Convention on Action against Trafficking in Human Beings.

3.4 The Preamble of the directive contains clear specifications related to what encompasses the term particularly vulnerable persons. Since children are more vulnerable and at greater risk of falling victim to trafficking, special attention should be given to this category of victims. The EESC considers that a child's best interests must be a primary consideration, as stipulated in the UN Convention on the Rights of the Child and the Charter of Fundamental Rights of the EU.

3.5 Nevertheless, it is important that the definition of trafficking in human beings covers all types of victims, both women and men, recognising the possibility of being in a position of vulnerability.

3.6 All facets of this crime are considered. The definition of trafficking in human beings covers various forms of victims and of exploitation including begging and exploitation of criminal activities, which are two new fields covered by the proposed directive. The definition also covers trafficking for the purpose of the removal of organs, an extremely serious violation of physical integrity and human rights. The EESC strongly supports this broad definition of the offences concerning trafficking in human beings.

3.7 The EESC considers that the Member States should integrate a broader definition of trafficking (and furthermore, broader anti-trafficking language) into their legislation in order to provide a framework to address this complex and evolving phenomenon in its various forms. For example, possible forms of the crime using the internet and information technologies in general should also be taken into consideration.

3.8 The directive takes a major step forward by establishing clear levels of penalties and sanctions. The document aims to ensure harmonisation of the level of sanctions between Member States.

3.9 The EESC is aware of the difficulties encountered in the process of drafting the directive, in terms of establishing uniform maximum penalty levels. Nevertheless, it is important that penalties be harmonised, since there are considerable variations between Member States: from three to twenty years' imprisonment for basic offences and from ten years to life imprisonment for aggravating circumstances. Despite the differences between the various penal systems and policies, the EESC considers that a policy of severe, strict penalties with firm incrimination is the answer to the rising incidence of these crimes.

3.10 Based on data currently available, it has been estimated that several hundred thousand people are trafficked into or within the EU every year. Moreover, in 2008 the number of human trafficking cases opened by Eurojust increased by more than 10 % over 2007. Nowadays, such trafficking exists in one form or another in all 27 Member States and the incidence of this crime is increasing.

3.11 The level of penalties and sanctions for those profiting from human trafficking should reflect the gravity of the crime and act as an effective deterrent. The proposed penalties could therefore be revised upwards, since the EESC considers that five years' imprisonment does not really reflect the seriousness of this crime. Stronger sanctions would better serve the interests of this directive. Penalties associated with aggravating circumstances should be adjusted accordingly. The practice of commuting prison sentences for good behaviour or in commemoration of national festivities, etc. should not apply to crimes in this category.

3.12 Ensuring that the sentences are served is another aspect that has to be considered of primary importance by the Member States. Given the gravity of the crime, the practice of commuting prison sentences and liberation from prison before completing the entire period specified in the sentence should not be accepted.

3.13 In addition to the penalties laid down in this directive, Member States should include sanctions in the form of asset seizure, which would strike at the heart of the economic reasons underlying these activities⁽²⁾, a ban on leaving the country and restrictions on certain civil and political rights. Investigations into human trafficking should also include financial investigations.

3.14 The EESC endorses the view that victims of trafficking are in a vulnerable situation and should be protected from secondary victimisation and further trauma during criminal proceedings. They must also be in a position to exercise their rights effectively and obtain the assistance and support needed.

3.15 The EESC fully agrees that victims of human trafficking should be protected from prosecution and punishment for criminal activities relating to their circumstances when subject to trafficking (e.g. the use of false documents, prostitution, illegal immigration etc). This protection is needed to avoid further victimisation and to encourage victims to be witnesses at criminal proceedings. Art. 7 is worded as follows: 'Member States provide for the possibility of not prosecuting or imposing penalties on victims ...'. The EESC recommends that the word 'possibility' be replaced with a stronger term, so that not prosecuting and not imposing penalties becomes the rule rather than the exception.

⁽²⁾ Europol's 2009 report on trafficking in human beings in the European Union shows that this business is worth several million euros every year.

3.16 Victims of trafficking should be protected from secondary victimisation and further trauma during criminal proceedings. Therefore to give testimony behind a screen or in a separate room should be a possibility given to all victims of trafficking, so victims are not directly confronted with the traffickers/perpetrators which might lead to stress or fear.

3.17 The EESC considers that victims of trafficking should be provided with free quality legal assistance starting from the moment the person has been identified as victim of human trafficking. This assistance is also in the interest of the state, ensuring that the victim is offered the necessary protection as soon as possible and securing voluntary participation in criminal investigations and proceedings.

3.18 The EESC considers it essential to reiterate the principle of non-refoulement, ensuring that the victims are not sent back to the country of origin if their lives or freedoms could be threatened.

3.19 The EESC considers that the extraterritorial jurisdiction rule proposed by the directive could create conflicts in the exercise of jurisdiction in criminal proceedings.

3.20 Assistance and support for child victims of human trafficking should consist primarily of reuniting children with their families, if the latter have not been involved in trafficking.

3.21 To fully succeed in reintegrating victims of trafficking and to avoid re-trafficking upon return, victims of trafficking should be offered a reflection period⁽³⁾, which apart from medical help should offer education and/or job training to the victims. The reflection period should be regardless of the victims giving testimony against offenders and regardless of their voluntary return to their country of origin.

3.22 The EESC shares the view that further action and decisions regarding trafficking in human beings should include prevention, as well as protection and assistance for victims and stronger co-operation between all stakeholders.

3.23 Member States should take into consideration the root causes of trafficking, represented by poverty and global disparities in the rule of law. Unbalanced distribution of wealth, lack of education, discrimination, poor governance, high rates of unemployment, poor enforcement system, armed conflicts and corruption create a favourable field for the trafficking of human beings. Fighting these factors should lead also to reducing the incidence of trafficking in persons.

⁽³⁾ This reflection period could be of at least six months as in Norway.

3.24 Even if the directive's definition of the legal person that can be held liable for criminal offences concerning trafficking in human beings excludes States or public bodies in the exercise of State authority, it is important that States have to make all necessary efforts to identify and eradicate public-sector involvement or complicity in trafficking. Public officials involved in such unlawful or criminal activities should be prosecuted and convicted without exception.

3.25 Member States have to take into consideration that trafficking is also governed by the law of supply and demand. In this respect, steps should be taken to decrease demand and this would help cut back actual trafficking. If Member States were to take the proper measures to discourage the demand that fosters all forms of exploitation and also adopt measures to minimise the risk of people falling victim to trafficking, a major step forward would be taken towards reducing the incidence of this crime.

3.26 Human trafficking is both a global issue and a local problem. The EESC believes that law enforcement and prosecution policies can only be effective if there is an extensive partnership involving NGOs, employers' associations, the private sector, trade unions and all levels of government. A hostile environment has to be created for the traffickers of human beings.

3.27 According to the directive, the action which Member States need to take consists of information and awareness-raising campaigns, research and education programmes, where appropriate in cooperation with civil society organisations, aimed at reducing the risk of people, especially children, falling victim to human trafficking. The EESC considers that one-off campaigns are not efficient enough and proposes continuous education campaigns at European level.

3.28 The EESC welcomes the fact that the directive envisages cooperation with civil society organisations. It is crucial that these bodies be involved in each phase of this process, from the identification of victims to the provision of assistance.

3.29 Civil society organisations could play a vital role in the social reintegration of potential victims and could therefore have an indirect preventive effect and contribute to the prevention of further victimisation and involvement in human trafficking. Member States should cooperate closely with NGOs to provide assistance. In conjunction with NGOs, Member States could support the development of information 'hotlines' and other information resources for at-risk groups, trafficked persons and their families.

3.30 The EESC underlines that the European Commission ⁽⁴⁾ launched a targeted call for proposals within the specific programme entitled 'Prevention of and Fight against Crime', as part of the general programme on 'Security and Safeguarding Liberties'. This aims to step up the EU's anti-trafficking policy and should lead to an improvement in non-legislative measures to combat trafficking in human beings. In this connection, the priorities established for 2010 include: prevention, victim protection, prosecution and investigation of offenders, coordination and cooperation mechanisms, as well as the compilation of reliable data. This programme makes EUR 4 million available and envisages financing 12 projects. It is a good start, but a great deal of support is needed for NGOs combating trafficking in human beings and Member States should make a commitment to support civil society organisations in this respect.

3.31 The EESC considers that self-regulation (e.g. codes of conduct), fair trade practices and supply chain management introduced in the industry could ensure that trafficked persons are not forced to work and therefore are not involved in the production of the company's products and services. Guidelines on good practices on the recruitment of migrant workers and bilateral cooperation between sending and receiving countries in monitoring the recruitment and working conditions of migrant workers are also most welcome methods to prevent this phenomenon.

3.32 Since measures to counter trafficking cannot be limited to the adoption of legislative instruments, and additional – non-legislative – measures need to be implemented, such as the compilation and transmission of data, cooperation, partnership development and the exchange of best practice, the EESC would emphasise that a single, consistent approach at European level is required.

3.33 The EESC supports the idea that there is a lack of comparable data as regards human trafficking. Therefore there is a need to collect quality data on this phenomenon in a harmonised manner in EU Member States through the establishment of National Rapporteurs.

3.34 The appointment of national reporting bodies on this subject should become the rule, and their brief clearly specified. According to the directive, Member States are entitled to appoint national reporting bodies or establish equivalent mechanisms. The EESC considers that only one type of institution should be mentioned and this national body in each Member State should coordinate policies and action at regional level and with other Member States, so as to avoid major discrepancies between EU Member States.

3.35 Although human trafficking is included in many agreements between the European Union and third countries (for example, it is covered by the Africa-European Union Strategic Partnership and the Eastern Partnership and it is also one of the priorities of the stabilisation and association agreements concluded between the European Union and the Western Balkans), the EESC feels that combating human trafficking should become one of the priority tasks of these agreements. Establishing similar agreements between the EU and other countries should be actively taken up.

3.36 The EESC looks forward to seeing consistent, satisfactory and decisive action as a result of the agreement reached by Member States regarding the appointment of a European coordinator on combating human trafficking at EU level.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽⁴⁾ Directorate-General for Justice, Freedom and Security, Directorate F: Security, Unit F4: Financial Support – Security.

Opinion of the European Economic and Social Committee on the 'Proposal for a decision of the European Parliament and of the Council on the European Year for Active Ageing (2012)'

COM(2010) 462 final

(2011/C 51/11)

Rapporteur: **Renate HEINISCH**

Co-rapporteur: **José Isaías RODRÍGUEZ GARCÍA-CARO**

On 7 September 2010 the Council and the European Parliament decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Decision of the European Parliament and of the Council on the European Year for Active Ageing (2012)

COM (2010) 462 final.

On 14 September 2010 the Bureau of the European Economic and Social Committee instructed the Section for Employment, Social Affairs and Citizenship to prepare the Committee's work on the subject.

Given the urgent nature of the work, at its 466th plenary session, held on 21 October 2010, the European Economic and Social Committee appointed Ms Renate HEINISCH rapporteur-general and Mr José Isaías RODRÍGUEZ GARCÍA-CARO co-rapporteur-general, and unanimously adopted this opinion.

1. Conclusions

1.1 The EESC welcomes the proposal to designate 2012 the European Year for Active Ageing. However, this title and the idea behind it do not convey what the EESC thinks this year should be about, namely that ageing should not only be active, but also healthy, dignified and enjoyable. Hence, 'active' ageing should not be seen just as the possibility of prolonging working life or social involvement. The Commission is therefore asked to word a less restrictive title that incorporates these broader quality-of-life dimensions.

1.2 European years as they have so far been constituted and implemented cannot be an entirely satisfactory model. The various events and initiatives must be even more visible and more effectively organised.

1.3 As it stands, the Commission's proposal provides for no clear coordination at European Union level. Yet, coordination by a central and responsible body is vital to ensure that the initiative makes its mark and has a lasting effect.

1.4 Central coordination is also needed for putting together a budget and allocating resources. The EESC would like to see a tangible budget framework here.

1.5 If the European Year 2012 is to deliver benefits, the terms 'ageing', 'active', 'healthy' and 'dignified' need to be harmonised across Europe. Measures that are comparable can

only be introduced if there is a common understanding of what these principles mean.

1.6 The EESC welcomes the involvement of the European Parliament, the Member States, the EESC and the Committee of the Regions, as set out in Article 5. The EESC sees itself as being especially fitted to playing a leading role when it comes to awareness-raising measures and steering constructive debates between social partners and organised civil society and passing on the outcomes of these. In particular, the Committee has in mind the creation of an observatory to assess events at European and national level, thereby supporting a 'European Alliance for Active Ageing', which has also been proposed and which should be tasked with coordinating initiatives at Union level. The EESC could also take on the role of an 'Ambassador for the Year'. It would also be useful to hold a conference on the most important substantive aspects of the year, the conclusions of which should be incorporated into an own-initiative opinion drafted by the observatory.

2. General remarks

2.1 The challenges thrown up by the demographic change facing the Member States have been under discussion for a number of years now in both the European Commission and the EESC. Key topics have included: solidarity between generations, older workers, healthcare, care of the elderly and long-term care, violence against older people, lifelong learning, the needs of older people and the effects of the ageing population on health and social systems⁽¹⁾.

⁽¹⁾ See the list of opinions at: http://www.eesc.europa.eu/sections/soc/index_en.asp.

2.2 The proposal to make 2012 the European Year for Active Ageing was made to follow up on the goals of the most recent Council presidencies, the Europe 2020 strategy and the European Years 2010 (European Year for Combating Poverty and Social Exclusion) and 2011 (European Year of Volunteering). The EESC agrees that 'for active ageing' is an effective short title for the year and that it implicitly includes the principle of 'solidarity between generations'. Nevertheless, the short title does not encompass the multiplicity of topics addressed.

2.3 'Active ageing' is defined by the World Health Organisation as 'the process of optimizing opportunities for health, participation and security in order to enhance quality of life as people age' ⁽²⁾. This definition makes it clear that the main way to promote active ageing is by ensuring that people remain healthy and independent as they get older. Opportunities for participation of older people can then be increased a) on the labour market, through improved working conditions, and b) in society, through the dismantling of forms of social exclusion and through voluntary work. At the same time, active ageing is inconceivable without a minimum degree of security. For this reason, the EESC is convinced that a title such as 'European Year for active, healthy and dignified ageing' would convey much more.

2.4 In the course of drafting the opinions referred to above ⁽³⁾, the EESC always involved the relevant DG in its discussions. It therefore welcomes the fact that, for the year 2012 too, the Commission is also planning to let all the relevant DGs, with their corresponding structural and financial resources, take part. It is important that this be done in a coordinated manner.

2.5 In this connection, the EESC welcomes the fact that the subject of the European Year 2012 will be discussed further in both the Healthy Ageing: Consumer Empowerment for Active Ageing ⁽⁴⁾ workshop and during the Third European Demography Forum ⁽⁵⁾.

2.6 The EESC also welcomes the envisaged three-year timeframe (2011 to beginning of 2014). This extended period will help to entrench the subject in all important policy areas.

2.7 It further welcomes the thematic priorities *named* in the proposal. Necessary additions to the content will be set out when discussing Article 3.3 – Content of measures.

3. Specific remarks

3.1 On Article 1 – Subject

3.1.1 For a long time, public discussion of demographic change saw population ageing as a burden on society

generally and on the social and health systems in particular. This negative view is beginning gradually to change. The potential of older people is increasingly coming to the fore and the opportunities afforded by an ageing society given greater prominence.

3.1.2 However, the positive aspects that demographic change brings with it can only benefit both ageing people themselves and society as a whole if people have the opportunity to age in good health and security. Only in this way can they actively make the most of their potential and make a contribution in terms of intergenerational solidarity. Only the kind of title suggested in point 2.3 would accommodate these prerequisites.

3.1.3 If the European Year 2012 is to deliver benefits, the terms 'ageing', 'active', 'healthy' and 'dignified' need to be harmonised across Europe. Measures that are comparable can only be introduced if there is a common understanding of what these principles mean.

3.2 On Article 2 – Objectives

3.2.1 'Active' ageing should not be understood merely as an opportunity to prolong working life or participation in society through voluntary unpaid activities. Rather, it should be about recognising and valuing the very diverse contributions that older people make to society and avoiding social exclusion. Among these contributions are the financial and or/social support given to younger members of the family, caring for partners and friends, spiritual and artistic creativity and innovation, handing down experience and values, and much more. All of these things are possible even with a certain degree of health and other impairment. Such constraints only make these contributions all the more laudable.

3.2.2 In this connection, the Committee welcomes and endorses the objectives set out by the Commission, namely: 1) creating better working conditions for older workers, 2) promoting social commitment, and 3) supporting healthy ageing. It thinks, however, that a further objective should be included: that of ageing in security and dignity.

3.2.3 The EESC also thinks that the measures planned to attain these goals are the right ones. What would be desirable is a targeted sequence of:

— awareness-raising,

— encouraging cooperation and synergies between Member States, and

— creating a framework for commitment and concrete action.

⁽²⁾ World Health Organisation (2002): *Active Ageing - A Policy Framework*, p. 12.

⁽³⁾ See point 2.1 and footnote 1.

⁽⁴⁾ Healthy Ageing: Consumer Empowerment for Active Ageing, 18.10.2010.

⁽⁵⁾ Third Demography Forum, 22-23.11.2010.

3.3 On Article 2 – Content of measures

3.3.1 The EESC thinks the measures set out in Article 3 of the proposal are sound. However, they are too broadly worded, framed in similar terms to previous European years and could equally well grace any other campaign. They should be capable of winning over the public and not be just for the initiated. Incorporating some of the proposals from the recent consultation could ensure a greater public impact. In addition, the EESC proposes bringing the following issues, covered in earlier opinions, into the broader discussion:

3.3.1.1 Far-reaching measures and improvements are needed to enable older people to **take part longer in working life** ⁽⁶⁾.

3.3.1.2 To both facilitate and value wide-ranging voluntary and unremunerated contributions that older people make to society as a whole and the younger generations: creation and harmonisation of an EU-wide legal category of **voluntary work**, recognition and training for voluntary activities ⁽⁷⁾, and general definitions of this 'work' so that it does not adversely affect the chances of younger people in the job market.

3.3.1.3 To maintain older people's potential for being active: reinforcing **preventive healthcare, health promotion and health education** in all age groups ⁽⁸⁾.

3.3.1.4 Strenuous efforts need to be made to **open the system of formal education** to older people in order to support their continuing education and social inclusion. This should also include the access of older people from all social groups to **new ICTs** (e.g., through the EU's 'Ageing well in the information society' programme ⁽⁹⁾).

3.3.1.5 The fact that demographic change also provides opportunities should not be overlooked. This includes, for example, new **careers and jobs** in care provision and the coordination of various trades, policy consultancy, and so on. As a new **consumer group**, older people provide another oppor-

tunity for the economy in areas such as 'Design for All', Ambient Assisted Living (AAL), and consumer advice. Consumers and their rights also need to be strengthened ⁽¹⁰⁾.

3.3.1.6 Measures in all the areas mentioned require a **more egalitarian approach** that addresses all parts of the population to the same degree: men and women, the healthy and the handicapped, immigrants and the native population. Those living in poverty must be given particular attention ⁽¹¹⁾.

3.3.2 A number of strategies and initiatives are needed to achieve the objectives in the proposed areas:

3.3.2.1 An ongoing **awareness-raising campaign** focusing on the potential of older people, valuing them more highly and encouraging them to play an active civic role at local, regional and national level. This includes media drives to make more people aware of this new way of looking at ageing.

3.3.2.2 Promoting of **European projects**, such as 'Transage', the European LILL (Learning in Later Life) network, in order to enable older people from different European countries to meet, share experience and to raise awareness of lifelong learning (including 'Learning for a long life').

3.3.2.3 Support for projects to **bring generations together**, such as developing intergenerational networks and centres, living history circles and the 'European Film Festival of the Generations' so that people have the opportunity to learn from one another, to join together and combat the isolation of older people.

3.3.2.4 It is particularly important here to take account of regional and local differences. Activities at local level have proven particularly effective.

3.4 On Article 4 – Coordination with the Member States

3.4.1 The prompt appointment of national coordinators (by March 2011 at the latest) is absolutely crucial to ensure adequate coordination of national activities. Each Member State has to ensure that the national coordination centre brings on board a broad spectrum of stakeholders at national, regional and local level as well as smaller organisations and players and informs these about submitting applications, the procedures and funding opportunities.

⁽⁶⁾ See, for example, EESC own-initiative opinion of 25.3.2009 on The situation of ageing workers faced with industrial change – providing support and managing age diversity in sectors and companies, rapporteur: Mr Krzaklewski (OJ C 228, 22.9.2009, p. 24).

⁽⁷⁾ See, for example, EESC opinion of 13.12.2006 on Voluntary activity: its role in European society and its impact, rapporteur: Ms Koller, co-rapporteur: Gräfin zu Eulenburg, (OJ C 325, 30.12.2006, p. 46).

⁽⁸⁾ See, for example, EESC exploratory opinion of 15.7.2010 on Dealing with the impact of an ageing population on healthcare and welfare systems, rapporteur: Ms Heinisch (OJ...).

⁽⁹⁾ See, for example, EESC opinion of 13.3.2008 on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Action Plan on adult learning – It is always a good time to learn, rapporteur Ms Heinisch, co-rapporteurs Ms Le Nouail Marlière and Mr Rodríguez García-Caro (OJ C 204, 9.8.2008, p. 89).

⁽¹⁰⁾ See the opinions listed in footnote 8.

⁽¹¹⁾ In 2008, 19 % of older people (65 and upwards) in the EU 27 were at risk of poverty. See: http://epp.eurostat.ec.europa.eu/portal/page/portal/living_conditions_and_social_protection/data/database.

3.5 On Article 5 – Coordination at Union level

3.5.1 The EESC acknowledges the Commission's coordination activities at EU level referred to in this article. It is concerned, however, that in the Commission's proposal as it stands there is no visible coordination of the various DGs and at EU level. Coordination by a central and responsible body is vital to ensure the initiative makes its mark and has a lasting effect.

3.5.2 In addition, the following measures are also considered necessary:

3.5.2.1 The creation of the **European Alliance for Active Ageing** ⁽¹²⁾ already proposed by the EESC and based on the European Alliance for the Family, in order to entrench the issue of 'active, healthy and dignified ageing' in all policy areas and to ensure the coordination of measures after 2012.

3.5.2.2 The planning of budget resources to implement the measures set out, since the EESC thinks that financing based on existing funds and programmes is problematic and possibly insufficient. Funds of six million EUR were made available for the European Year of Volunteering (2011) and 17 million EUR for the European Year for Combating Poverty and Social Exclusion (2010). The year 2012 should also have an adequate budget. Given the economic crisis, the EESC agrees that the resources from existing programmes should be used to the full. In this case, however, it must be made clear on what scale and for which projects resources from the proposed funds

and programmes are made available and how they are coordinated.

3.5.2.3 As the 'bridge between the European institutions and organised civil society', the EESC is ready to play an important role in the 2012 year. This could take the form, in particular, of an observatory to assess events at European and national level and thereby support the proposed European Alliance for Active Ageing. The EESC could also take on the role of an 'Ambassador for the Year'. It would also be useful to hold a conference on the most important substantive aspects of the year, the conclusions of which should be incorporated in an own-initiative opinion.

3.6 On Article 6 – Consistency and complementarity

3.6.1 As a theme, active, healthy and dignified ageing must follow up on the European years that precede it – 2010 and 2011 – and be seen in this broader perspective, since both combating poverty and supporting voluntary activity are directly linked with active, healthy and dignified ageing.

3.7 On Article 7 – Evaluation

3.7.1 The drafting of a report – for the beginning of 2014 at the latest – evaluating the European Year is expressly welcomed. For this – as for other programmes – procedures need to be developed to bring to an end measures that have proved ineffective.

Brussels, 21 October 2010.

*The President
of the European Economic and Social Committee*
Staffan NILSSON

⁽¹²⁾ See the opinions listed in footnote 8.

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 — Mobilising private and public investment for recovery and long term structural change: developing Public Private Partnerships’

COM(2009) 615 final

(2011/C 51/12)

Rapporteur: **Mr HUVELIN**

On 19 November 2009 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 – Mobilising private and public investment for recovery and long term structural change: developing Public Private Partnerships

COM(2009) 615 final.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 September 2010.

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

At its 466th plenary session, held on 21 October 2010, the European Economic and Social Committee adopted the following opinion by 151 votes to 3 with 11 abstentions.

1. Introduction

1.1 The European Commission recently published a communication on *Mobilising private and public investment for recovery and long term structural change: developing Public Private Partnerships (PPP)*, dated 19 November 2009, which sets out the direction of its future activity.

This document is a worthy initiative and contains an interesting basic discussion of PPPs, which is very relevant given the need to mobilise public and private investment, particularly during the period of financial crisis, and the significant drop in PPPs in 2009 (in terms of number and volume); it lists their advantages and specific features, and analyses factors which, in recent years, may have hindered their development. Due account must be taken of potential disadvantages associated with PPPs and experiences of certain past transactions (transaction costs, risk of contract renegotiation, medium-and long-term reduction in competition, frequent cost increases expected in the long term, (hidden) clauses in complex contracts, entailing long-term disadvantages for the public authorities, and less democratic control) as well as of problems arising from steps to avoid declaring budget deficits in order to comply with Eurostat rules and the accompanying false incentives (also associated with cost increases).

The Commission declares, in particular, that it wishes to ‘look at new ways to support the development of PPPs’. Proposals to further develop the institutional framework for reducing

problems and disadvantages associated with PPPs should be added to the Commission communication.

The following arguments in support of PPPs are referred to in the communication:

- ensure better value for money from infrastructure, by exploiting the efficiency and innovative potential of a competitive private sector;
- spread the cost of financing the infrastructure over its entire lifetime;
- improve risk sharing between public and private parties;
- boost sustainability, innovation and research and development efforts;
- give the private sector a central role in developing and implementing major industrial, commercial and infrastructure programmes;

- lastly, enlarge EU companies' market shares in the field of government procurement in third country markets.

It should also be noted that the concept of a public-private partnership, as understood by the Commission, covers all issues relating to both concession contracts (where the user pays) and public-private partnership contracts, where payment is made by the public authority, in whole or in part.

1.2 *The five objectives set out by the Commission for 2010*

The Commission proposes the following in its communication:

- to set up a PPP group inviting relevant stakeholders to discuss their concerns, draw up guidance assisting Member States in reducing the administrative burden and delays in the implementation of PPPs;
- to work with the EIB with a view to increasing the funding available for PPPs, by developing or re-focussing existing Community instruments in the key policy areas;
- to ensure that there is no discrimination in the allocation of public funds, where Community funding is involved, depending on the management of the project, be it private or public;
- to put in place a more effective framework for innovation, including the possibility for the EU to participate in private law bodies and directly invest in specific projects;
- to consider presenting a proposal for a legislative instrument on concessions, based on the ongoing Impact Assessment.

1.3 However, the Commission's text makes no reference to a number of less positive aspects displayed by certain countries or contracts. The problems encountered by certain projects should be mentioned, particularly so that the EESC can take account of them in its proposals. The main sources of problems noted relate to:

- insufficient transparency in certain countries or contracts, viability assessments or performance reports, etc between public and private partners, including sub-contracting to other firms, which restricts democratic control;
- potential incentives for politicians to put in place PPPs which may increase costs, because, under EUROSTAT's current budgetary rules, PPPs where construction investment at the start of contracts is primarily funded by private capital can carry out (infrastructure) projects more quickly

than a conventional procedure using just public funding. In the case of PPPs where operators are paid from budgetary funds, however, private financing does indirectly increase public debt, because, just like government borrowing, private financing imposes future payment obligations that reduce subsequent budgetary legislators' room for manoeuvre;

- the absence, in certain cases, of any real prior evaluation enabling an objective decision to be taken on both the PPP procedure and the contractor;
- risk-sharing, in certain cases, between the public and private sector departing from the principle of true partnership between stakeholders;
- finally, in certain cases, shortcomings in supervision by the competent public authorities.

All these points have been taken into consideration in the EESC's proposals.

1.3.1 The EESC's proposal thus focuses on three ideas:

1.3.2 Firstly, it is important to be aware that a serious approach on the part of the EESC could enable the Committee to exert a real influence on an issue which is important for the future of infrastructure in general (and therefore on economic growth and public management), whilst never forgetting that the aim here is – whilst adopting a critical approach – to help develop a mechanism to be used by public contracting authorities, who will naturally always be free to choose whether or not to use it.

The EESC wishes to act as a real driving force for change in this area, ensuring that existing examples of good practice are developed and promoted, while false incentives are reduced, problems relating to democratic and social control recognised and remedied and the long-term effects of PPPs also duly taken into consideration. There is still much to do in order to ensure that the proposed instrument is optimised.

1.3.3 Lastly, in light of both the existing good practices and the failures which have occurred in a number of cases, several additions should be made to the Commission document so as to give the PPP mechanism an acceptable foundation in all EU Member States and to take account of the successes and difficulties experienced in its implementation and to put in place measures to avoid such difficulties in future.

1.3.4 The EESC calls for the application of PPP contractual provisions to comply with all the social legislation and regulations applicable to the activities in question (design, construction, maintenance). Steps should be taken to enable the relevant authorities to insist on taking over an existing work-force whilst maintaining the conditions already in place. The EESC recommends that the authorities concerned by PPP contracts include these social requirements in their specifications and take account of replies received in negotiations with tenderers. The same should apply to the question of disabled access to facilities established under PPP contracts in application of laws and regulations in force throughout the EU.

1.3.5 Since public money is used in PPP projects, and public contracting bodies must be able to make their decisions freely, the EESC calls for:

- the publication of contracts for PPP projects;
- consideration to be given to changing EUROSTAT rules so that outside capital used for PPP projects is taken into consideration when assessing compliance with budgetary rules, in exactly the same way as public capital in conventional projects financed from public budgets.

2. Economic position and arguments in favour of PPPs in Europe

According to Business Europe, barely 4 % of the world's infrastructure projects are in the form of PPPs. The United Kingdom signs the largest number of public-private partnership contracts in the European Union (58 % of all such contracts signed in the EU). The other countries which use PPPs most are Germany, Spain, France, Italy and Portugal.

Considering that the OECD has estimated that the annual cost of roads, rail, electricity and water will reach 2.5 % of world GDP by 2030, it is absolutely vital for public authorities to be able to use whatever form of contract allows them to meet the needs and requirements of public infrastructure and services. The historic impact of concession contracts and PPPs in addressing this problem is an inescapable fact, and shows that PPPs can strongly support economic growth by mobilising skills, energy and capital, particularly considering the need to take account of the expected cuts in investment budgets arising from austerity plans in almost all European countries.

2.1 The Commission document sets out the arguments in support of PPPs in some detail but does not highlight failures in certain PPP projects. These failures can be attributed to the following factors:

- PPPs are used for projects for which they are not appropriate; it should be noted in this connection that efficiencies

are not necessarily achieved from transferring entire value-added steps together with the (cost) risk to private firms. Efficiency gains may be possible especially under specific conditions (a low level of environmental uncertainty, high optimisation potential between value-added steps, a high degree of competition, public-sector expertise in drawing up, issuing and supervising contracts and so on);

- PPPs have sometimes been used even if they increase costs, because, under EUROSTAT's current budgetary rules, PPPs where construction investment at the start of contracts is primarily funded by private capital can carry out (infrastructure) projects more quickly than a conventional procedure using just public funding. In the case of PPPs where operators are paid from budgetary funds, however, public debt may increase indirectly, because, just like government borrowing, certain PPPs impose future payment obligations that reduce subsequent budgetary legislators' room for manoeuvre. PPPs that circumvent the basic principle of budgetary restrictions on government borrowing should be avoided for economic reasons. Politicians and other stakeholders would also lose interest in an objective assessment of economic viability;
- insufficient transparency in certain contracts between the public and private partners, including subcontracts to other businesses;
- given that there is frequently insufficient transparency regarding contracts, viability assessments, performance reports etc. the various problems of opportunism that arise with these complex, long-term contracts, as with contracts which provide opportunities for pre-funding, cannot even begin to be adequately managed or subjected to democratic control;
- in some cases the lack of a proper preliminary examination that would make it possible to make an objective choice relating to the PPP process and the contract partners;
- in some cases a distribution of risks between the public and private sectors where there is no real partnership between the parties;
- and, finally, there are sometimes deficiencies in monitoring by the relevant authorities, particularly in terms of the impact on public budgets and the quality of the service.

In order to ensure that its opinion adds value, however, the EESC suggests a slightly different method of presentation, ranking the advantages and disadvantages of using PPPs in what is possibly a more realistic way.

2.1.1 All too often there is a tendency to believe that the most important argument to be taken into account when considering whether to choose a PPP contract is the 'budgetary argument'. While not wishing to detract from its importance (which will be discussed below), detailed analysis and experience show, however, that, in terms of overall economic impact, it is not the most important issue.

The main argument for employing PPPs is that it optimises the time factor. All impartial, careful observers of operations involving PPPs agree that:

- the use of PPPs means it is possible to launch public infrastructure projects much more rapidly than using traditional procedures. This time advantage represents a 'social utility' which, although we may not be able to measure it effectively, is clearly considerable. This social utility usually entails an increase in economic activity, which itself generates tax revenue, and can lessen the financial burden on the local community;
- documentation and survey reports are often processed in a shorter timeframe than under classic public procurement procedures provided that all the choices within its remit have been made by the public-sector client;
- lastly, there is greater respect for deadlines as the contractors have more sense of responsibility.

A potentially shorter timeframe should therefore be seen as the major advantage of a PPP contract even if, at times, this would seem to rather fly in the face of the traditional habits of public sector clients, and their almost routine use of conventional procedures.

In these times of economic recovery as we seek to find a way out of the crisis, PPPs may represent an important factor in speeding up the implementation of decisions, and serve as a first-rate tool for giving the recovery programme the pace it needs to increase its impact.

2.1.2 A second argument in favour of PPPs is their inherent ability to improve project consistency, and thus ensure maximum economic efficiency for public authorities.

As mentioned in the Commission's text, this is due to the complete integration of all stages of the production chain, from the design phase to the maintenance and operational stages, including the actual construction of the infrastructure in question.

In this context, designers of infrastructure understand that they need to optimise construction procedures and quality as they

will be responsible for the infrastructure's operation in due course, and as, at the end of the contract, they will be required to hand over properly functioning infrastructure to the authority, in accordance with the contract implementation rules. Accordingly, they adopt a naturally integrated approach to such projects, which is much more difficult to achieve when there is a more rigid division of tasks and related responsibilities, as is often the case for public procurement contracts.

2.1.3 The third principal argument for using PPPs is, of course, the question of financing.

It is easy to imagine the choice facing the public-sector decision-maker, who manages a budget (the limits of which he knows all too well) and who is trying to provide facilities needed by the local community for which he is responsible. A PPP contract can provide him with the financial solution to a problem for which his budget is inadequate.

Before examining in more detail the proposals we could put forward to extend PPP financial solutions in general, we should perhaps question the limitations of public accounting rules in almost every EU country, a problem which everybody has been long aware of yet has not dared address. One particular example is that current accounting rules do not allow the cost of a public investment to be spread over its normal useful life.

Financing by means of a PPP contract, which enables a public authority to spread this cost over the normal depreciation period, may represent a first step towards introducing a much needed change in public accounting rules, which are increasingly slowing down decisions and which never truly reflect often obvious realities.

Using the PPP model to help launch a political debate on this issue could allow the European Union to demonstrate that it is adopting a pragmatic approach in this field. In certain countries, the introduction of PPPs has been presented as a first step towards the necessary reform of public administration and the tools which it uses.

2.2 The EESC calls for a comprehensive impact assessment and an independent evaluation of the advantages and disadvantages of PPPs to be undertaken and for proposals by the social partners, including organisations representing SMEs, to be taken into account and capitalised on before further-reaching policy decisions are taken. This evaluation should look into the speed of procedures, the cost issue, the quality of the services provided and the social impact on employees and users. The EESC believes that it is important to make PPPs more accessible to SMEs.

3. The EESC's areas for discussion

They must be consistent with the three main arguments developed above (timeframe – project consistency – financial solutions) and reflect the Commission's proposals and existing legislative and regulatory framework.

These proposals are grouped into two categories:

- all issues relating to financing in general
- all issues relating to legal structures, seeking to establish which of them need to be:
 - maintained,
 - modified, or
 - developed.

They must also clearly take account of the three requirements which are essential for this and all public procurement procedures, namely:

- prior assessment, which is used to justify the planned investment and the use of a particular procedure chosen by the contracting authority;
- transparency in consultation, initial selection as well as in the progress of the operation;
- lastly – monitoring, both by the administrative authorities charged with this role and the elected assemblies responsible for the budgets involved.

3.1 Financial aspects

Four key issues are highlighted in this respect.

3.1.1 The definition of PPPs in EUROSTAT procedures should be amended in such a way that public payment obligations under PPPs are treated similarly to payment obligations in the field of conventional public contracts in the public debt.

3.1.2 To date, we have scarcely seen **the Structural Funds** play any role in financing PPPs: is this not something of a paradox given the perfect match between the objectives in question?

While there have already been a number of experiments in this field (in seven countries), we can almost certainly do much better, particularly by doing more to educate the Member States and public authorities concerned to help them see the PPP as a tool which may be linked to all forms of public funding and, above all, to EU funding.

3.1.3 As proposed by the Commission, it is only natural that the EIB should be asked to play a pivotal role in PPP financing policy in Europe. It should not only play a coordinating and advisory role regarding action in this field but should also support financial structures which, in these times of crisis, demand an increasing level of skills and know-how.

The EIB has the double advantage of technical expertise in the field and the necessary political neutrality. It could also play a permanent interface role with national or local monitoring bodies.

It would therefore be appropriate to ask the EIB to provide assistance:

- with the desirable increase in the operational role of the EPEC (a body specifically set up under the auspices of the EIB to monitor PPP operations in Europe), on which a European public body should be built to follow and monitor joint PPP policy, and in practical assistance to the Member States. The organisation and monitoring of aid to small authorities, where resources are lacking, should be one of the new tasks of the EPEC;
- with the establishment and monitoring of a group of private-sector experts (made up in balanced proportions of representatives of employers, trade unions and civil society, including SME representative organisations, financiers, lawyers etc) who would provide a useful point of contact with the public-sector experts within the EPEC in the context of a consultative approach;
- in the systematic monitoring of all PPP contracts at European level;
- with setting up the refinancing mechanisms for PPPs after the construction phase, in particular through the bond market, as proposed in point 3.1.4 below.

3.1.4 An analysis of PPPs reveals that, in financial terms, their principal characteristics (long duration – first class public-sector backers) potentially make them an exceptional tool for harnessing savings via the market, including for pension funds.

Certain countries are already working actively towards creating one or more specialised funds with access to the financial market and which will be dedicated to refinancing PPP operations after the construction phase (and thus without exposure to the risk of delays and cost overruns). The creation of this type of tool at European level could have a noticeable impact and the EIB could be responsible for its technical management, at least during an initial phase.

At the same time, however, the EESC points out that many PPP projects involve services of general (economic) interest. The quality, accessibility and affordability of these services must be ensured, in addition to purely financial criteria.

3.2 Legal and regulatory considerations

The EESC intends to work towards a lasting arrangement whereby PPPs would only be implemented if they lead to a reduction in costs – provided that certain political conditions are met (social standards, quality of services, etc.), adopting a long-term view which also takes into account the costs of transactions, problems with renegotiations, etc. At the same time, pre-financing incentives should be removed; this makes consideration of a revision of the EUROSTAT criteria all the more urgent. A closer examination of PPPs reveals that due to their current complexity, coupled with insufficient transparency in the case of certain countries or contracts (regarding contracts, viability assessments, etc.), some PPPs escape democratic control. We therefore urgently call on the Commission to raise Member States' awareness of the problems associated with this.

We will look at the existing situation below and identify aspects that should be:

- retained,
- modified, or
- developed.

3.2.1 What should be retained from the current texts?

There is no specific definition of what is meant by PPP in the rules on public procurement, concessions and the execution of infrastructure projects.

On closer examination, and taking into account the experiences of numerous countries which already use PPP, it would seem that the absence of any clear definition at EU level does not in any way impede the development of such operations or monitoring by EU authorities.

If we are to deduce from the Commission's silence on this issue that it does not feel there is any need for a more precise definition, it would seem that the EESC may and should share this point of view, which leaves it up to the Member States to draw up a definition which is adapted and tailored to their own particular circumstances and practices.

This approach leaves open the question of whether to leave unchanged certain texts currently in force, bearing in mind

that a recent vote in the European Parliament recommended that, in the area of public procurement, existing texts first be used rather than seeking to draw up new ones.

In light of this, the EESC recommends retaining Directive 2004/18, which deals with procedures for the award of public works contracts, in this case concessions, without adding to it a definition of PPP, the regulation of which remains the responsibility of the public authorities in each EU Member State. It defines public works concession as 'a contract of the same type as a public works contract except for the fact that the consideration for the works to be carried out consists either solely in the right to exploit the work or in this right together with payment'.

The definition of service concession is identical (with service replacing public works) but the directive does not specify any award conditions while devoting a whole chapter to award procedures for public works concessions.

The above definitions deliberately avoid going into detail or pre-empting national provisions which would, in reality, prevent convergence on a common text.

Given these practical considerations, the EESC takes the line that a more specific definition of the term 'concession' (namely, a long-term contract covering the design, construction, funding, management and/or maintenance of a public work or service) is unnecessary since the current situation effectively covers all types of public contract – including those which differ from traditional public procurement procedures – by making them all subject to minimum European award rules.

The EESC takes the view that it is best to avoid legislating in this area, as it could quickly become highly complex. Moreover, stakeholders in every EU Member State are currently able to enter into PPP contracts in the broad sense of the term (concessions paid for privately by the user, publicly funded partnership contracts and other public-private partnership contracts), which meet the need effectively and are in keeping with national practice.

3.2.2 What should be modified?

As far as the 2004/18 Directive is concerned, however, the EESC, with a view to the coherence of the texts used, suggests that, in the context of this opinion on PPPs, thought be given to ways of clarifying award conditions for service concessions, which have been overlooked in the directive despite being clearly defined.

In this context the EESC takes the opportunity to clarify the difficult problem of the institutional public-private partnership (PPPI), which is partially covered by an interpretative communication of 2008 which called on public institutions having recourse to para-state entities to comply strictly with the rules on competition.

In reality, public institutions are either unaware of this communication or choose to ignore its contents. If the Commission were to continue down the path of drafting specific legislation on concessions, such legislation would have to include specific rules on the initiation and renewal of PPPI activity, and improve the law in order to prevent abuses, of which there are plenty of examples in EU case law, and which at times fly in the face of the transparency which is sought.

3.2.3 What should be developed?

As regards procedures, the EESC recommends an improved framework for three aspects of PPPs, namely:

- the prior assessment, which is widely used to compare the total cost of a PPP with that of a traditional public procurement procedure; the ‘public sector comparator’ is also a useful tool;
- the process of competition, where slippage sometimes occurs in terms of ethics, deadlines and the demands placed on private companies;
- monitoring PPP operations to assess their usefulness as accurately as possible and therefore improve the prior assessment of subsequent operations.

3.2.3.1 Prior assessment

This initial analysis, the purpose of which is to justify the use of a particular procedure, should become the binding rule for the award of public contracts.

For the public contracting authority, it is the best way to measure the impact of the decision it is preparing. Requiring publication of the results of the assessment would, in many cases, be an important step towards greater transparency, which is essential if we are to identify the best solutions and ensure rigorous competition.

This should also be the time to assess the impact, in terms of the overall cost, of any differences in funding between the rate which the markets apply to public borrowers and the rate applicable to the PPP project, bearing in mind that prior assessment is already obligatory in the countries which are most advanced in the use of PPP.

In France, the prior assessment focuses on four criteria: total cost, transfer of risk, sustainable development and contract performance. The EESC suggests systemising these criteria by adding the publication of contracts and the strict application of social legislation in the countries concerned, as pointed out above (point 1.3.4).

3.2.3.2 Competition process

This procedure, which differs from the simple bilateral negotiation method used to finalise traditional procedures, is currently widely used – and is even mandatory in some countries – for the award of PPP contracts in the broader sense. It follows an initial, preliminary choice made by the client and consists of finalising the contract, in dialogue with the partner or two partners selected, by successive additions and improvements to the contract data.

Nonetheless, a detailed analysis of the current use of this procedure reveals the following:

- With little experience of this procedure, some public bodies have launched poorly prepared competitive procedures. This has led to disputes over contract clauses, delays and sometimes excessively detailed demands being made of businesses in the final phase.
- There is still some temptation for public contracting authorities to exploit this procedure in order to avoid compliance with laws on intellectual property rights and the protection of innovative ideas.

Naturally, original ideas are supposedly protected by the confidentiality of tenders. However, experience shows that, in reality, this is not the case, and that it is easy to blame what actually amounts to unethical behaviour on undetectable ‘leaks’.

A degree of harmonisation of the EU contractual framework should give consideration to ways of protecting intellectual property, which is itself a guarantor of progress and innovation.

3.2.3.3 Monitoring PPP operations

To comply with transparency and monitoring requirements, there is a need to compile a systematic list of PPP operations and to monitor their implementation at national and European level. This task, in addition to that mentioned above in connection with the EIB and the EPEC, must be entrusted to a neutral body that has no inherent incentives to give preference to PPPs or place them at a disadvantage in its evaluations; it could therefore be transferred to the group of experts.

4. Conclusions

- The Commission communication is interesting and of great relevance given the need to mobilise public and private investment, particularly during the period of financial crisis. It is necessary to continue building on the institutional framework in order to improve PPPs and enhance the advantages and opportunities they bring, and to reduce the problems faced by some PPPs, as referred to above (problems with pre-financing or the cost increases that are often encountered in PPP's long-term contractual relations).
- The opportunities offered by PPPs for promoting the development of public infrastructure (both large and small-scale) and, accordingly, the economic progress of the European Union, should simply not be ignored.
- With regard to PPP projects, Europe should ensure it has the means to learn from the difficulties encountered in the past by improving existing monitoring procedures and by systematically monitoring the final results of operations. The EESC believes that it is important for small and

medium sized enterprises to have greater opportunities for participating in PPPs.

- There are many EU and national-level legal mechanisms in existence: the EESC considers that it is unnecessary to build a unique and – in principle – ideal framework from scratch. We would waste a great deal of time for a limited gain, and it might even be counterproductive. Stakeholders work within this legal framework on a daily basis and calling it into question could slow public procurement or even seriously destabilise the PPP mechanism. The current definitions provided by Directive 2004/18 should not be changed or added to, thereby enabling each Member State to establish a definition of PPP tailored to its specific context and recorded best practices.
- Let us optimise the existing methods, by clarifying and improving a number of points, by taking advantage of the skills we have available, particularly the EIB financing platform, by strengthening the role of the EPEC and the group of experts which could help popularise these contract methods further by collecting best practices and liaising with the private sector at European level by setting up a 'mirror' group of private experts.
- The development of transparency, prior assessment based on total cost, analysis of successes and failures and compliance with the law are all subjects for future studies.
- Let us reflect on how we can set up a mechanism for refinancing PPPs after the construction phase in order to harness the bond market, which could be used more widely in this respect.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax, with regard to the duration of the obligation to respect a minimum standard rate'

COM(2010) 331 final — 2010/0179 (CNS)

(2011/C 51/13)

Rapporteur: **Edgardo IOZIA**

On 24 June 2010, the Council decided to consult the European Economic and Social Committee, under Article 113 of the Treaty on the Functioning of the European Union, on the:

Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax, with regard to the duration of the obligation to respect a minimum standard rate

COM(2010) 331 final — 2010/0179 (CNS).

On 13 July 2010, the Committee Bureau instructed the Section for Economic and Monetary Union and Economic and Social Cohesion to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr IoZIA as rapporteur-general at its 466th plenary session, held on 21 October 2010, and adopted the following opinion unanimously.

1. Summary and comments by the Committee

1.1 The EESC notes that the so-called transitional system for the application of the minimum standard rate of VAT, set at 15 %, which was adopted back in 1992 and is due to expire on 31 December 2010, needs to be extended – it is to be hoped for the last time – by a further five years. The EESC welcomes the adoption of the proposed directive.

1.2 Failure to extend the system could further distort the operation of the internal market. The different standard rates in force in Europe already vary by 10 percentage points, ranging from 15 % in Cyprus and Luxembourg to 25 % in Denmark, Hungary and Sweden. The Commission has rightly proposed on two occasions that a maximum limit be set; however, the Council has not given its consent, owing to the Treaty requirement for unanimity in this field.

1.3 The EESC welcomes the Commission's decision to issue, by the end of this year, a Green Paper on the new VAT strategy and the possibility of gradually harmonising rates. The EESC, which will be duly and specifically consulted on the Green Paper, believes that a fully harmonised system of European taxation should be achieved as quickly as possible, and the transitional scheme should be abolished.

1.4 In many of its opinions on the subject, the EESC has highlighted the need for a simple, harmonised indirect taxation system, reducing the administrative burden and bringing patent benefits for businesses and individuals, guaranteeing fair

taxation and certain revenue for public finances, reducing the risks of tax fraud, and contributing to the development and completion of the internal market.

1.5 The EESC is aware that maintaining the requirement for unanimity on taxation has compromised the possibility of any swift approval of a definitive system for taxation in the country of origin. The lack of agreement concerning the amendment of the Treaties will lead to a burdensome increase in the time taken to reach decisions in this area. Forty-three years after the process for a European system of indirect taxation began, we have progressed no further, due to the principle of unanimity.

1.6 'It is an indictment of the Member States that a concept which was accepted in principle thirty-three years ago still seems as far from realisation as it was then. The history of VAT legislation in Europe is a catalogue of failure, not on the part of the Commission, which has acted with commendable consistency and unrelenting effort in attempting to move the situation forward, but on the part of the Member States, who have continually frustrated these efforts' ⁽¹⁾. These were the words of the EESC in 2001 – and they are just as relevant today!

1.7 The EESC believes that it is no longer realistic to postpone the adoption of a new taxation system that will make it possible to combat tax fraud effectively, leading to an increase in revenues for Member States and the EU, fewer administrative burdens and the development of the internal market.

⁽¹⁾ EESC Opinion on 'Improving the operation of VAT within the internal market', OJ C 193/45 of 10.7.2001.

2. Background

2.1 According to the second subparagraph of Article 12(3)(a) of Directive 77/388/EEC, at the proposal of the Commission and after consultation of the EP and EESC, the Council is to unanimously decide on the level of the VAT rate.

2.2 As the required unanimity was not achieved, the Commission was restricted to four extensions, on the basis of the only unanimous decision reached: the setting of a **minimum rate of 15 %** in Directive 92/77/EEC. Every proposal to **definitively harmonise taxation** has failed to achieve the required unanimity.

3. The Commission's proposal

3.1 In the light of the forthcoming time limit of 31 December 2010 set down in Directive 2006/112/EC, the Commission has proposed yet another extension, setting the **normal rate at no less than 15 %** and valid from 1 January 2011 until 31 December 2015.

3.2 According to point 9 of its proposal, the Commission plans shortly to publish a Green Paper on the new VAT strategy which will launch a consultation on the future fiscal harmonisation. In the light of the outcome of this consultation of the Member States, an appropriate decision will be taken by the Commission on the level of standard rates of VAT in the EU.

4. Comments by the EESC

4.1 Given the current tax situation in the 27 Member States, particularly when it comes to VAT, the Committee can only

agree with the Commission's proposal, which it considers necessary, as in the past.

4.2 The EESC fully supports the Commission's decision to issue a Green Paper on the matter, with the aim of definitively abolishing the transitional system and embarking on a process to harmonise the jungle of rates, derogations, reduced schemes, 'parking' rates and all legislation on the subject, despite the fact that, in the past, narrow national interests have stymied simplification and full completion of the internal market.

4.3 Tax fraud across Europe is worth between 200 and 250 billion euros. The EESC agrees with the European Parliament that it is necessary to fight tax fraud much more effectively, as it 'affects not only the financing of Member States' budgets but also the overall balance of the European Union's own resources in so far as reductions in VAT own resources have to be compensated for by an increase in the gross national income own resources' ⁽²⁾.

4.4 To this end, the EESC believes that the Member States must act in a coordinated, convergent manner, in order to achieve various objectives simultaneously: cutting red tape, higher tax revenues thanks to effective combating of tax evasion and harmonisation of rates, leading to the development of the internal market but without giving anyone competitive advantages or disadvantages as a result of tax levels.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽²⁾ Legislative resolution for the European Parliament of 4 December 2008 at the proposal of Council directive modifying the Council Directive 2006/112/CE relative to the common system of VAT to fight against the tax evasion connected to the intracommunity operations.

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 — International climate policy post-Copenhagen: Acting now to reinvigorate global action on climate change'

COM(2010) 86 final

(2011/C 51/14)

Rapporteur: **Mr BUFFETAUT**

On 9 March 2010 the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: International climate policy post-Copenhagen: Acting now to reinvigorate global action on climate change

COM(2010) 86 final.

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 31 August 2010.

At its 466th plenary session, held on 21 October 2010, the European Economic and Social Committee adopted the following opinion by 118 votes to seven with three abstentions.

1. Conclusions

1.1 The initial reaction to the Copenhagen Accord was one of profound disappointment at the failure to reach a general agreement on targets and measures for combating global warming. However, on closer inspection, it does deliver some advances not only toward the goal of keeping any increase in temperature to below 2 °C compared with the pre-industrial era, but also in making progress possible on both technology transfers and funding for developing countries and on more specific agreements on the use of land and forestry. Its conclusions now need to be built on in the next rounds of negotiation in Cancun and South Africa.

1.2 Even so, it would be difficult to see this as a success for European Union diplomacy. The diplomatic service must consider redirecting its strategy. The setting-up of the new diplomatic service following the adoption of the Treaty of Lisbon may well change the political landscape within the Commission. Be that as it may, the unilateral commitment to cut emissions by 20 %, or even 30 %, in 2020 failed to achieve the desired effect or to secure a binding agreement. The fact of the matter is that our partners are extremely pragmatic and are wary of anything that smacks of declarations of principle behind which lurk regulation and possible impediments. This remains the case even if the goal of limiting temperature increase to 2 °C as a matter of principle was accepted in the end.

1.3 The European Union was not very successful or influential in the Copenhagen negotiations, partly because its ambitions were too great for many other countries to follow at this stage, and partly because of some scepticism amongst others about the deliverability of the European targets. The EU

should now focus on tangible ways of reaching the carbon reduction goals that it has set itself at the same time as (and as part of) reviving its economy. Demonstrable success in this double endeavour would bolster its credibility and influence in the international negotiations.

While sticking firm on decisions already taken, especially on the energy/climate package, the European Union should:

- commit itself, in line with the proposal from the Environment Ministers of Germany, France and the UK, to an early tightening of its CO₂ target for 2020 to achieve a 30 % reduction by that date instead of the present 20 % commitment if the economic and social conditions allow it without loss of competitiveness and provided that it is indeed coupled with the necessary measures and investment to achieve it. The fact that, due to the economic crisis, emissions in the EU have fallen sharply is not itself sufficient reason to aim for a higher reduction target, because emissions can rise again in an economic recovery;
- mobilise and coordinate Community and national research capabilities in new low-carbon technologies and in the sphere of energy efficiency. The aim is to arrive at a better allocation of resources in order to be more effective and so demonstrate that, behind the political declarations and the legislation, the resources necessary for tangible action are indeed being mobilised. It is also crucial to ensure a close cooperation between research and economic actors like industry and agriculture so that promising technologies can be swiftly brought to the market;

- be more modest in what it says so that our partners do not get the impression that we are seeking to force upon them a European model that we consider to be exemplary;
- focus its diplomatic efforts – as we await a global agreement – on more sectoral agreements in areas such as management of land and forests, technology transfers (while making sure we do not lose our comparative advantage in this sphere), a system of monitoring and evaluating commitments, financial assistance and ways of allocating it. The international climate and forest conference held in Oslo in May is a good example of a successful initiative;
- pursue active diplomacy – with backing from the Member States – vis-à-vis the USA, Russia and the BASIC group, since any worldwide agreement is a non-starter without the United States and the other large countries;
- act as a driving force in bilateral and multilateral negotiations in forums other than the UN in order to pave the way for a worldwide agreement. All this should be done with a keen eye for transparency in order to avoid disquieting some countries who may fear that ready-made solutions are being foisted upon them;
- pursue an ambitious European policy – given the major investments in the green economy made by China, the United States and South Korea – if we are to be the engines of tomorrow's economy and if we are adamant about retaining our competitive edge and not becoming dependent on patents, know-how and technologies owned by others. Emission-reduction goals can be useful instruments, but they are not enough to secure the technological leap needed to usher in a truly sustainable development.

1.4 To back up its diplomatic endeavours, the European Union should also mobilise organised civil society in order to make public opinion aware of the need for our society to waste fewer natural resources and use more renewable ones, and for us all as individuals to adopt a more public-spirited outlook.

2. Introduction

2.1 The outcome of the Copenhagen summit provoked a wide range of radically different reactions.

2.2 Some countries and participants in the debate saw the Copenhagen Accord as a promising first step, since many countries – including China, India and the United States – had endorsed the agreement and the aim of keeping any increase in temperature to below 2 °C compared with the pre-

industrial era. Others however saw it as deeply disappointing, since there was no detailed agreement on the measures by which to achieve this goal, or how to share responsibilities between different countries.

2.3 The level of national ambition and commitment reflected in the Accord was also disappointing, as is shown by the fact that the voluntary national targets for GHG reductions which have subsequently been submitted in response to the Accord also fall short of what will be needed to keep below the 2 °C temperature increase, and of what the EU and others had hoped to see agreed.

2.4 The conference was clearly a diplomatic disappointment for the European Union – and the Commission in particular. In particular the announcement of a unilateral commitment to reduce our CO₂ emissions by 20 %, or even 30 %, by 2020, did not have the hoped-for diplomatic effect of encouraging other developed countries to make similar commitments, and drawing forth more specific commitments from developing countries. We need, therefore, to examine why the European Union's diplomatic strategy foundered and how it can be redirected to work better.

3. A more pragmatic and modest approach

3.1 The United States may have its differences with China, but the Copenhagen Accord nevertheless seems to bear a close likeness to the agreement it reached with the BASIC countries (Brazil, South Africa, India and China).

3.2 A few conclusions can be drawn from this:

- Many emerging countries as well as the United States and some other developed countries still give higher priority to maintaining (or restoring) their short term economic growth trajectories than to countering global warming (even though run-away warming could cause much more damage to all economies in the medium term if greenhouse gas emissions are not abated). This group of countries may continue to be the dominant voice in defining the limits of ambition in the next few years, unless or until a combination of new climate-related events, or even stronger scientific evidence, or growing pressures on limited fossil fuel resources cause them to rethink more fundamentally. The EU will have to adapt its strategy to this new global balance of forces.

- The American approach is based on trust in the progress of science and technology and on pragmatism rather than regulation. The USA (and China) are clearly going to focus their main efforts in the next few years on creating the world-beating low carbon industries of the future. Europe must ensure that it makes at least as determined an effort to transform its own economy in the low carbon direction.

— Developing or emerging countries also fear that the zeal of developed countries is merely a blind for hobbling or slowing down their development – all the more so because by no means all the developed countries have achieved their own proclaimed goals.

If the European Union, keen to set the tone, hardly seems to have sold its approach to the rest of the world, this is doubtless because it has relied too much on abstract calculations of the target reductions needed from everyone and its still imperfect carbon trading system, and has not yet done enough on the practical side to demonstrate the feasibility of such targets by investing sufficiently in the research, innovation and transformational technologies that will bring about a new low-carbon and more energy-efficient economy for themselves and others. Hopefully, the 2020 strategy will be a useful instrument on this front. We need to be able to demonstrate that a rapid move towards a low carbon economy in Europe is a success in practice that will give us an increasing competitive advantage unless others do the same. That will have much more inspiring influence in the world than gloomy talk about apparently impossibly demanding targets, the burdens involved in meeting them and the moral importance of burden-sharing.

3.3 Against this background, we should not pin all our hopes in the international context on reaching a final agreement on all points before the end of 2011. It would be better to have no final agreement than to have one embodying inadequate targets that would encourage complacency in face of the growing climate threat. It would be better to present such inadequate targets as a temporary or interim measure that is better than nothing, pending a more adequate agreement with tougher targets at a later date when some of the leading countries and groups have made more progress towards the low carbon economy and are able to commit confidently to more ambitious and adequate targets and to press others to do the same.

3.4 Meanwhile, the possibility of a continuing absence of a general agreement should not be allowed to prevent the international community from moving forward on a step by step basis with negotiations in specific areas and promoting sectoral agreements on, for instance, forests, energy efficiency, technology transfers, financial contributions and cooperation on electric vehicles. May's Oslo agreement on tropical forests, following up an international climate and forest conference, is a good example of a successful initiative. It resulted in a partnership that brings together nine donor countries – Norway, the United States, France, Germany, Sweden, the United Kingdom, Denmark, Japan and Australia – with the European Union and around forty countries with large expanses of forest. The aim of this new partnership is to immediately put in place a financial mechanism to help countries that are preserving their forests. Commitments of four billion dollars have been approved for the period 2010-2012. This amounts, then, to a new shot in the arm for the mechanism for reducing emissions from deforestation and degradation (REDD) by attaching greater worth to forests.

3.5 This approach could be summed up as: 'Deeds not words' – and a more modest attitude, not in the goals but in their presentation.

3.6 We need to implement the Copenhagen Accord as it stands as a starting point for creating a general momentum without getting bogged down in ideological positions. We need to propose specific projects and gather around us groups of countries ready to invest their efforts in them on a case-by-case basis. In this way we could try to avoid making the Kyoto agreements a sacred cow although we must be sensitive to the desire of many developing countries to retain key elements of the Kyoto approach.

3.7 The question of poor countries, and not just developing ones, is also crucial. We cannot let them think that combating climate change is a way of keeping them in a state of dependency. The approach to fairness on climate issues embodied in the French 'justice-climat' plan must be pursued so that there is no doubt about the commitment and goodwill of the wealthy countries.

3.8 The Copenhagen financial settlement should be respected for this reason with fresh money promptly committed. The EU's contribution has been set at EUR 2.4 billion a year for the period 2010-2012. This funding must be provided as soon as possible. It is clear that the United States will only honour its financial commitments if there is movement from China and India, not least on the system for measuring, monitoring and verification.

4. We have to know where we stand at present before we can know how to move forward. What, then, is the Copenhagen Accord really about, beyond ideological or political positions?

4.1 For the past 20 years, the international discussions on climate change have drawn on the scientific work of the Intergovernmental Panel on Climate Change (IPCC), which has brought together leading scientists from all the relevant disciplines and from all parts of the world to review and assess the evidence for man-made climate change and its impacts. Successive assessments by the IPCC over the years have demonstrated a steadily greater degree of scientific confidence and consensus on the reality of man-made climate change and its consequences.

4.2 Unfortunately there have been some procedural flaws in some of the IPCC's latest work, which were seized upon by the media and professional sceptics to try to spread doubt about the evidence and the case for early action on climate change at the time of Copenhagen. Clearly the IPCC needs to improve its procedures to ensure that its work is totally transparent and that all evidence and conclusions are thoroughly peer-reviewed as recommended by the Inter Academy Council.

4.3 None of the reviews of the IPCC have challenged its basic conclusions, and in spite of its procedural errors, the international scientific consensus about the reality of climate change and its causes appears to be growing steadily stronger. Governments from all parts of the world remain convinced of this basic case and committed themselves in the Copenhagen Accord to the goal of keeping global temperature rises to below 2 °C. The EESC strongly supports that conclusion and that expression of political will.

4.4 The Copenhagen Accord also establishes a framework for registering national commitments to greenhouse gas reductions and plans for meeting these. Since Copenhagen many countries have submitted details of their present plans and commitments. This is useful as a sign of some action being taken or proposed in many parts of the world. But the commitments so far made would not put the world on a course to keep temperature rises below 2 °C. Even at the high end, the current pledges by developed countries would only result in an 18 % reduction by 2020 which does not even meet the low end of the IPCC estimate that a 25-40 % reduction is needed by that date. In the EESC's view, the EU should therefore approach the international negotiations on the basis that the present national commitments can be regarded as no more than a starting point and should seek to clarify and strengthen the commitments wherever possible.

4.5 The UN process as it has operated so far is at some risk of going round in circles. Other forums or other multilateral negotiation mechanisms – such as G20 and multilateral agreements – may be important in the short-term by offering more robust and realistic foundations for negotiation and so bringing new momentum to the UN negotiations. This is by no means about substituting the UN, but about using these possibilities to prepare UN agreements. It is about reaching tangible agreements that mutate into action and policies, even if they only cover one aspect of climate change issues or innovations in clean or low-carbon energy. Here the European Union could have a key role in making sure negotiations are transparent and in pursuing active diplomacy vis-à-vis developing and small countries.

4.6 It is imperative, in this regard, to carefully monitor the tangible implementation of the commitments made by countries under the Copenhagen Accord, the Chinese five-year plan and any possible American legislation.

4.7 This must prompt the European Union to rethink its attitude, not least where it gives the impression of seeking to impose on others a binding agreement of the kind it has taken upon itself. One might also pause to consider the nature of such agreements. The idea of a binding agreement presupposes that it can be enforced, yet it is evident that we do not have the means

for this and our partners do not want it. It would no doubt be better to talk about an agreement that involves defined and monitorable obligations.

4.8 The indications are that several big countries are not yet minded to accept a binding agreement on general goals. As part of a step-by-step approach, they would no doubt find it more acceptable to speak of defined and monitorable obligations.

4.9 The path to follow is no doubt that of concluding more specific, technical agreements sector by sector, to which can be added science and research cooperation agreements and, of course, agreements on technology transfer and aid to less developed countries. This should be done with respect for their sovereignty but there should also be guarantees that the funds and help provided will be put to good use.

5. In this situation how can we prepare effectively for the Cancun conference?

5.1 First of all, Europe needs to set its own house in order and demonstrate how to make a more rapid transition to a sustainable and low carbon society an economic success. At present there is a danger that programmes to expand renewable energy and to promote energy efficiency in all sectors are slowing down, and that our innovative new industries in these sectors will lose ground to foreign competition which is being strongly encouraged in China, South Korea and other countries. Europe needs more vigorous measures to give our key low carbon industries the stimulus and investment they need to maintain their competitive position in the world. This sector should be given particular support in the implementation of the 2020 strategy and national recovery programmes.

5.2 The Climate Change Commissioner and the Environment Ministers of Germany, France and the UK have recommended that the EU should unilaterally commit itself to an early tightening of its CO₂ target for 2020 to achieve a 30 % reduction by that date instead of the present 20 % commitment, primarily in order to generate the political will and commitment to undertake the necessary measures and make the necessary investments in renewables and energy efficiency. In the EESC's view, the fact that, due to the economic crisis, emissions in the EU have fallen sharply is not itself sufficient reason to aim for a higher reduction target, because emissions can rise again in an economic recovery. However, the EESC would support that move to -30 % if the economic and social conditions allow it without loss of competitiveness and provided that it is indeed coupled with the necessary measures and investment to achieve it. The EU needs above all to be credible. CO₂ reduction targets need to be both ambitious, and followed through for real.

5.3 On the international front, it would seem important to do some thorough preparatory work with bodies such as the G20, whose members account for 90 % of emissions, so that they can thrash out the basis for an agreement in advance. The outcome of this diplomacy can then be taken up in the United Nations. This process should therefore be transparent and involve the least developed countries as much as possible.

5.4 After that, a less complicated negotiation procedure should be sought in the ambit of the UN. As we know, the Copenhagen negotiations were extremely involved, taking place over six sessions, often held in parallel.

5.5 It is crucial to adhere to a streamlined negotiation structure, jettisoning if necessary the reference to the Kyoto protocol, which in any event only covers 30 % of emissions. Naturally, this should be presented and explained diplomatically and without giving the impression that the main emitter countries are seeking to offload their obligations onto others.

5.6 The focus should be on the key elements: clear goals for limiting and reducing emissions; scientific, technical and financial aid for less developed countries; follow-up of agreements concluded, and the special case of forests – and all of this without getting locked into complex legal labyrinths that will deter some parties and undermine the negotiations.

5.7 The EESC also agrees with the specific negotiating objectives set out in para. 3.2 and 3.3 of the Commission's communication to build a robust and transparent emission and performance accounting framework, to mobilise fast start finance for the immediate future, to secure long term finance for developing countries, to extend and strengthen the international carbon market and to reform the CDM mechanism which at present fails to deliver its goals satisfactorily.

5.8 By contrast, the communication on international climate policy has more relevant and realistic proposals. The Commission is quite right in insisting on the need to implement the Copenhagen Accord. It stresses the 'sustainable' dimension of the Europe 2020 strategy which places sustainable growth as a priority at the heart of the vision for a more resource-efficient Europe that creates new green jobs and gives a real boost to energy efficiency and security.

5.9 It also stresses the importance of making progress in configuring the monitoring, reporting and verification system,

although we know that this caused a major upset in the negotiations, not least with China. It would be expedient, therefore, to come up with a clear and transparent framework that does not impugn national sovereignty and sensitivities. The European Union could play a role by proposing methods for putting in place measurement and monitoring instruments to interested third countries.

5.10 The immediate financial arrangements provided for in the Copenhagen Accord must be implemented as swiftly as possible. This would be the best way of proving the good faith of the developed countries vis-à-vis the developing ones and could draw on existing initiatives if necessary.

5.11 As far as long-term funding is concerned, the Commission thinks it can mobilise a range of different resources:

- those generated by the international carbon market; however, this has been rather disappointing so far – partly because it is not global and partly because it is an artificial market, since CO₂ has no real value – and it could degenerate into a speculative market in 'rights to pollute';
- contributions from maritime transport and aviation;
- public funds; however, we all know how things stand with the public funds of the Member States.

This being the case, and notwithstanding the difficulties, respecting our financial commitments is also a token of confidence in the third countries, especially the poorest of them. What then remains is the very thorny problem of the criteria used to allocate these funds and the assessment of the relevance of the projects and their successful completion.

5.12 More effort also needs to be put into research and development into renewable forms of energy, and promotion of energy efficiency, if only because of dwindling reserves of liquid and gaseous fossils (oil and gas). The aim is to arrive at a better allocation of financial resources in order to be more effective and so demonstrate that, behind the political declarations and the legislation, the resources necessary for tangible action are indeed being mobilised. It is deeply worrying that future projects as essential as Galileo and ITER are wrestling with endemic funding problems.

5.13 To back up its diplomatic endeavours, the European Union should also mobilise organised civil society in order to make public opinion aware of the need for our society to

waste fewer natural resources and use more renewable ones, and for us all as individuals to adopt a more public-spirited outlook.

Brussels, 21 October 2010.

*The President
of the European Economic and Social Committee*
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the State of Implementation of Integrated Product Policy'

COM(2009) 693 final

(2011/C 51/15)

Rapporteur: **Mr ZBOŘIL**

On 21 December 2009, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the state of Implementation of Integrated Product Policy

COM(2009) 693 final.

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 7 July 2010.

At its 466th plenary session, held on 21 October 2010, the European Economic and Social Committee adopted the following opinion unanimously.

1. Conclusions and recommendations

1.1 The EESC welcomes the European Commission's report on the implementation of integrated product policy with an in-depth presentation of the process of implementing the principles of IPP. The report is appropriately embedded in the broader concept of the Action Plan on Sustainable Consumption and Production/Sustainable Industrial Policy (SCP/SIP Action Plan).

1.2 The strategy based on an integrated approach takes due account of the principle of subsidiarity and the specific features of each Member State. The EESC wishes to draw attention to the fact that practical action is carried out primarily at the subsidiary levels and as a result of the market interaction between supplier and consumer.

1.3 Whilst the IPP includes the issue of market forces, the EESC thinks there is still a lot of work to be done when it comes to the use of market instruments, such as environmental taxation and incentives, in order to improve their applicability, in a coordinated fashion. The EESC proposes that closer attention be paid to the exchange of experience between Member States and a particular focus placed on incentives, their implementation and the role of long-term voluntary agreements.

1.4 The EESC is convinced that standardisation could benefit a large number of products, as it could, for example, have a positive effect on their recyclability, effectiveness and environmental performance and on other factors. In the implementation of the Eco-Design Directive, standardisation plays a crucial role and should be strengthened for the future.

1.5 The EESC considers that a closer alignment of the two EMS schemes (EMAS should get closer to ISO 14001) could help to ensure EMAS's more systematic implementation as part of the SCP/SIP Action Plan.

1.6 Any provision, policy or instrument, even for the implementation of the SCP/SIP Action Plan, should be drawn up and adopted in such a way that it does not damage the competitive environment or the workings of the internal market and fully respects the principle of better regulation and the goal of sustainability. There is a critical need to ensure that new policies that were adopted for practical reasons do not overlap or clash with the EU instruments and policies already in place.

1.7 Cost-effectiveness is also essential to the success of the SCP/SIP Action Plan. The initial impact analysis should be complemented by analyses of macro- and micro-economic effects which are often very different in real economic life.

1.8 The assessment procedure should also take account of the main value chains at the earliest possible stage and with the utmost transparency. The legislation in force on eco-design and labelling must not become a barrier to European products, but should instead help European products to succeed both on the internal and international markets. Any initiative, especially those for product labelling and those aimed at boosting a change in consumption, should have a solid and proven scientific basis and should only be used in areas where a change in consumption pattern can be achieved.

1.9 The Committee wishes to express its support for the IPP concept and for the SCP/SIP Action Plan aimed at supporting the development of more sustainable products and production processes, in line with previous opinions the Committee has issued in this area ⁽¹⁾. This approach will lead to greater added value both for the environment and for the competitiveness of the European economy.

1.10 The EESC is convinced that priority should therefore be given to existing Community programmes such as the SET plan (European Strategic Energy Technology Plan), the ETAP plan (Environmental Technologies Action Plan) or technological platform activities. Particular attention should be paid to good coordination and a sufficient level of ambition.

1.11 Better cooperation between the players involved in research and development in the field of eco-innovation, the economic sphere and businesses, research centres and higher education should provide for innovations in the sector, which are absolutely crucial.

1.12 Pursuing the IPP concept isolated from the SCP/SIP Action Plan in the future would risk unnecessary legal inconsistencies and uncertainties. Therefore, the EESC fully agrees that any further IPP activities should now be assessed and undertaken under the umbrella of the SCP/SIP Action Plan.

1.13 The implementation of the IPP and the SCP/SIP Action Plan must be a dynamic process, based on ongoing dialogue and cooperation between the various stakeholders (from businesses and politicians to consumer organisations and NGOs committed to the environment), in order to strengthen tools for communication with consumers, organic production and the promotion of sustainable public procurement and purchasing.

2. Commission document

2.1 On 18 June 2003 the Commission adopted its Communication 'Integrated Product Policy – building on environmental Life-Cycle Thinking' ⁽²⁾. The IPP concept is based on the following observations:

- The production and use of goods and services (i.e. products) are causing the majority of overall negative impacts on the environment. The situation is worsening due to ever

increasing numbers of products being consumed in the EU and globally.

- The environmental pressures and impacts of products occur at various stages of their life-cycle (along the production chain, during the use phase, and at disposal of end-life products). Remedial actions must be designed in a way to avoid the environmental burden being simply shifted to other stages of the life-cycle, or to other geographical areas.
- Due to a large variety of products and their impacts there is no one single policy tool to address them all. On a case-by-case basis, the appropriate policy instrument or combination of instruments has to be chosen and deployed in a co-ordinated way, often across several policy areas.

2.2 The Communication defines the objective of IPP and establishes five IPP 'principles': (1) Life-cycle thinking; (2) Working with the market; (3) Wide involvement of stakeholders; (4) Continuous improvement of products; (5) Coordinated use of policy instruments. IPP was to be implemented through three strategic actions:

- Contributing to overarching policy actions, notably the EU Sustainable Development Strategy ⁽³⁾, the EU's 6th Environmental Action Programme ⁽⁴⁾ and the Ten-year Framework of Programmes on Sustainable Consumption and Production ⁽⁵⁾.
- Supplementing existing product-related policies by providing a framework in which environmental problems can be considered in view of the life-cycle of products.
- Strengthening the coordination and coherence of environment-related product policy instruments.

2.3 The IPP principles have been subsumed into the overarching **Sustainable Consumption and Production/ Sustainable Industrial Policy (SCP/SIP)** framework with the **2008 SCP/SIP Action Plan** ⁽⁶⁾, effectively embracing and taking forward the process started with the IPP Communication.

2.4 The **Eco-design for energy-using products Directive** integrates the IPP principles into product design legislation. Its scope was widened in 2009 to more product groups (energy-related products) in the context of the SCP/SIP Action Plan ⁽⁷⁾.

⁽³⁾ The EU's Renewed Strategy on Sustainable Development of 9 June 2006 no 10117/06.

⁽⁴⁾ COM(2001) 31 final.

⁽⁵⁾ See http://www.un.org/esa/dsd/dsd_aofw_scpp/scpp_tenyearframprog.shtml

⁽⁶⁾ COM(2008) 397 final.

⁽⁷⁾ Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products.

⁽¹⁾ OJ C 80, 30.3.04, p. 39-44 and OJ C 218, 11.9.2009, p. 46.

⁽²⁾ COM(2003) 302 final.

2.5 The new **Waste Framework Directive** ⁽⁸⁾ makes several IPP elements legally binding, notably the requirement for waste policy to consider the whole life-cycle of materials in waste policy development.

2.6 The **Thematic Strategies** on the Sustainable Use of Natural Resources and on the Prevention and Recycling of Waste have endorsed the life-cycle thinking and the call for continuous improvement ⁽⁹⁾, as well as the principle of working with the market ⁽¹⁰⁾. The waste strategy's call for strong recycling markets in the EU is an example of this.

2.7 Immediately after adoption of the IPP Communication, the Commission started to develop the **European Life Cycle Assessment (LCA) Platform**, a quality-controlled European Reference Life Cycle database and an LCA handbook.

2.8 Altogether, significant progress has been made in the EU towards environmentally driven product policies. Nevertheless, with IPP being a process rather than a final status, there continues to be ample room for further activities.

2.9 The concept can also be applied to the environmental improvement of **non-industrial products and to services**. The **'IPP instruments' of taxation and subsidies** have not yet been applied at Community level.

2.10 The implementation of IPP in terms of policy integration is difficult to document as new policies seldom make explicit reference to IPP. However, overall significant progress has been made in the uptake of life-cycle thinking by key industries and policy makers, and the availability of life-cycle data and consensus on methodology have greatly advanced. Good progress has also been made in identifying products with the greatest potential for improvement and possible measures for improvement.

2.11 Consumer information, eco-design legislation, clean production and 'green' public procurement/purchasing are now at the core of the SCP/SIP Action Plan. The SCP/SIP Action Plan is carrying forward the process initiated with the IPP Communication with the aim of further unlocking market potentials for more sustainable products and promoting smarter consumption. The Communication concludes that the review of the Action Plan foreseen in 2012 will provide an excellent opportunity to further assess the development of IPP.

3. General comments

3.1 The EESC welcomes the European Commission's report on the implementation of integrated product policy and the accompanying working document, in which Commission staff give an in-depth presentation of the process of implementing

the principles of IPP. This presentation covers not only the initiatives and the tangible form they take at Commission level, but also includes a useful comparison of the situations in the different Member States and their specific features. The report is appropriately embedded in the broader concept of the Action Plan Sustainable Consumption and Production (SCP/SIP Action Plan).

3.2 The original communication on IPP published by the European Commission in 2003 was clearly helpful in opening a fruitful debate. It assessed the role of the EU's institutions, the Member States as well as the different interested parties, with a view to achieving a maximum reduction in the impact of products on the environment. Furthermore, the debate has changed perceptions of the issue in its entirety. It has contributed to sustained efforts to develop appropriate political and legal instruments through which the impact of products on the environment can be reduced across the board.

3.3 The aim was to establish a conceptual framework based on the principle of assessing a product's life-cycle, which can help improve coordination and consistency between the different policy instruments that address the environmental impact of products.

3.4 Broadly speaking, the five principles underpinning the IPP have been successfully incorporated into the work of the administrative and legislative bodies and of the parties concerned. These principles also form the basis of the SCP/SIP Action Plan, which has become the logical extension of the process started by the IPP Communication.

3.5 The EESC welcomes the fact that the five basic principles have all been formalised in EU directives and policy documents: (1) life-cycle thinking has been the basis for the directive on eco-design; (2) the SCP/SIP Action Plan and incentives have been proposed to seek increased cooperation with the market at national and European level; (3) involvement of stakeholders, both at European and national levels, takes place through a series of initiatives; (4) continuous improvement of product functionality is also an integral part of the SCP/SIP Action Plan; and, finally, (5) coordination and consistency of the instruments have improved to ensure full use of potential synergies provided by the SCP/SIP Action Plan's integrated approach.

3.6 The strategy based on an integrated approach takes due account of the principle of subsidiarity and the specific features of each Member State and strives not to damage the competitive environment of the internal market. The EESC wishes to draw attention to the fact that the actual implementation of the principles and policy instruments is carried out primarily at the subsidiary levels, as a result of the market interaction between supplier and consumer. This should be reflected in the use of effective instruments, which are broadly accepted by all interested parties.

⁽⁸⁾ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives.

⁽⁹⁾ COM(2005) 670 final.

⁽¹⁰⁾ COM(2005) 666 final.

3.7 Although the integrated product policy has borne fruit, and has been implemented by a number of tangible policy instruments, the EESC considers that it is now time to pay closer attention to the effectiveness of implementation of the IPP. In particular, it should be assessed how successful implementation has been, as well as the obstacles and failures, so that in the 2012 assessment of the SCP/SIP Action Plan any necessary corrective measures can be adopted to guarantee the required level of effectiveness.

3.8 In addition, the EESC is convinced that the full effects of such product-oriented policy can be achieved only if the measures are implemented at a global level, taking into account all economic and cultural differences. The Generalised System of Preferences (GSP), which focuses on regional trade agreements as well as efforts of developing countries towards sustainable development, provides a good example of a mechanism for effectively implementing the five principles of the IPP on a global scale.

4. Specific comments

4.1 Whilst the IPP includes the issue of market forces, which is crucial to the success of the IPP and of the other instruments, the EESC thinks there is still a lot of work to be done when it comes to the use of market instruments, such as environmental taxation and incentives, in order to improve their applicability, in a coordinated fashion. The EU, however, will undeniably play less of a role in this matter than the Member States. The Green Paper adopted by the Commission in 2007 and the broad consultation of relevant stakeholders, have to some extent highlighted the role of market instruments. However, the EESC proposes that closer attention be paid to the exchange of experience between Member States, with a particular focus on incentives, their implementation and the role of long-term voluntary agreements.

4.2 Products and their environmental impact are also closely linked to the issue of standardisation. The EESC is convinced that standardisation could benefit not only emissions standards for motor vehicles but also a large number of other products. For example, it could have a positive effect on their recyclability and environmental performance, as well as many other environmental factors. Also, for the implementation of the Eco-Design Directive, standardisation plays a crucial role and should be strengthened in the future. Standardisation offers the advantage of allowing the involvement of all interested parties.

4.3 The EMAS and ISO 14001 environmental management schemes are optional instruments that support the concept of IPP and related policies. Clearly, EMAS's stricter administrative and auditing requirements do not encourage its more widespread use and they are prohibitive for small and medium-sized businesses. ISO 14001 is more widely used, partly because of its broad scope, but especially since it is the more appropriate tool for companies that act globally. The EESC considers that a closer alignment of the two schemes could

help to ensure EMAS's more systematic implementation as part of the SCP/SIP Action Plan.

4.4 Any provision, policy or instrument, even for the implementation of the SCP/SIP Action Plan, should be drawn up and adopted in such a way that it does not damage the competitive environment or the workings of the internal market and fully respects the principle of better regulation and the goal of sustainability.

4.5 A number of policy instruments have already been implemented and are producing results that represent a positive step towards sustainable consumption and production in the EU. Therefore there is a need to ensure that new policies do not overlap or clash with existing EU policies and instruments. Otherwise, the EU's economic competitiveness could suffer significantly: the final decision should always fall to the informed consumer.

4.6 The EESC is convinced that only coherent and consistent policies, which are free from pointless bureaucratic and administrative red tape can provide a positive legal framework for investment in the EU. Only within such a framework can new jobs be created and existing ones maintained, and pressure on the environment systematically reduced. The legal framework for chemical substances and building materials, as well as the rules covering electrical and electronic goods, bring the risk of conflicting measures. The legal uncertainty and incoherence in these cases is significant and should be dealt with carefully. The next review of REACH⁽¹⁾ provides an excellent opportunity to strive for better consistency and to consider merging a number of sectoral measures into the newly adopted EU's horizontal legal framework for chemicals.

4.7 Cost-effectiveness is also essential to the success of the SCP/SIP Action Plan. The initial analysis of the impact and benefits should be complemented by studies on the potential of both the entire economic sector as well as of individual businesses, since the results of macro- and micro-economic analyses are often very different in real economic life.

4.8 The assessment procedure should also take account of the main value chains at the earliest possible stage and with the utmost transparency. The legislation in force on eco-design and labelling must not become a barrier to European products in terms of competition from other economic regions or insufficient market response for more sustainable products. Instead, it should help European products to succeed on the internal and the international markets. Any initiative, especially those for product labelling, as well as those aimed at boosting a change in consumption, should have a solid and proven scientific basis. Labelling is of limited benefit in the area of business-to-business products. Also, product labelling represents one instrument of providing information on the environmental performance of products to consumers. Other information tools, including international standards, should also be explored.

⁽¹⁾ Regulation (EC) 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals. The Commission has the possibility to review and amend Annexes of REACH in line with Article 131, whereas several reviews were specifically mandated by Article 138 or other provisions in REACH.

4.9 The economic sphere must be kept flexible enough to ensure that product development is geared to better meeting consumer needs in a clearly defined market environment. The implementation of sustainable development principles throughout the EU basically rests on a voluntary approach from the economic sector.

4.10 The Committee therefore wishes to express its support for the IPP and for the SCP/SIP Action Plan aimed at supporting the development of more sustainable products and production processes. This approach will lead to greater added value both for the environment and for the competitiveness of the European economy. New markets could also open up as a result, both within the EU and worldwide. These new markets should be both favourable to eco-innovation and effective, which will require Community funds in addition to national public investment, in order to support the research and development in the field of sustainable technologies. It should be considered to direct revenues coming from the CO₂-related financial instruments to investments in sustainable technologies.

4.11 The EESC is convinced that priority should therefore be given to existing Community programmes such as the SET plan (European Strategic Energy Technology Plan), the ETAP plan (Environmental Technologies Action Plan) or technological platform activities. However, more financial efforts will be needed to drive the necessary change in the market. Particular attention should be paid to good coordination and ensuring a sufficient level of ambition, especially where it concerns measures financed from public funds provided by local/regional authorities as well as by the EU.

4.12 The European Food SCP Round Table is a successful initiative, co-chaired by the European Commission and

supported by the UN Environment Programme (UNEP) and the European Environment Agency. The participation of stakeholders at European level enables it to take a harmonised, life-cycle approach and facilitates an open and results-driven dialogue along the food chain. The aim is to promote a science-based, coherent approach and establish the food chain as a major contributor towards sustainable consumption and production in Europe, also taking into account the global SCP agenda ⁽¹²⁾.

4.13 The implementation of the IPP and the SCP/SIP Action Plan must be a dynamic process, based on ongoing dialogue and cooperation between the various stakeholders (from businesses and politicians to consumer organisations and NGOs committed to the environment), in order to strengthen tools for communication with consumers, organic production and the promotion of sustainable public procurement and purchasing.

4.14 Better cooperation between the players involved in research and development in the field of eco-innovation, the economic sphere and businesses, research centres and higher education should not only provide for the necessary innovations in the sector. It should also help to ensure the transfer of know-how with respect to the intellectual property rights, the development of knowledge and new skills, without which the IPP would remain a pipe-dream.

4.15 Pursuing the IPP concept isolated from the SCP/SIP Action Plan would risk unnecessary legal inconsistencies and uncertainties. Therefore, the EESC fully agrees that any further IPP activities should now be assessed and undertaken under the umbrella of the SCP/SIP Action Plan.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹²⁾ www.food-scp.eu.

Opinion of the European Economic and Social Committee on the 'Amended proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 708/2007 concerning use of alien and locally absent species in aquaculture'

COM(2010) 393 final — 2009/0153 (COD)

(2011/C 51/16)

Rapporteur-general: **José Maria ESPUNY MOYANO**

On 2 September 2010 the European Parliament decided to consult the European Economic and Social Committee, under Article 43(2) of the Treaty on the Functioning of the European Union, on the

Amended proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 708/2007 concerning use of alien and locally absent species in aquaculture

COM(2010) 393 final — 2009/0153 (COD).

On 14 September 2010, the Bureau of the European Economic and Social Committee instructed the Section for Agriculture, Rural Development and the Environment to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed **Mr Espuny Moyano** rapporteur-general at its 466th plenary session, held on 21 October 2010, and adopted the following opinion by 177 votes to two with ten abstentions.

1. Conclusions and recommendations

1.1 The Committee welcomes the new, more precise definition of so-called 'closed aquaculture facilities', based on the contributions made by the IMPASSE project (concerted research action on the *Environmental impacts of alien species in aquaculture*), and the clarification on the location of such facilities in terms of their distance from open waters, as well as other improvements to the wording of Regulation (EC) No 708/2007, which closely reflect the recommendations made in the opinion CESE 453/2010.

1.2 In the EESC's view, provided that the appropriate measures are adopted to prevent any changes to ecosystems and biodiversity, aquaculture should be able to continue reaping the benefits of introducing alien species and translocating locally absent species in the European Union and thus boost sustainable development in this area.

1.3 The Committee wishes to emphasise the need to clearly determine the conditions that closed aquaculture facilities must meet in order to cut the red tape applying to them.

1.4 The EESC also supports the amendments made to Regulation (EC) No 708/2007 following the entry into force of the Treaty of Lisbon, the main purpose of which is to authorise the changes to Annexes I, II, III and IV under the 'comitology' procedure.

2. Introduction

2.1 Aquaculture is a constantly developing sector that should meet the demands of the market, one of which is to diversify the species reared and sold.

2.2 In the past, European aquaculture, like other farming and livestock activities, passed on to society the benefits of introducing alien species. At present, four of the ten main species produced by aquaculture in the European Union can be deemed alien (rainbow trout, Pacific oyster, common carp and short-necked clam) and their presence is today considered to be routine and necessary.

2.3 Nevertheless, the introduction of invasive alien species is now seen as one of the main causes of biodiversity change globally. The primary routes of the undesired entry into the European Union of alien aquatic species are ballast water from large ships, recreational fishing and fishkeeping. Climate change is another cause of alien species entering EU waters by their own means.

2.4 Regulation (EC) No 708/2007 concerning use of alien and locally absent species in aquaculture was recently subject to a number of amendments, on which the EESC delivered an opinion (CESE 453/2010 – rapporteur: Mr SALVATORE), which was adopted by a broad majority and remains fully applicable. Some of the suggestions made in that opinion, such as its request for a clear statement that closed aquaculture facilities are always understood to be land-based and that there must be a minimum safety distance, protection from predators, etc., have now been included in the proposal for an amendment (amendments to Article 3), which demonstrates the value of the EESC's recommendations.

3. General comments

3.1 The European Union should adapt the legislative framework for regulating aquaculture practices as regards the use of alien and locally absent species and of any associated non-target species, in light of both the entry into force of the Treaty of Lisbon and the contributions and suggestions made by a number of different bodies, including the EESC.

3.2 The aim of this legal framework should be to minimise the risk of adverse effects on biodiversity, especially on species, habitats and ecosystems. These regulations should be underpinned by the precautionary principle, should include procedures for assessing potential risks and should provide for the drawing-up of contingency plans.

3.3 Alien aquaculture species that were introduced into the European Union some considerable time ago and which are reared as a matter of routine should be treated differently, to ensure that they can continue to be reared without having further red tape imposed on them, provided that non-target species are not transferred with them.

3.4 Council Regulation (EC) No 708/2007 established a regulatory framework for aquaculture practices involving alien and locally absent species, in order to assess and minimise the potential impact of those species on aquatic habitats.

3.5 Reducing environmental risks requires adopting measures such as protocols for action at receiving facilities, prior environmental risk assessments and quarantine.

3.6 Proper management of risks in the use of alien and locally absent species requires the different parties concerned, especially the Member States, to shoulder their responsibilities.

3.7 Advantage should be taken of the developments in knowledge about the use of alien species in aquaculture to improve regulation in this field, especially the new scientific knowledge gained by research initiatives funded by the European Union, such as the IMPASSE project.

4. Specific comments

4.1 Regulation (EC) No 708/2007 concerning use of alien and locally absent species in aquaculture should be adapted to reflect the new provisions of Article 290 of the Treaty on the Functioning of the European Union on delegated powers and of the same treaty's Article 291 on implementing powers. This will

bring Council Regulation No 708/2007 into line with the decision-making procedure provided for under the new Treaty.

4.2 Because closed aquaculture facilities are deemed safe and to entail little risk of specimen escape they, amongst others, should be exempt from the obligation to carry out prior environmental impact assessments.

4.3 Given the exemptions that will be granted to closed aquaculture facilities, it is particularly important to establish the biosecurity features that this type of facility must demonstrate.

4.4 The features that closed aquaculture facilities must demonstrate should go beyond viewing the water in which rearing takes place as the only means of escape for the specimens being reared; in particular, by ensuring they are land-based and safe from predators and the potential effects of flooding, with measures in place to combat theft and vandalism, establishing a barrier effect for pathogens and managing dead organisms.

4.5 Lists detailing all closed aquaculture facilities in the European Union should be drawn up, to be consulted at any time by any Member State. These lists should be produced immediately, regularly updated and made available on the Internet.

4.6 The process of transporting alien or locally absent species from or to closed aquaculture facilities is critical, and should thus be carried out in a way that prevents specimens from escaping.

4.7 The movement of alien aquatic species through pet shops, garden centres, garden ponds and aquaria present almost as much of a threat to diversity as aquaculture and should therefore be subject to regulation and monitoring as tough as those applying to aquaculture.

4.8 Although this issue is not addressed in the proposal to amend Regulation (EC) No 708/2007, it is incorrect to define an 'open aquaculture facility' as one where aquaculture is conducted in an aquatic medium not separated from the wild aquatic medium by barriers preventing the escape of reared specimens. Open aquaculture facilities do contain physical barriers ensuring that reared specimens remain in captivity. What they cannot provide is a solid guarantee that in certain circumstances (storms, floods, predator attacks, etc.) no specimen can escape into open water.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee
Staffan NILSSON

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