

Official Journal

of the European Union

C 107



English edition

Information and Notices

Volume 54

6 April 2011

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Price:
EUR 4

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I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

469TH PLENARY SESSION HELD ON 16 AND 17 FEBRUARY 2011

Opinion of the European Economic and Social Committee on the 'Access to secondary raw materials (scrap iron, recycled paper, etc.)' (own-initiative opinion)

(2011/C 107/01)

Rapporteur: **Mr ZBOŘIL**

Co-rapporteur: **Mr GIBELLIERI**

On 15 July 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 the

Access to secondary raw materials (scrap iron, recycled paper, etc.).

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 January 2011.

At its 469th plenary session, held on 16. and 17 February 2011 (meeting of 16 February), the European Economic and Social Committee adopted the following opinion by 88 votes with 1 abstention.

1. Conclusions and recommendations

1.1 The Committee greatly appreciates the analyses of the individual industrial associations that explain the current situation and likely future scenarios that could lead to serious supply and demand imbalances on the secondary raw materials market.

1.2 The Committee also points to the fact that raw material availability as such is regarded and treated as a strategic issue in some countries (USA, China). Of course, *secondary* raw materials are not excluded from a similarly stricter regime in these countries. The EESC therefore welcomes the fact that material efficiency has become DG Environment's key priority.

1.3 Access to their particular raw materials differs considerably from one industry to another, as do the material flows themselves according to their nature and the traditional uses of the required raw materials. In some cases, such as the

glass and steel industries, the goal of material efficiency could be served simply by fine-tuning and balancing existing systems and production processes with the help of well-defined incentives. The EESC warns that neither the number nor quality of jobs in the recycling and process industries should be compromised by such incentives.

1.4 Large volumes of collected secondary raw materials are currently being exported although they are badly needed in the European basic and process industries. This trend seriously jeopardises employment in all the process industries.

1.5 The pressure of excess volumes of collected waste from the existing dedicated collecting systems is often relieved by simply selling off those collected categories of waste indiscriminately, without any additional processing and without securing final utilisation within the EU.

1.6 Unfortunately, illegal trading practices are often used in order to circumvent direct control of important secondary raw material flows. For instance, false customs declarations classifying waste as second-hand goods are used to avoid the Waste Shipments Regulation for specific secondary raw material flows.

1.7 In this way, waste streams collected on behalf of EU taxpayers do not secure the intended benefits, but rather reduce the competitiveness of the respective industries by curtailing and/or making the supply of secondary raw materials unnecessarily more expensive.

1.8 At the same time, it is obvious that numerous specific regulations governing recycling have not been framed coherently. They tend to focus on individual, isolated aspects of collection and recycling and do not take account of the market forces at work in the systems and processes.

1.9 The REACH Regulation is also causing problems in some recycling industries because there is no clear distinction between end-of-life goods (waste) and second hand goods. Therefore, this well-intentioned concept has unfortunately missed its target. Some affected industries, such as paper, have found a way out of the deadlock while others are still looking for workable solutions. This is a serious example of incoherence in the legal framework against which industry had warned of beforehand!

1.10 The conflict between market forces and the existing regulatory framework should be analysed in detail to achieve better balanced results. One possible suggestion could be to apply export duties to protect against the risk of losing valuable materials. Such measures would obviously have to comply with WTO rules. The EU should possibly negotiate emergency terms with the WTO, setting clear and transparent conditions for export restrictions/duties on wastes of strategic importance.

1.11 Another option would be to agree on flexible recycling targets depending on actual market developments, i.e. during market downturns (reduced demand), the recycling targets could be lowered, while during boom phases of high demand, they would go up. At the same time, thought must be given to intelligent ways of ensuring that critical employment levels are maintained throughout the business cycle along the entire value chain in relevant sectors such as packaging waste, paper, etc.

1.12 Yet another option would be to make recycling targets/quotas equivalent only to volumes of waste that could be re-

used within the EU, not including waste sold abroad that could not be used in EU facilities. However, such a measure should be accompanied by resetting targets/quotas to match actual EU recycling capacities.

1.13 The EESC strongly supports the industry's call upon the EU to develop a comprehensive and consistent policy on long-term sustainable access to raw materials and use of resources. This policy should support European industry in its efforts to use resources from cradle to cradle. Recycling should be supported by improving collecting infrastructure, creating legal certainty and an equal level playing field and by removing unnecessary administrative burdens. This essential requirement needs a good balance and consistency across the entire spectrum of regulations, directives and decisions.

1.14 The EU waste regulations set legal obligations for all players in the waste streams, and this responsibility should be strictly checked and demanded by the respective authorities. Their education and training are the key prerequisites in fighting any illegal practice of some indecent players, mainly in the international trade.

1.15 All the individual elements of the EU Climate Change Policy (ECCP) should take into account the environmental benefits of secondary raw materials (SRMs), and inconsistencies should be avoided: for example, the EU-ETS does not reflect energy and carbon savings resulting from the use of recoverable raw materials in other industrial and construction sectors and unnecessarily burdens these sectors with additional costs.

1.16 Finally, the management of such a complex framework should be carried out against the background of a serious ongoing social dialogue to encourage new, quality jobs along the relevant value chains.

2. Introduction

2.1 Sustainable access to raw materials and their sustainable use are key elements of the EU's sustainability policy. They are the basis for the present and future competitiveness of the EU's manufacturing industries⁽¹⁾. Raw material – both primary and secondary – supply chains are genuine economic sectors providing jobs and creating wealth in Europe. Recycling is an economic activity contributing significantly to EU GDP. Collection of used materials and products involves citizens, municipalities and public authorities which have invested in efficient systems to meet growing demand for long-term sustainability.

⁽¹⁾ EESC Opinion on The raw materials initiative: needs for growth and jobs in Europe OJ C 277, 17.11.2009, p. 92.

2.2 The complementarities between primary and secondary raw materials need to be recognised: while secondary materials are an eco-efficient way to reintroduce into the economy valuable resources, they are generally not (yet) sufficient to meet the growing demand for materials (paper, metals and minerals). Both are needed and complement each other. The improvement of collection systems and use of SRMs in the EU will contribute to meeting the aims of the EU 2020 Strategy.

2.3 Industry calls upon the EU to develop a comprehensive and consistent policy on long-term sustainable access to raw materials and use of resources. This policy should support European industry in its efforts to use resources from cradle to cradle. The Raw Materials Initiative (RMI), the Thematic Strategy on Waste Prevention and Recycling, the Thematic Strategy on Sustainable Use of Natural Resources and Commissioner Potočník's flagship initiative on 'Resource-efficient Europe' are all inter-related initiatives that should be consistent and integrated. Other initiatives such as the SCP (sustainable consumption and production), the Waste Framework Directive or other recycling and resource-related policies should also be considered.

3. Identification of the major material flows of secondary raw materials ⁽²⁾

3.1 There are traditional recycling commodities such as ferrous and non-ferrous scrap, paper and board waste, and glass that have had a long history and tradition of recycling in a more or less closed loop. These particular industries cannot survive without a consistent supply of recovered materials and used goods. Some others, like plastics, are relatively new to recycling and, compared with the traditional commodities, the process of material re-use here does not necessarily end in a closed loop.

3.2 The recycling characteristics of the major secondary materials pre-determine their particular material flows and the players in their value chains.

3.2.1 **Scrap Iron and Steel:** In general, iron and steel scrap recycling involves collection, sorting, baling, packeting, cutting, shearing, shredding and/or sizing, and finally melting at the steelworks. Ferrous scrap metal is collected either separately or mixed and is then sorted in the scrap yard and sold to scrap treatment plants or is sent directly to a steelworks. Once the scrap arrives at the scrap treatment plant, different types of metals are separated out and prepared for shredding/sizing. Shredding and sizing are often needed for a further stage of separation. In the case of stainless steel, larger pieces are collected separately or sorted in the scrap yard before shredding. Smaller particles of stainless steel are separated by multiple-step separation processes. At the steelworks, iron and steel scrap is usually charged directly into the furnaces.

3.2.1.1 The European steel recovery industry (at the treatment stage) is fairly concentrated, with seven companies providing some 40 % of the total steel scrap delivered to the steelworks. According to the Bureau of International Recycling (BIR) and the European Ferrous Recovery and Recycling Federation (EFR), there are around 42 000 scrap yards across the EU 27. The scrap sector estimates that, of those, some 250 have major company status, 9 000 are medium- to large-sized companies processing over 120 000 tonnes per year and the rest, approximately 36 000 companies, are middle- and small-sized.

3.2.1.2 The collection system can vary depending on the type of product and the country. Large-sized end-of-life products and those that are generated in high quantities, such as those from construction and demolition, are usually transported directly to the scrap yard or to scrap treatment plants. Both the ELVs Directive and the WEEE Directive place the responsibility of recovering, hence scrap collection, on the producers. Small products such as packaging materials are collected by the local authorities, which means that in this case, collection is not in the hands of the scrap metal industry, though some industry initiatives are taken in the case of UBCs, e.g. collection centre, scrap terminals, where steel and aluminium cans are separated and baled for transportation to treatment plants or refineries.

3.2.1.3 Scrap is one of the few SRMs for which Europe can expect continued availability and even a little surplus, scrap; the trade within the EU, as well as imports from and exports to other countries, has been established for decades. Within the EU, it is difficult to estimate the total quantity of scrap being shipped. The estimated import and export data are (2008) 5.3 mill. tpy and 12.9 mill. tpy respectively, while total scrap consumption reached 112 mill. tpy in the same year.

3.2.2 **Non-ferrous scrap and other waste streams containing such metals:** Comparing this non-ferrous category with iron and steel, there is much greater variation in (a) the metals involved, (b) the resources available and (c) the methods that must be used for separation and extraction of particular metals from the waste streams. The most important and highest volume metals are aluminium, zinc, lead and copper; there are also metals such as tin and precious metals in the waste streams that can be extracted with the appropriate methods.

3.2.2.1 The collection system are either the same or, similar to those used for ferrous scrap. To obtain good quality recovered metal scrap from end-of-use products (ELVs, WEEE) sophisticated technologies are used. By contrast, the basic non ferrous metals are 'mined' from waste streams at a very high recovery rate and their utilisation rates are also very high.

⁽²⁾ Data mostly from the JRC waste-related studies (<http://publications.jrc.ec.europa.eu/repository/>) and from sector statistics.

3.2.2.2 Ash and slag are also important for the recovery of non-ferrous metals which requires special technologies. Vastly untapped resources of the non-ferrous metals can be found in the old mining residuals in the EU ore mining areas. Although this mining waste⁽³⁾ is exempted from the EU general waste legislation, attention should be paid to these raw materials as well if it is economically feasible.

3.2.3 **Recycled paper:** The paper industry is a sector based from the outset on renewable resources and recycling, with collected rags providing the first raw material used for paper making. Recycling of paper has been relatively straightforward so far and its material use has been predominating one. There are two typical major resources (as with ferrous metals) – industrial recovered paper (packaging and printing industries inter alia) and post-consumed (municipal) waste. Sorted grades are preferred, thus municipal waste requires separation of used paper and basic sorting operations.

3.2.3.1 Material flows have been seriously affected by the recent recession; utilisation of recovered paper decreased by 7.6 % to 44.9 million tonnes in 2009. Collection fell for the first time by 3.6 %, to 56.6 million tonnes, while paper consumption contracted by 10.1 % over the same period. Exports of recovered paper to countries outside the EU, Norway and Switzerland continued to rise, reaching 12.8 million tonnes, with 96.3 % of this being sent to Asian markets. Within Asia, the majority of the material went to China (71.4 % of European exports). As a result of the developments observed during this exceptional year, the recycling rate jumped to a record high of 72.2 % in 2009 after having reached 66.7 % the previous year. A temporary swing in the opposite direction may occur temporarily when the economy recovers, as recycling may not be able to match reviving paper consumption immediately. Because of the recent developments in the industry's structure, recovered paper represents 44.2 % and wood pulp 40.4 % of the fibre used in papermaking in CEPI countries.

3.2.4 **Glass:** Glass can be 100 % repeatedly recycled without any loss of quality to produce another glass container. Collected glass is used to make new glass of the same quality. This makes glass a true 'cradle-to-cradle' recycling material. Up to 90 % of waste glass can be used to manufacture new glass containers; the only real limit to using waste glass today is the amount of glass recovered and the availability of waste glass in Europe.

3.2.4.1 The glass recovery system is fairly simple – the majority of recovered glass comes from packaging waste (used glass containers) and a small amount is recovered from construction waste (flat glass). The average collection rate for recycling of container glass reaches 65 % for the EU 27 countries; nearly 11.5 million tonnes of glass packaging was collected throughout Europe (including Norway, Switzerland and Turkey) in 2008.

3.2.4.2 The challenge in glass recycling is to recycle the remaining 7 million tonnes of glass that was placed on the market in 2008 but which was not recycled. It is of utmost importance to improve recycling and to support proper recycling systems in the European Union.

3.2.4.3 Collecting and recovery systems of flat glass and glass from end-of-life vehicles (ELVs) have not been sufficiently developed yet, thus, this valuable resource still remains more an environmental burden.

3.2.5 **Plastic waste** accounts for about 25 % of all solid wastes accumulated in landfills. Because of the resistance of plastic materials to degradation, the decomposition process takes a long time after they are placed in landfills. Burning plastic for recovering energy needs to be controlled in proper facilities, due to the high level of hazardous emissions.

3.2.5.1 The major sectors that consume plastics, which are also the main sources of waste plastics, are: packaging (38.1 %), household and domestic (22.3 %), and building and construction (17.6 %). Packaging generated by the distribution and retail sector represents more than 80 % of the collectable waste plastics (potential). Collecting and processing waste plastics from mixed household waste appears to be one of the most difficult waste fractions to manage. Most of the plastics used in construction are for long-term applications.

3.2.5.2 Some parts of the waste plastic are not appropriate for recycling, e.g. food packaging or plastics mixed with other materials, because cleaning the contaminated plastic in this case would be more expensive than the value of the products, due to the large amount of energy consumed. However, they can be used for energy recovery.

3.2.5.3 The EU 27 is a net exporter of plastic waste, parings and scrap. Since 1999, the gap between imports and exports has increased constantly. After a slight rise between 1999 and 2002, exports shot up to 2.1 Mt between 2002 and 2006. From 1999 to 2006, imports rose from 55 000 tonnes to 256 000 tonnes.

3.2.5.4 For polyester staple (fibre), recycled PET represents 70 % of the raw materials processed in the EU. Availability of polyester bottles is, therefore, crucial. However, producers in Europe are now facing serious problems because of the growing tendency of traders to ship PET, either in the form of flake (chopped-up fragments of bottles) or as baled bottles, to the Far East and especially China. This country is, currently, lifting import restrictions on PET waste to facilitate even stronger outflow of this important SRM from the EU.

⁽³⁾ Mining waste is a subject of Directive 2006/21/EC.

4. Legal framework for recycling

4.1 Direct regulation in the EU

4.1.1 Recycling should be supported by improving collecting infrastructure, creating legal certainty and an equal level playing field and by removing unnecessary administrative burdens. This essential requirement needs a good balance and consistency across the entire spectrum of regulations, directives and decisions. Although the Waste Framework Directive (2008/98/EC) has set off in the desired direction, it must be considered as a first stage that will require regular reality checks and subsequent fine-tuning.

4.1.2 Further major pieces of legislation are Directive 94/62/EC on packaging and packaging waste in the current status, Directive 2000/53/EC on end-of life vehicles (ELV), Regulation (EC) No 1013/2006 on shipments of waste and Directive 2002/96/EC on waste electrical and electronic equipment (WEEE). The aforementioned directives set arbitrary recycling targets, which distort the free market of SRMs. Considering nearly steady changes and amendments, this framework requires paying permanent attention to its effects.

4.2 **Indirect regulation:** Recovery and recycling processes are regulated not only by the wide spectrum of waste legislation, but further restrictions and controls flow from the legislation regulating specific industry sectors or the industry as a whole. The most important in this area are the effects of the REACH Regulation (EC 1907/2006) and the EU Climate change policy.

4.2.1 In the case of REACH, waste is not subject to this Regulation, but the recovered substance or mixture could become subject to REACH as soon as it crosses over the 'End-of-Waste' border line. The Commission has addressed this problem and the relevant technical working groups have come up with more or less satisfactory suggestions for breaking this deadlock. Nevertheless, uncertainties still remain and there are very useful studies available at the Commission's JRC-IPTS in Seville, along with information available at ECHA that could help to solve the problems. Nevertheless, the threat of registration is not fully averted, even in cases where registration can have no benefit at all.

4.2.2 The EU climate change policy should facilitate a range of incentives resulting in a consistent and sustainable shift for global society from primary fossil energy sources to alternative energy sources. The ECCP consists of individual elements, which claim to be integrated, but unfortunately integration is a more of a statement than a reality. Some of the components seriously affect recovery and recycling processes: the updated EU-ETS for the post-Kyoto period handicaps operators of production

facilities by its administrative approach to setting allocations for the 2013–2020 period. In addition, a gradually introduced system of auctioning would drain the financial resources of operators who would have even less money for future carbon reduction processes. On the other hand, the EU-ETS does not reflect energy and carbon savings resulting from the use of recoverable raw materials in other industrial and construction sectors.

4.2.3 Further problems arise from the renewable energy directive. Due to the major drive for renewables and their massive, imbalanced support there is a serious risk of leakage of large quantities of recovered SRMs (all kinds of biomass, recovered paper) from the material reuse for energy - power and heat generation. All these risks should be properly analysed and adequately minimised if access to SRMs is to be maintained and even improved wherever possible. The 'biomass' definition must be observed and if needed, strengthened to avoid its misuse for the sake of the renewable energy generation. In some cases, because of market distorting subsidies, even primary raw materials (wood) are simply burned!

4.2.4 The EU waste regulations set legal obligations at all players in the waste streams, and this responsibility should be strictly checked and demanded by the respective authorities. Their education and training are the key prerequisites in fighting any illegal practice of some unscrupulous players, mainly in the international trade.

5. Value chains and players in the major flows of SRMs

It is obvious from the identification in Chapter 3 that there are large differences between SRM streams. Some of them are almost self-operating on the natural basis of historically functional systems of collection, pre-treatment and treatment (including sorting) of waste before the recovered material is supplied to a major operation facility. Several characteristics can be compiled to identify and avoid potential risks in the recovery and recycling processes.

5.1 The commercial value of the SRMs is one of the key factors which affects the final accessibility of the material. Collection and pre-treatment of the waste stream are fairly cheap stages in the case of concentrated waste streams (iron, glass, and paper) and the resulting SRM remains fairly accessible at a reasonable cost. Market conditions apply throughout the entire closed loop. On the other hand, there is an ever-growing segment of recycling which is not operated at the market price for materials, but to comply with EU waste policies. Most of the packaging waste, electronic and electrical waste or biodegradable waste is processed to meet the targets of various directives.

5.1.1 Production of such SRMs from these waste streams is not economically sustainable on the global market. Waste collection, sorting and processing takes place either to implement extended producer responsibility rules or because of direct public funding. In both cases, it is the European citizen who pays for the conversion, either as a taxpayer or as a consumer.

5.1.2 Europe generates a reservoir of SRMs, which can be easily accessed by any global player at any time, when global market demand for material is increasing. Vast volumes of collected, unprocessed waste are exported, mainly to Asia. Since the global market is volatile, the price levels are also very volatile. When the global market is depressed, the recovered SRMs pile up, since the recycling targets must be met. This situation creates very critical market distortions inside the EU.

5.1.3 EU recyclers have to invest much more than their Asian competitors when building recycling plants, because they have to maintain both overcapacity and higher technological standards. Then, when global raw material markets rise, their expensive capacities are not utilised since collected waste is leaving Europe unprocessed. Hence there is a critical need to match the global raw material forces and waste regulatory framework to avoid market disruptions and to facilitate access to SRMs for EU industries.

5.1.4 Restrictions on illegal or semi-illegal trading of SRMs could be based upon the strict request of internationally recognised quality certificates such as certificates based on ISO standards from the SRMs' receiving partners outside the EU. Member States should also take all legal measures when checking the legal origin of the collecting waste wherever it could be a problem.

5.1.5 Since raw material policy is a strategic security issue in many parts of the world, Community support along the entire

value chains, particularly with regard to high quality SRMs ('premium quality') could solve many problems concerning access to SRMs. Obviously it is necessary to review the European specification of secondary raw materials to define a 'premium quality' for SRMs.

5.2 The environmental impact of sensible recycling must be beneficial for all major industries utilising large volumes/shares of SRMs. Even employing sophisticated processing technologies for demanding waste streams does not alter this general statement. Usually, total energy consumption is reduced, sometimes to a fraction of standard consumption in the case of processing mined/harvested raw materials. That also means lower emissions of carbon dioxide, mostly lower gaseous emissions etc. Because of impurities in waste streams, there are new wastes which must be taken care of and, in some cases, efficient waste water treatment facilities must be employed as well. Such difficult waste streams also have increased pre-treatment and treatment costs that make the processes more expensive.

5.3 Competing utilisation of SRMs outside of the particular industry presents a big risk for such industries (see 4.2.3). The competitive environment is heavily distorted by finance aimed at serving an entirely different purpose, and it could cause major distortions of the raw materials markets. The paper industry cannot compete for both pulpwood (as the main raw material) and recovered paper (the second major raw material) with renewable power and heat generation facilities enjoying subsidies for renewables. Appropriate protective measures must be taken to secure access to basic raw materials. If such measures fail, one of the key EU industries comes under serious threat. Support for producing 'premium quality' SRMs will raise demand for labour with a positive social impact in periods of crisis in the consumption of SRMs.

Brussels, 16 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

469TH PLENARY SESSION HELD ON 16 AND 17 FEBRUARY 2011

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions: Enhancing economic policy coordination for stability, growth and jobs — Tools for stronger EU economic governance’

COM(2010) 367 final

(2011/C 107/02)

Rapporteur: **Mr PALMIERI**

On 30 June 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 Central Bank, the European Economic and Social Committee and the Committee of the Regions – Enhancing economic policy coordination for stability, growth and jobs – Tools for stronger EU economic governance

COM(2010) 367 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 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 17 February 2011), the European Economic and Social Committee adopted the following opinion by 240 votes to two with 14 abstentions.

1. Conclusions and recommendations

1.1 The EESC is pleased that the European Commission has taken on board the need to further integrate European economic policy coordination, placing the need to strengthen EU economic governance on its agenda.

1.2 The EESC acknowledges that the current economic crisis has challenged the economic, social and even political resilience of the European Union (EU) in general and Economic and Monetary Union (EMU) in particular, revealing limited capacity for coordination between the Member States. This has been demonstrated by the emergency measures to contain the financial and real effects of the crisis and by the steps to redesign the overall architecture - and the architecture of the euro area in particular - in order to avoid being caught in the

same trap in the near future. Furthermore, it is clear that the high public debt of some Member States, caused at least in part by extended bank bail-out operations, is an obstacle to public investment and the sustainability of welfare spending.

1.3 The EESC hopes that European economic governance will be strengthened ensuring equal attention to the need for stability and job-creating growth.

1.4 The EESC intends to help secure the broad consensus needed to effectively strengthen economic governance by highlighting, on the one hand, the limitations and risks inherent in the Commission’s approach and, on the other hand, its strong potential.

1.5 The first step has to be to overcome the stalemate in which the EU is currently mired, caused by the tribulations of the European Constitution and the enlargement to 27 Member States all with very different histories and political visions, which makes it difficult to identify the common economic, social and environmental objectives on which economic governance must be based.

1.6 At the same time, the rules for the future must be based on a shared understanding of the past, particularly as regards the limitations of the existing coordination tools which have resulted in the ineffective implementation of the Stability and Growth Pact (SGP) and the failure to achieve the Lisbon goals.

1.7 Secondly, as regards timing, it has been decided to launch the European Semester (from 1 January 2011) without first establishing the rules and content and, in addition, without properly synchronising the proposals among the various institutional stakeholders.

1.8 The limited role of the institutions representing European citizens (the Parliament and the Committees) both in discussing and in implementing the new form of governance risks making public opinion view the reinforced rules (involving less policy discretion and more automatic application of rules) as a 'legitimacy deficit' in the EU's choices, in parallel with the loss of confidence in the EU identified by Eurobarometer surveys.

1.9 The EESC believes that the European Parliament is the lynchpin for asserting the democratic legitimacy of European economic policy coordination. The EESC therefore hopes that the European Parliament will play a key role in the process begun with the European Semester, monitoring and assessing the corrective measures planned by the Commission Communication.

1.10 Only by ensuring continued consistency between the objectives of growth and economic and social development set out in the Europe 2020 Strategy – which require levels of investment which may be incompatible with budgetary constraints – and the requirements of monetary and financial stability laid down in the SGP will it be possible to make budgetary constraints publicly acceptable.

1.11 To this end, it will be necessary to adopt an appropriate set of indicators which go beyond GDP and encompass social and environmental advances and losses and thus reflect the real concerns of the general public, by implementing the five actions planned under 'Beyond GDP'. These actions include environ-

mental and social indicators, practically real-time information and accurate data on distribution and inequality, a European scoreboard for sustainable development and including environmental and social issues in national accounts.

1.12 In line with its role as consultative body, the EESC could help improve the functioning of the European semester, by holding a dedicated annual session to discuss recommendations and how to forge a consensus on reforms at national level, in the light of the social impact of the measures adopted. A debate of this kind could be held in the autumn, following the formal adoption of the recommendations by the Member States, and its conclusions would provide a basis for discussion with the national economic and social committees, the national parliaments and the European Parliament.

1.13 In particular, the increasing focus on bargaining between the social partners, especially in the eurozone where the Member States are no longer able to devalue their currency, has made the relations between trade unions and employers' organisations an integral part of the strategy outlined by the Commission. One solution could be more intensive and operational use of macroeconomic dialogue, leading to a joint assessment by governments and the social partners of the economic situation at EU level and the steps to be taken, in close coordination with the national social dialogue process.

1.14 Achieving real coordination of European economic policies requires a consensus on both the reference and projected macroeconomic frameworks. To this end, the Committee trusts that steps will be taken to ensure that the key information is available to Eurostat, thus enabling the Commission to draw up proposals with more accurate projections, and that active support is established between the other relevant bodies: the European Central Bank, the European Council, the European Parliament and national parliaments.

1.15 The EESC hopes that, at least for countries in the euro area, European economic policy coordination will be the first step towards a genuine common economic policy and the coordination of budget policies.

1.16 If closer economic policy coordination extends not only to fiscal and monetary policy, but also to tighter wage policy coordination in the euro area, then freedom in collective bargaining must be respected: government targets for collective bargaining, let alone government-decreed wage cuts, are unacceptable and must be rejected.

2. Enhancing European economic governance in the Commission Communication ⁽¹⁾

2.1 This Commission Communication further develops the ideas set out in the Communication on *Reinforcing economic policy coordination* ⁽²⁾ and the European Council's EUCO 13/10 guidelines, which follow the results achieved thus far by the VAN ROMPUY task force on economic governance.

2.2 The basis of the Commission document is implicit acknowledgment that the effects of the financial and economic crisis have placed pressure of various kinds on the economic and social resilience of the EU in general and EMU in particular, revealing poor European economic policy coordination.

2.3 In this context, the Communication sets itself the task of establishing a framework of measures to ensure better coordination of European economic policy among the 27 EU Member States and the 16 EMU countries in particular, for which specific rules are laid down. The aim is to integrate the Stability and Growth Pact and the Europe 2020 Strategy.

2.4 As part of the process of enhancing European economic governance, the Commission plans to achieve three basic goals:

2.4.1 The first goal is *strengthening coordination and surveillance of economic policy*, with the aim of:

- reducing national imbalances through stronger macro-economic surveillance based on alert and sanction mechanisms;
- making national fiscal frameworks more homogeneous by specifying minimum requirements for domestic fiscal frameworks, and moving from annual to multi-annual budgetary planning;
- making the Stability and Growth Pact more effective, in particular by focusing on debt dynamic as well as deficits.

2.4.2 The second goal is to *introduce a system of corrective and preventive measures and sanctions*, applicable in the event of breaches by EU Member States.

2.4.3 The third and last goal is to *establish a European semester for ex-ante economic policy coordination*, also applying to the structural reforms and the growth-enhancing elements of the Europe 2020 Strategy.

⁽¹⁾ COM(2010) 367 final.

⁽²⁾ COM(2010) 250 final.

2.5 The Commission transposed these goals into secondary legislation with the package presented on 29 September 2010 on the adoption of six communications ⁽³⁾ which comprise an exhaustive study of the practical means of achieving the goals. They will be considered in two EESC opinions, one on the reform of the SGP and the other on macroeconomic imbalances. Therefore, this opinion will restrict itself to a general consideration of the overall system of governance proposed by the Commission, without entering into the merits of the legislative package which will be dealt with specifically by the two opinions mentioned above.

3. General comments

3.1 The Commission's decision to launch a process of genuine enhancement of European economic policy coordination is to be welcomed. Indeed, many European (including the European Parliament) and non-European institutions have been calling for this for some time. In particular, the EESC has on several occasions reiterated the importance of further integrating EU governance in past opinions on this subject ⁽⁴⁾.

3.2 The financial and economic crisis has challenged the production, social and political resilience of the EU in general and EMU in particular ⁽⁵⁾.

3.3 The social and economic framework is subject to instability and uncertainty, and as a result needs effective organisation and properly functioning institutions. It is becoming increasingly clear that unless stakeholders in national economic policies work together, it will not be possible to steer all the Member States in one direction, given the challenges posed by industrial and financial globalisation and the profound technological changes currently taking place.

⁽³⁾ COM(2010) 522 to 527; for details go to http://ec.europa.eu/economy_finance/articles/eu_economic_situation/2010-09-eu_economic_governance_proposals_en.htm

⁽⁴⁾ EESC opinions on *Implications of the sovereign debt crisis for EU governance*, OJ C 51 of 17.02.2011, p.15; *Economic recovery: state of play and practical initiatives*, OJ C 48 of 15/02.2011, p. 57; *Financial crisis: consequences for the real economy*, OJ C 255, 22.9.2010 p. 10; *Economic policies that contribute to the European industrial strategy*, OJ C 10, 15.1.2008 p. 106; *Broad economic policy guidelines and economic governance – The conditions for more coherence in economic policy-making in Europe*, OJ C 324, 30.12.2006 p. 49; *Strengthening economic governance – The reform of the Stability and Growth Pact*, OJ C 88, 11.4.2006 p. 68.

⁽⁵⁾ As stated by the European Commissioner for Economic and Monetary Affairs, Olli REHN, at the European Parliament hearing on 5 July 2010: *The crisis has revealed major systemic weakness in the current Economic and Monetary Union. To put it simply: we need stronger and better EU economic policy coordination. We also need a more rigorous implementation of the rules of the EMU. Rules don't matter if they are not followed* (REHN O., *Reinforcing economic confidence in Europe*, speech to the ECON Committee of the European Parliament, Strasbourg, 5 July 2010).

3.4 In the absence of economic policy coordination, the crisis has already had a number of particularly serious economic and social consequences for the EU, in particular in terms of opportunities for growth and jobs. These consequences are very clearly described in the draft report on the financial, economic and social crisis submitted to the European Parliament by the rapporteur, Ms Pervenche BERÈS ⁽⁶⁾.

3.4.1 After inching up in 2008 (+0.5 %), the EU's Gross Domestic Product (GDP) fell sharply in 2009 (-4.2 %), and should slowly rise again in 2010 and 2011 (by an estimated 1 % and 1.7 % respectively). The drop was particularly serious in the three Baltic countries (at the end of 2011 Latvia's GDP will have fallen by 22 % since 2007) and Ireland, and, to a lesser extent, Italy, Greece and Finland. At the same time, Member States' exports – both to other Member States and out of the EU – fell by 12 % between 2007 and 2009, and by over 15 % in the case of Finland, Malta, Bulgaria, Sweden, Estonia and the United Kingdom ⁽⁷⁾.

3.4.2 Consequently, achievement of the Lisbon targets for the job market is now further off for most Member States: the employment rate fell from 65.4 % in 2007 to 64.6 % in 2009 in the EU, and by more than five percentage points in Estonia, Ireland, Spain and Latvia; over the same period the unemployment rate rose from 7.1 % to 8.9 % in the EU, and crossed the 10 % threshold in Spain (where it reached 18 %), Slovakia, Ireland and the three Baltic countries.

3.5 In this highly critical situation which calls for equally robust solutions, some concerns remain regarding the Commission's approach and timetable for enhancing European economic governance. These are factors which, in addition to hindering the – widest possible – adherence to the process launched in the Community institutions and among the public, could greatly obscure the actual goal of the proposed coordination.

3.6 Firstly, the EU's endeavours to enhance economic policy coordination require all the Member States to define together what is actually meant by '*economic governance*', along with careful evaluation of the reasons which have led over the past decade to both ineffective implementation of the SGP and failure to make sufficient progress towards achieving the Lisbon goals.

3.6.1 On the one hand, the term '*governance*' suggests a decentralised institutional structure where, instead of a single centre of power as in individual Member States, several governmental and non-governmental bodies work together to achieve shared aims. However, the EU is at an impasse thanks to the

tribulations of the European Constitution and enlargement to 27 Member States which have widely varying political visions and histories. Hence the need for the EU institutions and the Member States to agree on new economic, social and environmental goals. However, it is proving difficult to define these goals after the major endeavours of the eighties and nineties to establish the Single Market and introduce the euro.

3.6.2 On the other hand, the setting of rules for the future does not seem to be based on a shared understanding of the past. It is worth establishing whether the shortcomings of the SGP derive from initial errors in the design or the constraints built into EMU at times of severe crises, or to inappropriate political choices during its implementation, or, lastly, to different visions of the goals and related strategies to be pursued (low inflation, economic and employment growth, the role of the euro as a reserve currency, etc.) ⁽⁸⁾. Rules of conduct for the Member States have been in place under previous versions of the SGP for more than a decade; these, however, have not prevented critical situations occurring frequently and repeatedly.

3.6.3 At the same time, the failure to achieve most of the Lisbon targets – even leaving aside the economic crisis – raises major questions about the choice of indicators and their ability to effectively encapsulate the process of increasing competitiveness and dynamism.

3.7 Secondly, as regards the timetable, it has been decided to launch the European semester – on 1 January 2011 – without first establishing the rules and substance of the process. And, moreover, without genuinely synchronising the proposals of the various institutional bodies concerned: the Commission, the European Parliament, the VAN ROMPUY Task Force on economic governance, the European Central Bank (ECB), the EESC and the Committee of the Regions. The discussion process should end with approval by Parliament only by summer 2011 at the earliest.

⁽⁶⁾ European Parliament, Draft report on the financial, economic and social crisis: recommendations concerning measures and initiatives to be taken (mid-term report). Special Committee on the Financial, Economic and Social Crisis. Rapporteur: Pervenche BERÈS. 6 May 2010.

⁽⁷⁾ Data taken from the Eurostat database consulted in September 2010 and set out in tables 1 and 2 of the Appendix.

⁽⁸⁾ The president of the European Council himself, Mr Herman VAN ROMPUY, acknowledged this institutional 'handicap' on 20 September 2010: '... we have to live with the dilemma of having a monetary union without a developed budgetary union. Since the euro was introduced the European institutions have been responsible for monetary policy, while the Member States remain in charge of their budgetary policy and coordinate their economic policy. That creates tensions. Hence the sometimes tortuous decisions I mentioned. You might deplore a design fault, the "euro's original sin" according to some. I prefer to call it a structural handicap. But at the time – the negotiations on the Maastricht Treaty, between Germany and France in particular – a choice had to be made. Without that original sin, the euro would not even have been born.' VAN ROMPUY H., 'Not renationalisation of European politics, but europeanisation of national politics', address given at the invitation of *Notre Europe* in the *Grand Amphi*, Sciences-Po, Paris (http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/116691.pdf).

3.8 In the highly critical situation which occurred in spring 2010, the Commission was clearly more concerned with getting out of the crisis quickly – under the gaze of the world financial markets and the public – than with the medium-to-long-term effectiveness of the response, in production, social and political terms as well as financial terms.

3.9 According to the Commission, in order to overcome the crisis more stringent rules and clearer penalties are needed, with less policy discretion and more automatic application of rules. However, no set of rules can address severe crises effectively, as these crises are almost always caused by extraordinary, unforeseeable events which experts are unable to predict and to which pre-established rules are unable to provide a response. The utopia of ‘government by rules’ – which exonerates politics from making choices – would be hard to achieve and, on the contrary, even dangerous, in that it gives a deceptive sense of security, of being protected from any source of uncertainty⁽⁹⁾. In addition, this kind of approach entails two risks, which must be carefully assessed.

3.9.1 The first is the danger of underestimating the benefits of the Community approach, which involves the institutions that are most representative of the European public, over the intergovernmental approach, where decisions are taken essentially by the Council, and Parliament and the Committees have a limited role. The only exception is the participation in the European semester of the European Parliament, to which the Commission will submit the annual growth analysis in January, with a view to launching the debate on the direction coordination should take.

3.9.1.1 Prevalence of the intergovernmental approach could lead to the same underestimation of the European citizenship deficit as has already occurred with the Lisbon Strategy. It would challenge EU economic, social and political resilience in the same way as the global crisis, and could cause resurgence of the illusion that national sovereignty can be recouped by rejecting the euro (and even the EU itself) in order to launch national development free of constraints and European technocrats, which is in practice unlikely to occur. It is no coincidence that a close observer of the European Union – Charles KUPCHAN⁽¹⁰⁾ – warned of the danger of ‘renationalisation’ of the European project in an article published on 29 August 2010 in the Washington Post: ‘Europe is experiencing a renational-

isation of political life, with countries clawing back the sovereignty they once willingly sacrificed in pursuit of a collective ideal’⁽¹¹⁾.

3.9.1.2 The European public seem to reflect this lack of confidence, not so much in the Community institutions as such, as in the value of being part of the EU. According to Eurobarometer⁽¹²⁾ surveys – between spring 2007 and 2010 – the proportion of Europeans who see their country’s membership of the EU as beneficial fell from 57 % to 49 %, with more people seeing it as detrimental (now 18 %) and more people not sure (29 %). At the same time, the percentage of people who think their country has benefited overall from EU membership fell from 59 % to 53 %, with the number of people saying that there have not been benefits rising to 35 %.

3.9.2 The second risk is adopting a traditional approach to resolving issues, based on tight financial policy above all else to the detriment of growth, social equity and combating environmental decline, despite the fact that innovative, convincing arguments are now widely acknowledged⁽¹³⁾.

3.9.2.1 The relationships between public spending, economic performance and social goals are more complex than the oversimplified theory of a trade-off between equity and efficiency would have us believe. Well-designed welfare and environmental regulation systems help boost efficiency and competitiveness as well, such that they can be considered a factor of production contributing to stability and economic dynamics in post-industrial economies.

3.9.2.2 That is even more true in the period of crisis that European economies are currently experiencing. In the European Recovery Plan⁽¹⁴⁾ the Commission acknowledged both the need to ‘lessen the human cost of the economic downturn and its impact on the most vulnerable’, and the fact that the crisis should be seen as an opportunity to ‘speed up the shift towards a low-carbon economy’, implementing a strategy ‘which will encourage new technologies, create new “green-collar” jobs and open up new opportunities in fast-growing world markets’.

⁽⁹⁾ VEROLA N., *L'Europa e la crisi: squilibri finanziari ed equilibri costituzionali* [Europe and the crisis, financial imbalances and constitutional balances], Paper for ASTRID, 2010, available on-line <http://www.astrid-online.it/Riforma-de/Studi-e-ri/VEROLA—L-Europa-e-la-crisi—squilibri-finanziari-ed-equilibri-costituzionali.pdf> (only Italian).

⁽¹⁰⁾ Director of European Studies at the Council on Foreign Relations and a professor at Georgetown University.

⁽¹¹⁾ KUPCHAN, C., *As nationalism rises, will the European Union fall*, Washington Post, 29 August 2010. Refer also to the essay on taxation and representation by P. DE GRAUWE, *Why a tougher Stability and Growth Pact is a bad idea*, VoxEU.org, available online at <http://www.voxeu.com/index.php?q=node/5615>.

⁽¹²⁾ Eurobarometer 73 – First results, data set out in figures 1 and 2 of the Appendix.

⁽¹³⁾ On environmental sustainability, see DALY H., *Beyond Growth: The Economics of Sustainable Development*, 1996. On welfare and equity, see BEGG I., FERRERA M., HODSON D., MADSEN P., MATSAGANIS M., SACCHI S., SCHELKE W., *The Cost of Non Social Policy: Literature Review*, Report to the European Commission, Brussels, 2003. On the human development paradigm, see SEN A., *Inequality Re-examined*, 1992; and SEN A., *Development as Freedom*, 1999.

⁽¹⁴⁾ COM(2008) 800 final. *A European Economic Recovery Plan*, p. 5.

3.9.2.3 In addition, it should be pointed out that the crisis originated in the private, not the public sector, and was caused by imbalances between global expansion of goods and services supply and slower growth in consumer purchasing power⁽¹⁵⁾. Much of the deterioration in Member States' budgets in terms of GDP was simply the result of emergency measures following the fall in national revenue (denominator) and the increase in public spending to save the financial and production system and implement automatic stabilisers to contain the potentially drastic effects of the crisis (numerator)⁽¹⁶⁾. FITOUSSI wrote correctly that Europe's budgetary problems are less the result of governments' discretionary actions than of the inevitable consequences for public finances of the impoverishment of society⁽¹⁷⁾.

4. Specific comments

4.1 Owing to inadequate clarity regarding both the meaning of 'economic governance' and the basic objectives on which it is based, coupled with confusion regarding the limits of the SGP and the Lisbon Strategy, a strategy must be identified on which the Member States and the EU institutions can agree. This strategy will need to do more than merely lay down rules and procedures and instead get to grips with practical policies – particularly in the fragile aftermath of an economic crisis – in order to improve the living standards of European citizens, raise the employment rate (including disadvantaged groups such as disabled people and ethnic minorities) and boost the competitiveness of European industry (including small and medium enterprises and the social economy).

4.2 Although vital, accounting alone will not be enough to verify that revenue and expenditure balance. Mid to long term measures will be needed to boost Europeans' faith in and expectations of the EU, combining the necessary budgetary rigour with the equally important ability to come up with and implement projects for economic and social development. There must be a growing awareness across Europe of the European Union as a political entity with the will to coordinate national policies to achieve a common goal, and as an active player on the global stage.

4.3 A more self-aware Europe is dependent on the institutions representing citizens and the social partners – the Parliament and the Committees – having a stronger role and

being better able to grasp the developments taking place, so that the coordination mapped out by the Commission can gain strong democratic credentials and the popular support needed if it is to be implemented properly.

4.4 Currently however, the Parliament would appear to have a modest role in the European Semester, limited to the initial discussion phase and the initial direction taken by the process of coordination, whereas it could be more active and effective if it coordinated its activities with those of the national parliaments which must discuss and approve national budgets. The Parliament could play an essential role in defining which form of economic governance the EU should pursue and guaranteeing the democratic legitimacy of preventive and corrective measures, including financial penalties levied on Member States.

4.5 In this context, the EESC – in line with its role as consultative body to the European institutions – could help reinforce European economic governance by holding a dedicated annual session to discuss recommendations and how to forge a consensus on reforms at national level, in the light of the social impact of the measures adopted. The added value of the EESC is that its members include representatives of organisations which at national level can swing social consensus for economic policies; this could enable the EESC to make a strong contribution to ensuring that not only political leaders but also and especially citizens of Member States take an interest and assume responsibility.

4.5.1 A debate of this kind could be held in the autumn, following the formal adoption of the recommendations for the Member States, and its conclusions would provide a basis for discussion with national economic and social councils, the national parliaments and the European Parliament, thus enabling the strategies adopted to be assessed and then disseminated and promoted at national level.

4.6 The backing of the Parliament and the Committees would reduce the risk that growth and economic and social development might take second place to monetary and financial stability, thereby ensuring that the SGP and the Europe 2020 Strategy pull together. Although economic stability, particularly in times of crisis, is needed for growth and to maintain the living standards of European citizens, greater stability should not be sought at the cost of people's income and rights. Pursuing both the reform of economic governance and the Europe 2020 Strategy should thus help to make budgetary constraints more publicly acceptable.

⁽¹⁵⁾ ILO-IMF, *The Challenges of Growth, Employment and Social Cohesion*, Discussion document for the joint ILO-IMF conference, Oslo, 13 September 2010, pp. 67-73.

⁽¹⁶⁾ The total public debt in the euro area went from 72 % in 1999 to 67 % in 2007 (Figure 3 of the Appendix) and in the same period, the indebtedness of households and the financial sector increased (Figure 4 of the Appendix). Public sector debt rose from 2008 (Figure 5 of the Appendix), when governments bailed out the banking system and endured the effects of a recession (reduction in GDP and drop in tax receipts).

⁽¹⁷⁾ FITOUSSI J.P., *Crise et démocratie, le paradoxe européen*, Le Monde, 16 October 2010. See also DE GRAUWE P., *What kind of governance for the eurozone?*, CEPS Policy Brief, No. 214, September 2010.

4.6.1 Currently, although the Commission would seem to be carefully keeping the two strategies on an equal footing, there is considerable scepticism as to whether it intends to amalgamate them when they are completely distinct. The social dimension is being sidelined in favour of productivity and flexibility, which are held to increase the competitiveness of European industry.

4.6.2 The fundamental assumption is that macroeconomic surveillance – together with thematic surveillance of the structural reforms requested by the Commission – creates a climate which supports sustainable economic growth, benefiting both the Europe 2020 Strategy and the SGP. However, over a decade's experience of the single currency (during which euro area countries could no longer devalue their currency) has failed to show clearly that disparities in competitiveness within the EU and EMU can be reduced in a timely fashion.

4.7 The Europe 2020 Strategy seems to be moving in the right direction to improve competitiveness in terms of quality, planning initiatives in the fields of knowledge, innovation and environmental sustainability. However, there is a growing contradiction between the goals of the Europe 2020 Strategy and reinforcing the SGP, particularly in the economic and social climate of Europe which is still slowly exiting the crisis.

4.7.1 Appropriate investment is needed if the ambitious goals of the Europe 2020 Strategy are to be met (smart growth based on knowledge and innovation, sustainable growth which is more efficient, green and competitive; and inclusive growth comprising social and territorial cohesion through employment, with particular focus on disadvantaged workers). However these initiatives require a hike in public spending, either through a direct outlay or incentives (including fiscal incentives) encouraging private action, and could prove incompatible with the budgetary constraints which the Commission intends to tighten in order to comply with the SGP and improve economic governance.

4.7.2 Furthermore, still with regard to GDP, while it is undeniable that healthy public accounts and a healthy euro are the basis for long-term development policies, the rules of accounting alone cannot guarantee that Member States' finances will develop satisfactorily in the long run. In fact according to the principle of 'budgetary neutrality' put forward by STIGLITZ, SEN and FITOUSSI⁽¹⁸⁾, the value of the national accounts

aggregates should not vary in line with institutional, economic, social and political differences between countries; for the purpose of comparison the situations must be kept as uniform as possible. In other words, in order to assess the long-term sustainability of public accounts, it is not enough to monitor deficit and debt on a yearly basis; future prospects must be taken into account including those of private markets, primarily financial, housing and welfare markets, which in situations of crisis and emergency can have a strong impact on the stability of Member States' public finances, for example through bailouts of financial institutions and large companies.

4.7.3 Moreover, focusing on competitive imbalances requires constant monitoring of the labour unit cost dynamic, which in turn entails increasing attention on bargaining between the social partners, particularly in the euro area where the Member States no longer have the option of devaluation. The relations between trade unions and employers' associations should therefore be an integral part of the strategy outlined by the Commission, but the Commission's communication fails to address this point.

4.7.3.1 One solution could be more intensive and operational use of macroeconomic dialogue, leading to a joint assessment by governments and the social partners of the economic situation at EU level and the steps to be taken, in close coordination with the national social dialogue process. Improving the quality of this dialogue would enable the social partners to play their part effectively, alongside the European Central Bank, the Commission and the Council, thereby bringing Community dynamics in line with national ones⁽¹⁹⁾.

4.8 All 27 Member States would have to unanimously approve both the reference and projected macroeconomic frameworks before European economic policies could really be coordinated. These frameworks would be the basis for the economic and fiscal policies chosen by the Member States and communicated during the European Semester. Eurostat's analyses, the European Commission's proposals, the European Central Bank's supporting role and the reactions of the European Council and the European Parliament would all play a key role.

⁽¹⁸⁾ STIGLITZ J.E., SEN A., FITOUSSI J.P., Report by the Commission on the Measurement of Economic Performance and Social Progress, Report to the President of the French Republic, Paris, 2009 (p. 22-23).

⁽¹⁹⁾ WATT A., *Economic Governance in Europe: A Change of Course only after ramming the Ice*, Social Europe Journal, 30 July 2010, available online <http://www.social-europe.eu/2010/07/economic-governance-in-europe-a-change-of-course-only-after-ramming-the-ice/>

4.9 Owing to the strong links between economic, social and environmental objectives, more comprehensive indicators than just GDP growth are needed. It is worth pointing out that the Commission communication significantly entitled *GDP and beyond - Measuring progress in a changing world* ⁽²⁰⁾ does in fact call for new indicators 'that concisely incorporate social and environmental achievements (such as improved social cohesion, accessibility and affordability of basic goods and services, education, public health and air quality) and losses (e.g., increasing poverty, more crime, depleting natural resources' and that therefore 'meet citizens' concerns'.

4.10 The following five key actions for going beyond GDP must be properly implemented if governance is to be reinforced ensuring that it is effective and achieves its goals: (i) using environmental and social indicators; (ii) obtaining near real-

time information for decision-making; (iii) more accurate reporting on distribution and inequalities; (iv) developing a European Sustainable Development Scoreboard; and (v) extending national accounts to environmental and social issues.

4.11 The ongoing process of reinforcing European economic governance will certainly prove to be complex, as demonstrated by past experiences in the EU. This is in fact a feature of the EU itself. It is undeniable, as pointed out by an Italian journalist, that Europe suffers from greater uncertainty than does the US, so that from its very inception it has been a journey in search of a destination ⁽²¹⁾; now however, this journey needs a specific, clear destination on which all European citizens, their parliaments and national and European institutions can agree. This is the only way to achieve the goals that the European Union set for itself when it was taking its first steps.

Brussels, 17 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽²⁰⁾ COM(2009) 433 final, p. 3-4.

⁽²¹⁾ C. BASTASIN, *Questo secolo può essere ancora europeo* (This century can still be European), *Il Sole 24 ore*, 2 September 2010.

APPENDIX

to the Opinion of the European Economic and Social Committee

The following amendment was rejected by the plenary session but received at least one-quarter of the votes cast:

Point 4.7.3.1 - Amendment 1 tabled by Mr Pálenik

Insert a new point 4.7.4 as follows after point 4.7.3.1:

4.7.4. In its closer examination of public debt and fiscal sustainability, the European Commission focuses, among other things, on implicit commitments, especially those associated with population ageing. A more tangible methodology has to be worked out to address this issue, bearing in mind those countries that have opted for reform based on funded pension schemes.

Reason

The third part of the Commission proposal refers to taking account of implicit commitments. However, the proposal would be more useful if it explained in detail what this would involve and how it would be achieved in practice.

Outcome of the vote:

For:	69
Against:	160
Abstentions:	19

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 European Central Bank on Bank Resolution Funds’

COM(2010) 254 final

(2011/C 107/03)

Rapporteur: **Ms ROUSSENOVA**

On 26 May 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 European Central Bank on Bank Resolution Funds

COM(2010) 254 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 1 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 16 February), the European Economic and Social Committee adopted the following opinion by 193 votes with four abstentions.

1. Conclusions and recommendations

1.1 **The EESC shares the Commission’s main concern that taxpayers’ money should not be used again to cover bank losses and supports in principle the establishment of a harmonised network of national ex-ante bank resolution funds (BRF) linked to a set of coordinated national crisis management arrangements. However, the EESC is concerned that in order to establish a workable bank resolution funds scheme, Member States should agree beforehand on the adoption of common methods and uniform rules in order to avoid distortions of competition.**

The current signs seem to give the opposite impression. Quite a few Member States have already launched or are planning fiscal measures to replenish their meagre budgets or to strengthen their markets: an uneven playing field is already in place. Looking realistically at the current situation, and in view of past experiences, it is **difficult to be optimistic** about a solution being found rapidly. A more gradual approach might perhaps allow some of these differences to be reduced over time.

1.2 As regards **competition**, maintaining a level playing field at national, European and worldwide level should always be a primary objective. Now, the BRF scheme as it is currently conceived risks having disruptive effects at national level, by affecting only a part of the financial sector, at EU level, by imposing new charges on some national sectors that are already weak, and worldwide, because it is unlikely that a consensus can be reached at G-20 level.

1.3 **A major concern is the macroeconomic scenario.** All national and international authorities are putting pressure on the banking sector to ease the situation by granting more credit to the real economy. New prudential rules, new capital

requirements and new taxes are estimated to be necessary and the authorities should seek to achieve a reasonable balance between the **contrasting need of capital in support of the national budget and the need of real economy**. At present, the BRF scheme is too vague to allow any precise calculations to be made in order to provide the necessary investments in production, growth and jobs. It is difficult to have benefits both ways without appropriate prioritisation and timing for implementing each stage of the proposed BRF scheme.

1.4 The EESC believes that before any steps are taken to introduce bank levies, the Commission should conduct a thorough assessment of the cumulative effects of levies and BRFs and take into consideration our concerns expressed above, especially those in point 1.3. Making a decision on introducing BRF requires an estimation of how much the entire scheme would cost, to what extent it would impact the lending potential of the banking sector, and how long it will take before the BRF is made strong enough or it reaches its target size. The EESC recommends tailoring these estimates to a worst case scenario in order to make sure that the scheme is realistic and workable in a crisis period when, on the one hand, banks will face difficulties making their contributions to the BRF, and on the other hand, this will be the time when the funds’ resources will be needed.

2. Introduction

2.1 The European Commission welcomed the message that emerged from the G-20 meeting in Pittsburgh in September 2009, namely that taxpayers’ money should not be used again to cover bank losses, and is working to achieve this aim in at least two complementary ways:

- a) by reducing the probability of banking failure through stronger **macro and micro-economic supervision, better corporate governance and tighter regulatory standards;** and
- b) by ensuring that if, in spite of these measures, failure does occur, **appropriate tools - including sufficient resources - are available for orderly and timely resolution.**

2.2 COM(2010) 254 final explains the Commission's thinking on how the financial sector could contribute to the cost of financing the resolution of failing banks within the overall set of tools for crisis prevention and management. The Commission believes that *ex ante* Bank Resolution Funds (BRFs) funded by levies on banks should be part of a financial stability framework and broader reforms to the financial system focusing on prevention. They are considered to be the appropriate instrument for intervening in, and resolving failing banks in a way that minimises the costs of bank failure to the public. The Communication explains the purpose, potential size, and the conditions under which BRFs might be established.

2.3 The objective of the European Commission is to introduce an EU approach to BRF and ultimately to set up a pan-EU Resolution Fund as a highly desirable solution. However, the Commission believes that it would be very difficult to begin with the creation of a pan-EU Resolution Fund **in the absence of an integrated EU supervision and crisis management framework. For that reason, an appropriate first step is considered to be the creation of a system based around a harmonised network of national *ex ante* resolution funds linked to a set of coordinated national crisis management arrangements.**

2.4 The EESC welcomes any proposals aimed at strengthening the financial sector and preventing future crises and in this context approves **in principle** the Commission's initiatives and recommendations for an EU approach to BRFs as expressed in COM(2010) 254 final, but at the same time it has some concerns. The EESC realises that at this stage some of the initiatives might not be applicable and acceptable for some Member States, while others require additional consideration, analysis and clarification.

2.5 The objective of the new crisis management and prevention framework will be to make sure that, in the event

of major banking failures, Member States will have common tools that can be applied in a coordinated manner to protect the broader financial system, avoid costs for the taxpayers and ensure a level playing field. These **common resolution tools** are expected to ensure that orderly failure is a **credible option for any bank, irrespective of size or complexity.** The concept of **dimensions** is important. While in principle 'all' orderly failures should be guaranteed, what is important is **to define the concept of a 'major' or 'large scale' failure. Very large and complex financial institutions** (namely, international groups, not necessarily all-European or Europe-based) **may pose challenges.** Larger scale failures may require different treatment, possibly entailing maintaining the legal entity as a going concern through restructuring, debt write-downs and dilution/wipe-out of shareholders. Some additional funding from a fund might be needed as part of the package of measures.

2.6 On 20 October 2010, the Commission adopted a roadmap setting the timetable, measures, tools and plans for a complete EU framework for crisis management. In spring 2011, the relevant legislative proposals on crisis management and resolution funds are to be presented. At this stage we can have only some preliminary expectations and remarks. The **starting date** is to be established by a Directive, provided that it is approved. An educated guess, taking into account the circumstances and the Commission's promise to approve the relevant legislative proposals by spring 2011, might suggest a date of, at best, 2013-2014. Any fund will take time to reach its target size but, as it will incorporate *ex post* as well as *ex ante* funding, in theory it would be operational as soon as the legislation is in force in the Member State. However, we should bear in mind that some Member States have announced that they are not planning to introduce bank levies in the short term because their banking sectors have not been seriously affected by the crisis and still remain stable. The BRF is then to be considered as a **tool for coping with financial crisis in the medium to long term.**

3. Specific comments

3.1 The approach to BRFs

3.1.1 **The EESC approves the Commission approach proposing, as a first step, the setting-up of a harmonised network of national BRFs linked to a set of coordinated national crisis management arrangements.** However, at the same time it recommends that the network of funds be established **gradually and considering carefully the specific features of each Member State.** Germany and Sweden have started working on their own funds, which would collect the money raised from levies/contributions. **Each of them has its own method and rules for establishing the fund and at this stage the EESC cannot suggest which rules should be preferred.**

3.1.2 In view of the fact that some countries are already introducing country-specific bank levies, taxes, and systems, the EESC believes that, as a **very first step, some common basic principles and parameters for the levies should be discussed and agreed upon** in order to avoid distortions of competition within the EU financial sector. The EESC is in favour of a gradual approach that distinguishes between the short-term and the medium-term objectives⁽¹⁾. In the short term, Member States should be expected to reach some agreement on the base of the levy, its rate and scope, while allowing for some degree of flexibility in view of the ongoing changes in the regulatory framework and developments towards a higher degree of harmonisation. After that, a gradual phasing-in approach for introducing a simple and appropriate levy could be considered, followed by the introduction of a more harmonised system of bank levies and BRFs.

3.1.3 The EESC considers the gradual approach more appropriate and realistic as it has the potential of reflecting both the different ways in which the financial crisis has affected different Member States and the specifics of their response to the crisis:

- The various Member States entered the crisis at different points in time, and have been affected in different ways and to a different extent. They are coming, or will come, out of the crisis at different times, and the moments when they will be capable of setting up their own BRFs will vary.
- The financial sectors of some Member States have not been seriously affected by the financial crisis, and they have not called for aid. Instead, their real economies have been hit by the global financial and economic crisis, with some time lags. Their banking sectors, though sound, are still struggling to avoid any crisis developments, while at the same time they are expected to support recovery. Such countries might be reluctant to establish national BRFs at a stage when most Member States would be ready to do so, also because some of them have deposit guarantee funds (DGF) that go beyond deposit guarantee schemes (DGS) and include some bank resolution functions.

3.1.4 The EESC welcomes the Commission's intention to explore the 'potential synergy between DGS and resolution funds', expressed in COM(2010) 579 final. The Committee believes that if the basis on which the DGF are currently funded is broadened, the deposit guarantee and bank resolution functions could be fulfilled by one fund, without jeopardizing the ability of the DGS and its funds to meet its depositors' protection objective. This exploration is highly appropriate for those Member States whose DGF already have some preventive and resolution functions, merging in one enlarged fund both scopes.

⁽¹⁾ See Economic and Financial Committee Ad Hoc Working Group on Crisis Management, 17 September 2010.

3.1.5 The EESC understands the Commission's arguments in favour of a pan-EU Resolution Fund, as well as its concerns about the difficulties involved in setting one up, and considers its establishment premature and inapplicable at this stage. Bearing in mind past and recent experiences, the EESC has doubts about how efficiently a single EU Resolution Fund might work.

3.2 Financing BRFs: the Levy

3.2.1 The Commission considers that BRFs should be financed by contributions or levies, paid by banks. An agreement was reached by the European Council on 17 June 2010 that bank levies should be part of a credible resolution framework⁽²⁾ and this should be one of the principles to underpin their introduction

3.2.1.1 While the Communication explains that the primary objective of the levy should be to make banks contribute to the costs of the crisis, mitigate systemic risk, limit distortions of competition and raise funds for a credible resolution framework, it fails to give a clear definition of it. A document⁽³⁾ by the Economic and Financial Committee defines the term 'levy' as a 'charge (either a fee or tax) on financial institutions to make them contribute to the costs of financial crisis': a levy is considered to be a fee when aimed at a fund outside the budget and a tax when part of the government budget. The EESC expects the Commission to give a clear definition of the term 'levy'.

3.2.2 The EESC considers the criteria for the levy base, as well as the levy rate, to be one of the main obstacles to reaching a general agreement and is convinced that as a first step several basic principles should be agreed upon. The EESC shares the Commission's view that the levy base should comply with the principles enumerated in the Communication, p.8. It should be recognised that national financial sectors vary as regards **their size, governance systems, efficiency of supervision, and level of risk**. Based on these differences, initially Member States could be allowed the flexibility to consider different levy bases but afterwards the levy base should be harmonised.

3.2.3 The Communication considers that contributions/levies could be based on three things: banks' assets, banks' liabilities and banks' profits and bonuses. As the assets and liabilities of the balance sheet capture risk considerations better than other indicators, the EESC considers banks' profits and bonuses a less appropriate base for banks' contributions. Each of the first two bases for levies has its pros and cons, and perhaps a combination of both would have some merit.

⁽²⁾ European Commission, Internal Market Services DG, Commission Services Non-Paper on Bank Levies for Discussion at the EFC Meeting on 31 August 2010, p. 4.

⁽³⁾ Economic and Financial Committee, Ad Hoc Working Group on Crisis Management.

3.2.3.1 Banks' assets are good indicators of their risks.

They reflect both the potential likelihood of a bank failure and the amount which might have to be spent in handling the bank's resolution. Risk-weighted assets, as suggested by the IMF⁽⁴⁾ could also be considered an appropriate base for levies, as they have the merit of international comparability, given the broad acceptance of the Basel capital requirements. On the other hand, since banks' assets are subject to risk-weighted capital requirements, a levy based on them would duplicate the effects of the Basel Committee capital requirement.

3.2.3.2 The EESC believes that banks' liabilities, excluding

guaranteed deposits and bank capital (e.g. tier one for banks) and including some off-balance sheet items, are probably the most preferable base for banks' contributions/levies⁽⁵⁾. They are a good indicator of the costs that might have to be covered when facing the need to resolve a bank, they are simple, and, though some overlap cannot be excluded, they would not overlap as much as the asset-based approach⁽⁶⁾. Other liabilities could also be excluded: subordinated debt, government guaranteed debt and intragroup debt transactions. However, bearing in mind that Member States have already introduced country specific systems of levies whose levy bases differ considerably, an initial harmonised approach, based on all the liabilities and their previous qualitative evaluation, might be more acceptable.

3.2.4 The EESC endorses the Commission's understanding, expressed in COM(2010) 579 final, that each BRF should receive contributions from institutions licensed in the same Member State, and the contribution should cover their branches in other Member States. Thus subsidiaries would be subject to host-state levies and branches would be subject to home-state ones. If all Member States raise levies on financial institutions following these principles, the risks of double charging and competitive distortions could be avoided.

3.2.5 **The EESC insists that the timing of the levy's introduction should be considered carefully in view of the challenges both banks and the economy are facing now.** After a period of severe financial crisis banks are

usually risk averse and remain reluctant to lend for a couple of years despite the efforts of all national and international authorities to encourage them to assist economic recovery. At the same time banks have to bear the costs of new capital and liquidity requirements. Financial institutions could be granted an adequate transition period, consistent with the assessment recommended by the EESC in point 1.4 above, in order to strengthen their capital base, adjust to the new regulatory regime and finance the real economy. In the medium-term certain adjustments of the rate might be appropriate in order to take account of any future regulatory developments as well as the development of the EU resolution framework.

3.3 Scope and size of BRF

3.3.1 The scope and size of BRF depend on how the Commission determines the task of funds to finance the orderly resolution of distressed financial entities, including banks.

The EESC supports the Commission's view that resolution funds should be available for the resolution of banks, but their use to bail out institutions should be clearly excluded. However, the EESC considers it unacceptable that the crisis resolution framework developed by the Commission **focuses mainly on the banking sector**, as all financial institutions may be dangerous for investors when they take high risks. The EESC recommends that **all banks and all supervised financial institutions** (with the exception of insurance entities, for which a separate scheme is currently being prepared) should be part of the resolution framework⁽⁷⁾. This is to ensure that there is a level playing field and also to avoid sending a misleading signal to public opinion that only one segment of the financial community is to blame for the crisis.

3.3.2 The Communication has not yet indicated what size funds should be – but has indicated that the financial sector should bear all the resolution costs – if necessary through *ex post* financing arrangements. The problem will be how to **calculate the appropriate target size**, country by country. Here we see two problems: one is that **the weakest systems will call, proportionally, for the highest contributions**, thus raising concerns about whether the playing field is level. The other is the timeframe used for calculations: the **target limit is calculated on the basis of current and prospective situations**. Before the target limit is attained, the situation may have changed substantially, thus making it necessary to adjust both the target and the contributions. Rules should take account of **possible changes of the initial conditions and calculations**. In addition, as risks vary over the cycle, the levy rate would have to be adjusted so as to help make the financial system less pro-cyclical.

⁽⁴⁾ IMF, A Fair and Substantial Contribution by the Financial Sector, Final Report for the G-20, June 2010, p. 17.

⁽⁵⁾ The IMF expresses preference for a broad set of liabilities, including some off-balance sheet items but excluding capital and insured liabilities. The Commission also supports the market liabilities-based approach in its non-paper of 20 August. Four Member States have already adopted an approach, based on differentiated-liabilities.

⁽⁶⁾ The Basel Committee proposals oversee liquidity and transformation risks undertaken by banks.

⁽⁷⁾ In COM(2010) 579 final the Commission promises to apply the EU framework for crisis management in the financial sector to all credit institutions and some investment firms without giving a clear definition of investment firms. The EESC believes that the resolution framework should be applied to all supervised financial institutions.

3.4 Independence and Governance of BRFs

3.4.1 The EESC approves the Commission view that BRFs should remain separated from the national budget. The EESC agrees that their functional independence from government would ensure that they only cover resolution measures, and nothing else. However, Member States are currently pursuing two different approaches for allocating the funds raised from the financial sector. Countries such as Germany, Belgium and Sweden rely on the principle that a clear link should be established between the pay-in and pay-out side of the resolution mechanism. Other countries allow funds raised from the levy to be absorbed by the general budget as no explicit link to the resolution framework for the financial sector is intended. Arrangements which create expectations that financial institutions might receive support from the government could jeopardise the objective of the proposed framework, which is to introduce an orderly resolution of distressed financial institutions, excluding the use of taxpayers' money. The EESC shares the Commission's view that establishing dedicated resolution funds may result in diminishing the dependence of the financial sector on public funds and reduce the moral hazard problem associated with 'too big to fail' institutions. The EESC takes the view that, as with deposit guarantee funds, the money raised from the levy should be

under the control and governance of authorities other than those responsible for fiscal matters, i.e. those in charge of ensuring the governance of the Financial Stability Framework.

3.4.2 Before a final decision is taken about the governance of the BRF, clear answers have to be given to the following questions:

- Is the fund part of the prudential regulation? or
- Is it conceived as a fiscal measure, aimed at asking the financial sector to contribute to the recovery of public money spent? or
- Is it a mere fiscal move, aiming at a more transparent market by fighting financial speculation?

If the Commission views the BRF as a para-fiscal measure and part of a financial stability framework, it should make sure that this is well understood, because a correct governance of the BRF cannot be established unless there is a clear idea about its nature.

Brussels, 16 February 2011.

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, the European Economic and Social Committee and the European Central Bank — Regulating financial services for sustainable growth’

COM(2010) 301 final

(2011/C 107/04)

Rapporteur: **Mr IOZIA**

On 2 June 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, on the:

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank — Regulating financial services for sustainable growth

COM(2010) 301 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 1 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 16 February), the European Economic and Social Committee adopted the following opinion by 164 votes with one abstention.

1. Conclusions and recommendations

1.1 ‘More and more has to be done in the area of international supervision. You can have the best regulation in the world but if its implementation is not supervised, it will not be of any use (1).’

1.2 The European Economic and Social Committee (EESC) welcomes the Commission’s communication and sees the new regulation of the financial markets as the crucial instrument needed for re-launching a sustainable economy.

1.3 The EESC thinks that these matters are attracting ever less attention and that the need for measures to be taken urgently is perceived differently in each country and no longer appears to be a shared priority.

1.4 The EESC emphasises and reiterates the importance of redoubling efforts and reaching an international agreement. Nevertheless, it considers it essential and indispensable that the course embarked upon by the European institutions themselves be brought to a swift and positive conclusion and not sidelined in favour of a framework of international agreements which – as we have unfortunately seen again only recently – are far from being achieved.

1.5 The EESC takes a positive view of the measures proposed and awaits those that are still being finalised and which it will be called upon to comment on in due course, such as the projected revision of the MiFID – important to guarantee the soundness and transparency of the markets as well as the trust of investors.

1.6 The EESC supports the Commission’s endeavours to see the legislative process through to its conclusion. The Commission could give the EESC the responsibility of promoting the proposals under discussion, as well as subsequent draft regulations, to social and economic organisations and financial services consumer organisations at national level.

1.7 The United States did a great deal to set the pace in this area with the promulgation of the Dodd-Frank Act, the law to regulate the US financial markets, which lay the foundations for greater convergence across the globe. This legislation addresses many issues with only a regulatory framework, leaving the final form of the rules to the competent authorities or subsequent work on the details. In the case of the European Commission, on the other hand, the individual provisions are already worked out in detail. The two approaches should achieve the same objectives in the end.

1.8 The EESC welcomes some of the innovative choices made in the US legislation and proposes that the Commission undertake an in-depth study of the proposal to establish a financial services consumer protection authority. The Committee thinks, however, that a more autonomous position for such an authority should be considered.

1.9 It is also worthwhile evaluating decisions taken on the other side of the Atlantic on how to deal with ‘too big to fail’ institutions, which can lead to moral hazard in risk management. The EESC asks the Commission to consider very carefully the possibility of adopting similar measures, which appear to be incisive and to act as a deterrent to the imprudent and particularly risky conduct of some financial institution managers and can help to achieve better risk management in financial institutions.

(1) Dominique Strauss-Kahn, Agadir, 1 November 2010.

1.10 The whole process of regulatory update should be finished by 2011 and be fully running from 2013. This will indeed be possible if no problems crop up and everyone sticks to the schedule. However, the EESC has its concerns and fears that this may not happen. The Commission should ask the European Parliament and the Council to fast-track all actions related to the regulation of financial markets. The financial crisis erupted in 2007 and the need to take strenuous action to regulate the markets was broached even back then. Since then, more than two thousand billion dollars have gone down the drain, numerous businesses have gone to the wall and at least thirty million jobs have been lost, with a further four hundred million losses in sight, according to the director of the IMF. In the financial sector alone, at least half a million people have lost their jobs worldwide. Others are still losing theirs and more will join them.

1.11 The EESC calls for a strong, comprehensive, efficient and balanced regulation. In order to avoid negative consequences, the EESC recommends that a profound study on the cumulative regulatory initiatives be undertaken for the necessary measures on the financial system and the capital market. A stable and efficient system should promote financial stability and liquidity for the real economy.

1.12 Civil society at European and national level must continue to press the authorities and public bodies to swiftly adopt new rules in the financial sphere. The Commission could task the EESC with advocating in the Member States the need to take quick and comprehensive decisions on the regulation of financial markets, via public initiatives on the ground involving the social and economic players and financial services consumer organisations.

2. The Commission Communication

2.1 In its Communication 'Regulating financial services for sustainable growth', the Commission sets out the goals attained and a schedule for future legislative initiatives, elucidating the four guiding principles on which its work is based: transparency, effective supervision, enhanced resilience and financial stability, and consumer protection.

2.2 'A safer, sounder, more transparent and more responsible financial system, working for the economy and society as a whole and able to finance the real economy, is a precondition for sustainable growth. It is the essential complement to the efforts Europe is undertaking to consolidate public finances and undertake the structural reforms that will deliver a vibrant economy in the future.' These are the guiding principles behind the Commission's legislative work.

2.3 In the present document, the Commission recaps the stages, since the major crisis of September 2008, that have led to the creation of a new and coherent regulatory framework.

2.4 As far back as November 2008, a group was set up under the chairmanship of Jacques de Larosière and urgent

measures such as the revision of the Directives on Capital Requirements and Deposit Guarantee Schemes have been taken. A Regulation on Credit Rating Agencies has also been adopted and two recommendations on remuneration principles have been presented.

2.5 The Commission has adopted a series of proposals in line with those in the group's report. Many of these are still being discussed by the Union's policy-making bodies, the Council and Parliament.

2.6 The Commission wishes to see a coordinated legislative push to ensure that all the proposed provisions are processed and transposed by the end of 2012.

3. The Committee's comments

3.1 The European Economic and Social Committee (EESC) has expressed its views in several opinions about provisions the Commission intended to adopt, starting with the package proposed by the de Larosière group and going on to the individual provisions that followed.

3.2 Many of the Committee's suggestions and comments on a range of issues have been taken on board, producing results that appear appropriate and sufficient. However, will all of this restore trust in the markets and supervisory authorities, as well as in public authorities, which have to some extent in the past supported an ultra-liberal model in the conviction that the market would regulate itself? This illusion affected not only most Member States, but also some senior figures in the European Commission. Markets have an innate tendency to fluctuate irrationally between risk aversion and risk-taking. Reining in these fluctuations without destroying markets is no easy matter.

3.3 With this Communication, the Commission is implicitly acknowledging the errors of the past – errors which the EESC had promptly pointed out – and setting out a sound and virtually comprehensive road map to redesign the architecture for the supervision, stability and transparency of markets. This is an important piece of work and one which, as the Committee readily acknowledges, has so far been done well.

3.4 The European Parliament has done a lot to beef up and improve the drafts, in some cases advocating the same changes as the Committee, resulting in regulations and directives that appear to be effective and coherent.

3.5 The application phase, however, is beset by a number of problems. For example, in the case of the European Insurance and Occupational Pensions Authority (EIOPA), which oversees the insurance market and pension funds, it is vital that the distinct characteristics of the two sectors are recognised and safeguarded; in particular, it is crucial that the supplementary pensions branch is accorded the same respect as the insurance branch.

3.6 The Council has, unexpectedly, played a less positive role, obliging the Commission to re-examine some good proposals, as in the case of supervisory authorities. Nevertheless, thanks to the work of the Parliament and the Commission, the compromise reached has been a good one, although more could have been done and done earlier if particular provisions had not fallen foul of mutual vetoes.

3.7 However: has everything been done that needed to be done and was it done at the right time?

3.8 The United States gave an apparently comprehensive and more prompt response to the calls for regulation and protection from the weakest parts of the market – consumers – with the Dodd-Frank act ⁽²⁾, promulgated on 21 July 2010. Clearly, one has to bear in mind the slower decision-making process in Europe and the fact that European measures tackle the various facets in detail, while the US law provides the framework for subsequent laws and regulations. It is important that these processes move forward in equilibrium and at a similar pace in order that new regulation is approached organically.

3.9 In examining the Commission's proposals, the EESC will compare the two approaches, weigh up the various responses given to particular issues and consider the expediency of incorporating some aspects of the US approach into our own regulations.

3.10 One example worth looking into is the creation of a federal authority for consumer protection (the Bureau of Consumer Financial Protection). The EESC calls on the Commission to undertake an in-depth study of the possibility of establishing a similar authority in the European legal system.

3.10.1 The authority set up in the United States falls within the Federal Reserve and has ample powers that cover a large part of the functions previously carried out by other regulators under consumer protection legislation. This authority will have exclusive powers to oversee compliance with the rules on activities carried out by intermediaries with assets over ten billion dollars and it will have joint powers, along with other supervisory authorities, in the case of intermediaries with assets below that amount.

3.10.2 The EESC thinks that the following points, in particular, should be studied:

— In the United States, the Bureau falls within the Federal Reserve. This can be justified by the need to contain the authority's administrative costs, but could, nonetheless, prejudice its autonomy and independence. The EESC therefore thinks that a more autonomous position for such an authority should be considered.

— The powers of the authority could in some circumstances conflict with those of the financial intermediaries supervisory authorities. A hierarchy of priorities must be established ex ante that will help to contain any possible controversy, since although the stability of intermediaries and markets is of prime importance, so too is the protection of retail investors. The need for investor protection cannot be subordinated to any other principle. In fact, we can only talk about sustainable growth if the needs and protection of the weakest individuals are put at the hub of the system.

— It is important that the focus is put on financial services and products rather than simply on financial institutions. The authority must have its own jurisdiction and be able to intercede any time that financial services or products are offered to the public, even when these do not primarily involve financial intermediaries already subject to other forms of supervision.

3.11 Another important point that must be looked at is the body of rules geared to countering the moral hazard of institutions deemed too big to fail. The options taken by the US legislator in this matter are incisive and far-reaching: the possibility of intervening pre-emptively, ordering the sale of parts of a business to avoid systemic risks, and the requirement of a plan to dismantle conglomerates with a range of activities or so large that any intervention becomes problematic. There is also provision for components established in other countries also being subject to the same measures, therefore influencing the activity of some important EU-based players.

3.11.1 The creation of the European Systemic Risk Board (ESRB) is a move in this direction. Limiting the power of large groups is healthy in many respects. As well as cutting systemic risk, which will let badly managed banks go to the wall, it would help competition, which in turn should keep interest rates under control, making credit more accessible for clients. These ideas have been raised in the past and the regulators should no doubt have paid them greater heed, especially given the particular nature of the finance business, which does not even have the physical limitations of other forms of production.

3.11.2 Although size is of prime importance, it should not be forgotten that this does not alone determine the systemic relevance of an intermediary, which also depends on the functions it performs within the system, how easy it is to replace and how closely interconnected the group is both nationally and internationally. Despite being unduly large, some intermediaries could nevertheless crash together because they share the same risks.

⁽²⁾ Pub.L. 111-203, H.R. 4173.

3.11.3 Regarding financial regulation, the EESC emphasises the need to adopt a balanced approach. The EESC emphasises the substantial benefits in the long term of stricter regulation of financial institutions for the financial stability, economic growth and efficiency of the real economy.

3.12 Some of the measures included in the new US financial regulations are: an early warning system for major systemic risks, regulation of the non-bank system, creation of a council for financial stability, effective legislation on credit rating agencies (CRAs), measures of transparency and credibility for non-standard instruments, including over-the-counter (OTC) markets, and securitisations with asset-backed securities (ABS) and hedge funds.

The European Union's first step was to react to the crisis and champion the need for international coordination, a prerequisite for guaranteeing a level playing field internationally.

3.13 We need to ask ourselves whether the authorities in the different countries are as a whole responding in a similar and joined-up way, since one of the major problems has been caused by regulatory mismatch between the various financial markets.

3.14 Europe should avoid any further delay in completing its reform process – which should be transposed into national legislation starting in 2013 – in order not to penalise companies and the European financial system, which international investors perceive as being poorly governed because of the differences between Member States and the inefficacy of the legislative model.

3.15 Notwithstanding all the Commission's efforts to regulate the single market in a uniform manner, powerful economic and political interests make it ever more difficult to create an effective and far-reaching European supervisory system.

3.16 Having only recently restated the need to swiftly strengthen the legislative and regulatory framework, the EESC backs the Commission's efforts to this end. Civil society at European and national level must continue to press the authorities and public bodies to swiftly adopt new rules in the financial sphere. The EESC has a truly important role to play, both directly and through the organisations of its members, which should promote a serious and informed debate in the Member States. The future of a new sustainable economy and of financial markets dedicated to balanced development and sustainable growth will depend mostly on the

quality of financial regulation. Better and tighter rules are needed so that the market reintroduces an ethical dimension into business as its code of conduct.

4. Specific comments

4.1 The Communication says nothing about the involvement of stakeholders in the impact assessment process or about the measures that have been adopted, except to note that this process has taken place. But who are the stakeholders? Does this refer to the usual electronic consultation, which has doubtlessly involved the industry and some expert group or other (invariably appointed by the financial system), but only peripherally workers and consumers? If so, there is still no real balance of various interests that can be enlisted as soon as the reform process gets off the ground.

4.2 The EESC calls on the Commission to give greater heed to civil society bodies and to making sure they are meaningfully involved. The EESC calls on the Commission to deploy its own resources more effectively to achieve better international coordination between the institutions of democracy in all the EU Member States. There needs to be a serious programme, appropriately funded, to get Europe's citizens involved and to inform them about some difficult but necessary changes.

4.3 The cumulative effects of the various legislative initiatives are not made clear, not least because the measures are not discussed in context and some (Basel III, future international accounting standards) will be in the hands of third parties, such as the Basel Committee and the IASB ⁽³⁾.

4.4 The EESC calls for a strong, comprehensive, efficient and balanced regulation. In order to avoid negative consequences, the EESC recommends that a profound study on the cumulative regulatory initiatives be undertaken for the necessary measures on the financial system and the capital market. A stable and efficient system should promote financial stability and liquidity for the real economy. The Commission will have to face the difficult task, in the context of a complete overhaul of the entire architecture for regulating the markets, of seeking the best balance between prudential measures, increased capital requirements, better risk coverage and classification, and economic development. It will have to do this in a situation in which the financial and economic crisis has been gravely exacerbated by budget consolidation measures.

4.5 The EESC calls on the Commission to redouble its efforts to make common cause with the authorities in the major countries, especially with the G20 countries.

⁽³⁾ International Accounting Standards Board.

4.6 According to the Commission, thirty more legislative proposals are awaiting debate and adoption by the end of next year, but have yet to be allocated time on the Parliament's agenda. The EESC is very concerned and has its doubts whether the programme will actually come to fruition. The next two presidencies of the Union will have their work cut out and the role of the president of the Union, which is intended to bring continuity and effectiveness to actions, has yet to get off the ground. The Commission should ask the European Parliament and the Council to fast-track provisions to regulate markets, which have been too long coming.

4.7 The EESC is ready to support the Commission in this process and to contribute to better regulation through its opinions and ongoing direct consultation. The Commission could task the EESC with advocating in the Member States the need to take quick and comprehensive decisions on the

regulation of financial markets, via public initiatives on the ground involving the social and economic players and financial services consumer organisations. The EESC, together with the network of national and international ESCs, can make an enormous contribution to the positive outcome of the process with action focused on:

- keeping the issue in the spotlight,
- bolstering European and international coordination,
- disseminating the proposals under discussion in the European debate,
- making available its own experience and competence.

Brussels, 16 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Directive 2000/25/EC as regards the provisions for tractors placed on the market under the flexibility scheme'

COM(2010) 607 final — 2010/0301 (COD)

(2011/C 107/05)

Rapporteur working alone: **Mr RANOCCHIARI**

On 10 November and 24 November 2010 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the:

Proposal for a directive of the European Parliament and of the Council amending Directive 2000/25/EC as regards the provisions for tractors placed on the market under the flexibility scheme

COM(2010) 607 final — 2010/0301 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 1 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 16 February), the European Economic and Social Committee adopted the following opinion by 144 votes, with 5 abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) believes strongly that reducing harmful emissions of carbon monoxide, nitrogen oxides, hydrocarbons and particulates from engines intended for agricultural and forestry tractors is a vital step towards achieving the EU's air quality targets.

1.2 The EESC also believes that, particularly in a time of global crisis, the European agricultural and forestry tractor manufacturing sector must be accorded the flexibility needed in the financial, economic and employment spheres to develop new tractors without excessive economic burdens which would be untenable in the current economic climate.

1.3 The EESC therefore supports the Commission proposal to raise the flexibility margin from the initial 20 % to 50 %, with a proportionate increase in the numbers allotted to small and medium sized enterprises.

1.4 The EESC believes that the environmental impact of the increase in flexibility is not determined by the scheme's duration, but advocates setting an expiry date for stages which do not yet have one. It therefore believes that a fixed duration should be established for all power categories for Stage III B and future stages, equal to three years or the duration of the stage itself, whichever is the shorter.

1.5 The EESC believes that the compliance provisions and the transition period allowed between successive stages are

particularly burdensome and demanding for SMEs, given that the costs involved in redesigning agricultural and forestry tractors to accommodate new engines, and particularly for RTD and conformity assessment, would naturally be significantly more onerous for a smaller company than for a major industrial group.

1.6 Consequently, the EESC supports the proposal to set aside a set number of exempted engines exclusively for SMEs.

1.7 The EESC believes that it is essential to encourage joint European and international endeavours to draw up clear, universally accepted technical standards to promote global trade in this sector, with the aim of increasingly reconciling EU emission limits and those applied or planned in third countries.

1.8 The EESC believes that the United Nations Economic Commission for Europe is the ideal forum to pursue harmonisation, particularly in the context of the 1998 Global Agreement.

1.9 The EESC highlights the need to monitor emissions generated by agricultural and forestry tractors under real operating conditions rather than relying on theory-based laboratory testing, and calls on the European Commission to present proposals for in-service conformity plans as soon as possible.

1.10 The EESC believes that electronic systems play a key role in monitoring the functioning of the engine and the after-treatment systems required to meet environmental targets.

1.11 The EESC therefore proposes that the European Commission should adopt provisions to prevent tampering with monitoring software and to require the adoption of systems which limit the performance of agricultural tractors if the after-treatment systems are not properly maintained.

2. Introduction

2.1 Directive 2000/25/EC deals with compression ignition engines ranging from 18kW to 560kW for use in agricultural and forestry tractors. It sets limits for emissions of carbon monoxide, nitrogen oxides, hydrocarbons and particulates. The Directive sets increasingly stringent limits for the various stages, with corresponding compliance dates for the maximum levels of exhaust gases and particulates. The next stages set are III B (beginning 1 January 2011) and IV (beginning 1 January 2014). No requirements have been set for Stage IV as regards 37kW to 56kW engines, and there is as yet no stage subsequent to IV for larger engines. As the duration of a stage is considered to run from the date on which compliance is compulsory to the date on which compliance with the following stage is compulsory, some stages (relating to specific power categories) may currently be deemed open-ended.

2.2 The standards on exhaust emissions from agricultural and forestry tractors were amended in 2005. This amendment introduced the flexibility schemes whereby very ambitious emission limits could be adopted and introduced rapidly in line with the limits set in the United States; however, it also established, at least partially and in a simplified manner, flexibility mechanisms comparable to the legislation limiting the burden on producers' human and economic resources. The legislation for this sector in China, India and Brazil for instance does not include these mechanisms; instead it has much less stringent timeframes for application.

2.3 The system adopted in the EU allows an agricultural and forestry tractor manufacturer to acquire, during a given stage and from his own engine suppliers, a limited number of engines which comply with the previous stage. The number of engines is set on the basis of a one-off decision when the request is made, using two criteria:

- a percentage of the (average) number of tractors sold over the previous five years;
- a fixed number which, being low, is intended for SMEs.

The number of engines admitted to the flexibility scheme is thus unaffected by the scheme's duration.

2.4 Finally, Commission Directive 2010/26/EU of 31 March 2010, amending Directive 97/68/EC on emissions from engines intended for non-road mobile machinery, streamlined the administrative procedure for requests and checks under the flexibility scheme, in line with the drive towards legislative simplification.

2.5 The present Commission proposal notes the exceptional burden placed on manufacturers by Stage III B, which firstly requires all manufacturers to adopt exhaust gas after-treatment systems. Although these technologies are already known and applied in the heavy transport sector, they must be completely redesigned to allow for the harsh operating conditions of agricultural and forestry tractors. The tractors themselves must then be completely redesigned in order to accommodate the after-treatment systems.

2.6 Furthermore since 2009, the European agricultural and forestry tractor manufacturing industry has been severely affected by the impact of the global economic and financial crisis. Despite preliminary signs of recovery in statistical terms, the crisis is still weighing heavily on society and especially on jobs.

2.7 The proposal to increase flexibility is limited to Stage III B which coincides with the most difficult period of the global crisis.

2.8 The Commission proposal establishes a single expiry date for Stage III B flexibility schemes, contrary to the principle of staggering the introduction of stages by engine power category.

2.9 Although setting an expiry date for the flexibility scheme is reasonable as regards open-ended power categories (see point 2.1) which thus have no end date, there is no reason why the duration for the other power categories should vary from three to just one year. Such a choice is usually justified on the grounds of reducing the environmental impact; in actual fact, the total number of engines admitted to a flexibility scheme is set at the beginning of the scheme, in terms of a percentage of the average number of sales by a manufacturer in the years preceding his request, or a fixed number which does not fluctuate in line with changes in the scheme's duration. A manufacturer will usually request this number, thereby making it possible to assess the measure's environmental impact. Therefore the duration of the flexibility scheme has no ulterior impact on the environment since the number of exempted engines is established in advance.

2.10 In order to avoid unjustified disparities between power categories, a uniform duration should be established for flexibility schemes for all engine power categories and, amending the Commission proposal, this approach should be extended to all stages which do not yet have a set expiry date, such as Stage IV.

2.11 In order to safeguard both the development of the industry and environmental protection:

- the competitiveness of the European agricultural and forestry tractor industry should be preserved, alleviating the immediate pressure of the economic crisis;
- during Stage III B, the industry should be able to continue to fund RTD activities concerning all kinds of products, particularly those intended to meet niche demands;
- emissions by vehicles currently in use should be restricted, thus providing an incentive to exchange obsolete agricultural and forestry tractors for ones with a low environmental impact and better levels of safety for operators. Retrofitting emissions devices is of limited value in terms of reducing harmful emissions and of no value at all in terms of improving safety.

3. The proposed amendment to the Directive

3.1 The proposal would make the following changes to Directive 2000/25/EC.

3.2 During Stage III B, an increase is authorised in the number of engines to be installed in agricultural and forestry tractors placed on the market under the flexibility scheme, in every power category. This will entail raising the number exempted from 20 % to 50 % of previous annual sales of tractors, or alternatively a proportionate increase in the fixed number of engines which may be placed on the market under the flexibility scheme.

The measures will expire on 31 December 2013.

3.3 The option proposed would therefore reinforce the existing flexibility scheme. This solution is considered to be the most appropriate in terms of a balance between environmental impact and economic benefits as it reduces the costs of bringing the market into line with the new emission limits. It

should be pointed out that Article 4(8) of Directive 2000/25/EC already offered the possibility of extending flexibility.

4. General comments

4.1 The EESC supports the Commission's approach of introducing greater flexibility into the various stages of applying the limits permitted for engines to be installed in agricultural and forestry tractors, in terms of emissions of carbon monoxide, nitrogen oxides, hydrocarbons and particulates.

4.2 The EESC shares the Commission's concern to preserve competition and job levels in the European agricultural and forestry tractor industry from the impact of the international financial and economic crisis, while, at the same time, agreeing with the need to pursue high levels of environmental protection and well-being for the European public.

4.3 The EESC therefore supports the Commission proposal to bring the percentage of flexibility up to 50 % for sectors already covered by flexibility mechanisms under the 2000 Directive on exhaust emissions from agricultural and forestry tractors and subsequent amendments, for Stage III B only.

4.4 More generally, the EESC believes that it is essential to encourage joint European and international endeavours to draw up clear, universally accepted technical standards to promote global trade with the aim of increasingly reconciling EU emission limits and those applied or planned in third countries. The UN/ECE in Geneva is the ideal forum for this task.

4.5 The sector's SMEs warrant particular attention. The EESC feels that the flexible compliance mechanisms, the implementation deadlines and the timeframes laid down for transition between the various stages are particularly burdensome given the costs of bringing machinery and engines into line, which are clearly much more onerous for small businesses than for large industrial groups. Hence the need to give SMEs the option of a fixed number of exempted engines.

4.6 The EESC points out that if the targets are to be met, stringent limits must be set and procedures identified to assess emissions produced under real operating conditions, by means of plans to monitor engine emissions conducted by engine manufacturers or the competent authorities under in-service conformity systems.

4.7 The EESC is aware that more ambitious emission reduction targets will entail the adoption of after-treatment systems. It is therefore crucial that these systems be protected against tampering and that operators maintain them properly in order to ensure that they are effective throughout the tractors' lifetime. Otherwise, the engines will produce more pollutants than engines complying with obsolete stages. The Directive currently lays down minimum rules on maintenance and

nothing to prevent tampering with the systems and in particular the operating software. The EESC recommends that the European Commission should adopt measures that block the use of agricultural and forestry tractors if the after-treatment systems are not properly maintained and moreover preventing access by third parties, who are not explicitly authorised by the manufacturers, to the software systems which ensure that the vehicle functions correctly and which monitor emissions.

Brussels, 16 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)’

COM(2010) 537 final — 2010/0266 (COD)

and on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers’

COM(2010) 539 final — 2010/0267 (COD)

(2011/C 107/06)

Rapporteur: **Mr Gilbert BROS**

On 11 November and 13 October 2010 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 42, 43(2) and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

COM(2010) 537 final — 2010/0266 (COD).

On 11 November and 19 October 2010 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 42, 43(2) and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers

COM(2010) 539 final — 2010/0267 (COD).

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 3 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 16 February), the European Economic and Social Committee adopted the following opinion by 96 votes with 1abstention.

1. Conclusions and recommendations

1.1 The alignment of Regulation (EC) No 73/2009 (direct payments) and Regulation (EC) No 1698/2005 (rural development) with the Lisbon Treaty aims to replace the current comitology procedure with a distinction between delegated acts and implementing acts. The EESC believes firmly in the consultation of stakeholders and Member States during the preparation of EU legislation, and is convinced that it should be maintained.

1.2 The Council and the Commission interpret the dividing line between delegated acts and implementing acts differently. The EESC therefore believes that the choice of procedure for each act must be made on the basis of clear criteria.

1.3 The duration of delegation for delegated acts must always be for a specified period of time. Furthermore,

delegated acts should be reserved for areas where decisions need to be reached quickly.

1.4 Implementing acts should be used in cases where it would be better for Member States to harmonise their implementation. This harmonisation is particularly important in certain areas in order to avoid distortions of competition. The EESC thus considers that acts relating, for instance, to the specific conditions concerning the implementation of acts under the second pillar of the CAP, or acts relating to the implementation of environmental measures should be classified as implementing acts, contrary to what the Commission has proposed.

1.5 The EESC welcomes the fact that the Commission is taking advantage of the revision of these regulations in order to include simplifying measures. Nevertheless, these simplification efforts mainly concern administration whereas their main purpose should be to make matters simpler for farmers.

1.6 The EESC believes firmly that Member States should report regularly on progress in rural development. The Committee draws attention to the fact that reducing the number of progress reports Member States have to submit to the Commission on the implementation of their strategy plans could reduce the amount of information available on this subject.

1.7 The EESC welcomes the measure to exempt very small-scale farmers from declaring all their agricultural parcels. Nevertheless, the one-hectare threshold could be raised.

1.8 With regard to agricultural advice, the EESC is in favour of the flexibility proposed by the Commission. This will allow Member States to set up advisory services for farmers that are more suitable and not wholly restricted to cross-compliance.

2. Background to the opinion

2.1 Articles 290 and 291 of the Lisbon Treaty provide for amendments to the decision-making procedures between the European Commission, the Council and the European Parliament regarding conditions for implementing EU legislative acts.

2.2 The Commission's proposals to amend Regulation (EC) No 73/2009 (direct payments) and Regulation (EC) No 1698/2005 (rural development), foresee two types of amendments:

- amendments to ensure alignment with the Lisbon Treaty,
- amendments aimed at simplifying existing rules in various areas.

2.3 Under the rules currently in force, comitology is based on former Article 202 of the Treaty, according to which the Council may 'confer on the Commission, in the acts which the Council adopts, powers for the implementation of the rules which the Council lays down. The Council may impose certain requirements in respect of the exercise of these powers. The Council may also reserve the right, in specific cases, to exercise directly implementing powers itself.'

2.4 Thus, at present, on the basis of the so-called comitology decision, i.e. Council Decision 1999/468/EC, four types of committees deliver opinions on the Commission's proposals:

- advisory committees
- management committees
- regulatory committees
- regulatory committees with scrutiny.

2.5 The Lisbon Treaty's entry into force repeals former Article 202 and distinguishes between two types of acts, delegated acts and implementing acts.

2.6 Delegated acts (Article 290) are a new category of 'quasi-legislative' acts that supplement or amend certain 'non-essential' elements of a legislative act, which the legislator delegates to the Commission. No implementing measures are laid down for this Article. Indeed, the Treaty provides that in each legislative text, this delegation should take the form of a delegation mandate. The delegated act may enter into force only if no objection has been expressed by the European Parliament or the Council.

2.7 Implementing acts (Article 291) are acts adopted by the Commission or the Council in duly justified specific cases, and in the case of the Common Foreign and Security Policy (CFSP), to ensure uniform conditions for implementing legally binding Union acts.

2.8 Thus, the Member States' involvement in implementing decisions is set to change profoundly. On the one hand, traditional comitology, giving Member States negotiating powers, is restricted exclusively to cases where the harmonisation of implementation by Member States is indispensable. On the other hand, other acts, currently dealt with by the committees (usually regulatory committees), will in the future be dealt with by the Commission alone.

3. General comments on the implications of Articles 290 and 291 for the two regulations

3.1 The Commission's proposals significantly modify the respective powers of the Commission, the Member States and the European Parliament in the implementation of European acts.

3.2 The EESC believes firmly in the consultation of stakeholders during the preparation of EU legislation. Thus, it is important for the Member States' experts to be consulted in relation to delegated acts, even if they do not have decision-making powers. This allows greater upstream familiarisation with the rules and feedback on any problems encountered.

3.3 Furthermore, although this does not concern alignment with the Lisbon Treaty, the EESC reiterates the importance of the forums represented by advisory groups in the consultation of civil society stakeholders. It is vital not to call into question these forums for exchange because they play an essential role in relaying the Commission's expertise and positions. They also facilitate the upstream familiarisation of stakeholders with legislation under preparation.

3.4 With regard to the duration of delegation for delegated acts, the EESC believes that this must always be for a specified period of time.

3.5 The EESC notes that the Council and the Commission interpret the dividing line between delegated acts and implementing acts differently. Consequently, the EESC believes that the choice of procedure for each act must be made on the basis of clear criteria. Three criteria are set out in points 3.6, 3.7 and 3.8.

3.6 Some acts require their implementation to be harmonised between the Member States, as differences in how they are applied could result in distortions of competition, which could seriously undermine the proper functioning of the single market in agricultural products. This harmonisation of implementation is particularly important in certain areas. On this point, it might be asked whether, for instance, acts relating to the specific conditions concerning the implementation of the acts under the second pillar of the CAP (Articles 20 and 36 of Regulation (EC) No 1698/2005) or measures relating to the implementation of environmental measures (for instance Article 38 of Regulation (EC) No 1698/2005 on the specific conditions concerning payments for disadvantages arising from the implementation of the framework directive on water) should not be classified as implementing acts, contrary to what the Commission has proposed.

3.7 Other decisions could necessitate prior consultation with the Member States for the purposes of good mutual understanding. This also gives the Commission the benefit of the Member States' expertise. In these cases too, classification as implementing acts is justified.

3.8 In some areas, it is vital to be able to react by reaching decisions quickly. In these cases, classification as delegated acts is appropriate.

4. Specific comments regarding the proposed simplifications in the amendment to Council Regulation (EC) No 1698/2005 (rural development)

4.1 The Commission intends to reduce the number of reports Member States are required to submit on progress made in implementing their strategy plans. This measure may constitute a significant simplification for Member State administrations. Nevertheless, the EESC draws attention to the importance of retaining the requirement for Member States to report regularly on progress made in implementation.

4.2 With regard to facilitating a more tailor-made use of the advisory services, the Commission's proposal appears to be a relevant simplification measure, since it relaxes requirements for accessing aid and specifies that advisory services need not

necessarily concern cross-compliance as a whole. Indeed, one of the main constraints on developing effective agricultural advice in the EU is the restriction to verifying the application of cross-compliance for support. As a result, farmers often equate agricultural advisors with inspectors.

4.3 With regard to facilitating the use of payments by Member States to provide for 'ecologically' connecting areas between Natura 2000 areas, the Committee considers that a clear connection between the specific measures proposed and the requirements of priority species and habitats at a national and European level should be made.

5. Specific comments regarding the proposed simplifications to Council Regulation (EC) No 73/2009 (direct payments)

5.1 The EESC considers that efforts to simplify cross-compliance should not just concern administration but should also simplify matters for farmers.

5.2 The European Court of Auditors criticised the cross-compliance policy for granting aid in a special report published in 2008. The ECA advocated simplifying the legal framework in particular. The EESC endorses this recommendation.

5.3 The Commission envisages not requiring farmers to declare all their agricultural parcels if the total area of the holding does not exceed one hectare. The EESC supports this simplification measure for very small holdings, for which the cost of controls can be disproportionate. Nevertheless, the one-hectare threshold could be revised upwards.

5.4 The EESC also believes that there should be some flexibility in control measures for farm holdings. In certain cases it should be possible to adapt the timing of the control inspection and the time spent on the holding by the inspector in line with the constraints on the farmer. In particular, it is unacceptable for a farmer to sustain financial losses because he is required to be available for a control inspection scheduled on an unsuitable date.

Brussels, 16 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation (EU) No .../... of the European Parliament and of the Council laying down specific measures for agriculture in the outermost regions of the Union’

COM(2010) 498 final — 2010/0256 (COD)

(2011/C 107/07)

Rapporteur: **José María ESPUNY MOYANO**

On 7 October and 19 September 2010 respectively the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 43(2) and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation (EU) No .../... of the European Parliament and of the Council laying down specific measures for agriculture in the outermost regions of the Union

COM(2010) 498 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 3 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 17 February 2011), the European Economic and Social Committee adopted the following opinion by 182 votes to nine with eleven abstentions.

1. Conclusions and recommendations

1.1 The Committee proposes that Article 349 of the Treaty on the Functioning of the European Union be included as a legal basis, together with Articles 42(1) and 43(2), as the reference to the articles of the CAP alone is insufficient to ensure that tailored measures can be adopted for the outermost regions of the European Union.

1.2 The Committee considers that the reference to ‘volumes’ in Article 18(2)e) should be deleted, and that the wording of Article 18(2)e) in relation to Article 18(4) should be clarified to ensure the programming of the measures and actions is sufficiently flexible. ‘Volumes’ should be replaced with a reference to the financial statement for each measure, and the reference to ceilings for each action should be deleted, as the ceilings would be decided as part of the overall measure.

1.3 The Committee considers that the measure on the preservation of the landscape and traditional features of agricultural land and the conservation of stone walls supporting terraces should be extended to other outermost regions so that they can benefit from the flexibility that Madeira currently has as regards the duplication of funds on maximum annual amounts eligible for European Union aid, as set out in Annex I to Regulation (EC) No 1628/2005.

1.4 The Committee considers that a new point should be added to Article 22, ensuring that large companies located in the outermost regions are exempt from the ban on receiving state aid for taking out agricultural insurance policies.

1.5 The Committee calls for an increase in funding for the banana sector through the Programmes of Options Specifically Relating to Remoteness and Insularity (POSEI Programmes). This would cushion the negative impact that the scheduled reduction in the tariff on banana imports into the EU is having on the income of EU producers.

1.6 The Committee considers that the specific supply arrangements should be designed for each region in accordance with local agricultural production, the development of which should not be limited by aid for supply which is too excessive for products which are also produced locally

2. Introduction

2.1 The outermost regions of the EU benefit from specific treatment, as set out in Article 349 of the Treaty on the Functioning of the European Union. This Article states that taking into account the special characteristics and constraints of these regions, specific measures are to be adopted. These aim, in particular, to lay down the conditions of application of the Treaties to those regions, including common policies. Currently, nine regions belonging to three Member States are listed under Article 349 of the TFEU:

— Guadeloupe, French Guyana, Martinique, Reunion, Saint-Barthélemy and Saint-Martin (France);

— the Azores and Madeira (Portugal);

— the Canary Islands (Spain).

2.2 As regards the Common Agricultural Policy (CAP), the outermost regions benefit from specific measures included in the POSEI programmes, the main instruments of which are as follows:

- measures to Support Local Production (SLP);
- the Specific Supply Arrangements (SSA), aiming to mitigate the costs for the supply of certain essential foodstuffs;
- accompanying measures which focus on adapting the CAP to the specific characteristics of the outermost regions.

2.3 Specific measures for agriculture in the outermost regions were first introduced in 1991 for the French overseas departments (POSEIDOM) and in 1992 for the Canaries (POSEICAN), the Azores and Madeira (POSEIMA). In 2001, there was a reform of the POSEI scheme which amended the SSA and changed the way SSA aid was calculated. The reform also introduced new SLP measures and modified existing ones.

2.4 In 2006 a significant reform was made to the POSEI: the previous three regulations were replaced by a single text, Council Regulation (EC) No 247/2006. This Regulation adopted a new programming approach, decentralising the process of designing, modifying, managing and monitoring POSEI programmes by passing on these responsibilities to the competent authorities in the Member States. The new system introduced a higher level of flexibility in managing the programmes that was more adapted to local needs, and simplified the procedures for their modification. The 2003 CAP reform on direct support schemes for farmers also influenced the reform of the POSEI scheme, as the 2003 CAP reform had ensured agriculture in the outermost regions was exempt from the application of the modulation and the decoupling of aid, thereby taking into account its specific characteristics.

2.5 Following its adoption, Council Regulation (EC) No 247/2006 was modified several times to take into account the 2006 sugar and banana reforms, the Health Check (transferring to POSEI the budget corresponding to direct support measures previously managed under Council Regulation (EC) No 1782/2003) as well as other transfers of direct aid in 2007 and 2008.

2.6 Currently, it could be said that the POSEI programmes are the equivalent of the first pillar of the CAP for the outermost regions, and that there is a need to ensure the measures are maintained and have adequate funding.

3. Gist of the Commission proposal

3.1 This modification to Council Regulation No 247/2006 was required to cater for recent changes in legislation, and in particular the entry into force of the Lisbon Treaty which brought the co-decision procedure into the Common Agricultural Policy. The Lisbon Treaty makes a clear distinction between, on the one hand, the powers delegated to the Commission to adopt non-legislative acts (delegated acts) of general application in order to supplement or amend certain non-essential elements of a legislative act, as set out in Article 290, and, on the other, those conferred upon the Commission to adopt implementing acts as referred to in Article 219.

3.2 This amendment to the Regulation aims to recast and restructure the Regulation in the interests of clarity and transparency so that it reflects more effectively the reality of the POSEI agricultural scheme.

3.3 The new Regulation is more explicit in setting out the POSEI scheme's main objectives and highlights the central role of the POSEI programmes. It also includes certain measures on programming to ensure greater flexibility in adapting programmes to meet the needs of the outermost regions.

3.4 The Regulation proposes a set of very specific amendments:

- The possibility of re-dispatching products which have been processed locally using basic products which have benefited from the specific supply arrangements, without the benefit being reimbursed, will now also apply to the French overseas departments.
- The ceiling for financing for the specific supply arrangements for France and Portugal's outermost regions will be increased, without any increase to the total budget envelope.
- It will be compulsory to indicate in the programmes how the aid amounts for measures to assist local agricultural products are defined.

3.5 The Regulation also specifies that the specific supply arrangements should be designed for each region in accordance with local agricultural production, the development of which should not be limited by aid for supply which is too excessive for products which are also produced locally.

3.6 The proposal for the new Regulation does not affect the sources of funding or the intensity of Community support: changes have been made to the structure of the Regulation but no significant changes have been made to the content.

4. General comments

4.1 In the outermost regions, agriculture represents a large part of the local economy, particularly in terms of jobs, and also supports the local agri-food industry, which accounts for the bulk of industrial production in these regions.

4.2 Agricultural production in the outermost regions is extremely fragile however, mainly because of the problems created by their remoteness, the size and fragmented nature of local markets, poor climate conditions, the small size of holdings and low crop diversity. Taken together, these factors mean that production in the outermost regions is significantly less competitive than in mainland Europe. Local agriculture is heavily dependent on the outside world both for the supply of inputs and to sell its products, yet it is very isolated from the sources of supply and markets.

4.3 In most of the outermost regions, agricultural production is sharply split between production for export and production to supply local markets. However, production intended for export has to compete with other countries in the world market (the Mediterranean, Latin America, etc.) which also sell to mainland Europe, with increasingly favourable conditions of access and lower costs, due to the gradual liberalisation of the trade of agricultural products in the EU.

4.4 The EU banana sector is an example of a worrying trend: the gradual removal of protection for the outermost regions' main export products. The European Union signed a multi-lateral agreement on the banana trade at the World Trade Organisation on 15 December 2009. The agreement reduced the tariff to EUR 176 per tonne, decreasing to EUR 114 per tonne between 2017 and 2019. In addition, Association Agreements have been signed with Colombia, Peru and countries in Central America, and are likely to be signed in the near future with Ecuador. These Association Agreements establish an even greater tariff reduction: a tariff of only EUR 75 per tonne will be in force from 2020.

4.5 The 2006 reform of the POSEI scheme was positive in that it ensured the scheme was better adapted to the specific characteristics of agriculture in the outermost regions: national and regional authorities were given more responsibility for designing programmes, meaning that stakeholders could be involved much more directly in defining support measures.

4.6 The proposed amendment brings the measures of the Regulation more into line with the current operation of the

scheme and ensures that there is greater flexibility for adapting the programmes to meet the needs of each region.

4.7 As far as alignment with the Treaty of Lisbon is concerned, the Commission has tried hard to determine the distribution of delegated acts and implementing acts. The idea is to avoid changing the measures currently in force to ensure the current system can continue to operate. The proposal is somewhat premature however, because all the information on the subject is not yet available: the regulation setting out the new comitology procedure has not yet been issued.

5. Specific comments

5.1 Currently, the POSEI Regulation has a dual legal basis: the two TFEU articles on the CAP (formerly articles 36 and 37) and the specific article on the outermost regions (formerly Article 299(2)). However, in the proposal to amend the Regulation, the legal basis is restricted to the new articles 42 and 43(2) on the CAP: the new Article 349 on the outermost regions is not included. Solely referring to the CAP articles is not sufficient to ensure that tailored measures can be adopted for the outermost regions, as the specific article provides a legal basis for all provisions dealing with the exceptional circumstances in the outermost regions.

5.2 Article 18 proposes new measures and sets out the elements that the POSEI programmes presented by the national competent authorities must contain. However, some of these provisions could be misinterpreted. Section e) of Article 18(2) should be deleted because it is not clear and is superfluous as it repeats what is stated in Article 18(4): the conditions for aid and products have to be established in any case for each action. The fact that 'volumes' is listed as a compulsory element is more confusing than helpful as each measure consists of various actions, so practically speaking there is no point in referring to volumes when describing the overall measure. In Article 18(4), having to define a ceiling for each action is not necessary and makes the process of managing the programme less flexible, as the individual aid and the beneficiaries of the action have to be stated anyway.

5.3 In some outermost regions there is also a need to encourage the conservation of the landscape and traditional features of farm land, particularly the conservation of stone walls supporting terraces: maintaining the traditional landscape and ensuring that land is properly preserved is essential due to the difficult terrain and the nature of the soil. Therefore, in Article 21(1), the flexibility that Madeira currently enjoys as regards the doubling of the maximum annual amounts eligible for European Union aid (as set out in Annex I to Regulation (EC) No 1628/2005) should be extended to other outermost regions.

5.4 Group insurance policies, which must be taken out by an entire sector, are particularly important for some outermost regions. The fact that large businesses are not able to use state aid to sign up to group insurance policies makes insurance premiums more expensive for small and medium-sized producers and renders the insurance system less sustainable. There is a need to take into account the fact that the outermost regions consist of small areas of land and that for some of these regions, specific lines of insurance apply to their crops. It would therefore make sense to encourage the whole of each sub-sector to sign up to the relevant group insurance policy.

5.5 The tariff reduction established in Geneva in the multi-lateral agreement on the banana trade is already having a negative impact on the sales price of bananas and is therefore hitting EU producers hard. This negative impact will be exacerbated by the additional tariff reduction established in the bilateral agreements signed with Andean and Central American countries. In order to cushion the sharp drop in the competitiveness of the EU banana sector which has been caused by the significant reduction in tariffs, it is essential that compensatory measures are introduced that will minimise the negative impact: an increase in funding for the banana sector through the POSEI Programmes is required to ensure that the income of EU producers can be maintained.

Brussels, 17 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Roadmap for a low carbon energy system by 2050' (exploratory opinion)

(2011/C 107/08)

Rapporteur: **Mr PEZZINI**

On 12 May 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

Roadmap for a low carbon energy system by 2050

(Exploratory opinion).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 17 February 2011), the European Economic and Social Committee adopted the following opinion by 193 votes to three with five abstentions.

1. Conclusions and recommendations

1.1 Framing a properly joined-up European energy policy is a matter of great importance in the Committee's view. It is also important, within this framework, to integrate a medium- and long-term EU strategy that sets out a roadmap up to 2050 aimed at competitively and sustainably reducing the carbon content of energy produced, so as to provide a global response to the challenges of climate change and to satisfy EU societal and industrial needs.

1.2 To achieve a common energy policy, in a global context, the Committee feels that an 'integrated energy community' needs to be created, as provided for by Article 194 of the Lisbon Treaty.

1.3 The EESC believes that the Roadmap for 'decarbonising' energy by 2050 should be able to:

- assemble a variety of potential development paths for production and use of energy in Europe;
- explore consensual avenues for economic transition;
- define procedures for ongoing dialogue on the Roadmap at the various levels;
- define the measures necessary for better understanding of strategic decisions;
- outline economic compatibility systems which respect competition and are supported by society;
- highlight the essential elements of flexibility to be able to adapt rapidly to climate change, new technologies and world economic development.

1.4 The EESC believes it is essential to adopt policy mixes including:

- energy efficiency measures;
- safe CO₂ capture and storage (CCS) systems;
- robust mechanisms for emission exchange;
- competitive development of renewables;
- conversion of power plant, to low carbon energy production;
- sustainable conversion of modes of transport;
- adequate international technical standardisation;
- measures to expand high-efficiency combined heat and power production (CHP).

1.5 The EESC believes that the 2050 Roadmap should take into account four key variables:

- sharp acceleration of technical progress - scientific and technological;
- commitment by all countries and sectors concerned to assume specific responsibilities;
- sustainability of a financial framework that is stable over time; and
- measurability of interim targets and their adaptability to technical and scientific progress.

1.6 With regard to the integrated European energy mix toolbox, the EESC believes it is essential to establish without delay a consensual programme for investment in the following fields:

- smart grids and enhancement of energy transmission networks;
- research and development of joint programmes in the areas of energy sustainability, nanoscience and nanotechnologies, IT applications for network macrosystems, and home micro-systems;
- ability to regulate complex systems and provide a stable reference framework for industry and public and private operators;
- reinforcement of structured, interactive dialogue with the social partners, consumers and the public;
- a solid framework for international cooperation and dialogue, bringing together old and new industrialised countries around agreed, measurable targets.

1.7 As regards short-term targets, the EESC believes attention should be focused on the immediate introduction of:

- energy-efficiency measures, particularly in construction and transport, paying greater attention to European directives;
- rapid, widespread enhancement of emission exchange mechanisms;
- practical systems for phasing-in of low-carbon electricity, and acceleration and dissemination of the pilot projects in operation;
- substantial support for pilot projects to develop portfolios of low-carbon, affordable technologies;
- fiscal and financial support allowing widespread use of alternative energies;
- more education mechanisms and training systems in scientific disciplines, based on integrated, multidisciplinary models;
- development of energy infrastructure and Trans-European Networks, and dissemination of smart grids standardised using European standardisation systems;
- an efficient framework for international cooperation.

1.8 In the medium term the EESC believes that the following should be ensured:

- a global market for affordable, low-carbon technologies, with common international technical standards;
- regular measuring of achievement of interim targets, to ensure that responsibilities are shouldered in the EU and on the global market;
- updating of targets in line with change, scientific discoveries and changes to the world economic and trade map;
- where necessary, reframing of the strategies necessary for 60-80 % greenhouse gas emission cuts;
- practical dissemination of joint instruments for management of networks and energy storage and transmission hubs;
- better mechanisms for governance, achieving consensus and interactive dialogue between all stakeholders;
- the development of nuclear fission in those Member States that wish to continue using this technology, moving from Generation III to IV, and of techniques for reusing most of the materials;
- support for research on nuclear fusion, based on the European Fusion Development Agreement (EFDA) and in particular on the JET experiment (Joint European Torus) supported by the European Commission that is paving the way for the launch of ITER post 2020;
- stepping up the fight against energy poverty, which is in danger of excluding increasingly extensive groups of people and of countries as a whole.

1.9 The EESC believes that initially the following are needed:

- political commitment to an integrated EU energy system with common rules;
- harmonised, stable regulatory frameworks;
- Community technical standards;
- European power plants with compatible interoperability standards;
- Community schemes for uniform staff training;
- effective mechanisms for exchange of best practices and available technologies;

- interoperable IT security and control systems;
- a widespread cultural policy promoting energy sustainability.

1.10 The Committee deems it vital to develop and step up a consistent communication policy at EU level, delivering an effective, credible and accessible message to the various target groups and, above all, to the general public.

2. Introduction

2.1 Global climate change is a widely-acknowledged fact, but the nature and extent of its effects are less widely recognised.

2.2 The EU must decide what Europe wants to achieve by 2020 and beyond. The Commission is proposing an Energy Strategy 2011-2020, along with a Roadmap for a low carbon energy system by 2050, to promote sustainable growth.

2.3 The Commission has asked the EESC for two separate exploratory opinions on the medium- and long-term development perspectives - one up to 2020 and the other up to 2050. The present exploratory opinion will focus on the latter timeframe.

2.4 The Roadmap for 'decarbonising' energy by 2050 should be able to:

- **assemble a variety of potential competitive development paths** for production and use of energy in Europe, in line with long-term global climate targets and EU societal and industrial needs;
- **explore consensual avenues** for economic transition in respect of today's and tomorrow's energy policy decisions, accepted by the social partners and civil society through ongoing interactive dialogue;
- **define procedures for ongoing dialogue** on the Roadmap at the various levels, between political decision-makers, public authorities, energy operators and distributors, industry, trade unions, environmental organisations, trade and services, users in the electricity, residential, service and transport sectors, science and technology communities and educational institutions, financial and credit systems, farmers, consumers and the public;
- **define the measures necessary** for better understanding of the strategic decisions needed to achieve the greenhouse gas reduction targets of 60-80 %, particularly through large-scale introduction of new energy technologies to achieve long-term stabilisation of atmospheric concentration of CO₂ below 450 ppmv (parts per million by volume);

- **outline economic compatibility systems** which respect competition and are supported by society, for public and private financing, for taxation and for budgetary planning;

- **highlight the essential elements of flexibility**, needed because of the - often sudden - changes in scientific research and economic trends and the evolution of social culture.

2.5 In all the scenarios available thus far with targets of cutting emissions by 80 % by 2050, the EESC feels a key role must be played by policy mixes including:

- energy efficiency measures;
- widespread CO₂ capture and storage (CCS) systems and reinforced mechanisms for regulating emission exchange;
- substantial increases in shares of renewables;
- development of nuclear fission, moving from Generation III to IV, and support for nuclear fusion research;
- substantial increases in shares of electricity produced using low carbon energy systems;
- major contributions to increase conversion of road, air and sea transport and to reduce energy consumption in the residential building and service sectors;
- investment in RTD&D and transfers, in respect of market innovation;
- speeding-up of technical standardisation work at EU and international level;
- measures to expand high-efficiency combined heat and power production (CHP).

2.6 With regard to the integrated European energy mix toolbox, which will be necessary irrespective of the policy mix adopted and discoveries made, the EESC believes investment is needed to:

- develop smart grids and network configurations developing electricity and heat storage technologies;
- incorporate operationally into the European area of energy research and innovation the various RTD&D and technological innovation programmes;
- establish a solid, stable political framework within which all the stakeholders involved can operate with a reasonable level of certainty;

- launch strong capacity-building measures to create a system of effective levels of governance;
- identify stable, reliable channels for international cooperation.

2.7 At global level, the report by the IEA (International Energy Agency) and various other international bodies outline a number of scenarios showing that continuing current energy operation in the medium-term would be unsustainable from many points of view - environmental, economic and social.

2.8 At global level, all countries should undertake to adopt low-carbon development strategies in high-emission sectors by 2011. Otherwise there is the danger that European energy intensive industries will fail to remain competitive on the global market and thus relocate their production (carbon leakage) out of Europe without any reduction of CO₂ emissions. These strategies should also include, for example, swift cuts in tropical deforestation activities.

2.9 The G20 identified two groups of key areas for global action – one focusing on the short term and one focusing on the medium term.

2.9.1 The first group covers measures aimed at promoting demand and supporting income, such as:

- increasing energy efficiency;
- improving infrastructures to make them low-carbon;
- support for markets through clean technologies.

2.9.2 In the medium-to-long term, however, measures are aimed at winning the loyalty of private entrepreneurs and investors in sectors which will become the pillars of eco-compatible development. These include:

- launching pilot projects, especially in the area of CCS;
- incentives for research at international level;
- incentives for investment in low carbon technologies.

2.10 According to various scenarios, global emissions could be cut by 50 % by 2050 - four main factors will contribute to this:

- energy efficiency - contributing more than half;
- renewable resources - about a fifth;

- CO₂ capture and storage technology - another fifth; and
- nuclear sources - the remainder.

In actual fact, some of the technologies included in the scenario are no longer available or need substantial improvements or cuts in costs.

2.11 Technologies to be used could include CCS and development of electric vehicles.

2.11.1 Considerable technological progress is expected in the area of electric vehicles:

- in battery-charging capacity;
- in charging from renewables, connected in smart grids;
- in buffer techniques, to remedy the discontinuity of certain renewable energies and the storage and conservation of energy;
- in standardisation processes to ensure fast replacement of vehicle batteries in equipped supply centres.

2.12 Considerable progress is also expected, probably beyond 2020, in development of hydrogen-powered fuel-cell vehicles.

2.13 Electric vehicles currently lack a proper EU legal framework. The Commission intends to remedy this in the near future (COM(2010) 186 final).

2.14 In the EESC's view, decarbonised electricity generation would offer substantial opportunities to reduce emissions in end-use sectors (for example, switching from fossil fuel heating to efficient gas-driven heat pumps).

2.15 A combination of a range of measures will be required to achieve the 'virtuous' scenario of deep cuts in emissions (including a production mix of renewables and nuclear, energy efficiency, investment in new technologies and carbon capture and storage). Moreover, it is estimated (IEA's 2010 ETP report – *Scenarios and strategies to 2050*) that in order to halve emissions, *government funding for RD&D in low-carbon technologies will need to be two to five times higher than current levels and best practices in design and implementation will need to be adopted.*

2.15.1 The 2010 IEA report on *Energy Technology Perspectives* analyses and compares various scenarios, setting out the main options for a more secure and sustainable energy future.

2.16 In the EESC's view, a fundamental consideration here is that many energy challenges have a huge impact on local communities. These communities seek solutions tailored to their specific circumstances, and worry that their standard of living and development may be reduced or curtailed.

2.17 The progress to be made and/or planned under the 2050 Roadmap towards a genuine energy revolution based on low-carbon technologies will involve many choices, underpinned by five key variables:

- acceleration of technical progress - scientific and technological;
- commitment by all countries and sectors concerned to assume specific responsibilities;
- sustainability of a financial framework that is stable over time;
- measurability of interim targets and their adaptability to technical and scientific progress; and
- the behaviour of the various players in respect of 'announced policy' and the risk of misinformation, either overly optimistic or overly doom-laden.

3. Scenarios and options

3.1 A range of scenarios and options have already been set out by public and private international bodies and by non-profit organisations aimed at 'offering' bases for strategies, policies and operational instruments.

3.2 The baseline scenario of these exercises almost always assumes that governments introduce no new energy and climate policies.

3.3 The main difference between the **target-oriented scenarios** lies in the timing of the impacts rather than their ultimate magnitude; they set the goal of cutting energy-related CO₂ emissions by 30 % by 2030 and halving them by 2050 (compared to 2005) and examine the least costly and fastest means of achieving those goals, deploying affordable, low-carbon technologies:

- investment is EUR 36 trillion (EUR 1 = USD 1.28) (17 % more than in the baseline scenario; cumulative fuel savings are EUR 87 trillion higher than in baseline);
- CCS is used to capture 9.4 Gt of CO₂ from plants in power generation (55 %), industry (21 %) and fuel transformation (24 %);

- CO₂ emissions from the residential and tertiary sectors are reduced by two-thirds through low-carbon electricity, energy efficiency and the switch to low- and zero-carbon technologies;

- almost 80 % of light-duty vehicle sales are plug-in hybrid, electric or fuel-cell vehicles;

- CO₂ emissions from power generation are cut by 76 %; its carbon intensity falls to 67 g/kWh; and

- CO₂ emissions in industry fall by around a quarter, mainly thanks to energy efficiency, fuel switching, recycling, energy recovery and CCS.

3.3.1 To achieve these goals, a portfolio of low-carbon, affordable technologies will be necessary. No one technology or small group of technologies can deliver the magnitude of change required.

3.4 Decarbonising the electricity sector is crucial and must involve considerable increases in the shares of renewables and - in those Member States that have chosen to use it - nuclear power, and deployment of CCS systems and the expansion of combined heat and power systems in fossil-fuel power plants.

3.5 Focusing efforts on technological research, demonstration and market deployment is fundamental to ensuring that the implementation of technologies keeps pace with the proposed decarbonisation goals.

3.6 *The scenario of developing nuclear fusion*

Fusion is the energy source that powers the sun and the stars. On earth, it offers the prospect of a long-term, safe, environmentally benign energy option to meet the energy needs of a growing world population. Within the European Fusion Development Agreement (EFDA) fusion scientists now manipulate plasmas of hundreds of millions of degrees, in fusion devices on an industrial scale, the largest of which is JET (Joint European Torus). Based on these and other worldwide achievements, the ITER experimental reactor - the world's biggest energy research project - is currently being built in France; its fusion power will be equivalent to that generated by an average-sized reactor (500/700 MW). ITER is the bridge towards a first demonstration power plant and later to a commercial reactor of an average of about 1.5 GWe. (The fuel consumption of an electric nuclear fusion power plant is low. A 1GW power plant would consume around 100 kg of deuterium and three tonnes of natural lithium in a year whilst generating 7 billion kilowatt-hours. To generate the same amount of electricity, a coal-fired power plant would need around 1.5 million tonnes of coal (source: <http://fusionforenergy.europa.eu>)).

3.6.1 The primary reaction on which fusion is based generates no nuclear waste or pollutant emissions. (It should be noted that although the walls of the reaction chamber become radioactive, over the life of the reactor, by selecting the right materials this radioactivity will decay over several decades, with the possibility of re-using all the materials in a new reactor after around 100 years. (Source: www.jet.efda.org)). The reaction occurs with the fusion of atoms that are abundant in nature, particularly in seawater. Moreover, the process is inherently safe.

3.6.2 The elements involved in the primary reaction are deuterium, tritium, lithium, and helium. The process of fusing these atoms releases a large quantity of energy, which is given off in the form of heat, in an exchanger, at a temperature of 550/650 °C (an average nuclear fission reactor generates an average temperature of 700 °C). The development of advanced materials should enable temperatures of 1 000 °C to be reached. The vapour produced drives the turbine (rotor), which then generates induced current (stator).

3.6.3 The fusion of a deuterium nucleus (1 proton + 1 neutron) and a tritium atom (1 proton + 2 neutrons) gives rise to one helium nucleus (2 protons + 2 neutrons) and one neutron. This neutron combines with a lithium atom (3 protons + 3 neutrons), and creates one helium atom (2 protons + 2 neutrons) and one tritium atom (1 proton + 2 neutrons). Within the reaction chamber (Torus), the matter takes a particular form known as plasma, which reaches an average temperature of some 200 million °C.

3.6.3.1 Some 50 MW of energy is needed to heat the plasma in ITER. Thus the fusion process will produce ten times the power consumed in initiating the process: $Q > 10$.

4. General comments

4.1 The EESC would highlight the following issues in respect of the 2050 Roadmap:

- **costs and return on investment:** moving from an annual average of some EUR 130 billion over the last three years to an average of EUR 600 billion;
- **finding funds for investment:** providing a stable framework for investors, adequate investment return schemes, financial support and low-tax incentives;
- **decarbonising the electricity sector:** radical energy policy change and significant investment are needed to break the current dependence on fossil fuels;
- **design, operation and deployment of electricity grids,** ensuring the flexibility of smart grids and power transformation plant, for better management of peak loads and a rational feed-in and redistribution of the various forms of

energy (feeding in renewable energy sources and using smart meters can change the electricity transmission system);

- **energy efficiency programmes,** especially to improve carbon emissions levels from **industry** (22 % of total emissions);
- **reducing** direct and indirect **global emissions** from the **buildings sector** (40 % of total emissions), focusing on all structural aspects;
- as regards **transport** (38 % of total emissions) – on which the EESC is drawing up a specific opinion – achieving deep cuts in carbon emissions by 2050 will require less use of traditional fuels, an increase in the share of better gaseous fuels (LPG, CNG (compressed natural gas), biogas), and technological breakthroughs and innovations;
- **international coordination:** Europe, the USA, Japan, China, India and Brazil should set common 2030-2050 targets, with due respect for the specific nature of each area, for levels of economic development and endowments of natural resources.

4.2 Targets on cutting CO₂ emissions by 20 % by 2020 have already been set: the EESC is currently drawing up an opinion on this.

4.3 As regards the prospects for the 2050 Roadmap, the EESC would highlight the following key issues:

- acceleration of technical progress - scientific and technological: increasing funding and programmes, not only in respect of climate and energy sources, but above all regarding the use and conservation of natural and strategic resources;
- commitment by all countries, sectors, and players concerned to clearly demarcate and assume responsibilities in the EU;
- sustainability of a financial framework that is stable over time, in respect of the EU budget, the Stability and Growth Pact and Member States' fiscal policies;
- measurability of the interim targets and their adaptability to technical and scientific progress;
- the behaviour of the various players in respect of 'planned and announced policy' and the risk of misinformation;
- support for scientific and technical culture and cultural and financial incentives to increase the number of students in higher-level technology institutes;

- more rigorous compliance and enforcement by Member States of EU directives on energy efficiency and saving (e.g. the delays in transposing Directive 2002/91/EC on the *Energy Performance of Buildings*);
- more education and training mechanisms in scientific disciplines: engineering, physics, basic chemistry, architecture, urban planning and plant engineering, focusing on creating integrated systemic models, particularly in the area of nanoscience and energy system nanotechnologies, suitable for generating low-CO₂ energy;
- political commitment to an integrated Community energy system with common rules; a harmonised, stable regulatory framework; Community technical standards; standardised European power plants; Community schemes for uniform staff training; exchange of best practices and information on BAT (Best Available Technologies); interoperable IT security and control systems.

4.4 To the four industrial initiatives launched in June 2010 (wind, solar, CCS and smart grids) should be added bioenergy and nuclear fission, in addition to the FCH JTI (Fuel Cell and Hydrogen Joint Technology Initiative) and ITER, for nuclear fusion.

4.5 The EESC believes it is essential to promote more efficient use not just of energy but also of all natural resources, in particular water resources.

4.6 The EESC stresses that 'priority should be given to the development of alternative fuels and technologies for transport power, heat and light. The best strategy for climate change is to develop alternative energy options other than fossil fuels.' (cf. CESE 766/2010).

4.7 The EESC calls for stronger measures to combat energy poverty, which is in danger of excluding increasingly large groups of people (green options can be costly in terms of higher prices and/or taxes, especially for the more vulnerable

population groups), and for European expertise to be pooled to create new 'green' jobs - effective, sustainable and competitive - and reduce inequalities⁽¹⁾, giving consumers 'access to energy services and jobs created by the low-carbon economy'⁽²⁾.

4.8 The EESC believes electricity production to be a priority area of action to develop increasing shares of renewables and nuclear fission generation moving from type III to IV (with minimum waste). Investment should be made in waste-processing technologies, and possible ways of reusing such waste in the field of nanoscience should be explored.

4.9 The EESC believes CCS systems to be extremely important for cutting emissions, and 'this technology should therefore be developed more rapidly and used as soon as possible'⁽³⁾ - at a reasonable and competitive cost - and not just on the five pilot projects.

4.10 The EESC believes it is essential to boost all aspects of the internal energy market 'as regards infrastructure, the public procurement system, proper operation of the market and consumer protection. The basic issue here is the need to develop energy infrastructure and the trans-European networks in order to establish the internal market in energy'⁽⁴⁾.

4.11 The EESC believes that an integrated energy community is essential, in implementation of Article 1 of the Treaty (TFEU)⁽⁵⁾, in an integrated European reference framework focused on competitiveness, wellbeing and creating jobs for the people of Europe.

Brussels, 17 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹⁾ OJ C 48, 15.2.2011, p. 65.

⁽²⁾ OJ C 48, 15.2.2011, p. 81.

⁽³⁾ OJ C 27, 3.2.2009, p. 75.

⁽⁴⁾ OJ C 48, 15.2.2011, p. 81.

⁽⁵⁾ OJ C 83, 30.3.2010, p. 47.

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — Action Plan on global navigation satellite system (GNSS) applications’

COM(2010) 308 final

(2011/C 107/09)

Rapporteur: **Mr McDONOGH**

On 14 June 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

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 Global Navigation Satellite System (GNSS) Applications

COM(2010) 308 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 16 February), the European Economic and Social Committee adopted the following opinion with 112 votes in favour and two abstentions.

1. Conclusions and recommendations

1.1 The Committee welcomes the Communication from the Commission on the ‘Action Plan on Global Navigation Satellite System (GNSS) Applications’. We believe that the success of the European GNSS programmes is vitally important to the future prosperity and security of the EU. We call on the Council, the Parliament, the Commission, and the member states to properly recognise the potential of this critical infrastructure, and to back it with sufficient funding and resources to succeed.

1.2 European GNSS is critical to achieving the vision of smart, sustainable and inclusive growth envisioned by the Europe 2020 strategy⁽¹⁾. European growth, innovation and wealth creation will be impacted by the success of the programme. In addition to the substantial benefits to transportation systems, GNSS is critical to the Digital Agenda⁽²⁾ for applications like context-aware computing, smart grids and the Internet of Things.

1.3 The Committee regrets that the delay in delivering GALILEO has cost Europe the opportunity to position European GNSS as the dominant technology in Europe and beyond. The United States GPS system is now the clear global technology leader for GNSS solutions. This delay is continuing to cost Europe dearly in terms of lost revenue from the sale of

the technology and services, but also in terms of public utility – smarter transport systems, smarter energy systems and better search and rescue services.

1.4 Europe needs to provide European GNSS services on its own infrastructure, which does not depend on the priorities of the US, Russian or Chinese military for its reliability.

1.5 Given the proliferation of GPS, the Committee calls on EU industry to focus on interoperability between Galileo and GPS, since the applications using both satellite constellations can benefit from an increased accuracy and a better availability of the signals.

1.6 EGNOS is already more than a year in service. Unfortunately, the EU is already late pushing this marketing and innovation agenda. The Commission needs to accelerate the pace of market development and innovation, especially considering the cost of GALILEO's delay (up to EUR 3bn/annum) and the increasing competition from the US, Russia, China and Japan.

1.7 The slow development of GNSS downstream applications means innovation, wealth creation and market position is being lost. The GNSS upstream and downstream economic, social and environmental benefits of a thriving market for European GNSS applications would be very substantial.

⁽¹⁾ EUROPE 2020 A strategy for smart, sustainable and inclusive growth - COM(2010) 2020.

⁽²⁾ A Digital Agenda for Europe - COM(2010)245 final.

1.8 The Committee congratulates the Commission and the GNSS Supervisory Authority (GSA) on the work that has been done to-date with very limited resources. And in the context of those resources, the prioritisation of domains in the Communication is logical; and the strategies outlined for each domain are also well thought-out.

1.9 European GNSS currently has a low share of the global market for GNSS products and services. The Committee calls for the production of a detailed business plan for aggressive market share growth and the appointment of a first-rate team of skilled business professionals responsible for achieving targets. The Committee recommends that a contract should be placed with an expert firm, under the direction of the Commission and the GSA, to deliver the commercialisation of European GNSS.

1.10 The communication appropriately identifies the qualities of 'Accuracy and integrity' of EGNOS/GALILEO as big competitive differentiators in the market for global GNSS services; but this source of differentiation is eroding fast as competitors invest and upgrade their systems. The Committee believes that there is a need to continuously invest in the upgrading of the EGNOS and GALILEO systems to maintain technical superiority. The Committee requests the Commission to especially identify, additional sources of strategic differentiation and to invest in the development of sustainable competitive advantage.

1.11 The Committee believes that the surprising exclusion of GALILEO from mention in the Digital Agenda pointed to a lack of joined-up thinking at policy level within the Commission. The Committee would stress the need for the Commission to identify synergies between the European GNSS programmes, the Digital Agenda and The Innovation Union flagship initiatives, particularly around innovation, interoperability of applications, marketing and budgets. Substantial benefits could be found in working together to develop smart applications and services and to achieve mutual objectives with the minimum amount of spend.

1.12 The Committee calls on the Council to urgently address the challenge of funding EGNOS/GALILEO. The current situation undermines efforts to create a strong European commercial GNSS platform.

1.13 The Committee believes strongly that Europe should leverage the unique position of GALILEO as the world's first completely non-military civil GNSS to build market share in non-aligned countries, especially in Africa and South America. Towards that end, the Commission should play a highly active leadership role in the United Nations International Committee on GNSS ⁽³⁾.

⁽³⁾ <http://www.oosa.unvienna.org/oosa/SAP/gnss/icg.html>.

1.14 The Committee stresses the importance of a brand strategy and a quality mark ⁽⁴⁾ for EGNOS/GALILEO technology and services. The Committee calls on the Commission to develop both of these essential tools for market success. Resources and effort will be squandered if there is not a clear brand strategy underpinning the marketing efforts. And irreparable damage to reputation will be caused by the release of poorly designed, engineered or implemented EGNOS/GALILEO technology.

1.15 The Committee refers the Commission to previous opinions by the Committee on GALILEO, EGNOS, Europe 2020 and the Digital Agenda ⁽⁵⁾.

2. Background

2.1 We have become so dependent on services provided by satellite navigation in our daily lives that should a service be reduced or switched off, the potential disruption to business, banking, transport, aviation, communication etc. to name but a few, would be very costly (e.g. in terms of revenues for business, road safety etc.).

2.2 GPS (US), GLONASS (Russia) and the other systems developed by India, Japan and China are military systems under military control – indeed they provide a civil service but that civil service could be either switched off or made less precise when desired e.g. in case of conflict.

2.3 The EGNOS (European Geostationary Navigation Overlay System) and GALILEO programmes were initiated in the mid 1990s with the aim of establishing an independent European Global Navigation Satellite System (GNSS). EGNOS is a regional satellite based augmentation system for Europe that improves the signals coming from existing satellite navigation systems such as GPS. GALILEO is currently under development as Europe's Global Satellite Navigation System.

2.4 The GALILEO Joint Undertaking (GJU) - a PPP body setup in 2003 and scrapped in 2006 - was given the task of supervising GALILEO's technological development activities but, according to the European Court of Auditors, the GJU 'was seriously constrained by governance issues, an incomplete budget, delays and the industrial organisation of the development and validation phase'.

⁽⁴⁾ By 'quality mark' the Committee means a trademark system of licensing approved EGNOS/GALILEO technology providers to sell technology and solutions that meet rigorous technical standards of excellence. For example, such a trademark system was used very successfully by the global WiFi Alliance to accelerate the market success of wireless LAN technology. See http://en.wikipedia.org/wiki/Wi-Fi_Alliance.

⁽⁵⁾ OJ C 221, 8.9.2005, p. 28.; OJ C 317, 23.12.2009, p. 103–104, OJ C 54, 19.02.2011, p. 58.

2.5 As a result of the failure of the PPP, the EU enacted a Regulation in 2008 to take full control and ownership of the EGNOS and GALILEO programmes. Under the Regulation, the Commission is responsible for the management of the programmes; all questions regarding the security of the systems; and the management of the funds allocated to the programmes. The European GNSS Supervisory Authority (GSA) is responsible for the security of the programmes; to contribute to the preparation of the commercialisation of the systems; and undertake other tasks given to it by the Commission relating to the programmes.

2.6 The budget for the implementation of the programmes between 1 January 2007 and 31 December 2013 is EUR 3 405 million. However, this ad hoc funding was inadequate and there has been no detailed commitment to future funding of the programmes. This funding problem has seriously hampered development efforts.

2.7 The Global Navigation Satellite Systems (GNSS) Applications Action Plan aims to place European industry in pole position to take full advantage of the global downstream market worth about EUR 100 billion by using GALILEO and EGNOS. The Commission believes that European industry should reap maximum benefit from the investment made in the programmes. Coordinated action by the European Commission among Member States will draw as much attention as possible to the necessity of investment in research, ensure the widest possible dissemination of vital information and optimise awareness raising activities. This will avoid a conflict of standards and a duplication of efforts if undertaken by individual Member States.

2.8 The GNSS Applications Action Plan is also important to maximise the value created in Europe by the Europe 2020 flagship initiative 'A Digital Agenda for Europe'. For example, European GNSS could displace US, Russian or Chinese technology that might be used for the Internet of Things.

2.9 With GALILEO, Europe is also able to exploit the opportunities provided by satellite navigation to a much greater extent than otherwise possible. GALILEO will help Europe maintain and develop its know-how in the space, receivers and applications sectors, securing economic revenues and jobs. Independent surveys and market forecasting indicate that this and the externalities in terms of public utility (new applications making transport more effective, better road management, traffic less polluting, rescue operations more effective etc.) are worth up to EUR 90 billion over the first twenty years.

2.10 However, European GNSS is trying to establish itself in an industry already dominated by the US GPS system. Furthermore, the Russian GLONASS system is developing and upgrading its public services quickly and the Chinese COMPASS system is expected to be offering services from next year.

2.11 China is expanding its regional Beidou navigation system into the global COMPASS system with the explicit intent of offering competitive civil services worldwide. In

pursuit of that ambition it has arrogated part of the radio spectrum allocated to GALILEO, claiming that Europe was not using it so they had a right to take it. The EU is trying to resolve the matter at the highest diplomatic level.

3. General comments

3.1 To secure the economic and quality of service potential of European GNSS, GALILEO and EGNOS must become the GNSS standard in Europe, interoperable with GPS, and preventing others (China, Russia etc.) from getting a foothold.

3.2 The interoperability between Galileo and GPS is an advantage that has to be grasped by the EU industry, since the applications using both satellite constellations can benefit from an increased accuracy and a better availability of the signals.

3.3 The EGNOS and GALILEO programmes need clear leadership and unambiguous, full support from the EU to repair the damage to market confidence caused by the collapse of the GJU PPP.

3.4 Creating and leveraging the competitive advantages of the European GNSS are critical to success. Including regulatory and other market measures the EU can leverage in its favour.

3.5 A successful market strategy must take account of a product/market/value-chain focus for each of the sectors comprising the European GNSS industry: electronics, software, mobile, radio, hardware, satellite, and services.

3.6 While respecting global competition laws, the EU should also define the sectors in which new regulations could be introduced to make use of the benefits brought by GNSS, in particular EGNOS and GALILEO: Perhaps the EU could legislate for special areas, like aeronautic navigation systems, which mandate the use of GALILEO receivers in applications and products (as the Russians have already done for GLONASS). Maybe the EU could also stipulate minimum accuracy and integrity standards for certain applications to make use of GALILEO's benefits and disadvantage competition.

3.7 Given the importance of receiver chipsets⁽⁶⁾ to a market penetration and application development strategy, the development of low-cost dual receiver chipsets (GPS + GALILEO) is critical. R&D spend should be especially targeted at this objective.

⁽⁶⁾ A chipset or chip set refers to a group of integrated circuits, or chips, that are designed to work together. They are usually marketed as a single product. A chipset is usually designed to work with a specific family of microprocessors. Because it controls communications between the processor and external devices, the chipset plays a crucial role in determining system performance.

3.8 Experience-curve-effects of high volume production are critical to low cost manufacture of receiver chipsets. Special study should be carried-out into how the EU can ensure that GALILEO receiver components can achieve sufficiently high manufacture volumes to compete with GPS-only receivers.

3.9 In considering how to develop the application industry for European GNSS, the Commission should give leadership in the creation and development of innovation clusters.

3.10 The Commission could help to stimulate the development of applications, products and services for GNSS by recruiting large corporate firms as project champions. These champions could perhaps lead the development of SME clusters in specific application domains or product/market spaces.

3.11 Encouragement and support for of entrepreneurship and innovation will be critical to the successful involvement of SMEs in the development of the market for GNSS Applications. The Entrepreneurship and Innovation Programme should be used to foster SME involvement.

4. Specific comments

4.1 Strategy

4.1.1 GALILEO and EGNOS must become the underlying GNSS standard in Europe.

4.1.2 The EU should urgently take the opportunity to extend EGNOS to cover all significant airports in Africa. This would be an astute long-term strategic move, and it should be taken before our competitors act, especially China.

4.1.3 EGNOS is already more than a year in service. There should be more urgency in the marketing and innovation programmes.

4.1.4 The Commission and the GSA have done an excellent job with a difficult task and very limited resources. Perhaps an expert firm should be contracted soon to deliver the commercialisation of European GNSS. The commercial development of EGNOS and GALILEO is critical to long-term success, and too-little work has been done to-date on this vital, complex challenge.

4.1.5 The EU needs an aggressive market development strategy, led by a highly skilled team, with clear, measurable objectives.

4.1.6 Clear leadership and full support from the EU is needed to eliminate any uncertainty surrounding GNSS.

4.1.7 Confidence in the leadership and management of the GNSS programmes is critical to support within the EU and in the market. Current leadership and management structures should be examined to assess what if any changes need to be made.

4.1.8 Additional funding for the marketing and innovation programmes should be found by working creatively and synergistically with other initiatives, like the Digital Agenda and the Innovation Union.

4.1.9 A marketing and innovation strategy based on value-chain/product/market segments is needed for each part of the downstream industry: electronics, software, mobile, radio, hardware, and services.

4.1.10 The Commission should investigate the sectors in which new regulations could be introduced to make use of the benefits brought by the European GNSS applications and technologies.

4.1.11 Regulatory measures should be identified which favour the selection of EGNOS/GALILEO technologies over inferior technologies, especially for applications that demand confidence in continuity of service or high levels of accuracy and integrity, or for security.

4.1.12 EU should flex its muscles in European industry standards fora (transport, aviation, agriculture etc.) to get preference for EGNOS/GALILEO technology and to promote the existing interoperability between GALILEO and GPS.

4.1.13 Driving down the cost of EGNOS/GALILEO receiver chipsets below GPS-only chipsets should be a major strategic priority. Experience-curve-effects of high volume production are critical to low-cost manufacture of receiver chips, and thus their adoption by solution providers.

4.1.14 Strong efforts should be made to find synergies with the Digital Agenda and Innovation Union initiatives for collaborative innovation and marketing programmes.

4.1.15 Special attention should be given to the stimulation and support of entrepreneurship among SMEs so that they are mobilised to provide GNSS applications.

4.1.16 A deliberate programme of innovation cluster development should be undertaken to cover all product/market opportunities for EGNOS and GALILEO.

4.1.17 A value map should be created to show all the firms and organisations that could or should be involved in creating technology, applications and services for EGNOS/GALILEO. The value map would show existing and potential linkages between the multitudes of players. It would be a powerful strategy tool for identifying opportunities, analysing problems and developing plans.

4.1.18 Large corporate firms should be identified and recruited to formally champion and lead GNSS application development within Europe.

4.2 Innovation

4.2.1 The quality of EGNOS/GALILEO technology and services introduced to the market must be always of the highest standard. Strict quality control on technology development and implementation at end-user level must be maintained.

4.2.2 New sources of differentiation beyond accuracy and integrity should be found, perhaps by means of business model innovation that creates new enhanced offerings that combine with other technologies and services.

4.2.3 Smart products and services, using integrated technologies and service components should be encouraged in cooperation with Digital Agenda and Innovation Union programmes.

4.2.4 The Application Forum should look for participants outside the current technology and services domains. Such involvement would stimulate innovation and creative thinking beyond the currently identified sources.

4.2.5 The development of low cost dual GPS/EGNOS/GALILEO chipsets should be a priority.

4.2.6 A strategy is needed to sufficiently capture the experience curve effects of high volume production critical to

low cost manufacture of receiver chipsets, so that EGNOS/GALILEO chipsets can compete on a cost-basis with GPS only chipsets.

4.3 Marketing

4.3.1 The job of developing the GNSS Application market should be in the hands of marketing professionals. Current structures and personnel should be reviewed against this requirement. Maybe an expert firm needs to be contracted to work under the direction of the Commission and GSA to do this work.

4.3.2 A thorough, well considered and full financed marketing plan is essential for the successful execution of the Action plan.

4.3.3 SMART goals should be set to grow global share of GNSS downstream revenues. Goals should be set by target market/value chain segment.

4.3.4 A Global brand strategy should be developed for EGNOS/GALILEO to align objectives, highlight the brand value, simplify market communications, and bring clarity to marketing priorities.

4.3.5 A well-funded and properly targeted public communications and education campaign should be launched to promote EGNOS/GALILEO to the citizens. This should only be done in the context of a proper brand strategy.

4.3.6 A quality mark should be developed for all EGNOS/GALILEO approved technology so that the EGNOS/GALILEO brand can be protected from reputational damage.

4.3.7 Evangelists (champions) should be engaged to spread the word and recruit SMEs to the development opportunity.

4.3.8 Champions and influencers should be identified and courted in all target markets, especially among large corporate firms.

Brussels, 16 February 2011.

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 and the Council on the use of security scanners at EU airports'

COM(2010) 311 final

(2011/C 107/10)

Rapporteur: **Bernardo HERNÁNDEZ BATALLER**

On 15 June 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 and the Council on the Use of Security Scanners at EU airports

COM(2010) 311 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 16 February), the European Economic and Social Committee adopted the following opinion by 104 votes to one, with five abstentions.

1. Conclusions

1.1 The EESC agrees that aviation security is a legal right that must be protected. However, it believes that the Commission should take a more holistic approach in which 'enhanced intelligence sharing and human factor analysis' would become key elements of the system, and not just the use of technologies which raise serious and as yet unresolved doubts and risks.

1.2 The use of this type of scanner could particularly affect fundamental rights (human dignity, personal privacy and data protection), should images be unduly stored, printed, transmitted or retained, and subsequently disseminated. The EESC believes that in all other circumstances passengers should be allowed to opt out of such checks and should always maintain the right to fly, regardless of the option they choose. In any event, there must be sound legislative guarantees that those who opt out will not suffer additional burdens such as facing annoying delays while queuing for security checks or exhaustive searches.

1.3 With regard to health protection, the EESC calls on the Commission to provide conclusive studies on the potential implications of such devices for the health of passengers and of staff submitted to frequent checks in the course of their work; in the event of any doubt, it would be preferable to use other types of instruments.

1.4 The EESC wishes to remind the Commission that the Communication makes no mention of the effective legal

remedy that should be guaranteed to the weaker party, i.e. the passenger using airlines and airports, for without sufficient procedural safeguards, individual rights are not guaranteed.

1.5 The Committee believes that serious consideration should be given to alternatives to the use of security scanners or body scanners. An alternative would be to use technical systems to identify broad potential sources of threat which could then be investigated in greater detail by means of 'pat-down' searches.

2. Introduction and gist of the communication

2.1 The Commission communication addresses the increasing use of Security Scanners at airports of the European Union, regulated at national level.

2.2 For the Commission, only the common European standards for aviation security can provide the framework ensuring a harmonised approach to the use of Security Scanners at airports.

2.3 Aviation security is, according to the Commission, facing new types of threats today; threats to which the traditional security technologies used at airports cannot give an adequate and efficient response. Consequently, some Member States started to trial and deploy Security Scanners at their airports. This is resulting in different rules being used across the EU.

2.3.1 Security Scanner is the generic term used for a technology that is capable of detecting objects carried under clothes. Several forms of radiation differing in wavelength and energy emitted are used in order to identify any object distinct from the human skin.

2.4 In accordance with EU law, Member States may introduce the use of Security Scanners at their airports either i) by exercising their right to apply security measures that are more stringent than existing EU requirements or ii) temporarily, by exercising their right to conduct trials of new technical processes or methods for a maximum period of 30 months.

2.5 As concerns health and more particularly the use of ionising radiation, European legislation under the Euratom Treaty sets thresholds for radiation doses (ad hoc and per year), requires legitimate justification for human exposure to radiation and requests that protection measures ensure exposure as low as possibly achievable.

2.6 The Commission points out that the main principle of European as well as international rules is to keep threat items such as arms, knives or explosives (‘the prohibited articles’) away from aircraft.

2.6.1 This common regulatory framework provides for the ‘one-stop security’ already operational in some EU Member States, though not yet fully rolled out, and will in the future be the most important element of facilitation, both for the industry as well as passengers.

2.7 Under the current EU legal framework for aviation security, Member States and/or airports are given a list of screening and monitoring methods and technologies from which they must choose the necessary elements in order to perform effectively and efficiently their aviation security tasks.

2.7.1 The Commission notes that current legislation does not permit airports to replace systematically any of the recognised screening methods and technologies by Security Scanners. Only a decision of the Commission, subject to comitology procedure, supported by Member States and the European Parliament can be the basis for allowing Security Scanners as a further eligible method for aviation security.

3. Comments

3.1 The EESC has significant, grave reservations about the approach taken by the Commission’s Communication. In principle, the EESC opposes the potential adoption and implementation of a future regulation which could place considerable burdens on private individuals, affecting the exercise of their fundamental rights. However, given the swiftness with which this technology evolves, the Committee could be in favour of

a security scanning device using less intrusive technology provided that it is fully reliable with no impact on fundamental rights or risks for human health.

3.1.1 More specifically, the EESC highlights certain aspects of the communication which display serious legal shortcomings.

3.1.2 Firstly, there are doubts as to whether the main objective of the legislative act in question (the widespread introduction in all EU airports of ‘Security Scanners’) is the most suitable way to achieve maximum aviation security. Even though the Commission maintains that the introduction of scanners would be optional, passengers would not have the option of choosing whether or not to undergo checks. The Committee believes that serious consideration should be given to alternatives to the use of security scanners or body scanners. An alternative would be to use technical systems to identify broad potential sources of threat which could then be investigated in greater detail by means of ‘pat-down’ searches.

Before adopting a measure on this scale, the ‘proportionality test’ should be carried out, weighing up the need for its adoption with other factors, such as the potential costs of setting up such security scanners.

It is currently too great a burden on the public purse to set up these systems (cost of purchasing basic equipment plus additional support required) in all EU airports, given the serious doubts that exist regarding their reliability, public health and the impact on fundamental rights.

The EESC believes that it would be more logical, given the fast-developing market, to wait for other technology that is more advanced, less intrusive and more in line with the objective to be achieved – namely, aviation security.

3.1.3 Secondly, the EESC has reservations about the severe limitation of fundamental rights that the implementation of the regulation will entail. In one regrettable case, at a Florida court where millimetre wave technology was used, agents retained 35 000 images which were then posted on the Internet, breaching the fundamental rights of thousands of people.

3.1.4 Lastly, the Communication’s choice of legal vehicle and the adoption procedure could be questioned.

3.2 All in all, in the light of the criteria long established in the case law of the European Court of Justice and the European Court of Human Rights, the communication does not appear to comply fully with the three criteria of necessity, proportionality and legality that must be displayed by any measure adopted by the public authorities of a Union (or State) based on the rule of law, so as not to reduce or limit the exercise of people’s rights and freedoms.

3.2.1 As regards the first aspect mentioned, there are serious reservations concerning the tenuous link between the proposed measure (the introduction of Security Scanners) and the objective of achieving higher aviation security standards.

3.2.2 When it comes to the impact of adding new methods and technologies following various aviation security incidents in recent years, the Commission itself notes in the communication that this 'proves more and more inefficient', calling instead for 'a more holistic approach [...] in which enhanced intelligence sharing and human factor analysis [...] would constitute key elements in the future'.

3.2.3 This assessment coincides – not by accident – with the position of the European Data Protection Supervisor who, at the request of the Commission, drew up an ad hoc report on the controversial legislation, and has defended this position in every opinion on the application of European security measures in the face of terrorist threats.

3.2.4 A balance must be reached between the need to adopt a non-discriminatory European approach to the problem of aviation security and the definitive establishment of 'one-stop security', in compliance with fundamental rights, particularly when it comes to voluntarily submitting to checks using these technologies.

3.2.5 The position of the Working Party instituted by Article 29 of Directive 95/46/EC is stronger still. In its report adopted on 11 February 2009, it states that these scanners are not alternatives to the other methods already in use for detecting aviation security threats, and even concluded that there are no factors to date that demonstrate the need to replace current airport security monitoring measures by these scanners.

3.3 Secondly, the Committee also wishes to express its deep concern at the significant impact that the application of the regulation resulting from the communication could have on the exercise of fundamental rights.

3.3.1 The focus on the fundamental rights affected stands in stark contrast to the extensive analysis of the financial cost of installing scanners in airports in order to justify their benefits.

3.3.2 The aim here is to strike the right balance between freedom and security, and this requires a careful interpretation of legislation for various reasons.

3.3.3 Firstly, the rights and freedoms most affected are almost exclusively those forming what the European Court of Human Rights considers to be the untouchable hard core of

public policy established by the European Convention of Human Rights.

3.3.4 Therefore, any restriction of these rights must be exceptional; with no watering down of legal guarantees and it must be subject to supra-national oversight and compatible with the practices of an advanced democratic society. In the future regulation, the Commission must provide for summary and priority procedures – or refer to those that already exist in the Member States – in order to resolve any breaches of fundamental rights.

3.3.5 Moreover, as pointed out by Advocate General Sharpston in her conclusions to Case C-345/06 (Heinrich), which also concerns the adoption of a legislative text from the European Commission in the field of aviation security, there is no place in the EU for arguments justifying the suspension or restriction of guarantees of fundamental rights in order to address risks to public security, even where these are particularly high owing to difficult times or circumstances.

3.4 The EESC has particular concerns with regard to the health of passengers and of staff submitted to checks in the course of their work. In order to protect against any health risks arising from the repeated use of sophisticated equipment, the Committee therefore urges that such equipment be operated by appropriately qualified staff. Correspondingly, good pay and employment conditions are key to this. Employing qualified staff would help to reduce frequent walk-through metal detector checks which pose a risk to health.

3.5 The EESC hopes that the Commission's proposal will set a high level of health protection, based on duly verified, conclusive, reliable scientific research and opinions which are satisfactory for passengers, with a view to ensuring the minimum possible exposure to any harmful effects. Moreover, specific rules should be laid down for especially sensitive or vulnerable passengers, such as pregnant women, children, people with disabilities or with specific illnesses making this type of check inadvisable.

3.6 Finally, there is no conclusive proof that such scanners pose no risk to human health, nor has any code of conduct meeting legal requirements for personal data protection been adopted with a view to the possibility that use of these scanners might become widespread. The Commission should therefore develop the content of the protocols drawn up to ensure that they respond sufficiently to concerns about fundamental rights, and should circulate these so that passengers are above all aware that the use of the scanners is strictly voluntary and by no means mandatory.

3.6.1 In any event, it must be made possible to opt out of checks using the scanners, and there must be sound legislative guarantees that those who opt out will not suffer additional burdens such as facing annoying delays while queuing for security checks or exhaustive searches – although the Communication includes neither of these provisions.

3.7 Another aspect that is cause for some confusion is the Commission proposal's use of terminology and the way in which the subject is presented.

3.7.1 The Commission uses the term 'Security Scanners' from the outset, replacing the term 'body scanner' which had previously been used in the public consultation carried out on the same topic by the Commission, as required by the EP resolution of 23 October 2008.

3.7.2 Changing the terminology is an attempt to make the communication more politically attractive with a view to its adoption, as demonstrated by the Commission's favourable attitude to the introduction of these devices as part of the array of aviation security measures that will have to be applied in EU airports.

3.7.3 Thus, for example, point 34 of the communication states that scanners may replace the other techniques used in aviation security.

3.7.4 Likewise, point 45 states that, given the technology at hand today, 'it is clear' that these devices 'would have maximised' the probability of detecting threats and will provide a 'considerably enhanced' prevention capability.

3.7.5 Point 82 reiterates that the deployment of these devices would enable large airports to achieve 'greater flexibility and potential to further strengthen aviation security'.

3.7.6 Given the various uncertainties surrounding the use of these devices and their undeniable impact on rights and public freedoms, it would be more appropriate to put forward a more diverse text presenting the current situation and possible alternatives more objectively.

3.7.7 The Commission's drafting approach affects the last of these aspects, relating to the choice of legal vehicle (regulation) and the suitability of the procedure selected for its adopted (comitology procedure).

3.8 All in all, there are serious doubts, not as to the legality, but rather the legitimacy of the communication.

3.8.1 Clearly, the Commission can act in this field on the basis of the powers vested in it by Article 4(2) of Regulation No 300/2008 of the European Parliament and of the Council.

3.8.2 However, the Commission should have taken far greater care when drawing up such a controversial proposal, particularly in the light of recent experiences, where legal challenges resulted in it having to amend acts in the same field.

3.8.3 In these circumstances, it would seem more appropriate to opt for a decision aimed at all the Member States or even – in order to give greater room for manoeuvre to the competent authorities and allow for a longer period in which to (voluntarily) test the scanners – a recommendation.

3.8.4 Similarly, it should be stressed that the comitology procedure followed by the Commission in order to adopt the future legislative proposal, although legally valid, is too restrictive and obscure for such an important act.

3.8.5 This holds all the more true given that the Lisbon Treaty, in the new Article 290 TFEU, lays the groundwork for a new mechanism under which the Commission will exercise the powers delegated to it by the Council and the Parliament, whereby the delegation may be repealed without the need for further justification (Article 290(2)(a)). In this context, the Commission should carefully consider whether the significant impact that the proposal for a regulation would have on people's existing legal rights if it entered into force should be aired in a wider institutional framework open to public debate by all stakeholders, and open to the political debate between representative parties that is part and parcel of parliamentary democracy, and in which the European Parliament, in its debate on fundamental rights, should play a key role – an approach clearly not fulfilled by the comitology procedure.

Brussels, 16 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a Decision of the European Parliament and of the Council establishing the first radio spectrum policy programme’

COM(2010) 471 final — 2010/0252 (COD)

and on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: European broadband: investing in digitally driven growth’

COM(2010) 472 final

(2011/C 107/11)

Rapporteur: **Mr MCDONOGH**

On 7 October 2010 the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 114 and Article 304 the Treaty on the Functioning of the European Union, on the

Proposal for a Decision of the European Parliament and of the Council establishing the first radio spectrum policy programme

COM(2010) 471 final — 2010/0252 (COD).

On 20 September 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, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – European Broadband: investing in digitally driven growth

COM(2010) 472 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 16 February 2011), the European Economic and Social Committee adopted the following opinion by 108 votes with 2 abstentions.

1. Conclusions

1.1 The Committee compliments the Commission on all three documents in this ‘Broadband Package’. They are timely, well considered and comprehensive in scope.

1.2 The Committee strongly supports the objectives of the Digital Agenda to deliver sustainable economic and social benefits from a digital single market based on fast and ultra-fast Internet, and it fully endorses the ambitious broadband target included in that flagship initiative⁽¹⁾. However, the

⁽¹⁾ COM(2010)245 final/2: By 2020, all Europeans should have access to internet of above 30 Megabits per second (Mbps) and 50 % or more of European households should have subscriptions above 100Mbps. The Digital Agenda also restated the objective endorsed by the European Council to bring basic broadband to all Europeans by 2013.

Committee believes that even more ambitious connectivity targets might need to be set in a few years time to keep Europe globally competitive⁽²⁾.

1.3 The Committee has noted with alarm that unemployment is continuing to rise across the European Union, particularly among the youth (under 25s)⁽³⁾. The Committee believes that the successful implementation of the ‘Broadband Package’ is critical to tackling unemployment by the provision of smart, sustainable and inclusive growth in Europe as envisaged by the Europe 2020 strategy.

⁽²⁾ South Korea has devised a national plan for 1,000Mbps connections to be commonplace by 2012. The government is encouraging enterprise to spend the 34 trillion Won (EUR 23bn), required to complete the scheme. By way of a comparison, that figure is roughly the same as the nation's annual education budget. (http://news.bbc.co.uk/2/hi/programmes/click_online/9093991.stm).

⁽³⁾ Eurostat news release euro indicator - 5/2011, 7 January 2011: In November 2010, the youth unemployment rate (under-25s) was 20.7 % in the **euro area** and 21.0 % in the **EU27**. In November 2009 it was 20.1 % and 20.5 % respectively.

1.4 The Committee notes with satisfaction that the regulatory principles contained in the 'Broadband Package' are consistent with the revised legislative framework for electronic Communications ⁽⁴⁾.

1.5 The Committee considers the principle of Net Neutrality ⁽⁵⁾ to be critically important to the future of Internet services in Europe. We noted the report from the Commission about the public consultation on the Open Internet and Net Neutrality ⁽⁶⁾, and we welcome the support for the principle by Vice-President Kroes ⁽⁷⁾. However, the Committee is concerned that service providers with significant market power have strong commercial incentives to act contrary to the principle of Net Neutrality and against the interests of citizens. The Committee believes that the provisions of the Telecoms Framework ⁽⁸⁾ might require further amendments to strengthen the powers of the National Regulatory Authorities (NRAs) to ensure that the Internet is kept open across Europe and that the principle of Net Neutrality is fully respected by service providers.

1.6 The Committee directs the Commission's attention to numerous previous EESC opinions which emphasised its support for the Information Society, the EU2020 strategy and the Digital Agenda, and the opinions which commented on the need for high-quality, high-speed, Internet connectivity to be available to citizens throughout the EU, and for the implementation of a balanced regulatory environment for communications services that would provide high-quality services at affordable prices ⁽⁹⁾.

1.7 Broadband Strategy

1.7.1 The Committee believes that effective implementation of the EU broadband strategy is critical to the future economic

and social wellbeing of all citizens; however, because financial circumstances will be difficult for many years to come, the Committee is concerned that achieving the broadband objectives will be a significant challenge for Europe. The Committee calls on the Council, the Commission, the Member States and the Local and Regional Authorities to do everything in their power to support the implementation of the broadband objectives in the Digital Agenda.

1.7.2 The Committee believes that universal access to high-speed broadband is key in promoting social and territorial cohesion ⁽¹⁰⁾. We welcome the plans to expand the use of the Structural and Rural Development funds to supplement the rollout of commercially viable broadband infrastructure. However, it is also critical that the benefits of this investment flow to the citizens through the provision of high-quality services and a significant reduction in costs for all end-users. The Committee also calls on Member States and Local & Regional Authorities to provide free WiFi hotspots in public areas in support of the Digital Agenda.

1.7.3 The Committee draws the attention of the Commission to the multiplier effect on the economy and quality of life from reductions in the costs of providing broadband infrastructure across Europe. We call on the Commission, the Member States and the Local and Regional Authorities to make every effort to reduce these costs.

1.7.4 While welcoming the measures to stimulate and support the investment in broadband infrastructure, the Committee would like to see all investment made in a way that strengthens competition. The Committee would be concerned if supports were implemented in a manner that was disproportionately advantageous to service providers with significant market power (SMP).

1.7.5 However, the Committee is disappointed by the slow absorption of broadband support funds to-date by Member States ⁽¹¹⁾. The planned guidance to Member States on how to speed-up the programmes and draw-down the available funds is welcome.

1.8 Radio Spectrum Policy (RSP)

1.8.1 The Committee is pleased that the RSP Programme (RSPP) will legislate to ensure that sufficient and appropriate spectrum for both the coverage and the capacity needs of wireless broadband technologies will be designated and made available to achieve the target set for 2020. And that Broadband development will be further enhanced by pro-competitive measures such as the introduction of spectrum trading and measures to prevent potential distortions when existing licences are modified.

⁽¹⁰⁾ OJ C 175, 28.7.2009, p. 8.

⁽¹¹⁾ Only 18 % of the planned expenditure for 2007-2013 has been committed by September 2009.

⁽⁴⁾ Directive 2009/140/EC and Directive 2009/136/EC.

⁽⁵⁾ Net Neutrality is a principle that advocates no restrictions by Internet service providers and governments on content, sites, platforms, the kinds of equipment that may be attached, and the modes of communication allowed. If a given user pays for a certain level of Internet access, and another user pays for the same level of access, then the two users should be able to connect to each other at the subscribed level of access. Concerns have been raised about the ability of broadband providers to use their local infrastructure to block Internet applications and content (e.g., websites, services, protocols), particularly those of competitors, or to change their business models to reduce the quality and scope of access that different users enjoy. Such changes in business models could result in unfair price discrimination and service quality discrimination. The possibility of regulations designed to mandate the neutrality of the Internet has been subject to fierce debate.

⁽⁶⁾ http://ec.europa.eu/information_society/policy/ecom/doc/library/public_consult/net_neutrality/report.pdf

⁽⁷⁾ SPEECH/10/643 at the European Commission and European Parliament Summit on 'The Open Internet and Net Neutrality in Europe'.

⁽⁸⁾ Directive 2009/140/EC and Directive 2009/136/EC.

⁽⁹⁾ See OJ C 120, 20.5.2005, p. 22; OJ C 28, 3.2.2006, p. 88; OJ C 318, 23.12.2006, p. 222; OJ C 97, 28.4.2007, p. 27; OJ C 324, 30.12.2006, p. 42; OJ C 151, 17.6.2008 p. 25; OJ C 44, 16.2.2008, p. 50; OJ C 224, 30.8.2008, p. 50; OJ C 77 31.3.2009, p. 60; OJ C 175, 28.7.2009, p. 87; OJ C 175, 28.7.2009, p. 8; OJ C 182, 4.8.2009, p. 56; OJ C 218, 11.9.2009, p. 41; OJ C 317, 23.12.2009, p. 103; OJ C 255, 22.9.2010, p. 116; OJ C 44, 11.2.2011, p. 178; OJ C 54, 19.02.2011, p. 58.

1.8.2 The Committee is also pleased to see that the RSPP explicitly targets the 800 MHz digital dividend band to be made available to provide broadband coverage, especially in rural areas, by 2013. The Committee calls on Member States to make this spectrum available without delay.

1.8.3 The Committee also notes the plans to use satellite broadband at affordable prices to reach remote areas that can not be served by terrestrial means.

1.8.4 The Committee joins with the Commission in calling on Member States to help achieve the broadband coverage target rapidly by immediately adopting policies to:

- Make available sufficiently large bands of spectrum ⁽¹²⁾;
- Award rights of use to spectrum quickly;
- Increase flexibility and competition;
- Allow secondary trading of spectrum to adapt to market developments.

1.9 Next Generation Access (NGA) Networks

1.9.1 NGA networks are hugely expensive to provide, with substantial risk for investors. We note that the proposals take cognizance of these risks and make allowance for the inclusion of a risk premium in regulated access costs.

1.9.2 The Committee likes the creative approach taken by the Commission in providing strong support for co-investment arrangements, which can reduce the level of risk taken by each individual company.

1.9.3 The Committee recognises that the successful enforcement of the access regulations for NGA networks will depend heavily on implementation by NRAs in each Member State. The Committee calls on the Commission and the Member States to provide every support to the NRAs and the Body of European Regulators for Electronic Communications (BEREC), so that they can succeed in their difficult task.

2. Recommendations

2.1 To ensure the continuation of the Open Internet and the protection of Net Neutrality, the Commission and NRAs should

⁽¹²⁾ It is essential for designated spectrum to be made available *effectively*; this must be done both by opening new spectrum (such as 2.6 GHz as well as 800 MHz) and by liberalising the use of existing spectrum (e.g. the 900/1 800 MHz band — see the revised GSM Directive and the 900/1 800 MHz Decision).

monitor closely the techniques used by operators to manage data flows over their networks, and the potential impact these may have on Internet users' experience.

2.2 In the light of experience, the Commission should consider the adequacy of the Telecoms Framework to deal with the challenges posed by the threat from service providers to the Open Internet and Net Neutrality.

2.3 National Broadband Plans should be updated soon to include project plans for the provision of fast and ultra-fast broadband.

2.4 National Broadband Plans should follow standard best practice for project plans, with details of required resources associated with objectives and milestone dates.

2.5 The EU should periodically review the National Broadband Plans to question resource gaps and other plan issues.

2.6 The National Broadband Plans should include details of all direct public authority schemes and investments in infrastructure and civil works that would facilitate the achievement of the Digital Agenda targets.

2.7 The Committee asks the Commission to pay special attention to the effect on competition in the Member States in order to control how the broadband network cost reductions are implemented.

2.8 Through whatever mechanisms are appropriate, the Commission should ensure that radio spectrum pricing is always at an appropriate level so that the provision of competitive services is economically viable.

2.9 To stimulate the digital economy, Member States and regional authorities should promote free WiFi hotspots in public areas.

2.10 When pursuing co-investment and Public Private Partnership (PPP) infrastructure projects, Member States and Regional Authorities must be careful not to hurt healthy competition in the market ⁽¹³⁾.

2.11 As radio technology and services are developed, it is important that public health concerns regarding the potentially hazardous effects of electromagnetic fields are paramount and that the public is reassured by the measures taken to monitor these effects.

⁽¹³⁾ See OJ C 48, 15.2.2011, p. 72.

2.12 The Committee believes that when authorising the roll-out of wireless networks, local authorities need to enforce environmental and health regulations efficiently, so that services, which are in full-compliance with regulations, can be provided quickly and cost effectively.

2.13 To ensure that the NGA regulations are implemented equally across the EU, and to identify any possible resource issues, the Commission should propose that the NRAs submit to a periodic audit. Perhaps this audit could be by way of peer-review, under the auspice of the BEREC.

2.14 The EU should consider providing funds to the BEREC for the following purposes:

- to create a pool of experts that could supplement NRA expertise on an ad hoc basis;
- to fund a professional development programme for NRA staff;
- to fund an audit function and best practice unit that would help ensure uniform excellence in the implementation of regulations across Europe.

3. Background

3.1 The development of high-speed communications networks today is having the same revolutionary impact as the development of electricity and transportation networks had a century ago. Although Europe is one of the most highly networked regions in the world⁽¹⁴⁾, many parts of the Union still do not have basic Internet services and even in urban areas high-speed connections are rare.

3.2 Citizens and businesses around the world are increasingly demanding much faster NGA networks. In this respect, Europe is still lagging behind some of our main international counterparts: 30 % of Europeans have still never used the Internet and Europe has only 1 % penetration of fibre-based high-speed networks whereas Japan is at 12 % and South Korea is at 15 %.

3.3 Ambitious broadband connectivity objectives for Europe have been set in the Digital Agenda⁽¹⁵⁾ - one of the flagship initiatives of the Europe 2020 strategy⁽¹⁶⁾ for a smart, sustainable and inclusive economy: By 2020, all Europeans should have access to Internet of above 30 Megabits per second (Mbps) and 50 % or more of European households should have subscriptions above 100Mbps. The Digital Agenda also restated the objective endorsed by the European

Council to bring basic broadband to all Europeans by 2013. To reach these ambitious objectives it is necessary to develop a comprehensive policy, based on a mix of technologies, and to carefully monitor progress over time⁽¹⁷⁾.

3.4 The 'Broadband Package' under consideration in this opinion comprises of documents from the Commission which are drafted to give effect to the connectivity objectives in the Digital Agenda. They comprise:

- a set of proposals to address the planning and financing requirements to meet the connectivity objectives – COM(2010) 472 'European Broadband: investing in digitally driven growth';
- a legislative proposal to establish the first radio spectrum policy programme, which is necessary to regulate and harmonise the wireless infrastructure needed to support the Europe 2020 objectives – COM(2010) 471 'Proposal for a Decision of the European Parliament and of the Council establishing the first Radio Spectrum Policy Programme';
- a recommendation on how NRAs across the EU should regulate access to the NGAs required to provide the fast and ultrafast broadband connectivity envisaged by the Digital Agenda – C(2010) 6223/3.

4. Comments

4.1 Broadband Strategy

4.1.1 The ambitions of the EU2020 strategy and the Digital Agenda objectives will only be realised if Member States develop and implement effective national broadband plans. Although all Member States now have a broadband strategy, this needs to be updated soon to include plans for ultra-high speed networks, with concrete targets and identified implementation measures.

4.1.2 Planning and execution of the national broadband strategies are critical to success. It is also important that Member States build-out the NGA networks in such a manner that no region of the EU gets left behind, otherwise the digital divide will begin to open-up again with economic development retarded in disadvantaged regions which cannot participate in the emerging digital economy.

4.1.3 It would also help to assess the viability of National Broadband Plans if they identified the resources needed for execution (human and other), as well as the key milestones for projects. These project-plans then need to be monitored to track execution and be kept up-to-date.

⁽¹⁴⁾ World Economic Forum – Global Information Technology Report 2009-2010, <http://www.networkedreadiness.com/gitr/>.

⁽¹⁵⁾ A Digital Agenda for Europe - COM(2010) 245 final/2.

⁽¹⁶⁾ EUROPE 2020, A strategy for smart, sustainable and inclusive growth - COM(2010) 2020 final.

⁽¹⁷⁾ For instance, it could be expected that, to be on-track for the 100Mbps target, in 2015 around 15 % of European households should have subscriptions with such speeds.

4.1.4 The quality of networks, their cost of provision, and competitive end-user prices are important management criteria in build-out programmes. As up to 80 % of the cost of network infrastructure is due to civil engineering works, it is vital that national and local authorities work to significantly reduce costs by efficient coordination of infrastructure projects.

4.1.5 Good information facilitates good planning and management. The National Broadband Plans should include details of all direct public authority schemes and investments planned, including civil works, that would facilitate infrastructure build-out.

4.1.6 Unless NRAs manage the problem skilfully, the dominant position of service providers with SMP could hurt the development of competition and the rollout of infrastructure.

4.1.7 Cooperation and sharing by private infrastructure providers is essential for efficiency, speed of implementation, environmental sustainability and the availability of competitive prices for end-users.

4.1.8 Unfortunately, competitors find it difficult to cooperate unless they are obliged to do so. The Committee is pleased to see that the 'Broadband Package' will require private infrastructure providers to publish good information on existing and planned infrastructure, so that good planning and efficient use of resources is facilitated.

4.1.9 Communications services costs and price transparency is critical to ensure that the citizens benefit from the investment by the EU, Member States and Regional Authorities in broadband infrastructure.

4.1.10 The Committee is impressed by the extent and variety of funding supports available to help achieve the universal broadband objectives in the Digital Agenda. The committee also welcomes the plans for new financing instruments to be included under the next multi-annual Financial Framework.

4.2 Radio Spectrum Policy (RSP)

4.2.1 The RSP Programme (RSPP) is so important because of the pervasive role that wireless communications will play in the

smart, sustainable and inclusive economy envisioned by the Europe 2020 strategy. Besides human communications and Internet use, wireless is a fundamental technology to enabling future applications across the whole spectrum of society - from smart metering of energy, to Intelligent Transport Systems and the Internet of Things.

4.2.2 In particular, the Committee notes the importance of the RSSP to the implementation of smart grids across Europe, which will be essential to the achievement of sustainable growth.

4.2.3 The Committee notes that the highest growth rate in the EU broadband market is in mobile broadband, where take-up more than doubled in the last year. Wireless technologies are therefore increasingly important in meeting the need for broadband communications services.

4.2.4 Electromagnetic fields are potentially hazardous to citizens' well-being. The Committee is pleased that the RSSP recognises the need for constant monitoring of the effects of spectrum use on health.

4.3 Next Generation Access (NGA) Networks

4.3.1 The regulated access proposals for the NGA networks reflect years of learning by the Commission about how to get the balance right between encouraging network investment and protecting the competitive environment. The proposals also provide the communications industry with much-needed clarity around the regulations that will impact their investment decisions and plans for NGA networks.

4.3.2 Some NRAs might not have the expertise nor the capacity to cope with the work to be done. Perhaps NRAs could be supported in their complex task by a centrally resourced pool of experts, maybe organised and administered through BEREC.

4.3.3 The expertise and capacity of NRAs could be enhanced through BEREC if the organisation provided a professional development programme for its members and support around implementing best practices.

Brussels, 16 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council concerning the European Network and Information Security Agency (ENISA)'

COM(2010) 521 final — 2010/0275 (COD)

(2011/C 107/12)

Rapporteur: **Mr MORGAN**

On 19 October 2010 the Council decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council concerning the European Network and Information Security Agency (ENISA)

COM(2010) 521 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 17 February), the European Economic and Social Committee adopted the following opinion with 173 votes in favour and five abstentions.

1. Conclusions and recommendations

1.1 The EESC is very conscious of the scale of dependency which civil society now has on services provided over the internet. The Committee is equally concerned about the relative ignorance of civil society about its own cyber security. It is the opinion of the EESC that the European Network and Information Security Agency (ENISA) is the agency responsible for assisting Member States and Service Providers to raise their general security standards so that all internet users take the steps necessary to ensure their own personal cyber security.

1.2 Accordingly the EESC supports the proposal to develop ENISA for the purpose of contributing to a high level of network and information security within the Union and in order to raise awareness and develop a culture of network and information security in society for the benefit of the citizens, consumers, enterprises and public sector organisations in the Union, thus contributing to the smooth functioning of the internal market.

1.3 The mission of ENISA is vital for the secure evolution of the network infrastructure of EU government, industry, commerce and civil society. The EESC expects the European Commission to set the highest performance standards for ENISA and monitor its performance in the context of evolving and emerging threats to cyber security.

1.4 The cyber strategies outlined by NATO, Europol and the EU Commission all depend on effective cooperation with Member States which themselves have a kaleidoscope of internal agencies dealing with cyber security issues. NATO

and Europol strategies are intended to be pro-active and operational. Within the EU Commission strategy, ENISA is clearly an important part of the complex jigsaw of Critical Information Infrastructure Protection (CIIP) agencies and missions. While the new Regulation does not propose an operational role for ENISA, the EESC still sees ENISA as the Agency primarily responsible for CIIP in EU civil society.

1.5 The operational responsibility for cyber security at the Member State level belongs to Member States but standards of CIIP in the 27 Member States are clearly mixed. Bringing the less well equipped Member States up to an acceptable level is the role of ENISA. It must ensure cooperation between Member States and assist them in the application of best practice. In the context of cross border threats, ENISA's role must be warning and prevention.

1.6 ENISA will also need to be involved in international cooperation with powers outside the EU. Such cooperation will be highly political, involving many EU branches, but the EESC believes that ENISA must find its place in the international scene.

1.7 The Committee believes that ENISA can fulfil a very valuable role in contributing to and initiating research projects in the security domain.

1.8 Within the framework of the Impact Assessment, the EESC will not at present support the full scale implementation of options 4 and 5 which would make ENISA an operational agency. Cyber security is such a huge problem, with threats developing dynamically, that Member States must retain the capability to fight pro-actively against threats. The development

of EU operational agencies usually ends up by de-skilling Member States. In the cyber security domain the reverse is true; Member States must be up-skilled.

1.9 The EESC understands the Commission's view that ENISA should have a defined and well controlled mission with matching resources. Even so, the EESC is concerned that the finite 5-year mandate of ENISA may restrict long-term projects and jeopardise the development of human capital and knowledge within the Agency. This will be quite a small Agency dealing with a big and growing problem. The scope and scale of ENISA's mission means that it must employ specialist teams. It will have a mix of work: both short-term tasks and long-term projects. Accordingly, the Committee would prefer that the mandate for ENISA be dynamic and open-ended, confirmed on a rolling basis by periodic assessments and evaluations. Resources could then be allocated progressively, as and when justified.

2. Introduction

2.1 This opinion concerns a Regulation to further develop the ENISA.

2.2 The Commission set out its first proposal for a policy approach to network and information security in a 2001 Communication (COM(2001) 298 final). Mr Retureau prepared a comprehensive opinion⁽¹⁾ in response to the Communication.

2.3 The Commission then proposed a Regulation, to set up ENISA (COM(2003) 63 final). The EESC opinion⁽²⁾ on this Regulation was written by Mr Lagerholm. The agency was actually established by EC Regulation 460/2004.

2.4 As internet usage continued to increase exponentially, information security became a growing concern. In 2006 the Commission published a Communication outlining a Strategy for a Secure Information Society (COM(2006) 251 final). Mr Pezzini wrote the EESC opinion⁽³⁾.

2.5 As the concern about information security increased, the Commission came forward in 2009 with a proposal for Critical Information Infrastructure Protection (COM(2009) 149 final). Mr McDonogh wrote the opinion⁽⁴⁾ which was approved by the EESC Plenary in December 2009.

2.6 It is now proposed to strengthen and improve ENISA for the purpose of contributing to a high level of network and information security within the Union and in order to raise awareness and develop a culture of network and information security in society for the benefit of the citizens, consumers, enterprises and public sector organisations in the Union, thus contributing to the smooth functioning of the internal market.

2.7 However, ENISA is not the only security agency planned for EU cyberspace. The response to cyber warfare and cyber terrorism is the responsibility of the military. NATO is the main agency in this sphere. According to its new strategic concept published in Lisbon in November 2010 (available at <http://www.nato.int/lisbon2010/strategic-concept-2010-eng.pdf>), NATO will 'develop further its ability to prevent, detect, defend against and recover from cyber-attacks, including by using the NATO planning process to enhance and coordinate national cyber-defence capabilities, bringing all NATO bodies under centralized cyber protection, and better integrating NATO cyber awareness, warning and response with member nations'.

2.8 Following the cyber attack on Estonia in 2007, the Cooperative Cyber Defence Centre of Excellence (CCD COE) was formally established on the 14th of May, 2008, in order to enhance NATO's cyber defence capability. Located in Tallinn, Estonia, the Centre is an international effort that currently includes Estonia, Latvia, Lithuania, Germany, Hungary, Italy, the Slovak Republic, and Spain as sponsoring nations.

2.9 Electronic crime at EU level is the responsibility of Europol. The following is an extract from written evidence given by Europol to the House of Lords (see <http://www.publications.parliament.uk/pa/ld200910/ldselect/lddeucom/68/68we05.htm>):

It is clear that law enforcement agencies need to keep pace with the technological development of criminals to ensure that the crimes they perpetrate can be effectively prevented or detected. In addition, given the borderless nature of high-tech, capacity must be of a similarly high standard throughout the EU so as not to allow 'weak spots' to develop where high-tech crime can flourish with impunity. This capacity is far from homogeneous in the EU. In fact there is clear asymmetrical development; some MS are forging ahead with great advances in certain areas, whilst other MS lag behind in terms of technology. This creates the need to have a centralised service to assist all MS to coordinate joint activities, promote the standardisation of approaches and quality standards and identify and share best practice; only in this way can a homogenous EU law enforcement effort to high-tech crime fighting be assured.

⁽¹⁾ OJ C 48, 21.2.2002, p. 33.

⁽²⁾ OJ C 220, 16.9.2003, p. 33.

⁽³⁾ OJ C 97, 28.4.2007, p. 21.

⁽⁴⁾ OJ C 255, 22.9.2010, p. 98.

2.10 The High Tech Crime Centre (HTCC) was established at Europol in 2002. It is a relatively small unit but it is expected to grow in the future as the centrepiece of Europol's work in this area. HTCC plays a major role in coordination, operational support, strategic analysis and training. The training function is particularly important. In addition, Europol has established ECCP, the European Cyber Crime Platform. It is focussed on the following topics:

- The Internet Crime Reporting Online System (I-CROS)
- The Analysis Work File (Cyborg)
- The Internet and Forensic Expertise recipient (I-FOREX).

2.11 The EU cyber security strategy is outlined in the 'Trust and Security' chapter of the Digital Agenda for Europe. The challenges are outlined as follows:

So far, the internet has proved remarkably secure, resilient and stable, but IT networks and end users' terminals remain vulnerable to a wide range of evolving threats: in recent years, spam emails have grown to

the point of heavily congesting e-mail traffic on the internet – various estimates suggest between 80 % to 98 % of all circulating emails – and they spread a wide range of virus and malicious software. There is a growing scourge of identity theft and online fraud. Attacks are becoming increasingly sophisticated (trojans, botnets, etc.) and often motivated by financial purposes. They can also be politically motivated as shown by the recent cyber-attacks that targeted Estonia, Lithuania and Georgia.

2.12 Actions committed in the Agenda are:

Key Action 6: Present in 2010 measures aiming at a **reinforced and high level Network and Information Security Policy**, including legislative initiatives such as a modernised ENISA, and measures allowing faster reactions in the event of cyber attacks, including a Computer Emergency Response Team (CERT) for the EU institutions;

Key Action 7: Present measures, including legislative initiatives, to **combat cyber attacks against information systems** by 2010, and related rules on jurisdiction in cyberspace at European and international levels by 2013.

2.13 In a Communication of November 2010 (COM(2010) 673 final), the Commission has taken the Agenda forward by outlining the EU Internal Security Strategy. It has five objectives and the third of these is to raise levels of security for citizens and businesses in cyberspace. Three action programmes are envisaged and the details of the actions are outlined in the following table (taken from the Communication, available at http://ec.europa.eu/commission_2010-2014/malmstrom/archive/internal_security_strategy_in_action_en.pdf).

OBJECTIVES AND ACTIONS	RESPONSIBLE	TIMING
OBJECTIVE 3: Raise levels of security for citizens and businesses in cyberspace		
<i>Action 1: Build capacity in law enforcement and the judiciary</i>		
Establishment of an EU cybercrime centre	Subject to the COM's feasibility study 2011	2013
Develop capacities for investigation and prosecution of cybercrime	MS with CEPOL, Europol and Eurojust	2013
<i>Action 2: Work with industry to empower and protect citizens</i>		
Establishment of cybercrime incident reporting arrangements and provide guidance for citizens on cyber security and cybercrime	MS, COM, Europol, ENISA and the private sector	Ongoing
Guidelines on cooperation in handling illegal content online	COM with MS and the private sector	2011
<i>Action 3: Improve capability for dealing with cyber attacks</i>		
Establishment of a network of Computer Emergency Response Teams in every MS and one for EU institutions, and regular national contingency plans and response and recovery exercises.	MS and EU institutions with ENISA	2012
Establishment of European information sharing and alert system (EISAS)	MS with COM and ENISA	2013

2.14 The cyber strategies outlined by NATO, Europol and the EU Commission all depend on effective cooperation with Member States which themselves have a kaleidoscope of internal agencies dealing with cyber security issues. NATO and Europol strategies are intended to be pro-active and operational. Within the EU Commission strategy, ENISA is clearly an important part of the complex jigsaw of Critical Information Infrastructure Protection (CIIP) agencies and missions. While the new Regulation does not propose an operational role for ENISA, the EESC still sees ENISA as the Agency primarily responsible for CIIP in EU civil society.

3. The ENISA proposal

3.1 The problem to be addressed by ENISA has seven drivers:

- (1) The fragmentation and diversity of national approaches
- (2) Limited European early warning and response capability
- (3) A lack of reliable data and limited knowledge about evolving problems
- (4) A lack of awareness of NIS risks and challenges
- (5) The international dimension of NIS problems
- (6) The need for models of collaboration to ensure adequate policy implementation
- (7) The need for more efficient action against cyber crime.

3.2 The ENISA proposal provides a focal point for both existing policy provisions and the new initiatives outlined in the EU Digital Agenda.

3.3 The existing policies to be supported by ENISA include:

- (i) A European Forum for Member States (EFMS) aimed at fostering discussion and exchange regarding good policy practices with the aim of sharing policy objectives and priorities on security and resilience of ICT infrastructure
- (ii) A European Public-Private Partnership for Resilience (EP3R), which is the flexible Europe-wide governance framework for resilience of ICT infrastructure, which operates by fostering the cooperation between the public and the private sector on security and resilience issues
- (iii) The Stockholm Programme, adopted by the European Council on 11 December 2009, which promotes policies ensuring network security and allowing faster reaction in the event of cyber attacks in the Union.

3.4 New developments to be supported by ENISA include:

- (i) Intensifying EFMS activities
- (ii) Supporting the European (EP3R) by discussing innovative measures and instruments to improve security and resilience
- (iii) Putting the security requirements of the regulatory package on electronic communications into practice
- (iv) Facilitating EU-wide cyber security preparedness exercises
- (v) Establishing a CERT for the EU institutions
- (vi) Mobilising and supporting the Member States in completing and, where necessary, in setting up national/governmental CERTs in order to establish a well-functioning network of CERTs covering all of Europe
- (vii) Raising awareness of NIS challenges.

3.5 Five different policy options were examined before this proposal was finalised. Each option had mission and resource options associated with it. The third option was chosen. This involves expanding the functions currently defined for ENISA and adding law enforcement and privacy protection agencies as stakeholders.

3.6 Under option 3, a modernised NIS Agency would contribute to:

- Reducing the fragmentation of national approaches (problem driver 1), increasing data and knowledge/information-based policy and decision making (problem driver 3) and increasing overall awareness of and the tackling of NIS risks and challenges (problem driver 4) by contributing to:
 - more efficient collection of relevant information on risks, threats and vulnerabilities by each individual Member State;
 - increased availability of information on current and future NIS challenges and risks;
 - higher quality NIS policy provision in Member States.

- Improving European early warning and response capability (problem driver 2) by:
 - helping the Commission and Member States to set up pan-European exercises, thereby achieving economies of scale in responding to EU-wide incidents;
 - facilitating the functioning of the EP3R, which could ultimately lead to more investment triggered by common policy objectives and EU-wide standards for security and resilience.
- Promoting a common global approach to NIS (problem driver 5) by:
 - increasing the exchange of information and knowledge with non-EU countries.
- Fighting cybercrime more efficiently and effectively (problem driver 7) by:
 - being involved in non-operational tasks relating to NIS aspects of law enforcement and judicial cooperation, such as bi-directional exchange of information and training (e.g. in cooperation with the European Police College CEPOL).

3.7 Under option 3, ENISA would dispose of all resources necessary to perform its activities in a satisfactory in-depth way, i.e. allowing for a real impact. With more resources available ⁽⁵⁾, ENISA can take a much more pro-active role and take more initiatives to stimulate active participation by the stakeholders. Moreover, this new situation would allow for more flexibility to react quickly to changes in the constantly evolving NIS environment.

3.8 Policy option 4 includes operational functions for fighting cyber attacks and response to cyber incidents. In addition to the activities set out above, the Agency would have operational functions such as taking a more active role in EU CIIP, for example in incident prevention and response, specifically by acting as an EU NIS CERT and by coordinating national CERTs as an EU NIS Storm Centre, including both day-to-day management activities and handling emergency services.

3.9 Option 4 would produce a greater impact at operational level, in addition to the impacts to be achieved under option 3. By acting as an EU NIS CERT and by coordinating national CERTs, the Agency would contribute to higher economies of scale in responding to EU-wide incidents and lower operational risks for business due to higher levels of security and resilience, for example. Option 4 would require a substantial increase in

the Agency's budget and human resources, which raises concerns about its absorption capacity and effective use of the budget in relation to the benefits to be attained.

3.10 Policy option 5 includes operational functions for supporting law enforcement and judicial authorities in fighting cybercrime. In addition to the activities listed in option 4, this option would enable ENISA to:

- provide support on procedural law (cf. Convention on Cybercrime): e.g. collection of traffic data, interception of content data, monitoring flows in case of denial-of-service attacks;
- be a centre of expertise for criminal investigation including NIS aspects.

3.11 Option 5 would achieve greater effectiveness in fighting cyber crime than options 3 and 4, with the addition of operational functions in supporting law enforcement and judicial authorities.

3.12 Option 5 would require a substantial increase in the Agency's resources and again raise concerns regarding absorption capacity and effective use of the budget.

3.13 While both options 4 and 5 would have greater positive impacts than option 3, the Commission believes that there are a number of reasons not to pursue these options:

- They would be politically sensitive for the Member States in relation to their CIIP responsibilities (i.e. a number of Member States would not be in favour of centralised operational functions).
- Enlarging the mandate as examined under options 4 and 5 may render the Agency's position ambiguous.
- Adding these new and completely different operational tasks to the Agency's mandate may turn out to be very challenging in the short run and there is a significant risk that the agency would not be able to carry out this kind of task properly within a reasonable time-span.
- Last, but not least, the cost of implementing options 4 and 5 is prohibitively high – the budget required would be four or five times as much as ENISA's current budget.

⁽⁵⁾ The reference to more resources is conditional on the ENISA proposal being approved in its present form.

4. Provisions of the Regulation

4.1 The Agency shall assist the Commission and Member States to meet the legal and regulatory requirements of network and information security.

4.2 The Management Board shall define the general direction of the operation of the Agency.

4.3 The Management Board shall be composed of one representative of each Member State, three representatives appointed by the Commission and one representative of each of the ICT industry, consumer groups and IT academia.

4.4 The Agency shall be managed by an independent Executive Director, who will be responsible for drawing up the work programme of the Agency for the approval of the Management Board.

4.5 The Executive Director is also responsible for drawing up an annual budget in support of the work programme. The Management Board must submit both the budget and the work programme for approval by the Commission and the Member States.

4.6 The Management Board, on the advice of the Executive Director, will establish a Permanent Stakeholders' Group comprising experts from the ICT industry, consumer groups, academia, law enforcement and privacy protection authorities.

4.7 Because the Regulation is still at the proposal stage, there is some uncertainty about numbers. At present the Agency has 44-50 staff and a budget of EUR 8m. Conceptually, option 3 could involve a staff of 99 and a budget of EUR 17m.

4.8 The Regulation proposes a fixed term mandate of five years.

Brussels, 17 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council establishing a programme to support the further development of an integrated maritime policy'

COM(2010) 494 final — 2010/0257 (COD)

(2011/C 107/13)

Rapporteur: **Mr SIMONS**

On 20 October 2010, the Council of the European Union decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

Proposal for a regulation of the European Parliament and of the Council establishing a Programme to support the further development of an Integrated Maritime Policy

COM(2010) 494 final — 2010/0257 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 16 February 2011), the European Economic and Social Committee adopted the following opinion by 111 votes with two abstentions.

1. Conclusions and recommendations

1.1 The Committee regards the current proposal as a logical follow-up with a view to ultimately achieving an integrated maritime policy and gives the document its overall endorsement.

1.2 As regards division of responsibility, the Committee welcomes the fact that the Commission proposal talks of shared responsibility, with the exception of matters concerning marine biological resources, an area in which the Commission has exclusive competence.

1.3 The Committee would like clarification from the Commission about the legislative basis used. It questions to what extent Articles 74 and 77 TFEU, which do not follow the ordinary legislative procedure, are compatible with the other legislative bases which do.

1.4 In the Committee's view, the cross-sectoral and transnational nature of maritime activities and synergies among sectoral policies sufficiently justify the adoption of measures which contribute to an integrated maritime policy. The Committee thus also believes that it complies with the subsidiarity principle.

1.5 This also applies to the Committee's assessment of whether or not the current proposal is in accordance with the proportionality principle, since there are insufficient financial resources to fund the necessary actions over the remaining 2011-2013 period.

1.6 Given the difficult financial situation in which the EU finds itself, the Committee regards the ex-ante evaluation in the

Commission proposal as rather weak. It would like the Commission to come up with a more solid argument, especially as far as the choice of specific measures and actions is concerned.

1.7 The Committee points out that in the proposal itself it is not clear which operating grants, mentioned in the first sentence of Article 5(2), are intended or envisaged. It would also be appropriate for the recitals to make clear that the aim is not to provide for financing of maritime infrastructure, which includes seaports.

1.8 As is well-known, the Committee supports a cross-sectoral approach to maritime governance. Although the current proposal does not address policy content, the Committee would still like to highlight, as it has in the 'Specific comments' of previous opinions, issues that merit special attention in an integrated maritime policy.

2. Introduction

2.1 On 29 September 2010, the Commission published its proposal for a regulation establishing a Programme to support the further development of an Integrated Maritime Policy (COM(2010) 494 final) and asked the European Economic and Social Committee, in accordance with Article 304 of the TFEU, to draw up an opinion on the matter.

2.2 The Committee welcomes this request because it regards this proposal as a logical step in the development of an integrated maritime policy, stemming from the publication of the so-called 'blue book', a Commission communication from 10 October 2007.

2.3 This Communication called for the development and implementation of integrated, coherent and joint decision-making in relation to the oceans, seas, coastal regions and maritime sectors.

2.4 The inter-sectoral approach to maritime governance is the main idea behind the integrated maritime policy, ensuring synergies between the policy areas of the environment, maritime transport, energy, research, industry, fisheries and regional policy.

2.5 The 'blue book' was accompanied by an action plan, in which the Commission outlined a number of measures to flesh out the integrated maritime policy.

2.6 In its meeting of 14 December 2007, the European Council expressed its support for the idea of an integrated EU maritime policy, with the Commission subsequently adopting a progress report on the matter on 15 October 2009.

2.7 The progress report indicates which steps from the 2007 action plan have been taken and gives a lead on the subsequent implementation phase.

2.8 On 16 November 2009, the General Affairs Council highlighted the importance of funding for the further development and implementation of the integrated maritime policy and invited the Commission to present the necessary proposals for the financing of integrated maritime policy actions within the existing Financial Perspective, with a view to entry into force by 2011.

2.9 The Commission now concludes that both the development and implementation of the Integrated Maritime Policy are at risk because there are insufficient financial means to fund the necessary actions over the remaining 2011–2013 period. The Commission believes this is necessary in order to meet the targets set in the 'blue book', which were endorsed by the conclusions of the General Affairs Council of 16 November 2009.

2.10 Since it is not possible to accommodate all priorities and targets of the integrated maritime policy under other EU funds, a programme must be set up to support the further development of the integrated maritime policy.

2.11 The Commission believes that implementation of the programme in third countries should contribute to the development objectives of the country concerned and should be consistent with other cooperation instruments of the EU, as well as the objectives and priorities of the relevant EU policies.

2.12 According to the Commission, the objectives of the proposed regulation cannot be adequately achieved by individual Member States, given the scope and consequences of the measures to be funded in the programme. At EU level,

this can be achieved more effectively by adopting measures that are in line with the subsidiarity principle, as mentioned in Article 5 of the Treaty on European Union and the Treaty on the functioning of the European Union.

2.13 In respect of the proportionality principle, the Commission believes that proposed regulation does not go further than what is necessary in order to achieve these targets.

2.14 The objective of the proposed regulation is the establishment of a programme to support the further development of the integrated maritime policy.

3. General comments

3.1 The Committee has in earlier opinions ⁽¹⁾ welcomed the Commission's approach to establishing an integrated maritime policy. The present proposal represents a logical progression in this process.

3.2 The proposed regulation sets out, amongst other things, the general and specific aims of the programme, measures eligible for funding and possible financing methods. The proposal also provides for an evaluation to take place by the end of 2014 at the latest and calls for an advisory committee to be established to assist the Commission in drawing up its annual work programmes. The Commission estimates that implementation of the 2011–2013 programme will cost EUR 50 million. The Committee also deems all of these measures to be necessary.

3.3 The Commission proposal is intended to be a framework, providing for a number of technical instruments and is certainly not meant to be a proposal containing policy instruments. Nor does it aim to facilitate the financing of maritime infrastructure, including ports. In the Committee's view, this should also be made clear in the proposal itself, for example in the recitals.

3.3.1 The first sentence of Article 5(2) of the proposal provides that both grants for actions and operating grants may be awarded under the programme. The EESC wishes to emphasise that, although the summary of financial resources appended to the proposal gives some indication of the programme's framework, the proposal itself does not make it clear what operating grants are being considered.

3.3.2 The Committee also recommends that this be included in the proposal itself, in order to avoid the Commission itself breaching the spirit of the competition rules contained in the treaty, cross-border competition now being more or less universal in maritime affairs. In this regard, it is worth emphasising that the EU Member States should retain the right to support their own shipping sectors.

⁽¹⁾ OJ C 44, 11.2.2011, p. 173.
OJ C 255, 22.9.2010, p. 103.
OJ C 306, 16.12.2009, p. 46.
OJ C 277, 17.11.2009, p. 20.
OJ C 211, 19.8.2008, p. 31.
OJ C 168, 20.7.2007, p. 50.

3.4 The Committee is pleased to note that this proposal is based on the principle of shared competence, except in matters relating to conservation of the biological resources of the sea, for which the Commission would have sole competence.

3.5 The EESC would like the Commission to clarify its choice of legal bases. Articles 74 and 77 TFEU, do not follow the ordinary legislative procedure. The Committee wonders to what extent the legal bases adopted by the Commission are compatible with the other legal bases that do follow the ordinary legislative procedure. In this regard, it should also be noted that the procedures set out in Articles 74 and 77 are not legislative procedures within the meaning of Article 289 TFEU.

3.6 In the Committee's view, the cross-border nature of maritime activities and the synergies between sectoral policies justify adopting measures to ensure an integrated maritime policy, such as research, contributions to pilot projects and EU-level promotion and boosting of the integrated maritime policy in the Member States.

3.7 The EESC's considers that the grounds for the Commission's ex-ante evaluation are not the proposal's strongest point. Given the other options available, the Committee deems the choice of option 2, which is a modest financial contribution from the EU for further exploring options and steadily implementing the integrated maritime policy as it develops, to be a poor one. The EESC recommends that the Commission attempt to find a more solid base, especially as regards selecting practical themes and areas of action.

3.8 In the Committee's view, the actions put forward in Article 4 of the Commission proposal are too loose in terms of meeting the objectives set in the preceding articles. It suggests that where greater coordination and clarity concerning responsibilities and powers are needed, the Commission should propose clearer guidelines, taking due account of the subsidiarity principle.

3.9 The Commission proposes that an ex-post evaluation report be submitted to the European Parliament and the Council by 31 December 2014 at the latest. The Committee endorses this proposal, but wishes to highlight the need for a more thorough ex-ante evaluation so that it can be observed ex-post whether the set objectives have been met.

4. Specific comments

4.1 As is well known, the Committee supports a cross-sectoral approach to maritime management. This being the case, it emphasises the importance of collaboration between all of the parties concerned. The EESC considers that the active participation of the parties concerned in the actions

referred to above is key to their success. It is crucial to achieving the stated objectives that this participation be mobilised and that information on the results of an integrated maritime policy be provided in the Member States and exchanged between them.

4.2 Although the present proposal does not address policy content, the Committee nevertheless wishes to reiterate the position it has adopted in earlier opinions, which is that the following aspects warrant specific attention in the context of an integrated maritime policy:

4.2.1 There is a need to adopt sustainable solutions reconciling the environmental concerns of the EU's coastal regions with the requirements of international trade, which are reflected in higher volumes of maritime transport.

4.2.2 The EESC wishes to recall two major shipping disasters - the Erika in 1999 and the Prestige in 2002, which both received considerable media coverage, and recommends that a 'worst case scenario' be drawn up. It considers, however, that despite an extensive body of legislation, containing some 15 new regulations and directives, Member States should make greater efforts in two important areas:

- creating adequately equipped reception facilities in ports for oil residues from ships, the absence of which results in such residues continuing to be discharged at sea;
- establishing a sufficient number of 'ports of refuge' for ships in difficulty, and further clarifying responsibilities and powers in the event of disaster.

Measures to remedy these shortcomings should be included on the list of objectives eligible for support.

4.2.3 Now that the United Nations Convention on the Law of the Sea (UNCLOS) has been ratified and that all EU Member States are signatories to it, its implementation must be monitored. In the Committee's view, third countries that have not yet ratified and implemented the convention, especially in the seas between EU and non-EU Member States, should be asked to do so, and this includes third countries that have signed association agreements with the EU or have opened accession negotiations with the EU, because the convention now forms an integral part of the Community acquis.

4.2.4 To ensure that this process runs smoothly, the Committee proposes that ministers from the Union for the Mediterranean hold a meeting on the integrated maritime policy at least once a year. The Committee hopes that in the near future the same process can also be extended to other sea basins, such as the Baltic Sea, the North Atlantic and the Black Sea.

4.2.5 The EESC considers that, in order to consolidate the international dimension of the integrated maritime policy, the Commission should attach greater priority to improving working conditions at sea, to safety and to the environmental performance of ships.

4.2.6 The Committee wishes to point out that to ensure the smooth operation of an effective integrated maritime market, Member States' inspection services, coastguards and navies should be better coordinated, preferably by the European Maritime Safety Agency.

4.2.7 This smooth operation would also require a common maritime information exchange body and a system of integrated maritime monitoring. In its opinion on the matter ⁽²⁾, the EESC

highlighted the need to establish a system designed to provide, in the long term, accurate, up-to-date, high-quality and cost-effective data.

4.2.8 The EESC wishes to recall that it referred in an earlier opinion ⁽³⁾ to the role it could play in the implementation of maritime policy, especially as regards maritime spatial planning. The Committee wishes to take this opportunity to reiterate this commitment.

Brussels, 16 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽²⁾ OJ C 44, 11.2.2011, p. 173.

⁽³⁾ OJ C 211, 19.8.2008, p. 31.

Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation (EU) No .../... of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency’

COM(2010) 611 final — 2010/0303 (COD)

(2011/C 107/14)

Rapporteur: **Mr SIMONS**

On 22 and 10 November 2010 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Article 100(2) of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation (EU) [...] of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency

COM(2010) 611 final — 2010/0303 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 February 2011.

At its 469th plenary session, held on 16 and 17 February 2011 (meeting of 16 February) the European Economic and Social Committee adopted the following opinion by 114 votes with one abstention.

1. Conclusions and recommendations

1.1 The Committee welcomes the role played by European Maritime Safety Agency (EMSA) in improving maritime safety in the Member States. The Committee also considers it very important in the future for the tasks and competences of the EMSA to be extended in a sensible way.

1.2 By ‘in a sensible way’, the Committee means that the tasks, responsibilities and competences of EMSA must be formulated and laid down more clearly than hitherto, so that no misunderstandings can arise in the division of tasks between EMSA, the Commission and the Member States.

1.3 With reference to the proportionality principle, the Committee would point out that, in its proposal, the Commission in certain respects anticipates the role that EMSA could play in the future. Decisions will have to be taken on the matter at EU level first.

1.4 The Committee is surprised at the sudden mention of inland waterways in Article 2(2)(d). No other reference is made to inland waterways, either in the relevant existing legislation, which, as the title indicates, addresses maritime issues only, or in the explanatory memorandum, impact assessment or recitals of the current amendment. There is no mention at all of the reasons and justification for including inland waterways, the scope of this addition, the technical requirements involved and how the different sea and inland waterways policies, as well as the completely different governance and management arrangements at national and international level, are to be

addressed. For these reasons alone, not to mention the essential fact that separate vessel traffic services have already been set up for these two transport modes because they are very different in nature, the reference to inland waterways should be dropped.

1.5 The EESC can certainly conceive of there being a legal basis, and thus also budgetary scope, as soon as possible for the Agency to be able to assist the Commission by providing relevant and specified knowledge and expertise based on its activities in the maritime sphere, but this should then apply not just to all modes of transport, but even in other policy areas.

1.6 The EESC is happy with the proposal to bring the founding regulation more into line with the EU legislation in the third maritime safety package.

1.7 The EESC recommends that the roles of EMSA, the Commission, the Member States, and the Administrative Board be clarified, notably with respect to the organisation of inspections.

1.8 The EESC therefore endorses the Commission's proposal to follow the example of the European Aviation Safety Authority when establishing EMSA's operational working methods for inspections.

1.9 The EESC considers that, because EMSA has already proved that it can provide added value, it should receive the staff and funding required to be able to continue playing its role as it should in the future. In the Committee's view, this means continuing with regular external evaluations.

2. Introduction

2.1 On 28 October 2010, the Commission published its *Proposal for a Regulation (EU) of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency* (COM(2010) 611 final), and it has asked the European Economic and Social Committee, in accordance with Article 304 of the Treaty on the Functioning of the European Union, to give its opinion on the text.

2.2 The EESC is pleased to meet this request, as it considers this proposal to be an important further step in improving maritime safety.

2.3 It should be remembered that maritime safety did not really become a policy concern until after the sinking of the oil tanker Erika, which resulted in serious oil pollution damage.

2.4 At the end of 2000, the Commission submitted a proposal for a regulation to set up a European Maritime Safety Agency (EMSA). This Agency was supposed to function as a technical body to ensure a high, uniform and effective level of maritime safety and prevent pollution by ships.

2.5 The regulation came into effect in August 2002 and EMSA started operating in March 2003. The regulation has been amended three times since then.

2.6 The first amendment, Regulation 1644/2003, concerned mainly financial and budgetary procedures and was intended to improve transparency.

2.7 The second amendment, Regulation 724/2004, which was prompted by the Prestige oil spill in 2002, assigned the Agency a number of new tasks, primarily in relation to vigilance and prevention of pollution. This amendment also took into account developments in EU competences in relation to maritime security.

2.8 Under the second revision, the Agency was also asked to provide technical assistance with the inspections that the Commission was required to conduct under Regulation 725/2004 in order to improve ship and port facility security.

2.9 EMSA was also asked to support the Commission in assessing seafarer certification procedures and training establishments in both EU and non-EU countries. This relates to standards of training, certification and watchkeeping laid down in the STCW Convention of the International Maritime Organization (IMO).

2.10 The third amendment came in 2006 with Regulation 2038/2006. This provided EMSA with a financial framework of

EUR 154 million for pollution response activities for the period 2007-2013.

2.11 Developments in the sphere are ongoing. The present proposal for an amendment (the fourth) to Regulation 1406/2002 is necessary to enable EMSA to continue operating effectively and efficiently.

2.12 The objective of the Commission's proposed amendment is, on the one hand, to clarify the existing tasks and role of EMSA and, on the other, to extend its tasks to new areas that are emerging at international and/or EU level.

2.13 EMSA's current activities include providing the Member States and the Commission with technical and scientific assistance in order to help the Member States to properly apply Community legislation in the field of maritime safety, maritime security and prevention of pollution by ships, to monitor the implementation of this legislation and to evaluate the effectiveness of measures in place and assist in developing new measures.

2.14 In its Communication *Strategic goals and recommendations for the EU's maritime transport policy until 2018*, the Commission stated its intention to revise the mandate and functioning of EMSA so as to further enhance the technical and scientific assistance it can provide to the Member States and the Commission.

2.15 In its conclusions of 30 March 2009, the Council invited the Commission to develop measures in anticipation of upcoming challenges that would make it possible to enhance EMSA's work of providing technical and scientific assistance to the Member States and the Commission.

2.16 At the request of the European Parliament and the Council, the Commission looked into the matter and reached the conclusion that synergies at EU level in coastguard operations could be reinforced through EMSA's activities. This could be done by extending EMSA's tasks in selected areas, in particular the monitoring of maritime traffic and shipping routes as well as assistance to Member States in tracking possible polluters.

2.17 As provided for in Regulation 1406/2002, in 2007 EMSA's Administrative Board commissioned an independent external evaluation on the implementation of the regulation. The report produced from that evaluation noted that there was scope for improvements and clarifications in some areas, but concluded overall that the Agency provides added value for the sector generally – and for two of its most important stakeholders, the Member States and the Commission, in particular.

3. General comments

3.1 In previous opinions ⁽¹⁾ ⁽²⁾ the EESC has emphasised the crucial role played by EMSA in improving maritime safety in the Member States. In view of ongoing developments in the sphere of maritime safety and the contingent need for inspections and response to pollution, the EESC believes it is very important for EMSA's tasks and competences to be extended.

3.2 The proposed broadening of its remit concerns, among other things, the following: assistance provided by ESMA in international organisations such as the IMO; the role of operational services such as SafeSeaNet that contribute to the integrated maritime policy and to making systems interoperable; providing a response to maritime pollution caused by offshore exploration operations; technical cooperation with non-EU countries; and assisting the Commission with security-related inspections.

3.3 The main basis for amending the regulation is principally the third maritime safety package, as well as the new areas included in EMSA's 2010-2014 five-year strategy and the recommendations of EMSA's Administrative Board further to the external evaluation of the Agency.

3.4 EMSA's tasks should be delineated more clearly and precisely as regards the assistance it is required to provide to the Commission and the Member States, especially in the context of new developments such as the third maritime safety package, the EU's integrated maritime policy, maritime surveillance and the feasibility of a European coastguard service.

3.4.1 The Committee is surprised at the sudden mention of inland waterways in Article 2(2)(d). No other reference is made to inland waterways, either in the relevant existing legislation, which, as the title indicates, addresses maritime issues only, or in the explanatory memorandum, impact assessment or recitals of the current amendment. There is no mention at all of the reasons and justification for including inland waterways, the scope of this addition, the technical requirements involved and how the different sea and inland waterways policies, as well as the completely different governance and management arrangements at national and international level, are to be addressed. For these reasons alone, not to mention the essential fact that separate vessel traffic services have already been set up for these two transport modes because they are very different in nature, the reference to inland waterways should be dropped.

3.4.2 The EESC can certainly conceive of there being a legal basis, and thus also budgetary scope, as soon as possible for the Agency to be able to assist the Commission by providing

relevant and specified knowledge and expertise based on its activities in the maritime sphere, but this should then apply not just to all modes of transport, but even in other policy areas.

3.4.3 Article 2(1) sets out the fields in which the Agency is to assist the Commission. The elaborations in Article 2(2) – some of which do not specify that the assistance must fall within EMSA's remit, while others do, but with inconsistent wording – are confusing and in certain cases, for instance letter (e), unclear. The solution would be to dispense with these sections, since they are already covered in Article 2(1).

3.5 With respect to the proportionality principle, the Committee endorses the recommendation to bring the regulation more into line with European legislation under the third maritime safety package. However, it points out that, in certain respects, the proposal anticipates the role EMSA could play in the future, for instance in setting up regional centres, whereas no decision has been taken about this yet.

4. Specific comments

4.1 As regards governance, the Committee notes that the proposal points to the need to clarify the roles of EMSA, the Commission, the Member States and the Administrative Board specifically in relation to the organisation of inspections.

4.2 Indeed, representatives of the Member States on the Administrative Board face a potential conflict of interests: on the one hand, they have to take decisions about the activities and resources of EMSA, in particular inspection policy, and, on the other, they represent the national authorities, which themselves are subject to inspections by EMSA on behalf of the Commission to check the consistency of national legislation and practice with EU law.

4.3 The EESC therefore endorses the revision of Article 3 with respect to EMSA inspections and the Commission's proposal to follow the example of the European Aviation Safety Authority when establishing EMSA's operational working methods for inspections (comitology procedure).

4.4 The advantage of this is that it involves all the interested parties (EMSA, the Commission and the Member States), while respecting the established institutional roles and responsibilities of each.

4.5 The Committee also considers that attention should be paid in this context to the living and working conditions of seafarers, particularly in relation to implementation of the ILO's Maritime Labour Convention and obviously only in so far as EMSA's remit is concerned.

⁽¹⁾ OJ C 28, 3.2.2006, p. 16.

⁽²⁾ OJ C 108, 30.4.2004, p. 52.

4.6 The EESC wishes to make an observation on the amendment to Article 5(3). The proposed change implies that the regional centres that are to be set up will not deal solely with issues of vessel traffic monitoring and maritime transport. The EESC cautions that operations can only be efficient if clear agreements exist between the Member States and EMSA about who is responsible and competent for what.

4.7 The changes in Article 10 to 19 relate mainly to EMSA's constituent bodies – either already in place or still to be established – their responsibilities and competences, increases in human resources and sources of funding.

4.8 The EESC believes that, wherever EMSA has a proven track record of generating added value, it should, in future too, be given the means to carry out its current and new tasks as it should. Any restrictions on human and financial resources, so that the number of tasks EMSA can perform is reduced, should always be weighed against the negative consequences this would have in terms of activities not carried out.

4.9 Finally, the EESC agrees with the recommendation made by the Administrative Board of EMSA to have an external evaluation of the Agency's operations carried out at regular intervals by an independent body.

Brussels, 16 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on repealing certain obsolete Council acts in the field of the common agricultural policy’

COM(2010) 764 final — 2010/0368 (COD)

(2011/C 107/15)

On 18 January 2011 the European Parliament and on 27 January 2011 the Council decided to consult the European Economic and Social Committee, under Articles 42 first indent, 43 (2) and 304 of the Treaty on the Functioning of the EU, on the

Proposal for a Regulation of the European Parliament and of the Council on repealing certain obsolete Council acts in the field of the common agricultural policy

COM(2010) 764 final — 2010/0368 (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 469th plenary session of 16 and 17 February 2011 (meeting of 16 February 2011), by 128 votes with one abstention, to issue an opinion endorsing the proposed text.

Brussels, 16 February 2011.

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 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States’ (Recast)

COM(2010) 784 final — 2010/0387 (CNS)

(2011/C 107/16)

On 25 January 2011 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 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (Recast)

COM((2010) 784 final — 2010/0387 (CNS).

Since the Committee unreservedly endorses the contents of the proposal and has already set out its views on the subject in its earlier opinion on Common system of taxation/ parent companies and subsidiaries; OJ 2009/C 182/18 p. 77, adopted on 14 January 2009, it decided, at its 469th plenary session of 16 and 17 (meeting of 16 February 2011), by 115 votes to zero with three abstentions, to issue an opinion endorsing the proposed text and to refer to the position it had taken in the above-mentioned document(s).

Brussels, 16 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council on the installation, location, operation and identification of the controls of wheeled agricultural or forestry tractors’ (Codification)

COM(2010) 717 final — 2010/0348 (COD)

(2011/C 107/17)

On 17 January 2011, the Council and, on 16 December 2010, the European Parliament, decided to consult the European Economic and Social Committee, under Article 114 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 the installation, location, operation and identification of the controls of wheeled agricultural or forestry tractors

COM(2010) 717 final — 2010/0348 (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 469th plenary session of 16 and 17 February 2011 (meeting of 16 February), by 114 votes with four abstentions, to issue an opinion endorsing the proposed text.

Brussels, 16 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on braking devices of wheeled agricultural or forestry tractors' (Codification)

COM(2010) 729 final — 2010/0349 (COD)

(2011/C 107/18)

On 17 January 2011, the Council and, on 16 December 2010, the European Parliament, decided to consult the European Economic and Social Committee, under Article 114 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 braking devices of wheeled agricultural or forestry tractors

COM(2010) 729 final — 2010/0349 (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 469th plenary session of 16-17 February 2011 (meeting of 16 February), by 111 votes to one with five abstentions, to issue an opinion endorsing the proposed text.

Brussels, 16 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council on the operating space, access to the driving position and the doors and windows of wheeled agricultural or forestry tractors’ (Codification)

COM(2010) 746 final — 2010/0358 (COD)

(2011/C 107/19)

On 17 January 2011, the Council and, on 16 December 2010, the European Parliament, decided to consult the European Economic and Social Committee, under Article 114 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 the operating space, access to the driving position and the doors and windows of wheeled agricultural or forestry tractors

COM(2010) 746 final — 2010/0358 (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 469th plenary session of 16 and 17 February 2011 (meeting of 16 February), by 108 votes in favour, with six abstentions, to issue an opinion endorsing the proposed text.

Brussels, 16 February 2011.

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 Decision on guidelines for the employment policies of the Member States’

COM(2011) 6 final — 2011/0007 (CNS)

(2011/C 107/20)

On 26 January 2011 the Council decided to consult the European Economic and Social Committee, under Article 148 of the Treaty on the Functioning of the European Union, on the

Proposal for a Council decision on guidelines for the employment policies of the Member States

COM(2011) 6 final — 2011/0007 (CNS).

Since the Committee endorses the contents of the proposal and has already set out its views on the subject in its earlier opinion CESE 763/2010, adopted on 27 May 2010 ⁽¹⁾, it decided, at its 469th plenary session of 16 and 17 February 2011 (meeting of 16 February), by 119 votes to none with three abstentions, to issue an opinion endorsing the proposed text and to refer to the position it had taken in the above-mentioned document.

Brussels, 16 February 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹⁾ EESC opinion on *Employment policy guidelines*, OJ C 21, p. 66 of 21.1.2011.

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