

# Official Journal of the European Union

C 303



English edition

## Information and Notices

Volume 59

19 August 2016

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## I

(Resolutions, recommendations and opinions)

## OPINIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

517TH EESC PLENARY SESSION OF 25 AND 26 MAY 2016

**Opinion of the European Economic and Social Committee on 'Indigenous coal in the EU energy transition'**

**(own-initiative opinion)**

(2016/C 303/01)

**Rapporteur-General: Dumitru FORNEA**

**Co-rapporteur-General: Renata EISENVORTOVA**

On 19 February 2015 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on the:

*Contribution of indigenous coal and lignite resources to the EU's energy security.*

(own-initiative opinion)

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 November 2015.

At its meeting of 24 May 2016, the Bureau decided to change the title of the opinion to:

*Indigenous coal in the EU energy transition.*

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May 2016), the European Economic and Social Committee adopted the following opinion by 139 votes to 17 with 54 abstentions.

## 1. Conclusions and recommendations

1.1 During the **energy transition towards the low-emission economy**, the EU energy system faces a period of profound technological, economic and social change that will affect many of the energy sectors, including the coal industry and hence the coal-mining regions of the EU.

1.2 In some Member States, **indigenous coal and lignite are still important for electricity and heat**. They contribute to a **secure and affordable energy supply, economic competitiveness** and play a **stabilising role in the energy system**, both technically and economically.

1.3 However, the currently active **coal-mining regions have to prepare for the phasing-out of coal production** to be in line with EU energy and climate policy decisions on fossil fuel use or for economic reasons.

1.4 The future of regions currently dependent on the use of coal and future living conditions there must be included in forward **planning covering two generations**, i.e. 25-50 years. Phasing out the use of coal for energy purposes in these regions cannot be allowed to lead to their stagnation. In view of their economic and social potential, these regions must be involved in implementing the EU's energy and climate policy. The sustainable development of these regions must be achieved through the guarantee of political, civic and social dialogues which must ensure that there are plans for transition at national, industry and enterprise levels.

1.5 To preserve energy security, a competitive industry, environmental protection, compliance with GHG emission reduction obligations and social cohesion in coal-mining regions, the EESC recommends a **'Transition support plan for the communities and regions dependent on coal production' (the 'Plan')**, to address coal industry restructuring issues during the energy transition so that coal-mining regions can adapt to change.

1.6 The **'Plan'** might be **developed by an advisory group** in cooperation with the **European Commission and the European Parliament**. Members of this advisory group should be representatives of the mining regions, unions, NGOs, R&D and the coal industry.

1.7 **The Plan should be based on three pillars:** (i) political, civic and social dialogues; (ii) economic, social and environmental investments; and (iii) investments in education, training, research and development, innovation and culture.

1.8 The Plan should **encourage regions to change**, stimulate innovative development, maintain investment attractiveness and create opportunities for employment and a decent life. In this transition process, it is necessary to take full advantage of the know-how and potential of the mining regions.

1.9 **Regional authorities, Member State governments and EU institutions must all engage** with the energy transition and the related restructuring of the coal-mining regions.

1.10 **The European Economic and Social Committee and the Committee of the Regions have the necessary experience to be involved in this process**, both at the European and national levels. They are also able to provide an effective framework for the political, social and civic dialogue that is necessary for consultation with people from the coal-mining regions.

1.11 In respect of the energy transition, one of the main concerns of EU coal-mining regions is the existence of an **adequate institutional and political framework that can boost the public and private investments** which will be needed in the coming years.

## 2. EU energy transition

2.1 In the last decade, the EU saw **major changes in its energy system**. The EU is on track to move to a low-carbon economy and meet its objectives for greenhouse gas emissions, energy efficiency and renewable energy sources in response to its '20-20-20' targets. In 2014, the EU approved the 2030 framework for climate and energy with a 40 % cut in greenhouse gas emissions, a 27 % share of renewable energy consumption and a 27 % energy saving. These mid-term targets aim to help the EU to meet its long-term 2050 greenhouse gas reduction target with an 80-95 % cut in greenhouse gas emissions.

2.2 Hence, the EU energy system is **moving away from an era dominated by fossil fuels** and power generation from large central power plants towards power generation from renewable energy sources and decentralised plants, while maximising the opportunities available from increased energy efficiency and better energy demand management.

2.3 The energy transition and the ambitious EU climate policy received strong support in the **Energy Union** project and were keenly promoted after the **Paris Agreement** which sends a clear signal to reduce emissions sufficiently to keep the global average temperature increase to below the agreed 2 °C limit by the end of the century.

2.4 In order to stabilise the climate, **far-reaching changes** in the energy systems of all economic sectors are **needed** <sup>(1)</sup>.

2.5 The energy transition encompasses **technological, research, societal, cultural, economic and environmental aspects** and there is a clear implication that this means a more active role for individuals and communities. This process requires a special focus on research and development as it poses new challenges for the energy system and industry sectors which have to react and adapt to this situation.

### 3. Coal and the coal industry in Europe

3.1 The **coal industry** is one of the sectors **deeply affected by the energy transition**. For hundreds of years, coal was at the centre of industrial and societal developments in Europe and worldwide. The European Union itself was created by the act of a political will to pool the coal and steel production resources of the first six founding Member States <sup>(2)</sup>.

3.2 Current **concerns about environmental protection, climate change and human health** <sup>(3)</sup>, have led to a range of political and societal approaches that call into question the need to continue with the use of coal and other fossil fuels to produce electricity and heat.

3.3 With this new political approach, **the days of coal appear to be numbered**, in spite of the fact that currently, more than one quarter of the EU's electricity is still generated by 280 coal-fired power plants in 22 countries. Only six countries are coal-power free: Cyprus, Estonia, Latvia, Lithuania, Luxembourg and Malta <sup>(4)</sup>.

3.4 While the idea of phasing out coal from the energy mix appears generally accepted in those Member States where there is no exploitation of indigenous coal resources, the same is not true in the case of the EU **coal-mining regions**, where the coal sector provides direct jobs for 240 000 workers. With jobs in the mining equipment industry, other jobs in the supply chain and indirect jobs, the industry supports close to **one million jobs**, many in regions with few other employment opportunities <sup>(5)</sup>.

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<sup>(1)</sup> In 2015, the G7 countries agreed that a complete decarbonisation of the global economy is needed over the course of this century and therefore a 'transformation of the energy sectors by 2050'.

<sup>(2)</sup> The Treaty establishing the European Coal and Steel Community was signed in Paris in 1951 and brought France Germany, Italy and the Benelux countries together in a Community with the aim of organising free movement of coal and steel and free access to sources of production. This treaty is the origin of the institutions as we know them today.

<sup>(3)</sup> <http://www.env-health.org/resources/press-releases/article/eur8-5-billion-in-health-costs>

<sup>(4)</sup> Greenpeace Report 'End of an Era: Why every European country needs a coal phase-out plan'.

<sup>(5)</sup> Eurocoal (2013) *Coal industry across Europe*, p. 20.

3.5 Six **Member States** mine hard coal: the Czech Republic, Germany, Poland, Romania, Spain and the UK. Ten Member States exploit lignite as a competitive fuel for power generation: Bulgaria, the Czech Republic, Germany, Greece, Hungary, Poland, Romania, Slovakia, Slovenia, and Spain.

3.6 In these countries, **indigenous coal and lignite** play an important role **for security of supply** and so help to achieve EU energy security and **decrease high import dependency**. As set out in the European energy security strategy <sup>(6)</sup>, the EU's external energy bill represents more than EUR 1 billion per day. In 2013, the total bill was around EUR 400 billion, i.e. more than a fifth of total EU imports. It was necessary to import 90 % of crude oil, 66 % of natural gas, 42 % of solid fuels and 40 % of nuclear fuel. In some EU Member States with large-scale indigenous coal production, for example in Germany and the Czech Republic, about 50 % of electricity is generated at coal-fired power plants. In Poland, this share exceeds 80 %.

3.7 Alongside its use in electricity production, coal **has many other uses**. It is used for cement manufacturing and can be converted to liquid fuels. Other major users of coal include steel refineries, paper manufacturers, the chemical and pharmaceutical industries, and the food processing sector.

3.8 Coal is also an essential ingredient in the manufacture of **specialist products** such as the activated carbon used in filters or the carbon fibre used in aerospace, civil engineering, the military sector, etc. Industrial processes are available for manufacturing synthetic fuels or the basic chemicals required by industry, such as methanol. From methanol, it is possible to manufacture a wide range of petrochemicals which are now produced from other fossil fuels.

3.9 To achieve the goal of a resilient Energy Union with a forward-looking climate change policy, the EU energy sectors have to work seriously and intensely on the necessary energy transition. The coal industry has to focus on **more efficient and cleaner use and develop alternative uses for coal**. Therefore, the EU should allocate the required funds for research and development in coal chemistry.

#### 4. Measures for less damaging and more efficient use of coal

4.1 Even if the **phasing-out of coal** in the EU is **expected at some point in the future**, in some countries and mining regions coal will still be used for some decades to come. According to the Lisbon Treaty, Member States have the right to exploit their own energy resources and to determine the mix of energy sources, knowing that there should not be any subsidies for energy production and bearing all climate change obligations in mind. However, the coal industry has to respond to the ongoing energy transition, the movement **towards a low-carbon economy** and especially the decarbonisation goal by using all available measures and techniques for a less damaging and more efficient use of coal. In this respect, several beneficial and proven tools are worthy of mention: efficiency increase, flexibility and cogeneration.

4.2 Since electricity production accounts for the largest use of coal, **higher efficiency** is an important tool for the less polluting use of coal. With high efficiency, more electricity can be produced from each tonne of coal and CO<sub>2</sub> emissions can be reduced by 30 % or more. Good examples for coal-fired power plants with high efficiency can be found in Germany, in power plants working with optimised systems technology. These coal-fired power plants are also highly **flexible** and can increase or decrease their output quickly, thereby supporting intermittent renewables.

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<sup>(6)</sup> COM/2014/0330 final, 28.5.2014.



4.3 **Cogeneration (combined heat and power or CHP)** is an effective and efficient form of power generation, offering significant benefits, both in terms of energy and the environment. Conventional power generation plants emit waste heat into the environment. Cogeneration plants capture this heat and utilise it, therefore using the fuel more efficiently. The EU currently generates 11,7 % of its electricity using cogeneration <sup>(7)</sup>.

4.4 In the medium term, there is a hope that **carbon capture and storage (CCS)** might play a role in a decarbonised economy. The existing processes have to be improved at scale, infrastructure and storage must be optimised and the competitiveness of electricity from coal-fired plants with CCS must be clear before taking any action to require CCS. A cost-benefit and environmental impact analysis should be performed.

4.5 When considering the efficient and less polluting use of coal, alternative uses of coal should also be mentioned, for example **coal liquefaction**. Coal can be converted into liquid fuels — gasoline, diesel, and jet fuel or petrochemicals. The technologies are developed, but the investment and operational costs need to be taken into account.

## 5. European coal-mining regions and their future

### 5.1 *Situation in the European coal-mining regions*

5.1.1 **Coal regions** are traditional industrial areas, where industrialisation was associated with exploiting the local mineral resources. The regions are therefore **historically related to the traditional sectors of the economy** with a major role played by the heavy metallurgical industry, the chemical industry and the energy sector. These sectors and the companies operating in them have been exposed to rapid changes in the external environment (market conditions, competition, customers, technologies) and fundamental internal changes (changes of ownership, the owners' objectives and capital strength) in recent years.

5.1.2 In addition to the major changes, some traditional industries have experienced stagnation, withdrawal from the region or even phase-outs. In some regions, European coal was unable to compete with imported coal or other fossil energy sources, which caused a dramatic decline in coal mining. To give but one example: 100 years ago, the UK produced around 300 million tonnes of coal each year and employed more than one million miners. Deindustrialisation has caused the loss of jobs and yet **coal extraction companies have remained some of the largest employers in a number of the regions**. The phasing out or complete discontinuation of coal companies' operations therefore has serious impacts on the relevant regions. This situation has had a major impact on small and medium-sized companies connected to mining companies.

5.1.3 In many countries, coal regions are characterised by a higher rate of **unemployment** than the national average and by **long-term unemployment**. It will therefore be difficult for any redundant miners to find new job opportunities. Thus, **poverty, stagnation and a deterioration in the standard of living, and the number of socially excluded areas and people** are all growing.

5.1.4 **The key problem caused by the rising rates of unemployment is the unbalanced supply and demand on the labour market**. In other words, in contrast to the high level of unemployment, demand for workers is very clear, but the demand is for skills that meet the labour market's requirements. **The educational profile of former miners**, with manual skills predominating, is not fully compatible with the labour market's needs in terms of the professional aspect (qualifications) and the personal aspect (motivation). When a large number of miners are laid off with the closure of a mine, very many jobs disappear virtually overnight, and this can produce strong local shocks.

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<sup>(7)</sup> Eurostat figures 2013; published 2015.

5.1.5 Extraction workers also display a much **less developed entrepreneurial spirit and little inclination for venturing into new businesses**. Their lack of enthusiasm for independent business is due to the long-lasting influence wielded over them by large and powerful mining companies that promoted an employee culture amongst their people, including an unwillingness to take risks. However, this trend can also be observed more generally. Even university students would prefer employment following graduation.

5.1.6 The situation is frequently exacerbated by the shortage of promising work and career prospects, **less favourable conditions for running independent business, low liveability indices and substandard innovation performance** with which the weaker role of science, research and development is connected. **Public R & D capacities are not sufficiently developed everywhere and the transfer of knowledge and applications to the business sector is not working very well**. It is also for these reasons that economic transformation is more challenging and difficult, and is not successful in all cases.

## 5.2 *Restructuring problems in the coal-mining regions*

5.2.1 In EU coal-producing countries, **restructuring has often been carried out in response to crises**, without adequate political commitments. This has led to dramatic consequences for the quality of life for people in mining communities. Any reduction in coal production has the potential to create more unemployment, especially in mining regions undergoing long-term structural decline. Many former mineworkers and workers from businesses linked with mining face long-term and often permanent unemployment, thereby adding to impoverishment.

5.2.2 Unfortunately, with few exceptions, the **relevant European and national authorities have so far pursued an 'ostrich policy'** in terms of the expected impacts of climate policies on the coal-mining industry, avoiding any engagement in the appropriate civic and social dialogues with workers and citizens in mining communities. The memory of previous restructuring exercises, that were carried out on the basis of populist political promises which ultimately did not materialise in concrete measures for the economic redevelopment of these communities, are even now reflected in an increased level of mistrust on the part of workers in the ability of the authorities to effectively address the industrial restructuring processes.

5.2.3 At the same time, a **low level of empathy and a lack of real understanding of the problems facing the mining regions** can be observed at European and national level. There is a tendency towards excessive politicisation of the debate on the future of mining in the context of climate policies, especially in the coal-mining regions where coal extraction activities do not require State aid, but also in mining regions where the coal industry is already in a painful process of restructuring, politicians avoid the subject, because the transition measures towards a new regional profile do not secure any immediate electoral capital, are unpopular and need decades to show results.

5.2.4 As there is a **clear link between phasing out coal and climate change policy**, part of the European policy dealing with implementing climate objectives must be to **help those regions suffering from structural changes**, i.e. coal-mining regions.

5.2.5 There are **often** situations where local authorities **do not have the necessary financial and administrative capacity** to underwrite projects and manage them according to the specific requirements of the European Commission and national authorities, which is why European funds produce rather limited results in terms of opportunities and quality of life for people in coal-mining communities.

### 5.3 *Conditions, possibilities and measures for restructuring coal-mining regions*

5.3.1 A 'just transition' <sup>(8)</sup> for the mining communities can be ensured if the national and European authorities can draw up a timely, **focused plan of measures** to: safeguard decent wages and job security for the workers involved; facilitate training, skills development and redeployment with decent work alternatives; respect human rights and guarantee social protection measures, including pensions, to support people through the transition; and secure investments in community renewal, including mine closures and mine site reclamation activities, or the construction and services associated with the energy transition.

5.3.2 Therefore, these regions will need urgent **financial and scientific assistance**, not just to evolve towards a new economic and social model, but also to manage, within a reasonable time-frame, the multiple hazards for human health and the environment associated with current and historic mining activities. In this respect, Member States' geological survey bodies and authorities responsible for mine closures and restoration must cooperate to collect and store mineral and mine data and map the main risks that are linked with past mining activities, mine closure or mine conservation.

5.3.3 The future of regions currently dependent on the use of coal and future living conditions there must be included in forward **planning covering two generations**, i.e. 25-50 years. Phasing out the use of coal for energy purposes in these regions cannot be allowed to lead to their stagnation. In view of their economic and social potential, these regions must be involved in implementing the EU's energy and climate policy. The sustainable development of these regions must be achieved through the guarantee of political, civic and social dialogues which must ensure that there are plans for transition at national, industry and enterprise level.

5.3.4 The decline in the **attractiveness for new foreign and domestic investors** should also be halted; in addition to the inadequate skill set of the workforce, attractiveness is marred by a shortage of suitable and well-prepared areas for business properties and of large strategic industrial zones.

5.3.5 Thus, the situation is not easy for former mineworkers in coal regions. Enlightened representatives of coal regions should appeal to their national governments and together they should **prepare for the restructuring and development of the coal regions well in advance of any planned reduction or phasing-out of coal mining**.

5.3.6 **Regional authorities, Member State governments and EU institutions must all engage** with the energy transition and the related restructuring in the coal-mining regions.

5.3.7 Nevertheless, **coal regions possess a considerable potential** for both restructuring and development. A set of development measures should be prepared, including the promotion of R & D in an innovative environment and embracing the traditional sectors that have survived in coal regions as well as new expanding sectors.

5.3.8 Existing energy infrastructure and the qualified human resources from the coal-mining regions must be fully harnessed, and in this respect, among the measures to be supported should be the **promotion of public and private investment**. Existing companies and other market players need to invest heavily in new production facilities, including renewable energy generation facilities.

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<sup>(8)</sup> ETUC Frontlines Briefing, October 2015, 'Climate justice: Paris and beyond'.

5.3.9 **Feasibility studies** might demonstrate that some coal-mining regions not only have a great potential for the production of solar, wind or geothermal energy, but are also more easily meeting other conditions required for investment and the deployment of green energy technologies: easy access to land for new production facilities, skilled human resources or a willingness to be retrained, local public authorities familiar with the challenges of the energy sector and local communities accustomed to industrial projects.

5.3.10 Current mining companies **own or hold under concession, significant areas of land** and/or hundreds of kilometres of underground galleries that can be used in the energy transition. Moreover, most mining units have a reliable interconnection with the regional and national networks for energy transportation.

5.3.11 In order to trigger further investment from the private sector, which has a key role to play, the **European Structural and Innovation (ESI) Funds** have ring-fenced a minimum of EUR 27 billion specifically for low-carbon economy investments, including energy efficiency. A minimum 12 %, 15 % or 20 % of the national European Regional Development Fund (ERDF) allocation needs to be invested to support the shift towards a low-carbon economy in all sectors in less developed, transition and more developed regions of the EU respectively. If the Cohesion Fund (CF) is used for such investments, the share increases to 15 % for less developed regions <sup>(9)</sup>.

5.3.12 **European funds** can **partially** assist mining communities in their efforts towards economic diversification and energy transition, but **much of the investment** for economic development has to be provided from the **public funds of the Member States** concerned or by attracting new **private investment**.

5.3.13 The abovementioned aspects must be considered when framing measures to assist the coal-mining regions in this unavoidable process of energy transition and economic diversification, and the social partners, civil society and people in general from these regions, must be involved in identifying **new avenues of development for their communities**.

5.3.14 A **'Transition support plan for the communities and regions dependent on coal production'** should encourage regions to make a transition, stimulate innovative development, maintain investment attractiveness and create opportunities for employment and a decent life.

5.3.15 The **Plan** might be **developed by an advisory group in cooperation with the European Commission and the European Parliament**. Members of this advisory group should be representatives of mining regions, unions, NGOs, R & D and the coal industry.

5.3.16 The **Plan** of support to the communities and regions dependent on coal production should be based on **three pillars**:

- political, civic and social dialogues,
- economic, social and environmental investments,
- investments in education, training, research and development, innovation and culture.

#### 5.4 *Expected development in coal-mining regions*

5.4.1 The future of **the European coal-mining regions will develop in two directions**. In some coal-mining regions, a rapid or even precipitous phase-out of coal production can be expected, while in others, production may continue for several decades.

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<sup>(9)</sup> European Energy Security, COM/2014/0330 final, 28.5.2014, Chapter 3, page 7.

5.4.2 In the **first case**, the phase-out may be a consequence of the economic and market situation, which is complicated, especially in the European hard coal industry which competes with very low-priced coal imports. This makes life very difficult, even for those mines which were profitable until recently. In some regions, the government or the companies may decide on mine closures in line with the Lisbon Treaty and the right of EU Member States to decide on their energy mixes.

5.4.3 For these regions, it would be beneficial to **quickly establish a social programme** based on best practices from different EU coal-producing countries having experience with coal phase-out, or which are preparing for such a phase-out. In this context, the German experience can be useful: in Germany, hard coal mining will end in 2018, as planned. There are many other former coal-mining regions, for example, the UK, France, the Netherlands and Belgium, all with valuable experience.

5.4.4 In regions where **coal production** is expected to continue **in the longer term**, it is important to focus above all on the **efficient and less damaging use of this coal**. In the case of coal use for electricity generation, reducing emissions will continue to be a priority. The EU has the tools for this: the revised emission trading system which requires zero carbon emissions by 2058, the directive on industrial emissions and the new BAT reference document for large combustion plants which is nearing completion.

5.4.5 In the strategy for those coal regions with a longer-term future, **research and development** will play a very important role: further increases in power station efficiency will lead to greater reductions in emissions and lower fuel consumption. Increased power plant flexibility can help to support intermittent renewable energy sources. In addition to clean coal technologies or the use and storage of CO<sub>2</sub>, alternative uses of coal should be taken into account.

5.4.6 However, even in the regions with longer-term prospects for coal mining, the priority must be to prepare for the end of coal mining and the restructuring of the coal-mining regions.

Brussels, 25 May 2016.

*The President  
of the European Economic and Social Committee  
Georges DASSIS*

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**Opinion of the European Economic and Social Committee on ‘The impact of the conclusions of COP21 on European transport policy’**

**(own-initiative opinion)**

(2016/C 303/02)

**Rapporteur: Raymond HENCKS**

On 21 January 2016, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

*The impact of the conclusions of COP21 on European transport policy.*

(own-initiative 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 3 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 26 May 2016), the European Economic and Social Committee adopted the following opinion by 188 votes to 2 with 4 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the adoption of the Paris Agreement by the 21st session of the Conference of the Parties (COP21) to the United Nations Framework Convention on Climate Change, and of the intended nationally determined contribution (INDC) of the EU and its Member States, committing to a reduction in domestic greenhouse gas (GHG) emissions of at least 40 % by 2030 and by 80 to 95 % by 2050 compared with 1990 levels.

1.2 It also agrees that this objective will need to be achieved collectively on the basis of shared responsibility between the EU and the Member States, and that new INDCs should be published every five years.

1.3 With regard to transport, the objective of reducing greenhouse gas (GHG) emissions by 60 % compared with 1990 levels is still very ambitious and requires major efforts. Even though the effort-sharing decision for the period up to 2020 (Decision No 406/2009), and the future decision for the period 2020-2030, leave the Member States entirely free to choose which sectors of the economy will have to reduce their GHG emissions, the Commission has nonetheless suggested making use of international allowances, should additional efforts be needed, and avoiding additional commitments for sectors not covered by the ETS (COM(2015) 81); it has also stated, with regard to transport, that ‘deeper cuts can be achieved in other sectors of the economy’ (COM(2011) 144). The objective of reducing transport-related GHG emissions by 60 % can therefore still be considered to be relevant and in line with the EU's general objective under COP21, provided the associated actions and initiatives are implemented urgently, with the necessary determination and as soon as possible.

1.4 This does not, however, exempt the EU and the Member States from reassessing the various actions and initiatives undertaken or planned in the White Paper on Transport (COM(2011) 144 final) and the roadmap on a framework strategy for a resilient energy union (COM(2015) 80 final) to determine their effectiveness, their feasibility and in particular their adequacy in relation to the objective of decarbonising transport, and then revising them and/or adding new actions and initiatives as part of the review of the White Paper scheduled for 2016, without adversely affecting the EU's competitiveness. Some of these will be legislative initiatives, but most will have to be based on voluntary national contributions aimed at changing behaviour or habits, an approach that will be critical for success.

1.5 The EESC would also draw attention to the importance of the proposed efforts by the International Civil Aviation Organisation (ICAO) to establish a global emissions trading system (ETS) for aviation and by the International Maritime Organisation (IMO) to monitor emissions from shipping, and calls for ambitious outcomes in the context of the ongoing negotiations with these organisations.

1.6 It stresses that the polluter-pays principle should be applied flexibly, in particular in the context of remote rural, mountain and island areas, in order to avoid effects that are inversely proportional to the costs and in order to ensure that it continues to be useful as a way of influencing choices regarding the organisation of transport operations, while at the same time abolishing any unfair competition between different modes of transport. The EESC recommends that a comprehensive organisation of rural transport in the regions should be explored, with a view to meeting the COP21 agreement and the needs of vulnerable people.

1.7 In any event, application of the polluter-pays principle will not be sufficient to guarantee the transition to a low-carbon society, making additional measures — such as increasing energy efficiency, promoting electromobility, car-sharing and co-modality, developing alternative energy sources, developing environmental quality standards and, above all, promoting public transport — all the more important.

1.8 With regard to bioenergy, ongoing efforts are needed to reach a higher grade of greenhouse gas reductions and to prevent changes in land use. Therefore the use of residual products, by-products and waste products in fuel production should be further promoted. There is still some potential in road freighting, aviation and maritime traffic. However, biofuels are not a stand-alone solution and do not obviate the need to develop and promote solutions that aim to replace combustion engines with electric mobility and/or technologies based on hydrogen or other alternative sustainable energy sources.

Finally, it is important not to curb mobility in itself, but to reduce individual motorised journeys where there are viable alternatives and promote public transport, in the general interest of the environment and to avoid cities being suffocated by traffic.

1.9 Disinvestment in polluting activities should not be a matter just for governments, nor can it be achieved without raising awareness and enlisting support along the entire transport chain (construction, transport and users) through legislative or incentivising — and even disincentivising — measures. Capacity building, technical assistance and facilitated access to financing at local and national levels are crucial for the transition to the low-carbon transport system. The investment programmes of the European Union shall then give priority, while integrating all transport modes, to the most climate effective projects using assessment criteria coherent with the COP21 conclusions.

1.10 The mobilisation of civil society organisations and economic and social interest groups seen in relation to COP21 should be maintained, so as to develop a civic movement in favour of climate justice and disinvestment in polluting activities.

1.11 The EESC therefore recommends undertaking a participatory dialogue with civil society, as set out in its exploratory opinion of 11 July 2012 entitled *Transport White Paper: getting civil society on board* (CESE 1598/2012).

## 2. Key decisions of the COP21 Paris Agreement

2.1 The United Nations Framework Agreement on Climate Change (to which the COP21 agreement of 2015 refers) was limited to stabilising greenhouse gas (the main greenhouse gas in the transport sector is carbon dioxide (CO<sub>2</sub>), which is emitted during the production phase in the case of electricity and during the operational phase in the case of fuels) concentrations in the atmosphere at a level that would prevent any dangerous anthropogenic disturbance of the climate system. On the other hand, the Paris Agreement of 12 December 2015 for the first time commits all 195 signatories to the said framework agreement to accelerating the reduction in greenhouse gas emissions with the ultimate long-term objective of keeping the increase in average global temperature compared with pre-industrial levels significantly below 2 °C (by 2100), while continuing measures to limit the increase to 1,5 °C, against the background of the current trajectory of 3 °C global warming by the end of the 21st century.



2.2 After the agreement has been ratified, its signatories will have to undertake and communicate intended nationally determined contributions (INDCs) under a series of five-year programmes with a view to realising the ultimate objective.

2.3 The Paris Agreement is set to enter into force as of 2020, provided it has been ratified by at least 55 States representing at least 55 % of greenhouse gas emissions worldwide, without prejudice to the (highly recommended) possibility of applying it before it enters into force.

2.4 On 6 March 2015, the EU and its Member States agreed, in line with the conclusions of the European Council of 23 and 24 October 2014, to a binding target of reducing domestic greenhouse gas (GHG) emissions by at least 40 % by 2030 and by 80 to 95 % by 2050.

2.5 According to the aforementioned conclusions, the target must be delivered collectively by the EU and the Member States, including by achieving, by 2030, a 43 % reduction in ETS sectors and a 30 % reduction in non-ETS sectors (in each case compared with 2005), and by participating in a way that balances considerations of fairness and solidarity.

### 3. Current situation of the EU transport sector

3.1 In its 2011 White Paper on Transport (COM(2011) 144 final), the European Commission already launched an urgent appeal concerning the need to substantially reduce greenhouse gas emissions so as to keep climate change below 2 °C, noting that it is imperative to reduce GHGs emitted in the transport sector by at least 60 % compared with 1990 levels and also that 'deeper cuts can be achieved in other sectors of the economy'.

3.2 Transport is responsible for around one quarter of the EU's GHG emissions: 12,7 % of global 'transport' emissions are generated by aviation, 13,5 % by maritime transport, 0,7 % by rail, 1,8 % by inland waterways and 71,3 % by road transport (2008 figures). The environmental impact of a transport mode is not always determined by direct emissions alone, but also depends on indirect emissions due above all to the energy production needed for transport.

3.3 Globally, transportation has the highest growth of CO<sub>2</sub> emissions of any industrial sector. In the EU the transport sector has the second biggest greenhouse gas emissions. Moreover, emissions from the aviation and maritime sectors are experiencing the fastest growth while these sectors were not covered by the Paris Agreement.

3.4 The 2011 White Paper on Transport notes that the EU's transport system is not yet sustainable, and would do the following to remedy the situation:

- break the transport system's dependence on oil without sacrificing its efficiency or compromising mobility,
- use energy in a more restrained way and improve the energy performance of vehicles for all modes of transport.

3.5 In the White Paper on Transport and the roadmap on a framework strategy for a resilient energy union, the Commission proposes a number of measures to develop a decarbonised transport sector.

3.6 The suggested measures include more stringent CO<sub>2</sub> emission standards for cars and vans post-2020, measures to improve fuel efficiency and reduce the emissions of heavy-duty vehicles, and improved traffic management. It is worth encouraging road charging schemes, based on the polluter-pays/user-pays principle, and the use of alternative fuels including electromobility, taking particular account of the need to deploy appropriate infrastructure.



#### 4. Necessary follow-up to the Paris Agreement

4.1 After the aforementioned agreement has been ratified (by 21 April 2017), its signatories will have to undertake and communicate nationally determined contributions under a series of five-year programmes with a view to realising the ultimate objective.

4.2 Under Article 4(16) of the Paris Agreement, the European Union can act on behalf of its Member States within a context of shared responsibility, and will have to notify the Paris Agreement secretariat of the level of emissions allocated to each individual Member State.

4.3 Under Article 4(9) of the Paris Agreement and decision 1/CP.21, contributions drawn up based on a timetable up to 2030 are to be communicated or updated by 2020, an exercise that must be repeated every five years under a low-GHG growth strategy to 2050. Progress must be made in each successive contribution compared with the previous contribution (Article 4(3)).

4.4 Although the European Union has thus set objectives and contributions to be achieved by 2030 and 2050, the fact remains that the level of global emissions (for all economic sectors taken together) projected by COP21 based on national contributions in 2030 (55 gigatonnes) is inadequate if the objective is to keep the increase in temperature below 2 °C, which makes it essential to mount an additional effort so as to reduce emissions to 40 gigatonnes.

4.5 Even though the effort-sharing decision for the period up to 2020 (Decision No 406/2009), and the future decision for the period 2020-2030, leave the Member States entirely free to choose which sectors of the economy will have to reduce their GHG emissions, the Commission's communication on *The Paris Protocol — A blueprint for tackling global climate change beyond 2020* (COM(2015) 81 final) suggests making use of international allowances, should additional efforts be needed, and avoiding additional commitments for sectors not covered by the ETS. The EESC has endorsed the EU's position here (see opinion NAT 665/2015). Furthermore, the Commission maintained in the White Paper on Transport that 'deeper cuts can be achieved in other sectors of the economy'.

4.6 In light of the above, and given that the 60 % reduction in GHG emissions in the transport sector had already been decided on well before the Paris conference with a view to keeping climate change below 2 °C, the EESC feels that this objective of a 60 % reduction is still relevant and in line with the COP21 decisions.

4.7 It should also be noted that the EU's INDC does not include its commitments to working within the ICAO to support the development of a global emissions trading scheme for aviation and within the IMO with regard to the requirement for shipping to report on GHG emissions. The EU should promote ambitious outcomes in the context of the ongoing negotiations within the ICAO and IMO.

#### 5. The strategy: specific action needed

5.1 The EESC thus notes that there is significant consistency between the EU's INDC and the targets set out in various Commission communications on climate policy measures in the field of transport. However, it remains urgent and imperative for the 40 action points and 131 initiatives in the White Paper on Transport to be implemented with the necessary determination and within the prescribed deadlines.

5.2 Nonetheless, when the White Paper is reviewed in 2016 as announced by the Commission, the measures in the White Paper on Transport relating to GHG emission reductions should be reassessed in light of the EU's INDC and the targets set out in the Energy Union package <sup>(1)</sup>.

5.3 The various initiatives undertaken or planned in the White Paper on Transport and the Energy Union package will have to be evaluated to determine their effectiveness, their feasibility and in particular their adequacy in relation to the objective of decarbonising transport, and then revised and/or supplemented by new initiatives. Some of these will be legislative initiatives, but most will have to be based on voluntary national contributions aimed at changing behaviour or habits, an approach that will be critical for success.

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<sup>(1)</sup> OJ C 291, 4.9.2015, p. 14.

5.4 The transition to a low-carbon transport system poses the following challenges:

- reconciling economic and social imperatives,
- reflecting the public interest and environmental imperatives,
- not curbing mobility in itself, but substantially reducing traffic and individual transport by spatial planning and economic policy in urban and peri-urban centres, and promoting public transport,
- influencing behaviour, including travel habits, with efficient logistics for urban goods transport, including in urban environments, and promoting cooperative solutions to optimise the use of resources,
- promoting co-modality.

Adequate transport-related activities to curb emissions at national and sub-national level could put cities on track towards a 50 % emission reduction by 2050 compared with business as usual. Isolated solutions that already exist should be embedded into strategic mobility planning policies that allow better coordination between urban and transport policies. Capacity building, technical assistance and facilitated access to financing at local and national levels are crucial to deliver on these objectives.

5.5 The Connecting Europe Facility, the Structural and Cohesion Funds, the European Fund for Strategic Investments, as well as any other EU programme supporting transport investments in their funding of projects shall give priority to the most climate effective projects while at the same time integrating the different modes to achieve a European transport network. The criteria to assess the requests of funding shall include explicit references to the principles corresponding to the COP21 conclusions.

5.6 Effort sharing between Member States and between ETS and non-ETS sectors — including transport — will be a key element in the implementation of the EU's INDC, and must also be consistent with its strategic objectives. This effort-sharing must reflect the European Council conclusions of October 2014 in order to achieve a balanced result, taking account of cost-effectiveness and competitiveness. These criteria should hold when the effort-sharing decision for 2020-2030 is taken in 2016 (COM(2015) 80, Annex 1), allowing for the competitiveness of the EU to be maintained.

5.7 The aforementioned review of the White Paper should also include specific provisions to stimulate a broad debate with civil society, given that it is essential to gain social acceptance for the measures, some of which are rather unpopular, and that any measures will be ineffective unless all those whom they affect identify with them. The intensive mobilisation of civil society organisations and economic and social interest groups seen in relation to COP21 should therefore be maintained, so as to develop a civic movement in favour of climate justice and disinvestment in polluting activities.

5.8 Initiatives such as the Global Fuel Economy Initiative (GFEI), bringing together countries committed to developing policies and regulations on vehicle energy efficiency, or the Paris Declaration on Electro-Mobility and Climate Change and Call to Action, building on commitments of hundreds of decisive efforts towards sustainable transport electrification, MobiliseYourCity, aiming at supporting cities and developing and emerging countries to create and implement sustainable urban mobility plans and national urban transport policies, or the Global Green Freight Action Plan, should be promoted and extended.

5.9 As the EESC has noted previously<sup>(2)</sup>, participatory governance requires a good organisational and procedural structure in order to be effective and for the desired objectives to be achieved. Stakeholder commitment to long-term sustainable development works best if it is organised as a continuous and integrative process rather than being conducted through one-off or ad hoc exercises.

5.10 The EESC has decided to set up a European sustainable development civil society forum which would provide a structured and independent framework for civil society involvement in the implementation, monitoring and review of cross-cutting issues arising from the 2030 Agenda for Sustainable Development and in particular its 13th goal (Take urgent action to combat climate change and its impacts.). For issues relating to the transport sector, it will be necessary to use the participatory dialogue run by the EESC and planned for the implementation of the 2011 White Paper on Transport.

5.11 The EESC is also working on an opinion (NAT/684) on building a coalition of civil society and subnational authorities to deliver the commitments of the Paris Agreement. The Paris Agreement should not create yet another commitment platform, but rather launch a comprehensive framework that aligns non-state and governmental measures over the long term. The role of civil society in the implementation of the commitments is absolutely crucial.

5.12 Disinvestment in polluting activities should not be a matter just for governments, nor can it be achieved without raising awareness and enlisting support along the entire transport chain (construction, transport and users) through legislative or incentivising — and even disincentivising — measures.

5.13 The strategy of voluntary commitments adopted in the COP21 agreement means that each country only has to indicate non-binding commitments, whereas introducing a binding emissions standard would certainly be the most effective solution in terms of achieving the desired outcome from the Paris Agreement. Nonetheless, the effort-sharing within the EU for 2020-2030 referred to in point 5.5 above will strengthen the commitments made.

## 6. Polluter-pays system

6.1 Under the Lisbon Treaty (see TFEU Article 191(2)), the EU's environmental policy is founded on the precautionary and preventive action principles, the principle that environmental damage should be rectified at source, and the polluter-pays principle.

6.2 The point is to ensure that the price of environmental damage is paid by the polluters who are responsible for causing it. However, in the Member States the price of carbon is addressed in climate policies in very different ways. Taxes are the predominant approach, but these impact above all on jobs and on the purchasing power of the poorest households.

6.3 According to the White Paper on Transport, charges and taxes should be restructured to take better account of the polluter-pays and user-pays principles.

6.4 The approach envisaged by the Commission entails a polluter-pays system and options available using road charging as a means of financing the construction and maintenance of infrastructure. The aim of this system is to promote sustainable transport modes by internalising external costs and guaranteeing financing.

6.5 The EU has an incoherent patchwork of systems including electronic tolls, vignettes, congestion charges and pay-as-you-drive charges calculated by satellite (GNSS). Moreover, EU rules on road transport taxation for heavy goods vehicles (the Eurovignette) now apply in only four Member States, while other Member States do not even collect any road tolls at all. This situation raises serious issues about the development of the single market and for ordinary people, as it is having a negative impact on economic growth and is exacerbating social inequalities in many Member States. In addition, this failure to levy road usage charges, quite apart from the environmental costs it entails, could have an impact on competitive conditions for rail transport, in cases where a railway service is available.

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<sup>(2)</sup> OJ C 299, 4.10.2012, p. 170.

6.6 However, it is important for a European road charging system to have a certain degree of flexibility so that it can take account of the situation in peripheral regions and remote rural, mountain and island areas with low population density where there are no viable alternatives to road transport, such that the internalisation of external costs would have no effect on behaviour or the organisation of transport and would simply undermine competitiveness. The economic and social wellbeing of rural regions is dependent on both a cost-effective and environmentally-friendly transport system. As a means of curbing transport emissions some governments have introduced different forms of carbon tax, which have failed to curb transport emissions and added significantly to the costs of families, especially those in rural, remote and mountain areas.

6.7 According to the Commissioner for transport, the Commission is planning to propose a European system for trucks and private cars by the end of 2016 that would involve uniform rules on toll collection in all the EU Member States based solely on the number of kilometres covered.

6.8 The EESC welcomes the Commission's intention to harmonise the road charging system at European level based on the polluter-pays principle, but feels that the internalisation element of the system will undoubtedly not be enough to achieve a sustainable transport policy that meets the commitments made under COP21, which calls for additional measures such as increasing energy efficiency, promoting electromobility, car-sharing and co-modality, developing alternative energy sources, developing environmental quality standards and, above all, promoting public transport.

6.9 Another measure could be to fix a price for carbon based on economic and social criteria. When oil prices are too low, as is the case now, it certainly does not send a signal to all those concerned by transport to modify their behaviour and take measures to reduce their energy consumption. However, stricter standards for fuel, energy efficiency, automated traffic management and the development of alternative fuels may open up pathways to reduce emissions without adversely affecting competitiveness.

## **7. Innovation, research and development, alternative fuels**

7.1 The EESC emphasises the absolute necessity for a proactive industrial policy and coordinated R & D to support the transition to the low-carbon economy. A sustained R & D effort is required to reconcile the inevitable increase in transport with a reduction in polluting emissions.

7.2 The transport Roadmap indicates that it will be necessary to continue developing biofuels, especially in aviation and heavy goods transport, while noting that the development of biofuels raises food security and environmental issues. The Roadmap emphasises that more sustainable second- and third-generation biofuels will have to be developed.

7.3 With regard to bioenergy, ongoing efforts are needed to reach a higher grade of greenhouse gas reductions and to prevent changes in land use. Therefore the use of residual products, by-products and waste products in fuel production should be further promoted. There is still some potential in road freighting, aviation and maritime traffic. However, biofuels are not a stand-alone solution and do not obviate the need to develop and promote solutions that aim to replace combustion engines with electric mobility and/or technologies based on hydrogen or other alternative sustainable energy sources.

7.4 The transition to electric mobility must be accompanied by a transition to car-sharing. However, it must still be borne in mind that, even if we switch completely to engines powered by sustainable fuels, cities will still be at risk of being suffocated by traffic as long as public transport and efficient distribution systems do not become the general rule.

Brussels, 26 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on ‘Decent work in global supply chains’****(own-initiative opinion)**

(2016/C 303/03)

**Rapporteur: Ms Emmanuelle BUTAUD-STUBBS**

On 21 January 2016, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

*Decent work in global supply chains.*

(own-initiative opinion)

The Section for External Relations, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 19 April 2016.

At its 517th plenary session, held on 25-26 May 2016 (meeting of 25 May), the European Economic and Social Committee adopted the following opinion by 188 votes to 1.

**1. Conclusions and recommendations**

1.1 The issue of decent work in global supply chains (GSCs), such as textile-clothing and footwear, electronics, minerals, and agro-industries is indeed a critical issue for all public and private actors involved at national and international levels in supply chains management.

1.2 The European Economic and Social Committee (EESC) has adapted its internal proceedings in order to be in a position to give its opinion before the 105th session of the International Labour Conference (ILC) in Geneva on the issue of decent work in GSCs.

The EESC recommends:

1.3 That the European Commission adopts a comprehensive and ambitious strategy in order to promote with all its internal (access to EU public procurement, labelling etc.), and external policies (trade, development, neighbourhood policy etc.) the decent work in GSCs.

1.4 To adopt a common language, common definitions, and to assess the statistical data between the various stakeholders — OECD, ILO, WTO, IMF <sup>(1)</sup>, European Commission and the World Bank — in order to avoid confusion and misinterpretation, and to elaborate a coherent policy between the public bodies involved in this field, with various competences.

1.5 Taking into account the UN Guiding Principles on Business and Human Rights, we need to recognise and promote the available best practices and initiatives in the existing ‘tool box’: the OECD Guidelines for Multinational Enterprises, OECD sectorial due diligence guidance (textile and garment, minerals, agriculture and finances), trade aid, financial schemes to compensate damages, codes of conduct, labels, standards and self-assessment tools. The aim is to put in place gradual, consistent and sustainable policy in the responsible management of GSCs.

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<sup>(1)</sup> Organisation for Economic Co-operation and Development, International Labour Organization, World Trade Organization, International Monetary Fund.

1.6 To promote practical and suitable, risk-based approaches that will take into account the specific nature of the global value chain and the GSC (linear or modular, simple or complex, short or long organisation).

1.7 Based on an assessment of existing practices, to promote the format of multi-stakeholders, involving public and private actors, social partners, NGOs, experts etc., in order to develop the best portfolio of actions inspired by the OECD guidelines to identify risks, to prevent and to mitigate them, to communicate and report on the action plan. The measures involved in the action plans could include both, legislative and non-legislative measures, best practices, financial incentives, access to training, and capacity building for social dialogue and the trade unions.

1.8 To push for a specific reflection on the kind of transparency tools that could be put in place in order to inform the final consumers about the social conditions of production.

1.9 That the upcoming ILO conference should consider the possibilities for the ILO to play an active role in securing decent work along the global supply chains, including exploring the development and future adoption of any relevant and suitable instruments, that with the commitment of all the stakeholders will contribute to an effective improvement of working conditions.

## 2. The issue of decent work in global supply chains: definitions, context and stakes

### 2.1 Definitions

2.1.1 **Global value chain (GVC):** this concept emerged in the mid-90s in order to describe 'the full range of activities that are required to bring a product from its conception, to its design, its sourced raw materials and intermediate inputs, its marketing, its distribution and its support to the final consumer' <sup>(2)</sup>.

GVCs are supposed to favour 'process upgrading' (the producer adopts better technology to improve efficiency) and 'functional upgrading' (the ability for a producer to develop design, branding and marketing abilities). However, a number of examples show that it is not always the case.

The issue of achieving a sustainable and responsible management of GVCs is at the top of the international agenda (OECD, ILO, G7, G20, EU, the UN) given that the increasing amount of trade and investment world-wide occurs through GVC and that outsourcing and cross border coordination of global production by lead firms have significant social impacts. Some of them are positive, e.g. better paid jobs, greater female employment, job creation enabling access to employment, skills development and dissemination of knowledge and technology. Others are a matter of concern, such as precarious work, poor working conditions (including in the area of health and safety at work), lack of social rights (including lack of social security coverage), and infringement of human and fundamental labour rights.

This leads to development and implementation of diverse instruments at the national and international level, such as ILO conventions, OECD Guidelines or UN Guiding Principles on Business and Human Rights (see also paragraph 2.3.3), and policy frameworks, such as 2030 Agenda for Sustainable Development <sup>(3)</sup> and the accompanying Addis Ababa Action Agenda on Financing for Development <sup>(4)</sup> supporting respect for labour standards and promoting decent work, as well as further development of trade, investment, private sector and supply chains.

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<sup>(2)</sup> [www.globalvaluechains.org/concept-tools](http://www.globalvaluechains.org/concept-tools)

<sup>(3)</sup> [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E)

<sup>(4)</sup> [http://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAAA\\_Outcome.pdf](http://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAAA_Outcome.pdf)

**2.1.2 Global supply chain (GSC):** a GSC is made up of the interrelated organisations, resources and processes that create and deliver products and services to end customers. As such, it is a part of GVC dedicated to the sourcing and not to the conception, or distribution of the goods or the services.

A general discussion on decent work in GSCs will take place at the June 2016 session of the ILC (ILO supreme decision making body). It is meant to help the ILO constituents (i.e. governments, employers and workers) to gain a better understanding on how engagement in GSCs can help national and local economies to grow in a sustainable and inclusive manner, contributing to enterprises creation and growth, as well as to promotion of quality jobs and respect for labour standards. This Opinion is intended as the EESC contribution to that debate.

**2.1.3 Decent work:** concept formulated by the ILO's constituents and adopted by the ILC in the Declaration on Social Justice for a Fair Globalisation <sup>(5)</sup> — covers national and local programmes put in place in order to achieve four strategic goals:

- promoting jobs creation, skills development and sustainable livelihoods,
- guaranteeing rights at work and in particular for disadvantaged and poor workers,
- extending social protection for men and women in order to provide adequate compensation in case of lost or reduced income, and access to adequate healthcare,
- promoting social dialogue through the involvement of strong and independent workers' and employers' organisations.

As the world-wide standard setting body, the ILO has adopted a number of conventions being of relevance for global supply chains. These include fundamental (core) labour standards (i.e. promotion of freedom of association and the right to collective bargaining, promotion of non-discrimination at work, and prohibition of forced and child labour), as well as conventions in the area of health and safety at work, labour inspection and others. The countries ratifying them are obliged to bring their legislation and practice in line with the conventions. Moreover, based on the ILO 1998 Declaration on Fundamental Principles and Rights at Work <sup>(6)</sup>, all ILO member states are obliged to respect and realise in the legislation and practice the core labour standards, even if they have not ratified the relevant conventions.

## 2.2 Structure and weight of GVCs and GSCs in international trade

**2.2.1** The weight of GVCs in the world trade has increased rapidly and, according to the WTO, OECD, ILO and UNCTAD 2013 <sup>(7)</sup>, represents between 60 % and 80 % of the international trade and over 20 % of jobs globally <sup>(8)</sup>. The sectors covered by such interrelated organisational components as conception, production, distribution and consumption, driven by multinational enterprises (MNEs), include agriculture, industry (e.g. automotive, aeronautics, textile-clothing, toys, electronics) and services (e.g. call centres, information technologies).

<sup>(5)</sup> [http://www.ilo.org/global/meetings-and-events/campaigns/voices-on-social-justice/WCMS\\_099766/lang-en/index.htm](http://www.ilo.org/global/meetings-and-events/campaigns/voices-on-social-justice/WCMS_099766/lang-en/index.htm)

<sup>(6)</sup> <http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang-en/index.htm>

<sup>(7)</sup> [http://unctad.org/en/PublicationsLibrary/wir2013\\_en.pdf](http://unctad.org/en/PublicationsLibrary/wir2013_en.pdf)

<sup>(8)</sup> [http://www.ilo.org/wcmsp5/groups/public/-dgreports/-dcomm/-publ/documents/publication/wcms\\_368626.pdf](http://www.ilo.org/wcmsp5/groups/public/-dgreports/-dcomm/-publ/documents/publication/wcms_368626.pdf)



2.2.2 The shapes and structures of those GVCs vary as well: some of them are rather short (small number of activities) while others are longer, implying economic, social and financial ties between companies established in numerous and remote countries (from the US, to the EU and Asia). According to Gary Gereffi<sup>(9)</sup>, there are three dominant types of governance: buyer-driven GVCs and, in most cases, cost-driven (this is the case of the garment and footwear GVCs) and producer-driven GVCs with some technological competences of the suppliers in developing countries including design and innovation (electronics).

2.2.3 The GSC being a component of the GVC is based on the relationship between buyers and suppliers and potential sub-contractors. This 'chain' can be shaped in various ways: vertically integrated, captive chain, modular chain governance (the major suppliers are able to operate independently of the lead firm) or market chains for the commodity markets.

### 2.3 *GSC management in the Corporate Social Responsibility (CSR) Strategy: key players and tool box*

2.3.1 The EU definition of CSR recognises the 'responsibility of the enterprises for their impacts on society'<sup>(10)</sup>.

2.3.2 On the basis of a certain number of problems occurring over the last twenty years, particularly in sectors like electronics, sports goods, and garments, the following issues have been identified, in particular by the OECD, as critical for a sustainable management by a MNE, as a lead firm, of its GVC and its GSC:

- a) identifying the risks of major infringements to human and labour rights, environmental damage and corruption;
- b) preventing the occurrence of such risks through a due diligence approach and the implementation of sustainable management through an assessment of the country risk-profile and the individual assessment risk of the supplier<sup>(11)</sup>;
- c) mitigating risks by coherent, robust and long lasting CSR policies regarding the supply chain: choice of supplier, requirements and contract with existing suppliers, social audits, and upgrading criteria to assess the progress achieved;
- d) reporting to and communicating with various stakeholders inside the company, such as trade unions, and outside the company, for instance, NGOs or public administration in charge of health and safety at work or the implementation of the ILO conventions on the improvement of the sustainable management of GSCs.

2.3.3 A wide range of actors: numerous public and private, national, European and international organisations and bodies are currently working on those issues particularly after the drama of the Rana Plaza (Bangladesh) that killed more than 1 100 employees in 2013:

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<sup>(9)</sup> 'The organisation of Buyer-Driven Global Commodity Chain: How US Retailers Shape Overseas Production Networks', Commodity Chains and Global Capitalism', Wesport, 1994.

<sup>(10)</sup> [http://ec.europa.eu/growth/industry/corporate-social-responsibility/index\\_en.htm](http://ec.europa.eu/growth/industry/corporate-social-responsibility/index_en.htm)

<sup>(11)</sup> See for example the self-assessment tool developed by Euratex and IndustriAll with the support of the European Commission for EU textile and clothing companies.



- a) at the national level, in addition to legislative measures in areas covered by decent work and human rights (e.g. UK Modern Slavery Act 2015 with provisions on transparency in supply chains)<sup>(12)</sup>, the government and Parliament with the support of social partners, interested parties like NGOs and the support of OECD National Contact Point develop and implement diverse initiatives (e.g. national Action Plans on Business and Human Rights or on CSR, and others, such as recent initiatives e.g. in France or Germany on due diligence);
- b) at the EU level, action has been taken in various internal and external policies, both in the context of broader partnerships with third countries and through sector-specific initiatives. For example, trade and sustainable development chapters in the recently negotiated and implemented EU trade and investment agreements include binding commitment by the Parties to respect the core labour standards (including by progressing towards ratification of the fundamental ILO conventions and striving towards higher levels of domestic labour protection), to implement effectively the ratified ILO conventions, to promote decent work, fair trade schemes and CSR practices. They also envisage the establishment of a civil society monitoring mechanism (in addition to the government-to-government body), including social partners, to oversee the implementation of these provisions and advise the Parties on matters related *inter alia* to trade and labour. Tariff preferences for developing countries granted under the GSP+ scheme grant a full tariff removal on over 66 % of tariff lines to vulnerable countries which make a binding undertaking to ratify and effectively implement 27 core international conventions including the eight ILO fundamental ones<sup>(13)</sup>. The EU has also developed and implements a strategy on CSR, the revision of the 2013/34/EU directive on extra-financial reporting (environmental and social issues, human rights, the fight against corruption, the diversity of company boards, etc.); the Bangladesh Sustainability Compact (an EU-led international initiative aiming at improved respect for labour rights, health and safety at work and building safety standards in the Ready-Made Garment sector in the country)<sup>(14)</sup>; a new EU trade and investment strategy, including responsible management of GSC<sup>(15)</sup>, and the current EU (Dutch) Presidency puts emphasis on the responsible management of GSCs.
- c) at the international level, discussions and work are conducted at OECD (e.g. preparation of the Due Diligence Guidance for Responsible Supply Chain in the Garment and Footwear Sector<sup>(16)</sup>, Guidelines for MNEs<sup>(17)</sup>, launch of the Guidance for Responsible Agricultural Supply Chains<sup>(18)</sup>), the UN (e.g. Global Compact and the Guiding Principles on Business and Human Rights<sup>(19)</sup>) and the ILO (review of the Tripartite Declaration on Multinational Enterprises and Social Policy and preparation of debate at the ILC in June 2016 devoted to decent work in GSCs).

Various private initiatives have been put in place either on a permanent or a temporary basis, e.g. for improving health and safety in Bangladeshi garment factories following the Rana Plaza catastrophe (Bangladesh Accord on Fire and Building Safety)<sup>(20)</sup>.

2.3.4 All these public and private actors are engaged in development and implementation of various tools and instruments aimed at improving working conditions, and rights at work:

- regulation, law, conventions,
- codes of conduct,
- social dialogue, including in the cross-border context<sup>(21)</sup>,

<sup>(12)</sup> <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>

<sup>(13)</sup> In 2011, the EESC adopted an Opinion on the scheme (OJ C 43, 15.2.2012, p. 82).

<sup>(14)</sup> <http://trade.ec.europa.eu/doclib/events/index.cfm?id=1433> and <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1447>

<sup>(15)</sup> [http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc\\_153846.pdf](http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf)

<sup>(16)</sup> <https://mneguidelines.oecd.org/responsible-supply-chains-textile-garment-sector.htm>

<sup>(17)</sup> <https://mneguidelines.oecd.org/text/>

<sup>(18)</sup> <http://www.oecd.org/daf/inv/investment-policy/rbc-agriculture-supply-chains.htm>

<sup>(19)</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>(20)</sup> <http://bangladeshaccord.org/>

<sup>(21)</sup> It can take a form of transnational company agreements (TCAs), also known as International Framework Agreements (IFAs). For details, see REX/443 Information Report, page 8: <http://www.eesc.europa.eu/?i=portal.en.rex-opinions.35349>

- certifications in CSR and social accountability,
- funding schemes in order to compensate victims,
- other multi-stakeholder initiatives,
- aid and development programmes, including capacity building (health and safety at work, social dialogue, implementation of ILO conventions, etc.).

### 3. Assessment of some best practices in two different economic sectors

#### 3.1 *The clothing and footwear GSC*

3.1.1 The garment and footwear industry GSC covers various actors and production processes. The Asia-Pacific region accounted for \$601 billion of global exports of garments, textiles and footwear, which represents 60 % of the total world trade, China having the lion's share. Countries such as Bangladesh or Cambodia increase their specialisation in the production and export of garments and footwear with respectively 89,2 % and 77,4 % of total merchandise exports in 2014<sup>(22)</sup>. This is mainly due to the sharp increase in wages in the Chinese garment and textile industry, which led international buyers to seek out new suppliers in Asia.

According to the ILO<sup>(23)</sup>, in 2014 average earnings were less than \$200 a month in the majority of countries. Monthly minimum wages for unskilled garment workers apply in China (up to \$297), the Philippines, Malaysia, Indonesia (\$247), Thailand, Vietnam (\$145), India (\$136), Cambodia (\$128), Pakistan (\$119), Bangladesh (\$71) and Sri Lanka (\$66).

The major risks are the lack of a living wage, forced or child labour, poor industrial relations due to weak protection of freedom of association and limited collective bargaining, poor occupational health and safety, insufficient labour inspection, underdeveloped occupational injury schemes, water pollution, exposure to chemical substances, and exploitation of the female workforce.

3.1.2 On 24 April 2013, the collapse of the Rana Plaza building in Bangladesh occupied by garment factories caused the death of 1 136 employees, mainly female. The magnitude of the accident, arising from the very poor state of repair of the building and the absence of fire exits, has led to an exceptional mobilisation of governments (the EU and Member States, USA, Canada, Norway), international organisations (ILO, OECD and World Bank), international and local stakeholders with an ambitious set of actions aimed at encouraging national short-term measures (compensation for families of victims, inspection of garment factories and remedy actions, new auditing methods, revision of the Labour Law), national medium-term measures (e.g. development of independent trade unions and strengthening of labour inspection), and systematic measures in order to promote responsible management of global supply chains.

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<sup>(22)</sup> [http://www.ilo.org/wcmsp5/groups/public/-asia/-ro-bangkok/documents/publication/wcms\\_419798.pdf](http://www.ilo.org/wcmsp5/groups/public/-asia/-ro-bangkok/documents/publication/wcms_419798.pdf)

<sup>(23)</sup> Ibidem.

**Example: Assessment of the progress made in the Bangladesh Ready-made Garment sector since the Rana Plaza collapse (January 2016)**

- The Bangladesh Accord on Fire and Building Safety: signed by 220 apparel buyers.
- The Alliance for Bangladesh Workers' Safety: established in May 2013 by 26 mainly North American brands.
- 341 new trade unions have been created in the Ready Made Garment sector in Bangladesh till January 2016 (132 in 2014).
- Till January 2016, inspections have been carried out in 3 734 export-oriented readymade garment factories for structural, fire and electrical safety.
- 235 new inspectors have been hired <sup>(24)</sup>.
- The Better Work Bangladesh programme: 38 factories supplying garments to 17 brands and retailers.
- Compensation of victims: 24,1 million US\$ for 3 490 claims received.

3.1.3 The OECD is preparing a Due Diligence Guidance on Responsible Supply Chains in the Garment and Footwear Sector.

3.1.4 The ILO, in cooperation with international donors, governments, workers and employers, implements projects in the garment sector (e.g. in Asia) aiming at increased access to information on wages, working conditions and industrial relations to improve the quality of social dialogue on labour standards, strengthening social partners capacity and collective bargaining mechanisms, as well as assuring labour standards at the factory level <sup>(25)</sup>.

3.1.5 The European Commission is working on a flagship initiative on a sustainable garment supply chain including joint planning, coordinated funding, joint implementation of programmes, awareness raising among consumers, and so forth.

3.1.6 EU social partners from textile and clothing sector have developed a joint initiative, supported by the European Commission, with a CSR Risk Assessment Tool relevant for GSCs. They are currently finalising it to prepare for dissemination amongst SMEs and other stakeholders.

3.1.7 The Dutch EU Presidency wishes to explore means of reinforcing synergies between the EU's development and trade policies in order to contribute to the sustainability of GVCs.

3.1.8 The German Federal Minister for Economics, Cooperation and Development, Mr Gerd Muller, put in place a specific alliance for 'sustainable textiles' involving the major partners. At the last G7 he made a very concrete summary of the situation: 'It would cost one euro to take responsibility, one single euro per dress, per jacket or pair of trousers, to ensure that hard work in Bangladesh, Cambodia or in Africa pays off and children and seamstresses have opportunities in life' <sup>(26)</sup>.

3.1.9 A proliferation of private initiatives has brought experience and help in sharing best practices. Among them, ICS (Initiative Clause Sociale) with 22 major retailers such as Monoprix, Carrefour or Casino, representing more than EUR 243 billion of turnover, sharing a similar methodology for their social audits; and BSCI (Business Social Compliance Initiative), launched in 2003 by the FTA (Foreign Trade Association) located in Brussels, with more than 1 700 retailers and importers from 36 countries in business relations with 30 000 plants.

<sup>(24)</sup> 'Progress in implementation, outcome of the Review meeting on the Sustainability Compact for Bangladesh', 11 January 2016.

<sup>(25)</sup> [http://www.ilo.org/wcmsp5/groups/public/-asia/-ro-bangkok/-ilo-islamabad/documents/publication/wcms\\_363149.pdf](http://www.ilo.org/wcmsp5/groups/public/-asia/-ro-bangkok/-ilo-islamabad/documents/publication/wcms_363149.pdf)

<sup>(26)</sup> [http://www.bmz.de/g7/en/Entwicklungspolitik/Schwerpunkte/Menschenwuerdige\\_Arbeit/index.html](http://www.bmz.de/g7/en/Entwicklungspolitik/Schwerpunkte/Menschenwuerdige_Arbeit/index.html)

### 3.2 *The electronics GVC and GSC*

3.2.1 According to the study on GVCs by Sturgeon and Kawakami<sup>(27)</sup>, ‘intermediate inputs to the apparel industry appear to be far less important in terms of the value of the intermediate goods trade than inputs to the electronics and passenger vehicle industries.’

3.2.2 The electronics GVC is one of the most important in the goods sector with more than 17 % in total Manufactured Intermediate Goods in 2006, compared to 2,7 % in chemicals and plastics and 1,9 % in aircraft parts. The two leading countries in the export of electronics intermediates are China/Hong Kong and the United-States.

3.2.3 The three firm actors running the ‘value chain modularity’ are the following:

- the lead firms (mainly in the industrialised countries),
- the contract manufacturers in charge of component purchasing, circuit-board assembly, final assembly and testing, mainly in China, Taiwan and Vietnam,
- the platform leaders, defined as ‘companies that have been successful in implanting their technology (in the form of software, hardware or combination) in the products of other companies.’

The modularity of this specific value chain lies in the codification and standardisation of key business processes like computer-aided design, production planning and inventory and logistic control.

3.2.4 Consumer electronics have short product life cycles, ranging from three to 18 months, with a quick end-of-life time frame. As a result, suppliers of these products face increasingly fast time-to-market orders. For example, when the Apple iPhone was introduced in 2007, the time to market was six months; in 2012, it had shrunk to less than two weeks<sup>(28)</sup>. For the manufacturers and workers this is a challenge and there is need to develop and implement solutions to address it.

While in some companies agreement has been reached on working overtime or in shifts in the peak season and to compensate it over the rest of the year, others record a substantial increase in temporary contracts and hiring agency workers or migrants (e.g. in Mexico in 2009, 60 % of the workforce in the electronics industry were temporary agency workers rising to 90 % in the peak season)<sup>(29)</sup>. This often means reduced workers’ rights, e.g. lower wages, lack of social security coverage or prohibition to join trade unions. The solutions could include, in addition to national legislation, agreements at the enterprise level, as well as a better coordination and information sharing between buyers and suppliers, thus enabling a better production planning and recourse to the permanent workers rather than temporary ones.

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<sup>(27)</sup> ‘Was the crisis a Window of Opportunity for Developing Countries?’, Timothy J. Sturgeon, Momoko Kawakami, Policy Research Paper of the World Bank.

<sup>(28)</sup> [http://www.ilo.org/wcmsp5/groups/public/—ed\\_dialogue/—sector/documents/meetingdocument/wcms\\_345445.pdf](http://www.ilo.org/wcmsp5/groups/public/—ed_dialogue/—sector/documents/meetingdocument/wcms_345445.pdf)

<sup>(29)</sup> [http://www.ilo.org/wcmsp5/groups/public/—ed\\_dialogue/—sector/documents/meetingdocument/wcms\\_317267.pdf](http://www.ilo.org/wcmsp5/groups/public/—ed_dialogue/—sector/documents/meetingdocument/wcms_317267.pdf)

3.2.5 The questions of respect for human and labour rights relate the electronics industry also with the issue of minerals sourced in conflict affected and high risk areas, such as Africa's Great Lakes Region<sup>(30)</sup>. Further to adoption of the US legislation (Dodd-Frank Act), the European Commission presented in 2014 a proposal for a Regulation establishing a self-certification mechanism for importers of tin, tantalum, tungsten and gold onto the EU market to ensure that proceeds from extraction and trade in these minerals do not support local armed conflict. Instead, due diligence accompanied by other measures should contribute to transparency along the supply chain, and have positive impacts on job creation and working conditions in mines, such as health and safety at work, income levels or turning their activity into a formal one. This would also allow for a continued sourcing in Africa instead of turning towards other regions in the world, not affected by the conflict<sup>(31)</sup>.

3.2.6 The OECD has developed Due Diligence Guidance for Responsible Supply Chains in Minerals from Conflict Affected and High Risk Areas<sup>(32)</sup>.

### 3.3 *GVCs and GCSs in other sectors*

3.3.1 The EESC would also like to emphasise that GVCs and GSCs in other sectors, such as services and agro-industry could face problems of working conditions, in particular health and safety at work.

3.3.2 The ILO's support for decent work in the rural economy<sup>(33)</sup> focuses on 3 priority areas for action: decent work for disadvantaged and marginalised and vulnerable rural populations, decent work for rural workers in supply chains, decent work for rural workers in plantations.

## 4. The EESC contribution on how to ensure decent work in GSCs

In view of the 105th session of the International Labour Conference in June 2016 (Geneva), the EESC would like to make public its contribution with various recommendations on the most effective ways and means to ensure an improvement of the working conditions of workers in supplier or subcontracting companies engaged in production capacities within GSCs.

### 4.1 *To clarify the role of every stakeholder*

The roles and responsibilities of each stakeholder should be clarified in order to avoid confusion:

- Governments are in charge of elaborating, implementing and enforcing the national labour and social law, ratification and effective implementation of the ILO conventions, and in the case of the EU Member States also transposition and implementation of EU directives; it is also their duty to provide all the administrative and financial resources, including for labour inspection, to ensure compliance with the legal framework.
- International organisations set standards and develop global initiatives in order to promote international labour standards and responsible business conduct. In this context, documents, such as the UN Guiding Principles on Business and Human Rights ('protect, respect and remedy' framework) provide guidance as to the roles and responsibilities of the main actors.

<sup>(30)</sup> In October 2013, the EESC adopted an Opinion on essential imports to the EU, including minerals and raw materials (OJ C 67, 6.3.2014, p. 47).

<sup>(31)</sup> [http://europa.eu/rapid/press-release\\_MEMO-14-157\\_en.htm](http://europa.eu/rapid/press-release_MEMO-14-157_en.htm)

<sup>(32)</sup> <http://www.oecd.org/corporate/mne/mining.htm>

<sup>(33)</sup> [http://www.ilo.org/wcmsp5/groups/public/-ed\\_norm/-relconf/documents/meetingdocument/wcms\\_311653.pdf](http://www.ilo.org/wcmsp5/groups/public/-ed_norm/-relconf/documents/meetingdocument/wcms_311653.pdf)

- Social partners are encouraged to engage and to promote social dialogue on labour standards and working conditions, including in the sector and cross-border context, and governments should ensure that freedom of association and collective bargaining is effectively protected and promoted.
- MNEs should be in compliance with the laws applicable in countries in which they operate; they are also encouraged to commit themselves to CSR and due diligence approaches.
- NGOs complement other actors' efforts and play a key role in awareness raising related to the labour rights, as well as in denouncing abuses.

Given the complexity and the obvious overwhelming risks involving these key players, the EESC makes a plea in favour of structured, transparent and inclusive stakeholder platforms to tackle such complex issues.

#### ***4.2 To meet the statistical challenge of the measurement of trade and investment flows***

The EESC has the ambition of assessing the reality of GVCs and GSCs, in terms of value, growth and jobs, as well as their recent qualitative developments. This means working e.g. with EUROSTAT and DG TRADE on the available data collected by WTO and OECD. This better understanding of the new organisation of international trade will certainly lead to new proposals on the use of the traditional tools of the trade and development agreements, such as removal of tariffs, regulatory convergence, better access to public procurement, common rules of origin, capacity building and trade aid.

#### ***4.3 To push for a genuinely integrated EU approach concerning e.g. trade, development and neighbourhood policy***

The EESC supports the willingness of the European Commission expressed in the recent communication on the EU trade and investment policy to use the range of EU external policies in order to encourage sustainable development in third countries, particularly developing countries such as Bangladesh, Vietnam, Myanmar<sup>(34)</sup>, Cambodia, or Laos, as well as countries in other continents, through various instruments. This should include trade and sustainable development chapters to be included in currently negotiated and future FTAs, a better link between trade policy and aid/capacity building, promotion of responsible business conduct in investment policy and private sector development, dedicated projects aiming at improved respect for labour standards, support to national social partners in training, and information seminars, and so on.

#### ***4.4 To propose realistic commitments***

The EESC has much experience in the field of sustainability, with participation in the implementation and monitoring of dedicated chapters in FTA, involvement in a wide range of Civil Society Committees that enable it to propose a fair balance between necessary legal requirements in the field of human and labour rights, transparency, the fight against corruption and the necessary flexibility of MNEs to organise and develop their GSCs in an effective manner suited to the various local situations.

#### ***4.5 To promote effective preventive measures***

World-wide, the SMEs engage increasingly in GSCs and there is still a substantial untapped potential for them in this respect. Therefore, the EESC would like to give more publicity to some concrete tools available on the market, already tried and tested by companies, which will help SMEs to get involved in sustainable management of their GSCs, including the mapping of suppliers, self-assessment tools, standards and proposals for contractual clauses.

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<sup>(34)</sup> E.g. Myanmar Labour Rights Initiative (ILO, US, Japan, Denmark, EU).

#### **4.6 *Helping to create a new generation of audits***

Social audits appeared in the 1990s and have been criticised both on their technical aspects (e.g. qualification of the auditors, ways to conduct the audits, nature of the questions) and on substantial aspects (a provisional measurement for one supplier, no systemic and gradual progress, third parties in charge of the improvement of social conditions, etc.) The EESC would like to support the emergence of a new generation of audits that will cover not only social but also environmental and governance issues with more ambitious goals. The ultimate purpose will be to replace standardised questionnaires with multi-criteria diagnoses specific to individual companies in specific global supply chain and introduce a robust follow-up procedure with the support of the social partners.

#### **4.7 *To invent efficient tools of transparency for the consumer***

The G7 summit in December 2015 welcomed, for instance, practical tools such as apps on mobile devices, which can help consumers to compare and understand social and environmental product labels.

The EESC supports current EU efforts to measure and display the carbon footprint of certain categories of consumer goods and is ready to promote the best national practices in the field of environmental labelling, such as the experiment in multi-criteria environmental labelling conducted in France between 2010 and 2013.

#### **4.8 *To support capacity building programmes and other initiatives aiming at fostering social dialogue and multi-stakeholder approaches***

The global economic performance of companies and the observance of decent work principles are closely linked to the existence of independent trade unions and employers' organisations, quality of social dialogue and the wellbeing of the labour force.

The EESC supports the 'Better Work programme' conceived by the ILO, the aim of which is to help local social partners to play an effective role and to be able to conduct collective bargaining.

Sector-wide initiative, such as the Bangladesh Accord on Fire and Building Safety in the Ready-Made Garments, can mobilise buyers, producers and trade unions to develop and implement a comprehensive and effective approach covering the entire industry.

The EESC also supports cross-industry social dialogue, including TCAs/IFAs. Existing TCAs/IFAs have proved to be an important tool in promoting workers' rights in global supply chains. Further development or broader application should however take into account the need to preserve flexibility for both content and follow-up mechanisms of such agreements. Based on lessons learned in terms of implementation, the partners should also strive for their continuous improvement.

Brussels, 25 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on ‘Innovation as a driver of new business models’**

**(exploratory opinion)**

(2016/C 303/04)

**Rapporteur: Ms Ariane RODERT**

**Co-rapporteur: Mr Oliver RÖPKE**

On 16 December 2015, Mr BOEREBOOM, Director-General in the Dutch Ministry of Social Affairs and Employment, asked the European Economic and Social Committee, on behalf of the forthcoming Dutch presidency of the Council, to draw up an exploratory opinion on:

*Innovation as a driver of new business models.*

(exploratory opinion)

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 10 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May), the European Economic and Social Committee adopted the following opinion by 131 votes, with three abstentions.

**1. Conclusions and recommendations**

1.1 Europe is facing complex challenges calling for renewed social and economic models. To deliver progress, growth and wellbeing in Europe, a shift towards an innovation-based economy is needed.

1.2 In this context, innovative concepts and business models are emerging, indicating a shift from traditional innovation to innovation taking technical, environmental and social perspectives into account with a focus on people's lives and welfare.

1.3 The EESC therefore calls on the European Commission to develop a policy framework to support these new business models emerging. This by recognising, connecting and promoting central concepts for these enterprise models building on theories like shared value, collective impact, impact measurement, helix partnership and social innovation.

1.4 The framework includes an enabling environment removing barriers and expanding traditional enterprise concepts. Issues to explore are public procurement, innovation-friendly regulation, tailored financial instrument, better targeted Structural Fund support, potential tax incentives, training, support and updating skills, the latter by specifically taking digitalisation and robotisation into account.

1.5 It is crucial that Member States and the European institutions fully recognise and promote ‘fairer’ business models, which are centred on delivering innovation for social development by integrating social impact measurement in parallel to reporting economic progress.

1.6 The EESC urges the Commission to fully integrate the principles of the Social Investment Package and its connection to social innovation when developing the European Pillar of Social Rights, since many of these new business models are a concrete expression of these principles.



1.7 Member States and the Commission must ensure that social innovation is fully mainstreamed in innovation programmes. EU funding support, such as Horizon 2020, for social innovation must be fully utilised and should be evaluated based on technical uptake (by each stakeholder) and political impact.

1.8 Member States and the EU institutions must mainstream the principles of innovation in enterprise policy to ensure an enabling culture which promotes, welcomes, rewards and disseminates innovation. This culture encompasses elements such as experimentation, new partnership constellations and an expanded view on value creation in society.

1.9 The EU must put greater focus on supporting and protecting SMEs, in particular, social economy enterprises, microenterprises and family businesses, and all types of start-ups in innovation policy initiatives to improve the conditions for sustainability and replication/scaling.

1.10 New innovative business models must be fully considered in policy initiatives directed at the Industrial Revolution 4.0, and related policies such as circular, sharing and functional economy, this by encouraging adaptation of all existing businesses and models, supporting emergence of new and non-conventional forms of enterprises, forming of new relationships and adjusted models of cooperation.

1.11 The EESC calls on the Commission in the upcoming review of the Single Market strategy, due in 2017, to fully incorporate these new business models, and suggest new measures in this direction.

1.12 As for all businesses it is essential that the principles of decent work, the social rights of employees and the role of the social partners in the context of new business models are fully respected.

## 2. Introduction

2.1 A new societal landscape is rapidly emerging in Europe, calling for new social and economic models to reshape Europe as a modern and globally competitive economy.

2.2 To deliver growth for progress, social cohesion and well-being, a new mind-set is required with regard to innovation. Innovation and research around the world has embraced this mind-set, as have many enterprises, now striving for social and environmental, as well as economic, growth and impact. In addition, consumer expectations and demand indicate support for this kind of approach. This is clearly demonstrated with the emergence of initiatives such as the collaborative, circular and sharing economies. What these initiatives have in common is that they are based on a new set of values and aim for smart, sustainable and inclusive growth for progress that combines technical, environmental and social innovation.

2.3 The purpose of this opinion is to explore some new concepts central to innovation driving new business models. It will in particular use social economy enterprises to illustrate an example. The opinion builds on the EESC acquis in this area and particularly on the work done through the EESC project on social enterprise <sup>(1)</sup>. This opinion does not address concepts such as the circular, collaborative, functional or shared economy, innovation or SME policies which are explored in related EESC opinions.

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<sup>(1)</sup> <http://www.eesc.europa.eu/?i=portal.en.social-entrepreneurship-make-it-happen>

### 3. New concepts arising

#### 3.1 *Promoting social and societal innovation as an enterprise model*

3.1.1 Europe is facing complex societal challenges which existing systems fail to meet. This indicates a paradigm shift which calls for a new mind-set and innovative solutions. These innovations are often referred to as social or societal innovations. 'Social innovations are innovations that are social in both their ends and their means. Specifically, we define social innovations as new ideas (products, services and models) that simultaneously meet social needs (more effectively than alternatives) and create new social relationships or collaborations. They are innovations that are not only good for society but also enhance society's capacity to act'<sup>(2)</sup>. Social innovations emerge in all sectors, and are nothing new, but the common feature is that they eventually lead to systemic change.

3.1.2 In the academic world, innovation nowadays encompasses more than technical development. Researchers now agree that innovation and research need to take technical, environmental and social perspectives into account. There is interdependence between social, digital and technical innovation. The role of digital technology in this context is as a tool to encourage sharing and empowering people to take action, while social innovation is the main objective.

3.1.3 Social innovation manifests itself differently from technical innovation. It is need-driven, often aiming to respond to a challenge in society or focusing on a specific user group, while taking into account social, environmental and economic perspectives. The most successful social innovations entail holistic thinking which ultimately leads to systemic change rather than addressing a single issue or subject.

3.1.4 The foundation of social innovation is an ethical, ideological or general interest viewpoint. This is demonstrated by the role civil society has now and had historically in shaping the welfare systems. Social innovation may be a new concept, but it has existed for a very long time.

3.1.5 Social innovation is based on open communication and collaborative problem solving engaging diverse stakeholders and practices to catalyse new solutions. Social innovation is tearing down walls separating sectors and markets, replacing competition logic with collaborative and long-term partnership solutions. It is about sharing, linked to the open-source movement and applying non-competitive approaches.

3.1.6 Social innovation offers a fundamental frontier for Europe and will promote the 'real social market economy' as per Article 2 of the Lisbon Treaty. However, this can only be achieved if innovation is clearly aimed towards objectives such as inclusion and equality. This will in its turn accelerate further societal innovation.

#### 3.2 *Reviewing value creation from the perspective of shared value*

3.2.1 Awareness is rising that a more comprehensive view of value creation — economically, socially and environmentally — is at the heart of an attractive business case. The fact that economic profit is generated or increased by securing greater social and environmental value clearly demonstrates that economic growth is connected to social and environmental progress. This is referred to as creating shared value, a concept explored by several researchers<sup>(3)</sup>.

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<sup>(2)</sup> Source: [http://ec.europa.eu/archives/bepa/pdf/publications\\_pdf/social\\_innovation.pdf](http://ec.europa.eu/archives/bepa/pdf/publications_pdf/social_innovation.pdf)

<sup>(3)</sup> <https://hbr.org/2011/01/the-big-idea-creating-shared-value/ar/1>

3.2.2 Key to this strategy is a shift from the norm of optimising short-term financial performance to generating economic value in a way that also produces social progress and value for society. Shared value may well drive the next wave of innovation and productivity growth in the global economy.

3.2.3 Supporting a real social market economy requires encouraging forms of investments specifically designed to support the emergence of a more participatory, democratic and inclusive economy. Here, a full financial ecosystem is needed, where in particular it is interesting to consider hybrid and blended capital forms, a topic the EESC has explored in previous work <sup>(4)</sup>.

3.2.4 Applying the shared value logic means that value creation no longer represents a transfer of existing value but rather an increase in social, environmental and economic value overall. Further, it highlights that the market is not defined solely in economic terms but also incorporates social and environmental aspects. A key component is that shared value builds on the strength and differences between the private and civil society sectors applying a co-creation model ultimately creating new as well as growing markets.

### 3.3 *Building on a partnership approach*

3.3.1 Facing complex societal challenges often requires close collaboration between government, the market and civil society in order to create effective solutions. This partnership is based on a deep understanding of each stakeholder's perspectives, on swift decision-making and empathetic approaches.

3.3.2 Cooperation, co-creation and cross-sectorial innovation have tremendous advantages over the ways in which society has addressed societal issues in the past. Central to this is gathering stakeholders early to jointly define a shared societal objective and the way forward.

3.3.3 It is worth noting that, since innovation often emerges in the local context close to the real needs, attention and support must be for all of society. There is great potential to gather and share these local experiences, many which may be replicated and scaled across regions and countries.

### 3.4 *Aiming for collective impact*

3.4.1 As mentioned, large-scale social change requires broad cross-sectorial coordination, alignment and partnership. Furthermore, one result must be collective impact.

3.4.2 Collective impact builds on the commitment of a group of central stakeholders across sectors, focusing on a common agenda to solve a specific social or societal problem. In addition it involves centralised infrastructure, dedicated staff, structured process, shared measurement, continuous communication and mutually reinforced activities amongst all participants. Large-scale social change will emerge as a result of better cross-sectorial coordination rather than from individual organisations.

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<sup>(4)</sup> OJ C 13, 15.1.2016, p. 152.

### 3.5 *Applying social impact measurement*

3.5.1 If the concept of innovation is to include not only technical but also social and environmental perspectives, progress must be measured differently. The EESC has previously explored topics (Social Impact Measurement <sup>(5)</sup>) and Economy for the Common Good <sup>(6)</sup>) where the need for an expanded view on outcomes and reporting has been clearly demonstrated.

3.5.2 Economic indicators have for a long time been the norm to measure results. But the increasing emergence of hybrid structures delivering innovation calls for a set of new and holistic indicators which measure social, environmental and economic impacts.

3.5.3 Applying the principles of social impact measurement entails a stakeholder approach, a common understanding and definition of key outcomes, as well as joint setting of indicators. This will help to capture the real value created. The focus is to shift from economic reporting to measuring factors such as social input, output, outcome and impact. It is important that stakeholders have the same understanding of these concepts, given that they are applied in both the innovation and business contexts.

### 3.6 *Innovation and decent work*

3.6.1 Social and technical innovation can have a huge impact on the organisation of work and the working conditions of employees. Increasing individualisation and greater autonomy and flexibility in labour relations should not lead to deterioration in social protection. For innovative models to be successful the principles of decent work must continue to be guaranteed even in a changed environment <sup>(7)</sup>.

3.6.2 Innovation will go hand-in-hand with general social progress only if all stakeholders are included and profit from it, if the value added is fairly distributed and if there is no dismantling of social rights. The social protection of employees must continue to be guaranteed even in changed conditions.

3.6.3 The same applies to the individual social rights of employees, especially working conditions and wages. Innovative models and digitalisation in particular often lead to a higher degree of individualisation in the workplace and endanger social standards. Sustainable innovative models must respect the rights of employees and their working conditions, even in a changing world of work.

3.6.4 New innovative business models must promote the collective rights of employees, their practical implementation and the role of the social partners. The social partners, collective agreements and the participation of workers are often a source of innovation, as they create the necessary framework conditions.

3.6.5 Social dialogue and comprehensive collective agreements should continue to be promoted, because they also may contribute to the improvement of the framework conditions for the transition to innovative business models. The 'social rules of the game' have regularly had to be adapted to new technical and social developments in the past, and this will continue to be necessary in the future. See for example the redistribution of labour (for example reduction of working time).

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<sup>(5)</sup> OJ C 170, 5.6.2014, p. 18.

<sup>(6)</sup> OJ C 13, 15.1.2016, p. 26.

<sup>(7)</sup> The principles of decent work follow, according to ILO, the following objectives: Implementation of core labour standards; decent work opportunities with sufficient income; strengthening social security and strengthening the dialogue between the social partners.

#### 4. Promoting diverse enterprise models — the example of social economy enterprises

4.1 The EESC supports the need to recognise and promote the full diversity and plurality of business and enterprise models which jointly make up the single market<sup>(8)</sup>. An area where the EESC has specific expertise is social economy enterprise (SEE). SEEs and social entrepreneurs incorporate several of the concepts discussed above and illustrate well these hybrid forms of enterprise models emerging in Europe.

4.2 Over 2 million social enterprises exist in Europe contributing to 10 % of GDP. However in many Member States the sector is new and underdeveloped indicating a significant development opportunity. Civil society and social economy are closely linked and have through innovation contributed to significant systemic changes in society such as childcare, hospitals, promotion of personal autonomy and independent living of the elderly and people with disabilities, work-life balance, work integration and (social) housing, as well as numerous scientific discoveries or inventions.

4.3 Centred on a specific user group, an unmet need in society or filling a gap, SEEs experiment and innovate solutions while engaging in economic activity. They reinvest profits to deliver the social mission and impact. SEEs have recently been particularly highlighted since they provide an interesting solution by creating dual value creation; socially through their activities (social cohesion or inclusion) and economically (through trading, business creation and providing employment).

4.3.1 Boosting innovation and creativity depends on each stakeholder, as well as on behaviour and attitudes. It is therefore crucial not only to strengthen the SEE sector but also to ensure an open attitude towards other diverse models emerging. A culture of cooperation and shared values must be cultivated, a principle that has been embedded in, for example, the social economy since its beginning. Realising that SEE through their innovation create new market opportunities, specific attention must be given to protecting these entities to allow them to continue to develop.

4.3.2 In particular it is worth noting that research indicates that women are more highly represented in social enterprise than traditional enterprise. Additionally, studies collecting sex-disaggregated data on the subject have shown that women social entrepreneurs even outnumber men in some European countries. These studies also seem to indicate that women social entrepreneurs are more innovative than male social entrepreneurs, while spending less on innovation<sup>(9)</sup>. This research demonstrates a great development area with a particular focus on supporting women social entrepreneurship.

#### 5. Creating an enabling environment for new and innovative business models

5.1 New and innovative business models, such as SEEs, are part of the regular economy and not in conflict with other business models. With the changing societal landscape in Europe focus must be placed on capturing all forms of innovation resulting in new business models. While these new models build on many of the concepts discussed in chapter 3, most existing business support, development and start-up programmes as well as other necessary conditions such as legislation and financial instruments often fail to support these diverse business models, the reason being that most support and policy today remains designed for a standard more traditional company model and logic. Therefore, to harness support for the full spectra of diverse business models emerging in Europe, the following elements should be considered.

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<sup>(8)</sup> OJ C 318, 23.12.2009, p. 22.

<sup>(9)</sup> WEstart: Mapping Women's Social Entrepreneurship in Europe, 2015.

5.1.1 In the case of SEEs, the EESC is actively pushing for a full ecosystem that is specifically tailored to the unique features of this particular business model <sup>(10)</sup>. Similarly **ecosystems must also be developed for other new and hybrid business concepts**. Further, existing support must be updated and adjusted to capture these new models as well as to support existing business to adjust to and apply these new trends. The ideal ecosystem comprises elements such as a tailored financial ecosystem with hybrid capital solutions, better forms of procurement, tailored business development support, and applying social impact measurement. This is crucial to support emergence and sustainability of each business model.

5.1.2 Innovation is no longer linear. The combination of technical, environmental and social innovation perspectives is crucial in identifying future solutions. Fully integrating these concepts requires a new view on **reporting progress, one that is outcome or impact based**. Two elements in particular are important here: shared value creation and the triple bottom line (ensuring social, environmental and economic progress has equal weight). Recognising total value through the collective impact of the economic, social and environmental aspects, new kinds of hybrid enterprises will emerge rapidly. Shared value is still in its infancy. Therefore, it requires managers to develop new skills and knowledge and governments to learn how to regulate in ways that enable and do not hinder shared value.

5.1.3 Financial markets have a key function in allocating resources within society correctly. But their increased **short-term focus conflicts directly** with the requirement to address society's long-term needs, which is addressed in various reports <sup>(11)</sup>. Businesses must have space to invest for the future to generate value for investors as well as for society at large. This calls for new systems that reward long-term investor behaviour. Here the importance of public funding, often in blended capital solutions, represents an important element, which often underscores enterprise development.

5.1.4 For innovation to drive new business models, an **innovation-friendly culture must be continuously promoted**. Encouraging experimentation schemes which welcome both success and failure (as learning steps) is central to foster an innovation culture in Europe. Without the precautionary principle being a barrier for innovation, the 'Innovation Principle' should be applied in a complementary manner to the precautionary principle; the 'Innovation Principle' entails taking into account the impact of laws and regulation on innovation. Designing processes and systems around the concept of partnership by involving key stakeholders (facilitating open forums, dialogue spaces, and cooperative meetings) is a starting point. This is already happening around Europe and could easily be scaled up, shared and disseminated <sup>(12)</sup>.

5.2 **Political will and ownership** are central to boost new business creation in Europe. Developing coherent policy agendas at EU and Member State level tailored to support different business models is crucial. It is clear that to be able to deliver growth and well-being in Europe, a move towards an innovation-based economy and society is needed. The internal market legislation and policies should be adequately leveraged to this effect. The review of the Single Market strategy, due in 2017, is an opportunity to consider new measures in this direction.

5.2.1 Adequate and sustained support for **basic and applied research**, as the seed of future innovation, is crucial, given the emphasis on shared value and the triple bottom line. In addition, the activities of these new business models must be captured **statistically** so that the most appropriate policy support can be provided.

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<sup>(10)</sup> <http://www.eesc.europa.eu/?i=portal.en.social-entrepreneurship-make-it-happen>

<sup>(11)</sup> The Kay Review, 2012: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/253454/bis-12-917-kay-review-of-equity-markets-final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/253454/bis-12-917-kay-review-of-equity-markets-final-report.pdf)

<sup>(12)</sup> Europe Tomorrow — Loss (FR) and unMonastery (IT) projects.

5.2.2 It is important to **build awareness** of the various forms of innovation and innovators. SEEs and civil society often fail to label themselves as innovators. Increasing the visibility of social innovation and ensuring it is recognised by explicitly valuing its broad contribution to society will encourage more innovation across sectors.

5.2.3 The EU continues to play a central role in gathering and sharing new initiatives, facilitating an enabling environment and ensuring key policy initiatives indeed capture these new trends. The Commission is well placed to facilitate this **exchange of best practices and models to replicate**.

Brussels, 25 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on the ‘Sharing economy and self-regulation’**

**(exploratory opinion)**

(2016/C 303/05)

**Rapporteur: Jorge PEGADO LIZ**

On 16 December 2015, under Article 304 of the Treaty on the Functioning of the European Union, M. J. BOEREBOOM, Director-General at the Ministry of Social Affairs and Employment of the Netherlands, asked the European Economic and Social Committee on behalf of the Dutch presidency of the Council to draw up an exploratory opinion on the:

*Sharing economy and self-regulation.*

(exploratory opinion)

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 10 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May), the European Economic and Social Committee adopted the following opinion by 133 votes to 1 with 7 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC is presenting this opinion in response to the Dutch presidency's request for the EESC to draw up an exploratory opinion on the sharing economy and self-regulation, and having completed its discussions, has formulated the following conclusions.

1.2 In several of its opinions, on which this opinion of course draws, the EESC has already anticipated various aspects of this phenomenon, under its different designations, which vary from language to language and according to the angle from which it is approached.

1.3 This opinion will seek to respond to the request by drawing up a definition that encompasses the specific characteristics of the economic practices covered by this concept. It will try to establish how these economic and social practices should be protected by law, and by what measures and means, with particular emphasis on self- and co-regulation.

1.4 Socially and economically significant since the 2000s through the use of the internet and social networks, it is not a reciprocal exchange like bartering, which dates back as far as human history, but 'non-reciprocal pro-social behaviour' or, to be more precise, 'an act and process of distributing what is ours to others for their use as well as the act and the process of receiving something from others for our use'.

1.5 Rather than a definition, which we will nevertheless seek to provide, it is important to define its characteristics, of which the following stand out:

- it does not result in the ownership or joint ownership of goods, but in pooled use,
- an intermediary platform — which is usually electronic — to put a significant number people offering goods or services in touch with a significant number of users,



- a common objective to make better use of goods and services by sharing them, and
- the final parties to these complex three-way transactions are primarily peers (P2P) and are never part of a business to customer (B2C) contractual relationship.

1.6 These characteristics, supported by a concept that benefits from fairly widespread consensus, make it possible to define the model for this type of economic relations and to distinguish between real sharing economy practices that require special arrangements and those that are sometimes wrongly described as such merely to get around regulations that should apply to them. Uber is a topical example. A more precise analytical distinction concerning the concept of 'sharing' and the use of platforms might help to better inform policy and develop more appropriate regulation.

1.7 In addition to highlighting the growing economic importance of sharing economy practices, which already represent significant European and world trade volumes, it is important to mention the social and environmental dimensions of the sharing economy, which have the potential to strengthen solidarity between people, boost local economies, create jobs, rationalise household consumption by pooling the use of certain goods, reduce energy footprints and promote more responsible and sustainable consumption. Relevant examples are given in point 5.2.

1.8 In view of these circumstances, the EESC once again urges the Commission to undertake a whole raft of indispensable policy measures in order to ensure that the numerous varieties of the sharing economy and the different ways it operates are supported, implemented, and gain credibility and trust at EU level and in the various Member States.

1.9 It also draws attention to the need for these new business models to comply with the applicable national and EU legislation, especially with respect to workers' rights, appropriate taxation, data protection and the privacy of stakeholders, social rights, fair competition and the fight against monopolies and anti-competitive practices, the accountability of platforms in the context of transactions between the partners and the legality of their dealings and, above all, the protection of the rights of all partners operating in the sharing economy, including prosumers, by adapting these relations across the existing EU acquis on consumer rights, with particular reference to unfair contractual terms, unfair commercial practices, health and safety and e-commerce.

1.10 The EESC therefore considers that the EU — and, of course, the Member States meeting within the Council under the Dutch presidency — must urgently define a clear and transparent legal framework within which these activities should be developed and implemented in the European area, as defined in point 8.2.4. It also calls on the Commission to publish without further delay the long overdue 'European agenda for the collaborative economy'.

1.11 This agenda should provide a clear definition of the complementary role that self- and co-regulation must play, in accordance with the principles and the arrangements which the EESC has already advocated over the years in opinions and information reports on these aspects, which it reaffirms and which remain entirely valid.

## 2. Introduction: a topical and controversial subject

2.1 The Dutch presidency asked the EESC to draw up an exploratory opinion on the *Sharing economy and self-regulation* in a letter from the Ministry of Social Affairs and Employment, but without laying down any guidelines or specifying any questions.

2.2 The sharing economy is a highly controversial and topical issue in terms of its definition and scope, the various concepts it covers, the practices it incorporates and its effects.

2.3 The practices which, in recent years, have been attributed to this concept are just as extensive as the wide range of publications written about it.

2.4 It is consequently quite natural that the EESC, which is always attentive to civil society trends, should already have published several opinions, on which this opinion of course draws <sup>(1)</sup> and whose general philosophy is embraced and further developed, anticipating various aspects of this phenomenon, under its different designations, which vary from language to language and according to the angle from which it is approached.

2.5 This opinion sets out to respond to the Dutch presidency's request by seeking to develop a definition that encompasses the specific characteristics that set the sharing economy apart conceptually and the economic practices it covers. It will try to establish whether and how these economic and social practices should be protected by law, and by what measures and means, with particular emphasis on self- and co-regulation.

### **3. A question of attitude: 'To have or to be?'**

3.1 The practices of certain forms of sharing economy actually date back to before the concept began to take shape. They stem from an attitude that relates to having or being and is essentially based on the idea you are not what you have, but what you can access.

3.2 It is clear that a certain type of sharing economy is as old as humankind and has its historical roots in the barter economies of early societies which were only gradually replaced by the introduction of money, which gives whoever possesses it the ability to buy and therefore to have.

3.3 Although it has been gaining social and economic significance since the 2000s through the use of the internet and social networks, it is not a reciprocal exchange, but 'non-reciprocal pro-social behaviour' or, to be more precise, 'an act and process of distributing what is ours to others for their use as well as the act and the process of receiving something from others for our use'. The sharing economy is therefore inspired by various strands of thought ranging from free universal access to knowledge to a functional economy or a gift economy, based on sharing with no intent to profit. Unlike a straightforward bartering economy, the sharing economy is based on the idea of a monetary or non-monetary consideration.

### **4. An economically significant practice**

4.1 This concept will have to serve as the basis for outlining the area that is specific to the sharing economy in its various facets by listing the characteristics that its practices must have and which distinguish it from other commercial market practices.

4.2 First of all, the dominant and common feature is that it does not result in the ownership or joint ownership of goods, but in pooled use.

4.3 Furthermore, it requires an intermediary platform, which is usually electronic (a browser or application), putting a significant number of people offering goods or services in touch with a significant number of users.

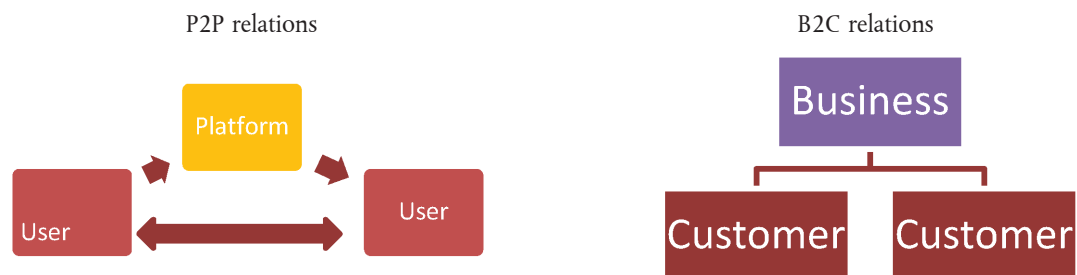
4.4 A common and typical objective of this kind of activity is to make better use of the idling capacity of goods or services by sharing them.

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<sup>(1)</sup> OJ C 177, 11.6.2014, p. 1.

4.5 In this business model, it is also considered essential that the final parties should primarily be peers (P2P) and are never part of a B2C contractual relationship, whether this involves individual or legal persons, including companies, and do not themselves turn this sharing transaction into a business objective (e.g. a company sharing its car fleet or equipment with another). However, the possibility that an entire 'business' may be 'peer-to-peer' cannot be discounted.

4.6 The following figure shows the differences between the business models at issue:



4.7 This type of transaction presupposes a complex three-way contractual structure reflected in the contractual relationship between the person in possession of the good or the service provider and the platform operator; between the user and the intermediary handling the transaction on the platform, possibly against payment, and between platform users for the use in question.

4.8 This is why the following features are not considered to be particularly distinctive or specific:

- (a) whether it is free or for a fee, e.g. Couchsurfing vs Airbnb;
- (b) the reciprocity of contractual positions;
- (c) the financial or non-financial character of the transaction, therefore accepting the inclusion of crowdfunding in this activity;
- (d) the straightforward sharing of goods or services between private individuals (e.g. giving a colleague a lift; letting a friend have a room for the night or a short stay; letting neighbours use a washing machine because theirs has broken down);
- (e) the exchange or sale of second-hand goods, which does not involve sharing and results in the transfer of ownership of goods.

## 5. Some practical examples of what is or what is not an aspect of the sharing economy

5.1 The constraints on the length of this opinion exclude a long description or detailed discussion of the nature of a wide range of situations that supposedly include characteristics of the shared economy.

5.2 Nevertheless, a few are worth mentioning as illustrations of the subject under consideration in this opinion:

5.2.1 Examples in the housing sector include platforms such as Airbnb, Rentalia, Homeaway, Couchsurfing and Bedycasa, where homeowners can register to temporarily share rooms or entire homes, and on which hostels, guesthouses and other tourist accommodation providers can also make their services available. Given the ease with which anyone can register their property on these sharing networks, and the profit that owners make from this activity, the proliferation of accommodation in this segment has led to cooperation agreements on tax collection and distribution between the platforms and tax authorities, namely in Paris and Amsterdam. Schemes have been set up in Amsterdam, Barcelona, London and Berlin for the compulsory registration of this type of accommodation and rules on time limits, in order to protect long-term leasing and prevent any resulting increase in rents.

5.2.2 Examples in the transport sector include Blablacar, Umcoche, Liftshare and Karzoo. Private vehicle owners can register on these applications to offer people lifts in their vehicles (carpooling). Some of these platforms allow travel expenses to be shared but charges to make a profit are prohibited. Uber, however, is a case apart since in addition to offering peer-to-peer vehicle sharing (UberPop — banned almost everywhere in the EU), it also allows users to call on the services of professional drivers (UberBLACK and UberX — similar to traditional taxi services). Its characteristics are not clear since the company does not have a transparent business model. This has even resulted in the need for some courts to consider whether Uber's drivers are not in fact its employees <sup>(2)</sup>. This service has led to sometimes violent demonstrations as well as legal proceedings across Europe. Only the United Kingdom and Estonia have passed laws to legalise these services, pending the CJEU's response to requests for preliminary rulings from a court in Barcelona and another in Brussels for clarification about their nature <sup>(3)</sup>.

5.2.3 Examples of collaborative funding include interest-bearing loans, such as Zopa and Auxmoney; buying an equity stake in the company created, such as Fundedbyme and Crowdcube, or funding for profit, such as Kickstarter or Indiegogo, and finally, donation-based funding, with no strings attached to the sums invested.

## 6. The need to define a concept

6.1 As is usually the case, efforts to define concepts — especially when the method used is inductive — are not linear, and take time to bed in and achieve unanimity. This is what is happening with respect to the 'sharing economy' concept, which appears in the media alongside other concepts such as 'social or inclusive economy', 'circular economy', 'functional economy', 'green economy', 'blue economy', 'economy of solutions', 'horizontal economy', 'on-demand economy', 'platform economy' and 'gig economy'.

6.2 As a result, some authors prefer not to attempt a definition for fear that it would not be sufficiently comprehensive and might even define its scope incorrectly.

6.3 Despite the numerous references to the concept in EESC opinions, no definition has been attempted; this is also true of the CoR's opinion <sup>(4)</sup>, which attempts a classification involving two main categories and four types, but does not risk a definition. Finally the Commission's recent Communication on *Upgrading the Single Market* <sup>(5)</sup>, first uses the term 'collaborative economy' as a synonym but, instead of giving a definition, restricts itself to listing the benefits for stakeholders (consumers and workers) and focuses on its impact in terms of productivity and sustainability to develop a 'European agenda for the collaborative economy' in 2016. The European Parliament has not made any substantial contribution so far beyond a resolution on Towards a Digital Single Market Act <sup>(6)</sup> (21 December 2015) and a number of high-quality studies and a few briefings on specific issues. So far however, none of these documents have studied the impact in terms of job creation and growth.

<sup>(2)</sup> <http://www.theguardian.com/technology/2015/sep/11/uber-driver-employee-ruling>

<sup>(3)</sup> OJ C 363, 3.11.2015, p. 21; OJ C 429, 21.12.2015, p. 9.

<sup>(4)</sup> OJ C 51, 10.2.2016, p. 28.

<sup>(5)</sup> COM(2015) 550 final, p. 4.

<sup>(6)</sup> A8-0371/2015.

6.4 The EESC sees no need to be original when one of the many existing definitions would seem to have won broad acceptance. It has therefore adopted the Botsman & Rogers definition of a sharing economy, namely an 'economic system based on sharing underused assets or services, for free or for a fee, directly from individuals' using online platforms, although a more precise analytical distinction concerning the concept of 'sharing', i.e. 'non-profit', and the use of platforms might help to better inform policy and develop more appropriate regulation.

6.5 This definition is comprehensive enough to include areas as varied as production, consumption, financing (crowdfunding) or knowledge itself and to allow subdivision into four fairly autonomous areas: collaborative consumption; collaborative education, training and knowledge; collaborative funding; and collaborative production <sup>(7)</sup>.

6.6 This definition also makes it possible to identify business models masquerading as sharing economy practices when in reality they are no more than profit-making B2C business models. This conclusion can serve as a gauge for the purposes of analysing the functioning of these platforms (though not always transparent) and we can find examples of genuine sharing economy practices based on P2P platforms, where the platforms' only role is to enable peer-to-peer contact. However, there are also examples of companies that use the guise of P2P platforms to carry out business — by receiving commission, receiving payments, providing ancillary services — and which should not be treated as sharing economy operators, but as providers of B2C services, with the consequences that this entails.

6.7 This definition therefore permits the immediate exclusion of certain types of practices from the sharing economy concept, which might otherwise be deemed to qualify, namely:

- (a) the sharing of food or non-durable goods;
- (b) mutual societies and cooperatives;
- (c) social entrepreneurship;
- (d) philanthropy;
- (e) the on-demand economy;
- (f) the functional economy, which has more to do with the circular economy;
- (g) pure intermediation.

## **7. The growing economic importance of this trend and policy options to be developed**

7.1 Although its scope has still not been very clearly defined, numerous studies or surveys have been carried out to determine its economic weight at EU and international level.

7.2 There can therefore be no question that in recent years and especially during and in response to the ongoing crisis, sharing economy initiatives have continued to increase. The Collaborative Consumption website features over 1 000 initiatives.

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<sup>(7)</sup> <http://www.euro-freelancers.eu/marco-torregrossa-presentation-on-the-sharing-economy-2/>

7.3 According to estimates used by the European Commission, the volume of world trade hidden beneath the banner of the sharing economy amounted to USD 3,5 billion in 2013, representing an annual growth rate of 25 %. It is currently estimated at 20 billion. Forecasts by PwC consultants point to sharp growth until 2025 <sup>(8)</sup>.

7.4 In addition to creating economic value, the social and environmental dimensions of the sharing economy have the potential to strengthen solidarity between people, boost local economies, create jobs, rationalise household consumption by pooling the use of certain goods, reduce energy footprints and promote more responsible and sustainable consumption.

7.5 The EESC believes that this type of economy 'represents an innovative complement to a production economy in the form of a use-based economy offering economic, social and environmental benefits' and that it 'also offers a way out of the economic and financial crisis' <sup>(9)</sup>.

7.6 As a result, the EESC has not hesitated to urge the Commission to undertake a whole raft of indispensable policy measures in order to ensure that the numerous varieties of the sharing economy and the different ways it operates are supported, implemented, and gain credibility and trust at EU level and in the various Member States. This opinion cannot but reiterate the views which the EESC has already published on these issues and to which it explicitly refers. It therefore considers that the new business models constituted by these platforms raise urgent issues regarding the application of national legislation, safeguarding workers' rights and ensuring appropriate taxation. The EESC calls on the Commission to address these concerns if the social benefits offered by these business models are indeed to be delivered.

7.7 It is also important to draw attention to the urgent need for definitions, guidance or guidelines at EU level because some Member States are already defining their own policies independently, in view of the delay and the apparent uncertainty of the European institutions.

## **8. An activity protected by law**

### **8.1 *The interests at stake and their legal protection***

8.1.1 Like any other activity that juxtaposes people with their own — sometimes conflicting — interests, the sharing economy is covered by the laws governing the interests involved. The EESC therefore believes that it is wholly unrealistic to argue that the sharing economy should be a 'law-free' area where freedom must reign unconfined and unconstrained, based exclusively on trust and innate goodness (along the lines of Rousseau's 'noble savage').

8.1.2 The EESC has systematically and consistently argued that all economic activities must be protected by law; however, as it has also argued, these rules can also take different forms, which need to be coordinated harmoniously.

8.1.3 In particular, we refer to its most recent opinion on the role of self-regulation and co-regulation in the EU <sup>(10)</sup>, where the EESC argues that 'self-regulation and co-regulation are mechanisms for regulating economic and social relations or commercial practices among the various economic stakeholders; they may be decided spontaneously or be imposed'. They should be viewed as important instruments for complementing or supplementing hard law, but not as an alternative to it, and in order to be valid, 'their configuration and ambit must be defined by specific precepts that are legally binding and enforceable, whether at national or Community level, respecting at the same time the nature of these instruments, especially the voluntary agreement of the participants'.

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<sup>(8)</sup> [http://www.cpcp.be/medias/pdfs/publications/economie\\_collaborative.pdf](http://www.cpcp.be/medias/pdfs/publications/economie_collaborative.pdf)

<sup>(9)</sup> OJ C 177, 11.6.2014, p. 1.

<sup>(10)</sup> OJ C 291, 4.9.2015, p. 29.

## 8.2 *Rights and obligations*

8.2.1 Indeed, once purely spontaneous practices between private individuals assume the significance of an economic activity and the reciprocal rights and obligations of the parties take on a contractual nature, they must be subject to national or EU laws that provide a legal framework for the rights and obligations of all parties.

8.2.2 However, the complexity of relations created within the social economy and described in point 4.7 warrant the definition of a legal framework in which the parties should operate, especially in the case of hybrid activities such as freemium or donationware transactions, as highlighted by the typical example of geocaching.

8.2.3 Insofar as this phenomenon, by its very nature, now clearly extends beyond the borders of the Member States, the EU must define, for the purposes of its common and integrated area as a vast single market, the legal framework applicable to these activities when they are carried out across borders. Its absence has already resulted in several Member States taking different and sometimes contradictory positions with regard to certain specific cases (e.g. Uber), as is also happening in the United States.

8.2.4 This legal framework mainly concerns the following priority areas:

- (a) protection of the rights of all partners operating in the sharing economy, including prosumers, by adapting these relations across the existing EU acquis on consumer rights, with particular reference to unfair contractual terms, unfair commercial practices, health and safety and e-commerce;
- (b) basic consumer rights, which would have to be extended to include them (information, transparency, data protection and privacy, health and safety);
- (c) protection of data and privacy of those involved (tracking and profiling) that ensures the portability of their data;
- (d) competition law, insofar as these activities compete on the market with companies pursuing identical objectives and activities, and insofar as they ensure fair competition and combat monopolies and anti-competitive practices in order to address other challenges of the sharing economy;
- (e) tax law, insofar as revenues from these activities cannot be exempt from appropriate taxation, in order to combat tax evasion and avoidance;
- (f) the responsibility of the platforms, depending on the services they provide, and in line with their level of involvement in the transactions undertaken through them and guarantees relating to the legality of their dealings;
- (g) the impact on the labour market and the very definition of the concept and forms of work in the digital environment;
- (h) protection of the workers involved, distinguishing between the situations of workers who do not have an employee-employer relationship with the platform, protecting them on the basis of the principles that apply to self-employed workers, and of workers who actually qualify as employees, applying the principles that protect employed staff, particularly with regard to 'false' self-employment and job insecurity;



- (i) protection of workers' social rights and instruments, such as the right of association, the right to strike and the right to collective bargaining and social dialogue;
- (j) protection of social models and of the Member States' capacity to ensure the future sustainability of these models;
- (k) the environmental dimension, with a view to monitoring the environmental impact of the collaborative economy in order to prevent negative repercussions <sup>(11)</sup>;
- (l) copyright and intellectual property, to be considered during the review of Directive 2001/29/EC.

### 8.3 *Regulatory options*

8.3.1 At EU level, the only level of relevance to this opinion, the EESC believes that the institutions, starting with the Commission, due to its right of initiative, but also the Council and the EP, should devote very particular and urgent attention to developing a regulatory framework that defines its precise scope and the parameters within which this activity should be developed since there is no doubt that the measures will have to be adapted to the various forms of sharing economy.

8.3.2 Within this framework, pride of place must be given to the common principles of public order and interest, which should be considered as mandatory requirements for participants in these forms of economic activity, and in particular those mentioned in point 8.2.4.

8.3.3 However, the EESC has always maintained that, at the same time and in parallel, there is a whole space which must be left to self-regulation and co-regulation and even believes that we are confronted with a typical instance of what some refer to as 'shared regulation', as recently argued by the Royal Society for the encouragement of Arts, Manufactures and Commerce (RSA), London or the model code of conduct drawn up by Sharing Economy UK (SEUK) <sup>(12)</sup>.

### 8.4 *A special role for self-regulation*

8.4.1 The EESC has always held the view that the EU institutions and national authorities should not define the content of self-regulatory codes, which should be left to the sole discretion of the parties when they do not seek to obtain binding recognition between the parties.

8.4.2 However, to the extent that these agreements aspire to recognition as 'an accessory regulatory instrument in the legal system concerned', the EESC has argued — in its abovementioned opinion — that the EU's 'parameters for recognising these regulatory instruments must be quite clear, as must the principles governing them and their limits'. This reasoning applies fully to the sharing economy, which is no exception.

8.4.3 The EESC regrets that when a new Interinstitutional Agreement between the Council, Parliament and the Commission was adopted on 13 April 2016, these institutions did not take the opportunity to make the improvements to it as advocated by the EESC in its abovementioned opinion on self-regulation and co-regulation (SRCR), which featured in the previous agreement, and that, at this stage, SRCR only gets an unspecific mention in the 'Better Regulation' package, which is relegated to a footnote referring to the principles on making better use of SRCR and the CoP platform, and a few scattered references in the guidelines and the toolbox.

8.4.4 If there is one field where, in order to gain credibility and the trust of its users, the definition of the parameters described above is increasingly necessary, then it is undoubtedly the shared economy, which would benefit greatly from a solid architecture and reliable self-regulation or co-regulation at EU level.

8.4.5 The EESC therefore looks forward to the announced 'European agenda for the collaborative economy', and as of now urges the Commission not to neglect the regulatory aspects of this activity and the role that self-regulation and co-regulation should play in this area.

Brussels, 25 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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<sup>(11)</sup> [http://www.iddri.org/Evenements/Interventions/ST0314\\_DD ASN\\_sharing economy.pdf](http://www.iddri.org/Evenements/Interventions/ST0314_DD ASN_sharing economy.pdf)

<sup>(12)</sup> <http://www.sharingeconomyuk.com>



**Opinion of the European Economic and Social Committee on REFIT****(exploratory opinion)**

(2016/C 303/06)

**Rapporteur: Denis MEYNENT**

On 13 January 2016, 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:

*REFIT*

(exploratory opinion).

The REFIT subcommittee, set up under Rule 19 of the Rules of Procedure, which was responsible for preparing the Committee's work on the subject, unanimously adopted its draft opinion on 19 April 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 26 May 2016), the European Economic and Social Committee adopted the following opinion by 185 votes to 4, with 8 abstentions.

**1. Conclusions and recommendations**

1.1 The Committee notes that the REFIT <sup>(1)</sup> programme's prime aim is to better the quality and efficacy of EU legislation and to draft simple, understandable and coherent rules, without calling into question established strategic objectives or being detrimental to the protection of citizens, consumers, workers, social dialogue or the environment.

1.2 European legislation is an essential factor in integration, not a burden or cost to be reduced. On the contrary, when proportionate it is an important guarantee of protection, promotion and legal certainty for all European stakeholders and citizens.

1.3 Impact assessments of any legislative proposals must be integrated and accord due importance to the economic, social and environmental dimensions, including for SMEs. The Committee calls for the Parliament, the Council and the European Commission to agree on a common methodology on impact assessments, which could also serve as a prompt for the Committee and the Committee of the Regions (CoR).

1.4 Both the public consultation process and the consultation of experts and stakeholders should be as open as possible, but cannot be a substitute for the consultation of social partners and the Committee.

1.5 The Committee calls on the Commission to include in its scoreboard an annual assessment — both quantitative and qualitative — of the main costs and benefits of REFIT programme measures, including the level and quality of employment, and social, environmental and consumer protection.

1.6 The decision-making process should remain as smooth and relevant as possible. The bodies and filters set up to check the legitimacy of the process must not undermine political decision-making, which must remain sovereign. There is a need here to stand up to bureaucratisation of the decision-making process.

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<sup>(1)</sup> The abbreviation stands for the 'Regulatory fitness and performance' programme.

1.7 The Committee duly notes the introduction of the REFIT platform, which has been given a mandate to work towards more effective legislation and simpler administrative rules. It stresses that it should be restricted to carrying out a limited review of a number of topics and cannot replace the co-legislators or the mandatory consultation of the Committee — since its work is of a different nature — and the social partners, as provided for by the Treaties. It calls on the Commission to make public the criteria for shortlisting the suggestions addressed to the platform, to ensure these are balanced and to make clear the follow-up to the platform's recommendations so that influences can be traced.

1.8 As regards the representativeness of the REFIT platform, the Committee thinks that if it were granted two additional seats, this would allow it to fully respect the nature of its mandate and reflect the civil society that it is charged with representing. The Committee also notes the absence of pan-European representation of micro, small and medium-sized enterprises in the platform's 'stakeholder group' and calls for this to be remedied as soon as possible.

1.9 The Committee, with the advantages of its direct links with the grassroots level, a huge network of national organisations and the expertise of its members, is well-placed to make a major contribution to impact assessments carried out at a European level. It intends to give priority to ex post and qualitative assessments, in order to be able to determine the impact of legislative action or of a European policy and to pass on the experience of European economic and social partners.

1.10 When particular directives are being transposed, the Committee would like to provide its own distinct input into the European Parliament's own-initiative report on the annual report on the implementation of EU legislation by Member States by homing in on the additions made by the Member States when transposing.

1.11 The Committee calls for the REFIT programme exercise to be a two-way street — in other words, one that does not conclude in advance what course regulation should take: validating, extending, complementing, amending or repealing legislation.

1.12 The Committee could not agree to be a part of any exercise that sought to quantitatively diminish the EU *acquis* without measuring in advance all the consequences on social, environmental and consumer protection.

1.13 The Committee supports a more rigorous ex post assessment of the effects of regulation in the EU policy cycle, with particular reference to the expected impact on growth and employment set out in the impact assessment that accompanies the original legislative proposal. Ex post evaluations should be conducted in a pluralistic way following a reasonable period of time after the deadline for transposition into national law.

## 2. General comments

2.1 The Committee notes that legislation is essential in order to achieve the aims of the Treaty and to create the right environment for smart, sustainable and inclusive growth that benefits the public, businesses and workers <sup>(2)</sup>. Regulation also helps to improve well-being, protect the public interest and fundamental rights, promote a high level of social and environmental protection and ensure legal certainty and predictability. It should prevent the distortion of competition and social dumping.

2.2 The Committee therefore welcomes Vice-President Timmermans' repeated assertion that the REFIT programme will not lead to deregulation of the EU *acquis* or reduce the standard of social and environmental protection and fundamental rights <sup>(3)</sup>.

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<sup>(2)</sup> COM(2012) 746 final, p. 2.

<sup>(3)</sup> COM(2015) 215 final.

2.3 While the Committee believes that regulation generates costs and administrative burdens — which could turn out to be onerous or unnecessary — it also generates substantial benefits for the public, businesses and public authorities. The Committee points out that smart regulation must always seek to achieve real added value. Wherever possible, EU rules must do away with burdens, not create new ones.

2.4 The Committee thinks that 'Better law-making' must adopt the approach best suited to taking forward completion of the EU single market: targeted harmonisation, application of the mutual recognition principle in non-harmonised areas where appropriate, co-regulation, self-regulation and standardisation. The Committee points out in this connection that targeted and smart harmonisation of laws helps to remove obstacles to the smooth running of the internal market. The harmonisation of 28 different bodies of national law does a great deal to simplify and trim the regulatory and administrative burden for the EU's business and citizens.

2.5 The Committee notes that the REFIT programme's prime aim is to better the quality and efficacy of EU legislation and to draft simple, understandable and coherent rules, without calling into question established strategic objectives or being detrimental to the protection of citizens, consumers, workers, social dialogue or the environment.

2.6 In this connection the Committee points out its commitment to ensuring that the legislation at issue and the associated burden are necessary, that the final benefits they provide exceed the costs they generate, and that the legislation is proportionate and guarantees sufficient legal certainty.

## 2.7 *Impact assessment*

2.7.1 The Committee duly notes the signing of the interinstitutional agreement on better law-making by the three institutions on 13 April 2016.

2.7.2 The Committee particularly welcomes their recognition that the impact assessment system is an instrument intended to help them reach well-informed decisions and is not a substitute for political decisions <sup>(4)</sup>.

2.7.3 The Committee is pleased that the Commission has included, within the ambit of integrated, balanced and pluralistic impact assessments, alternative approaches that address the cost of non-Europe and the impact of the different options on competitiveness, the effect of the proposals on SMEs and microenterprises, and the digital and territorial dimension <sup>(5)</sup>.

2.7.4 The Committee welcomes the Commission's ability to conduct its impact assessment either on its own initiative or at the request of the European Parliament or the Council, but regrets that each institution makes its own decision on how to actually go about the assessment. The Committee calls for the three institutions to agree on a common methodology on impact assessments, which could also serve as a prompt for the EESC and the CoR in drafting their own amendments.

2.7.5 The Committee's position is that impact assessments must be carried out within the EU institutions themselves. However, if it is intended for particular reasons to use private consultants, the Committee is adamant that:

- the specifications be drawn up impartially on the basis of clear and transparent criteria and be made public in advance,
- candidates be selected under conditions of utter transparency on the basis of a broad and pluralistic invitation to tender that enables consultants to be rotated and their competences to be verified,

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<sup>(4)</sup> Interinstitutional Agreement (IIA) of 15 December 2015, point 7 ([http://ec.europa.eu/smart-regulation/better\\_regulation/documents/iaa\\_blm\\_final\\_en.pdf](http://ec.europa.eu/smart-regulation/better_regulation/documents/iaa_blm_final_en.pdf)).

<sup>(5)</sup> Ibid.

— the award of the contract be made public.

## 2.8 *Stakeholder consultation*

2.8.1 The Committee believes that the consultation of stakeholders and experts must not replace that of the social partners, the Committee and the Committee of the Regions, which play their role at well-defined points in the legislative cycle and within the limits set out by the TFEU, nor must it replace existing consultations at national level, which must be based on strengthened participation of social partners. It points out that accurate stakeholder mapping is essential to make sure those taking part are truly representative and that the consultation process is sound. It calls on the Commission to use the transparency register to achieve this.

2.8.2 The Committee calls for consultation to be performed without prejudice to the structured civil dialogue (Article 11 (2) TEU) and consultations carried out within specific frameworks, such as consultation of the social partners as part of social dialogue (employers' organisations and trade unions) (Article 154 TFEU) or of advisory bodies, such as the European Economic and Social Committee (Article 304 TFEU).

2.8.3 The Committee stresses that the 'stakeholder mapping' must ensure a good geographical breakdown by target group, with special attention to under-represented groups. A substantiated weighting system should be applied when analysing responses to consultations <sup>(6)</sup>.

## 2.9 *The REFIT programme*

2.9.1 The Committee duly notes the general aims of the Commission's REFIT programme and draws attention to its opinions <sup>(7)</sup> covering the 'Better regulation' programme and 'smart regulation'. In the Committee's view, 'smart regulation' gives no dispensation from the obligation to comply with the regulations on protecting the public, consumers and workers, or with gender equality and environmental standards and must not prevent improvements from being made to them. It must also comply with the social dimension of the internal market as provided for by the Treaty, in particular as regards the transposition of the agreements negotiated within the European social dialogue.

2.9.2 The Committee notes that the Commission is seeking to improve the process and quality of the instruments intended to ensure the best possible scrutiny of implementation.

2.9.3 The Committee calls on the Commission to include in its scoreboard an annual assessment — both quantitative and qualitative — of the main costs and benefits of REFIT programme measures, including the level and quality of employment, and social, environmental and consumer protection.

2.9.4 The Committee wants to make it clear that better regulation cannot — and should not — be a substitute for political decisions.

## 2.10 *REFIT platform*

2.10.1 The Committee duly notes the creation of the REFIT platform, in which it is involved and which is intended to analyse the proposals to reduce the unnecessary administrative and regulatory burden and facilitate the application of EU legislation in the Member States. It notes that the areas relating to social dialogue and the competence of the social partners have been removed from the platform's remit.

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<sup>(6)</sup> OJ C 383, 17.11.2015, p. 57.

<sup>(7)</sup> OJ C 327, 12.11.2013, p. 33, OJ C 248, 25.8.2011, p. 87 and OJ C 48, 15.2.2011, p. 107.

2.10.2 The Committee notes, however, that the platform must:

- remain an advisory forum for pooling ideas which cannot alter how the institutions — and especially the co-legislators — operate,
- respect the consultation of the Committee and other mandatory consultations provided for in the Treaties, in particular Article 154 TFEU relating to the social partners,
- be restricted to carrying out a review of a limited number of topics.

2.10.3 The Committee also expects that:

- the platform should not duplicate the consultation processes implemented elsewhere and should not constitute an unnecessary layer of bureaucracy,
- the platform should not interfere in the decision-making process on the grounds that the platform has been consulted, has discussed a particular issue or suggested a particular way to proceed.

2.10.4 The Committee highlights the fact that the large number of participants in the platform, the very varied nature of the stakeholders (Member States, social partners, NGOs and civil society), the extremely broad range of topics on the agenda, as well as the limited frequency of meetings, are unlikely to generate in-depth discussions on the suggestions considered by the platform.

## 2.11 *Representativeness of the REFIT platform*

2.11.1 The Committee points out in this connection that, despite being an institution established by the Treaties and representative of the diversity of the EU, it only has a single seat and its three groups take turns in participating in the platform's work.

2.11.2 The Committee thinks, therefore, that if it were granted two additional seats, this would respect the tripartite nature of the institution and its mandate, and so reflect the civil society that it is charged with representing.

2.11.3 The Committee notes the absence of pan-European representation of micro, small and medium-sized enterprises in the platform's 'stakeholder group' and calls for this to be remedied as soon as possible.

## 2.12 *Workings of the platform*

2.12.1 The Committee calls on the Commission:

- to clarify the methods and criteria for the selection of parties represented in the platform,
- to ensure that all stakeholder representatives have the material resources to enable them to prepare for meetings and to contribute effectively at them,
- to make public the number of suggestions received by the Commission and forwarded to the platform and the criteria for shortlisting them,
- to make sure that the suggestions are truly representative (Member States, social partners, civil society),

- to provide comprehensive, timely and effective preparatory documents for the members, to allow them to prepare for the meeting in an optimum manner with the aim of contributing effectively to the whole experience,
- to follow up on the recommendations so that the influences can be traced,
- to publish the results obtained as part of the work of the platform.

### 3. Ancillary comments

#### 3.1 *Assessment of EU policies*

3.1.1 The Committee points out that it must be considered an institutional partner in its own right and not merely a subcategory of stakeholders with many, varied and conflicting interests.

3.1.2 The Committee points out that it is well placed — with the advantages of its direct links with the grassroots level, a huge network of national organisations and the expertise of its members — to make a major contribution to this impact assessment.

3.1.3 The Committee stresses that the assessment process will strengthen its relations with the various civil society organisations and enable it to further expand this role as a bridge between the institutions and civil society representatives.

3.1.4 Specifically, the EESC points out that its assessment will take the form of recommendations on policy and that these will highlight the main impacts of the policy in question on civil society, while also suggesting the best way forward.

3.1.5 The Committee stresses that it must give priority to ex post and qualitative assessments, in order to be able to determine the impact of legislative action or of a European policy and to pass on the experience of European economic and social partners.

3.1.6 The Committee thinks that the ex post assessments by the Commission and the Parliament, to which it will contribute, should serve as the basis for a legislative amendment or new legislation on which it will be consulted.

3.1.7 The Committee is delighted that it will thus be able to be fully involved in the legislative cycle and have many more opportunities to help with the drafting of future EU policy strategies.

#### 3.2 *Transposition of directives*

3.2.1 When directives are being transposed into domestic law, the Member States sometimes add elements that bear no relation whatsoever to the EU legislation concerned. The Committee thinks, therefore, that these add-ons should be made evident either by the transposing law or laws themselves or by documents relating to them<sup>(8)</sup>. In this connection, the Committee deprecates the use of the term 'gold-plating' (meaning 'overregulation'), since it stigmatises certain national practices and precludes a discriminating and flexible approach.

3.2.2 Where harmonisation is minimal, the Committee thinks that the Member States must retain the option of drafting provisions in their domestic law that seek to achieve: greater employment, better living and working conditions, adequate social protection, a high and sustainable employment rate and combating exclusion<sup>(9)</sup>, the promotion and development of SMEs and high standards of health and consumer protection<sup>(10)</sup>, as well as protection in the environmental sphere<sup>(11)</sup> — without, however, erecting needless regulatory or administrative barriers. The EESC thinks it important, therefore, to favour regulations rather than directives wherever possible.

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<sup>(8)</sup> Point 31 of the Interinstitutional Agreement.

<sup>(9)</sup> Article 151 TFEU.

<sup>(10)</sup> Articles 168 and 169 TFEU.

<sup>(11)</sup> Article 191 TFEU.

3.2.3 The Committee notes that the efforts invested in achieving maximum harmonisation in legislative proposals quite often lead to a plethora of derogations and exclusions, the result of which is to create and legitimise further barriers to the internal market.

3.2.4 The Committee can, it believes, play a useful role as an intermediary between legislators and those using EU legislation. It can provide its own distinct input into the European Parliament's own-initiative report on the annual report on the implementation of EU legislation by Member States by homing in on the additions made by the Member States when transposing. It thinks the study drafted by its Single Market Observatory on 'The workings of the Services Directive in the construction sector' <sup>(12)</sup>, as well as the study by its Labour Market Observatory on 'The implementation of EU policies for youth unemployment' <sup>(13)</sup> — to give just two examples — could be useful in terms of methodology.

### 3.3 Outlook

3.3.1 The Committee calls for the REFIT programme exercise to be a two-way street — in other words, one that does not conclude in advance what course regulation should take: extending, complementing, amending or repealing legislation.

3.3.2 The Committee agrees that the Commission should carry out a permanent screening and re-evaluation of the EU *acquis*, reviewing in particular the relevance and added value of EU legislative and non-legislative acts.

3.3.3 In the Committee's view, the integrated and comprehensive nature of impact assessments is crucial and the Commission must not concentrate solely on competitiveness. It is important to take proper account of the added value of EU action and the cost-benefit analysis should embrace all aspects, including the costs of failure to act.

#### 3.3.4 Impact assessment

3.3.4.1 The Committee does not believe that increasing the impact assessment criteria can cause the Commission not to act or to reject an initiative on the grounds that one or more criteria are not met; nor does it think that the large number of criteria can lead to the bureaucratisation of the decision-making process or to a reluctance to legislate.

3.3.4.2 The Committee is particularly attentive to the 'Think small first' principle and the SME Test, especially in its opinion on the Small Business Act <sup>(14)</sup>, but thinks it does not make sense to grant blanket exemptions for microenterprises, whereas it does make sense — because we are dealing with legislative proposals — to take a case-by-case approach based on a scrupulous impact assessment.

3.3.4.3 The Committee agrees that the Commission proposals are accompanied by a rigorous, evidence-based impact assessment, but stresses that it is for the EU legislator to exercise its discretion — by ensuring a balance between, on the one hand, the protection of health, the environment and consumers, and, on the other hand, the economic interests of traders — when pursuing the objective assigned to it by the Treaty of ensuring a high level of health and environmental protection <sup>(15)</sup>.

3.3.4.4 The Committee points out that this exercise could also cover quantification of the regulatory and administrative burden, provided that it:

- examines the issue of cost and burdens of regulation not just in terms of its impact on enterprises and competitiveness in general, but also in relation to the benefits of the existing rules for social, environmental, consumer rights, public health and employment matters,

<sup>(12)</sup> <http://www.eesc.europa.eu/resources/docs/eesc-2014-02466-00-01-tcd-tra-en.pdf>

<sup>(13)</sup> <http://www.eesc.europa.eu/?i=portal.en.lmo-observatory-impact-study-youth>

<sup>(14)</sup> OJ C 376, 22.12.2011, p. 51.

<sup>(15)</sup> Judgment of the Court of 8 July 2010, *Afton Chemical*, C-343/09, ECLI:EU:C:2010:419, paragraph 56.



- does not reduce or dilute the EU's policy objectives;
- verifies the 'holes' in the regulation and initiatives relating to doing business, so that EU has smart, very high-quality standards.

3.3.4.5 The Committee could not agree to be a part of any exercise that sought to quantitatively diminish the EU *acquis* without measuring in advance all the consequences on social, environmental and consumer protection.

3.3.4.6 As regards the cumulative cost assessment (CCA), the Committee points out that, when the Commission assesses the ex ante or ex post impact of a piece of European legislation, it will have to take on board the fact that these new costs are additional to existing compliance and implementation costs. The Committee accepts that CCAs seek to calculate the financial costs that encumber legislation in this or that sector, but points out that this assessment cannot be such as to partially or totally exempt a sector.

### 3.3.5 *Ex ante assessment*

3.3.5.1 The Committee is concerned that the discussion is shifting increasingly upstream of the process, before the co-legislators and the social partners are involved, which risks leaving them in the dark about the terms of a debate that will have already taken place without them.

### 3.3.6 *Ex post assessment*

3.3.6.1 The Committee thinks that ex post assessments are at least as important as ex ante assessments. It therefore calls on the Commission to put forward a methodological guide to dealing with sustainable development criteria.

3.3.6.2 The Committee supports a more rigorous ex post assessment of the effects of regulation in the EU policy cycle, with particular reference to the expected impact on growth and employment set out in the impact assessment that accompanies the original legislative proposal.

3.3.6.3 The Committee believes that ex post evaluations should be conducted in a pluralistic way following a reasonable period of time after the deadline for transposition into national law.

3.3.6.4 The Committee considers that ex post assessments are important tools for analysis and that their findings can feed directly into potential impact assessments relating to revision of legislation.

Brussels, 26 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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## ANNEX

The following amendments, which received at least a quarter of the votes cast, were rejected during the discussions (Rule 54 (3) of the Rules of Procedure):

(a) **Point 2.11.1 and point 2.11.2**

~~The Committee points out in this connection that, despite being an institution established by the Treaties and representative of the diversity of the EU, it only has a single seat and its three groups take turns in participating in the platform's work.~~

~~The Committee thinks, therefore, that if it were granted two additional seats, this would respect the tripartite nature of the institution and its mandate, and so reflect the civil society that it is charged with representing.~~

(b) **Point 1.8**

~~As regards the representativeness of the REFIT platform, the Committee thinks that if it were granted two additional seats, this would allow it to fully respect the nature of its mandate and reflect the civil society that it is charged with representing. The Committee also notes the absence of pan-European representation of micro, small and medium-sized enterprises in the platform's 'stakeholder group' and calls for this to be remedied as soon as possible.~~

**Reason**

There can only be one EESC representation — of the EESC and not of each of its groups. How this unity of representation is ensured is a matter exclusively for the EESC, which must not be able to deliberate and vote with three separate — possibly discordant — voices.

**Outcome of the vote:**

For: 49

Against: 123

Abstentions: 16

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**Opinion of the European Economic and Social Committee on ‘The changing nature of employment relationships and its impact on maintaining a living wage and the impact of technological developments on the social security system and labour law’**

**(exploratory opinion)**

(2016/C 303/07)

**Rapporteur: Kathleen WALKER SHAW**

In a letter dated 16 December 2015, the Ministry of Social Affairs and Employment asked the European Economic and Social Committee, on behalf of the Dutch presidency of the Council and under Article 304 of the Treaty on the Functioning of the European Union, to draw up an exploratory opinion on:

*The changing nature of employment relationships and its impact on maintaining a living wage*

In a letter dated 14 March 2016, the Ministry of Foreign and European Affairs of the Slovak Republic, due to take over the presidency of the Council in July 2016, requested the European Economic and Social Committee under Article 304 of the Treaty on the Functioning of the European Union to provide an exploratory opinion in preparation for the informal EPSCO Council (14-15 July 2016) on:

*The impact of technological developments on the social security system and labour law*

(exploratory opinion)

Given that the request corresponded to much of the work being done under the opinion requested by the Dutch presidency, and in view of time constraints for the Council, it was agreed to combine the two requests into one opinion.

The Section for Employment, Social affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May 2016), the European Economic and Social Committee adopted the following opinion by 201 votes to 3 with 4 abstentions.

## **1. Conclusions and recommendations**

1.1 The changing nature of work and employment relationships is developing rapidly. The challenge for the EU is to encourage innovation, technological development and creativity to drive and deliver positive outcomes for a sustainable and competitive social market economy. The impact of these developments on the labour market and standards, economy, tax and social security systems and the living wage need to be assessed. Creating a level playing field and fair digital economy for workers and for enterprises of all sizes and sectors as well as scaling-up digital skills, are some of the most important challenges we have to tackle. Europe and its social partners have a key role to play to ensure that this process leads to a positive, fair and sustainable result, and that any grey areas in rights and protections are addressed.

1.2 The EESC considers it a priority to protect the quality and financial sustainability of social welfare systems across the EU, and recommends that the EU Commission and Member States in consultation with the social partners, undertakes research into best practice as a basis for developing social welfare models adapted to cover more flexible forms of employment, ensuring participation in appropriate levels of social protection for the entire workforce, including independent workers who fall outside the traditional welfare system. This should be given consideration in the development of the EU Pillar of Social Rights. We welcome the fact that EESC is looking at this issue in a separate opinion.

1.3 The EESC recommends further analysis on the impact of these developments on skills as well as an assessment of what provisions for life-long training, re-skilling and up-skilling are available to workers under these new relationships to avoid any deskilling effect of these innovations, or a negative effect on qualifications, and ensure better employment opportunities. Promoting and scaling up digital skills for all must be a priority in the EU.

1.4 The EESC believes more data and analysis is needed at EU level on the extent of crowd employment, the characteristics of crowd workers, the varieties of new forms of work such as zero hours and on-demand contracts and new professions, civil law contracts, the size of the 'platform economy', the sectors in which it operates and its geographical distribution across the EU. This will help to assess the needs of business and workers, when using these forms of employment.

1.5 Statistics on these developments need to be gathered more routinely through European labour surveys, and labour market reports identifying best practice where it exists. This will enable the impact of new forms of work and employment relationships on the labour market and economy to be monitored and their contribution to creating sustainable quality jobs and growth to be assessed to inform EU employment policy development, including the EU Semester and the 2020 Strategy. Horizon 2020 and other relevant EU funding lines should finance this research.

1.6 Longitudinal data is also required to establish the lifetime implications of new forms of work, and their impact on sustainability of work over the life course <sup>(1)</sup>. It is also important to identify the extent to which they are gendered or related to other demographic variables (such as age, disability, ethnicity and migrant status).

1.7 A clarification of the legal status of new labour market intermediaries such as online platforms is urgently required to enable them to be identified in the official statistics, to track their growth and establish which standards, obligations, liabilities and rules of operation should apply and which regulatory bodies should be responsible for inspection and enforcement, whilst recognising that these platforms can be a source of innovation, employment opportunities and economic growth.

1.8 The EESC notes that the European Commission is currently consulting on the Written Statement Directive <sup>(2)</sup> and anticipates that addressing new forms of employment relationships will be included in proposals should the EU Commission decide to revisit this legislation. In particular it is hoped that clarifications will be made as regards new forms of employment relationships and work, whilst taking account of the needs of SMEs. Consideration may also be given to extending the scope of application to cover 'workers'; for written statements to be provided from day one; and for a minimum number of hours to be stated to stem zero hours contracts.

1.9 The EESC recommends that in relation to online platforms, crowdsourcing, economically dependent self-employed and other new forms of self-employment, issues relating to regulation of the activity of the intermediary, liability for accidents, damage and service failures need to be addressed to protect workers, consumers and the public at large. There is a need for clarification of the applicability of existing EU regulations on safety and health at work for these new forms of employment, procedures for dealing with breaches of these regulations, responsibilities for inspection and for workers', consumers' and public liability insurance.

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<sup>(1)</sup> France Stratégie, 'Le compte personnel d'activité de l'utopie au concret', final report.  
OECD, 'Employment outlook 2014', p. 179.

<sup>(2)</sup> Directive 91/533/EEC.

1.10 Labour inspectorates should be ensured a role to cover these employment forms in their remit according to national practices, and their inspectors provided with appropriate resources, competencies and training. The development of partnerships with trade unions, consumer or other representative associations could be helpful in addressing public concerns and seeking redress. Exchanging best practice will be an important part of this process.

1.11 The impact on collective bargaining coverage in affected sectors should also be analysed, given that many workers could be placed outside collective bargaining structures and trade union representation. The EESC is concerned that where workers are regarded as self-employed, their right to associate freely may be in question if their association could be regarded as forming a cartel, running a risk of being put in conflict with EU rules on anti-competitive practices. These concerns, which could undermine this fundamental right, need to be addressed and remedied. Guidance is needed around the application of competition rules to self-employed workers in an employee-like situation. In this context, the use of the ILO understanding of 'worker' rather than the more narrowly defined 'employee', could be helpful to better understand how fundamental principles and rights at work apply <sup>(3)</sup>, the enjoyment of which EU competition rules should not impede.

1.12 The EESC calls for an investigation into the contractual status of crowd workers and other new forms of work and employment relationships, as well as obligations of the intermediaries, taking into account the ability of such workers to negotiate or determine pay, hours and conditions, holidays, pensions, maternity rights, employer-paid health insurance and other employment rights and protect the ownership of intellectual property produced. Guidelines are also necessary to clarify possible grey zones linked to employment status in relation to taxation and social insurance.

1.13 The EESC recommends that the European Commission, the OECD and the ILO work together with the social partners to develop appropriate provisions on decent working conditions and protection for online workers and workers under other new relationships. The EESC believes that developing an EU level approach would be beneficial, whilst noting that most actions will need to be carried out at national, sectoral or workplace level.

1.14 As the European social partners have indicated, it is important that the European Commission plans its employment policy agenda in a way that underpins the digital transformation of our economies and labour markets. It should, at the same time, aim to maximise quality employment opportunities that can arise from the digitalisation of our economies. Labour market policies should also aim to protect and re-skill/up-skill those who will be affected by digitalisation. The EESC recommends that effective rights and protections, monitoring and enforcement are put in place in this respect to avoid widening income inequalities and reduction in disposable incomes and ensure the sustainable potential for economic growth across the EU.

1.15 The EESC suggests that the European Commission should consider ways in which the development of European platforms can be encouraged in such a way that the value created remains in local economies, drawing on Europe's rich tradition of mutuality and cooperation in labour market coordination, often carried out at community level and with the active cooperation of trade unions, local employers and national associations of the self-employed. It would be important to consider measures that would help enterprises to create sustainable quality jobs by providing support beyond the initial 'start-up' phase to the expansion 'move out' stage where many new enterprises currently lack access to finance.

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<sup>(3)</sup> As shown by the Court of Justice ruling in the FNV-KIEM (<http://curia.europa.eu/juris/liste.jsf?num=C-413/13>) case in 2015, there is clear room for interpretation around the application of competition rules to self-employed workers in an employee-like situation. A 2014 study on contractual arrangements for authors and performers by IVIR also highlighted sectoral exemptions as a possible way forward highlighting a relevant example from Germany, where Article 12a of the Collective Bargaining Act allows certain self-employed authors and performers to benefit from collective bargaining. The study specifies that such exemptions 'are believed to serve the public interest by awarding protection to a group that economically and socially deserves it in the same way as employees'.

## 2. Introduction

2.1 Rapid development of technologies, combined with other economic and societal developments have seen an increase in new forms of work and employment relationships that are transforming and creating an ever more complex labour market landscape. Innovation and creativity are important in driving a sustainable and competitive social market economy. It is vital to achieve a balance between promoting the economic and social benefits of these new developments ensuring necessary safeguards for workers, consumers and businesses, whilst avoiding their abuse as a means of circumventing fair labour practices.

2.2 New forms of employment have the potential to create job opportunities, enable labour markets to function more smoothly, offering increased flexibility for both workers and employers, adding to the autonomy of workers and adaptability of work places, promoting skills development and offering increased scope to develop a positive work/life balance. At the same time, it is important to promote quality employment, social dialogue and collective bargaining structures wherever possible and address any lack of clarity about the rights and obligations of employers and workers; the employment status of workers; liability for accidents, insurance and professional responsibility; and the applicability of tax, social protections and other regulations. A comprehensive assessment of the ability of existing labour market and social security systems to face these developments is required to avoid greater income inequalities, ensure people can maintain a decent and reliable income and a balanced work and family life.

2.3 The EESC has considered issues related to these emerging trends in a number of opinions<sup>(4)</sup> that have been helpful in informing this exploratory opinion. In the Netherlands and Slovakia, whose Presidencies requested this exploratory opinion, non-standard employment is close to 60 % and 20 % respectively<sup>(5)</sup>.

2.4 Recent reports from Eurofound<sup>(6)</sup> and ILO<sup>(7)</sup> have helped identify the shift from traditional employment relationships to more non-standard forms of employment over the past decade. The ILO states that 'The ongoing transformation in the employment relationship is having important economic and social repercussions. It contributes to the growing divergence between labour incomes and productivity and ... may be fuelling income inequalities'<sup>(8)</sup>. According to ILO<sup>(9)</sup>, among countries with available data, covering 84 % of total global employment, only around one quarter (26,4 per cent) of workers are employed on a permanent contract, whereas in high-income economies more than three quarters of workers are on permanent contracts. Even though the standard employment model is becoming less dominant, it remains an important element of the European labour market model. It highlights the importance for governments, EU institutions and the social partners to identify and define the new employment forms, develop and adapt policy and legislation to manage the change and ensure positive outcomes guaranteeing a favourable policy and regulatory environment to safeguard the interests of enterprises and working people in all forms of employment.

## 3. General trends in employment: the context

3.1 European economies have seen increases in a range of employment practices that on one hand challenge the traditional norm of a full-time permanent job with defined working hours, agreed rights and benefits and full inclusion in national social protection systems. On the other hand these can lead to more job creation and innovative ways of working and it is important to ensure the quality of such jobs in line with new business models. Some of these forms are associated with globalisation, digitalisation, changing production patterns such as the outsourcing of work previously carried out in-house, some with the introduction of new practices within companies and others with entirely new employment models.

<sup>(4)</sup> OJ C 133, 9.5.2013, p. 77; OJ C 11, 15.1.2013, p. 65; OJ C 18, 19.1.2011, p. 44; OJ C 318, 29.10.2011, p. 43; OJ C 161, 6.6.2013, p. 14; OJ C 13, 15.1.2016, p. 161; OJ C 13, 15.1.2016, p. 40.

<sup>(5)</sup> OECD, 'Reducing labour market polarisation and segmentation', presentation of S. Scarpetta, 2014.  
ILO — Report for discussion of the meeting of experts on non-standard forms of employment.

<sup>(6)</sup> ILO — Conclusions of the meeting of experts on non-standard forms of employment.

<sup>(7)</sup> Eurofound, 'New forms of employment'.  
Eurofound, 'Harnessing the crowd — A new form of employment'.

<sup>(8)</sup> ILO, 'The changing nature of jobs — World Employment and Social Outlook 2015'.

<sup>(9)</sup> ILO, 'Regulating the employment relationship in Europe: A guide to Recommendation No 198' — Employment Relationship Recommendation 2006 (No 198).

<sup>(8)</sup> ILO, 'The changing nature of jobs — World Employment and Social Outlook 2015', pp. 13-14.

<sup>(9)</sup> See footnote 8, p. 30.

3.2 New forms of work can open up new opportunities for individuals to set up as entrepreneurs and to enter occupations that were previously inaccessible to them, or to move out of the shadow economy of undeclared work. Measurements of entrepreneurial motivations show that more people start up for positive reasons (e.g. to make the most of a good idea) than for negative reasons (e.g. because they had no other options for work) <sup>(10)</sup>.

3.3 New employment relationships include 'zero hours', 'on-call' or 'fly-time only' contracts, 'mini-jobs', 'portfolio work', voucher based work, civil law contracts, and job sharing arrangements. This is accompanied by a range of contractual forms whereby work is organised through intermediaries including 'umbrella companies', 'self-employment agencies', 'co-employment agencies' or online 'crowd sourcing' platforms. In many of these forms, workers are referred to as independent contractors, 'associates', 'taskers', 'partners' or other terminology that sometimes obscures their employment status. Although often regarded as self-employment, some of this work fails to meet criteria associated with genuine self-employment such as the ability to define tasks, set pay rates or own the intellectual property produced. In some sectors intermittent, occasional or seasonal work is typical for example in tourism, catering, and agriculture, and a degree of flexibility is needed with regard to both the employer and the worker. Whether such work is managed through an agency or independently, regulations relating to such contracts are necessary to avoid the scourge of undeclared work.

3.4 It is important to distinguish between genuine entrepreneurship, self-employed professionals and new forms of dependent own-account working, and to ensure the quality of work. Even for workers with formal employment contracts, developments in the organisation of work related to task-based assessment and project-based working are changing traditional working hours affecting the pace of life and income security. Social dialogue and collective bargaining have been successful in many workplaces such as call centres in addressing grey areas and improving working conditions.

#### 4. Digitalisation

4.1 Digitalisation can increase productivity and flexibility in existing businesses and provide the basis for new industries and employment, contributing to Europe's growth and competitiveness. It also plays an important role in developing the social market economy and promoting work-life balance needs and reducing gender inequalities in employment and social security if it is managed effectively. The recently adopted joint statement by ETUC, BusinessEurope, CEEP and UEAPME is a helpful reference on this issue <sup>(11)</sup>.

4.2 Digitalisation has had a major impact on the organisation of work and employment, which warrants further political attention and management. It has also transformed consumer relations, leading to easy access to goods and services. Consumer satisfaction is high, but there are concerns about the impact of this on the economy and improvements are needed with regards to effective mechanisms for redress. Proactive policymaking at EU and national level must ensure the potential offered by digitalisation is unlocked whilst its pitfalls are avoided <sup>(12)</sup>.

4.3 A very high proportion of the population has access to the internet from multiple locations and can, in principle, be contacted at any time and any place for work-related purposes, leading to growth in nomadic working and the breakdown of spatial and temporal boundaries between work and private life. This flexibility can benefit businesses and workers where interests of both are respected. Further examination is required into whether, and to what extent, employees' private and family lives require additional protection in a time of ubiquitous digital and mobile communication, and which measures, whether at national or EU level, are appropriate to limit this universal availability/reachability <sup>(13)</sup>.

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<sup>(10)</sup> GEM 2015/2016 Global Report.

<sup>(11)</sup> Statement of the European Social Partners on digitalisation.

<sup>(12)</sup> OJ C 13, 15.1.2016, p. 161, points 1.3, 1.5 and 5.6.

<sup>(13)</sup> OJ C 13, 15.1.2016, p. 161, point 4.4.



4.4 The diffusion of ICT skills and familiarity with standard software and global languages have underpinned employers' ability to tap into global labour markets for outsourced work. This creates opportunities for European citizens to work for global clients regardless of location, but also poses threats of unequal competition for businesses and workers, in that they must compete with counterparts from low-wage economies for these jobs who may not be adhering to the core ILO labour standards and guaranteeing decent work.

## 5. Skills development

5.1 Technological change can enhance skills development, but may also have the potential to deskill workers in traditional occupations. The impact of these developments on skills should be considered as well as an assessment of what provisions for life-long training, re-skilling and up-skilling are required and available to workers under these new relationships. Businesses working together with trade unions, Cedefop and levels of government must ensure that skills are developed to match the demands of the changing world of work. Effective use of EU Social Fund and other resources in meeting these challenges is vital.

5.2 Ensuring people have the skills required to progress in quality jobs in the face of changing labour markets is a key challenge, and must be a central focus of the future EU skills agenda. Assessing how best to adapt skills, and scaling up digital skills for all must be a priority for the EU institutions and public authorities with the active involvement of the social partners at all levels. The EESC notes that this is already a commitment in the EU Social Dialogue Work programme 2015-2017.

## 6. Statistics

6.1 Reliable statistics on these developments are lacking. There is a need for data on the extent of crowd employment, the characteristics of crowd workers, the varieties of self-employment, economically dependent self-employment, bogus self-employment and precarious employment; the size of the 'platform economy', the sectors in which it operates and its geographical distribution, comparing the EU's position in the global context.

6.2 Statistics are also needed that enable the impact of new forms of employment relationship on the labour market, polarisation of work, income and economy to be monitored and to inform EU employment policy, including the EU Semester and the 2020 Strategy.

6.3 Longitudinal data is also needed to establish the lifetime implications of new forms of work, and their impact on sustainability of work over the life course and to identify the extent to which they are gendered or related to other demographic variables (such as age, disability, ethnicity and migrant status). The impact on collective bargaining coverage in the most affected sectors should also be analysed, given that many workers who wish to be covered could be placed outside collective bargaining structures and trade union representation.

6.4 Horizon 2020 and other relevant EU funding lines should support this research.

## 7. Legal status of labour market intermediaries

7.1 New forms of employment are developing so rapidly that contractual relationships cannot keep pace, which is why we need to look at their legal status. Clarification of the status of labour market intermediaries and online platforms is urgently required to enable them to be identified in the official statistics, to track their growth and establish which standards, obligations, liabilities and rules of operation should apply and which regulatory bodies should be responsible for inspection and enforcement. Differences in the terms and definitions of worker, employee, self-employed and intern across the EU further complicate assessments.

7.2 The EESC notes that the European Commission is currently consulting about the Written Statement Directive <sup>(14)</sup> and anticipates that new forms of employment will be included in the remit.

7.3 Online platforms are expanding rapidly with a generally positive impact on economy, employment and innovation whilst, in some cases, their development is on a scale that risks creating monopolies with the potential to distort the market and create unequal competition. The 'sharing economy' and other new employment models should not be abused as a means of avoiding paying decent wages, meeting tax and social security obligations and ensuring other employment rights and conditions by externalising costs to users and workers, and avoiding regulations imposed on offline businesses. This would risk undercutting businesses and workers in other sectors, undermining agreed standards as well as the level playing field.

## 8. Health and safety

8.1 Off-site employment could entail health and safety risks to workers, their clients and the general public. Work may be done in public spaces or private homes, using dangerous materials and equipment, without adequate instruction or protective clothing. Responsibility for insurance, certification and professional liability could be unclear. Online workers may carry out intensive screen work in unsuitable environments using furniture and equipment that does not meet ergonomic standards.

8.2 Liability for safety and accidents is a grey area in relation to some online platforms and needs to be resolved to protect workers, customers and the public at large.

8.3 Reference was made in the hearing of this opinion <sup>(15)</sup> to other issues which need to be assessed including exhaustion due to working long and unregulated hours and stress linked to the unpredictable nature of the work and income, non-payment for rejected work, receiving a poor customer rating that cannot be challenged, being 'deactivated' from the platform or contract, the challenges of managing caring responsibilities without a clear work timetable, social isolation and the combined effects of balancing multiple jobs.

8.4 There is a need for clarification of how far these new forms of employment are protected by existing EU and national regulations on safety and health at work and by procedures for dealing with breaches of these regulations, responsibilities for inspection and for workers', consumers' and public liability insurance. The Bilbao-based EU-OHSA could assist with research and analysis in this area.

8.5 Labour inspectorates should be ensured a role to cover these employment forms in their remit according to national practices and their inspectors provided with appropriate resources, competencies and training to ensure their effectiveness. The development of partnerships with trade unions, consumer or other representative associations could be helpful in addressing public concerns and seeking redress.

## 9. Employment status

9.1 New forms of employment affect a wide and heterogeneous range of occupations, spanning work that was previously in the informal economy, freelance work and work normally done by direct employees. Its introduction may create situations where identical tasks are performed in identical settings by workers with different statuses creating inequalities in relation to protections, rights and rates of pay.

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<sup>(14)</sup> See footnote 2.

<sup>(15)</sup> Public hearing on 'The changing nature of employment relationships, the sharing economy, zero-hours contracts and the living wage', EESC, 31 March 2016.

9.2 The introduction of new intermediaries into the employment relationship has in some cases introduced a lack of transparency into relationships between the parties, hampering individual negotiation of the terms of employment and restricting workers' access to collective bargaining.

9.3 Questions are raised about which party should be regarded as the employer and how self-employment should be defined, including the legal definition and the system of penalties for illegal provision of labour and more serious forms of exploitation. Several different employment models exist on online platforms, including examples of platforms that switched to offering employee status to their workers in the interests of improving quality and reducing turnover<sup>(16)</sup>. Employees' status provides a gateway to other employment rights. Where workers are regarded as self-employed, their right to associate freely may be in question if their association could be regarded as forming a cartel, putting them in conflict with EU rules on anti-competitive practices. This needs to be addressed, especially in situations where ostensibly self-employed workers lack autonomy in defining their tasks and rates of pay.

9.4 The EESC calls for an investigation into the employment status of crowd workers and other new forms of employment relationships, taking into account their ability to negotiate terms, the form of payment (and who determines it) and the ownership of intellectual property produced. The investigation should aim to give guidance for Member States to clarify, according to their national practices, the tax, social insurance and employment status of workers and the obligations of these platforms in relation to working hours, pay, holidays, pensions, maternity rights, employer-paid health insurance and other employment rights.

## 10. Fundamental and workers' rights

10.1 There is a need for clarification of the rights of crowd workers and other workers in precarious and variable employment relationships in relation to a range of issues, including:

- working hours,
- collective bargaining,
- freedom of association,
- information and consultation,
- adapting skills,
- rest breaks,
- right to social protection through insurance and benefits,
- right to challenge unfair management decisions/user ratings/de facto unfair dismissal,
- right to refuse work offered at short notice without penalty,
- fair wages, and
- the right to payment for work completed.

10.2 The European Commission, the OECD and the ILO should work together with the social partners to develop appropriate provisions on decent working conditions and protections for online workers and workers under other new relationships. The EESC believes that developing an EU-level approach would be beneficial whilst noting that most actions will need to be carried out at national, sectoral or workplace level.

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<sup>(16)</sup> <http://www.nytimes.com/2015/12/11/business/a-middle-ground-between-contract-worker-and-employee.html>

10.3 Trade unions and associations of self-employed people have recently begun to come together to make recommendations for better solutions and coverage of social protection and benefits.

## 11. Maintaining a living wage

11.1 New forms of employment relationship are not restricted to low skilled manual or service jobs. Zero hours and other forms of 'on demand' working are spreading to higher paid and high-skilled occupations, including lecturers, airline pilots, and health and other public service workers, running the risk of eroding income potential and employment security.

11.2 The ability for much ICT and media-based work and services to be produced anywhere in the world creates further unequal competition for businesses and workers as such work is increasingly outsourced to low-wage economies driving down collectively bargained rates.

11.3 Research <sup>(17)</sup> has shown that digitalisation is polarising employment between the highly skilled well-paid and low-skilled low-paid, and that it is the middle-income moderately skilled bracket of workers in banking, insurance and administration who are the victims in an increasingly unequal labour market. Many are forced to take several jobs to achieve a living wage. However, some of these independent workers are highly qualified and experienced professionals who are well aware of their market position, know what they are worth and wish to genuinely carry on business on their own account, or are looking to their independent work to diversify their income stream, provide a back-up in case they lose their main source of income, make money from a passion and explore new career and business opportunities; both realities exist, and necessary rights and protections for all must be ensured.

11.4 Some new forms of employment have been driven by a desire to avoid the costs and obligations of more standard forms of employment. There is a risk that without effective rights and protections, monitoring and enforcement, many new forms of employment relationship will result in a race to the bottom of pay and conditions, and fuel widening income inequalities, reduce disposable income and suppress demand and potential for economic growth across the EU and lead to further long term macroeconomic challenges. The ability of such workers to determine their levels of pay and conditions through collective agreements is vital to maintaining a living wage.

11.5 Payment in new forms of employment is often based on completing specific tasks rather than hourly rates. The principle of fair remuneration should be maintained in all these circumstances and consideration given to all relevant aspects of remuneration such as the quality of work produced and compensating working time <sup>(18)</sup>.

11.6 As family support and welfare systems vary across the EU, it is important to assess the impact of new forms of employment on the financing of family support policies, recognising that a single living wage may not be sufficient to sustain a family with children.

11.7 Wage-related issues cannot be seen in isolation from the problematic interface between wages and tax/social protection and benefit systems in less clearly defined employment relationships. Again, clarity about who the employer is, and the status of the worker are crucial.

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<sup>(17)</sup> [http://www.liberation.fr/debats/2015/09/03/daniel-cohen-il-faut-une-societe-dans-laquelle-perdre-son-emploi-deviene-un-non-evenement\\_1375142](http://www.liberation.fr/debats/2015/09/03/daniel-cohen-il-faut-une-societe-dans-laquelle-perdre-son-emploi-deviene-un-non-evenement_1375142)

<sup>(18)</sup> Travel time is considered working time, see Tyco, judgment of the Court, 10 September 2015.

## 12. Social protection

12.1 The EESC recognises the diversity of systems across Member States, and believes research is required into developing social welfare models adapted to cover more flexible labour markets and ensure a sustainable and adequate income to guarantee a decent existence. This should be given consideration in the development of the EU Pillar of Social Rights. We welcome the fact that the EESC is looking at this issue in a separate opinion.

12.2 As labour markets become more fluid, with a growing proportion of workers not knowing in advance when or where they will work, there are growing incompatibilities with national social protection systems which are based on the assumption that clear distinctions can be drawn between the statuses of being 'employed' and 'unemployed'. Such incompatibilities benefit neither businesses nor workers.

12.3 A growing share of the workforce may not be contributing to, or benefiting from, established social security systems such as unemployment, health and pension benefits or insurance. This is already the subject of debate between the social partners and governments in some Member States where the social partners are key players, but needs to be extended across the EU, and involving local authorities, other civil society players, associations and providers, with a view to defining viable and sustainable policy measures and legislation and complementary measures that ensure participation in appropriate levels of social protection for the entire workforce — including the self-employed, crowd workers and workers in the sharing economy.

12.4 The EESC recognises that there are substantial differences in the provision of welfare systems across Member States. Whilst there is a clear need to assess the viability of the welfare systems to face the challenges induced by new developments in economy and labour markets, the EESC believes it is important to safeguard revenue, and improve the overall quality, reliability, accessibility and effectiveness of tax and social welfare regimes across the EU, which in many Member States currently depend on high rates of standard employment and their related contributions. Such a loss of effectiveness would threaten the fabric of the European social model and social market economy, which is built on strong public engagement in the financing and provision of services of general interest and effective social security nets.

12.5 Tax and social protection systems need to be carefully examined to ensure appropriate levels of taxation and social contributions for all forms of income, whether generated in conventionally organised sectors or in the sharing/platform economy. The EESC believes that the role of these platforms could be clarified by provisions and legislation where required which define protection for both the employed and the self-employed, including them in the social protection system in terms of both regulation and contributions. The EU should encourage and coordinate reforms at Member State level, based on best practice.

## 13. Ensuring EU benefits from new developments

13.1 Online platforms are an innovation which is already an economic reality in Europe. However, at present, high proportions are based outside the EU taking significant cuts from each transaction within the EU, sometimes amounting to 25 % of the value, most of which is off-shored. They may pay little or no tax or contribution to education, infrastructure or public services in the localities where they operate in Europe. Where workers are not genuinely self-employed, there can be discrepancies in payments of tax, pensions or other social protection systems. There is a need for assessment of their impact on — and contribution to — creating sustainable jobs and growth within the EU.

13.2 The European Commission should consider ways in which the development of European platforms can be encouraged in such a way that the value created remains in local economies, drawing on Europe's rich tradition of mutuality and cooperation in labour market coordination, often carried out at community level and with the active cooperation of trade unions and local employers. It would be important to consider measures that would help enterprises to create sustainable quality jobs by providing support beyond the initial 'start-up' phase to the expansion 'move out' stage where many new enterprises currently lack backing.

Brussels, 25 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on 'More sustainable food systems'****(exploratory opinion)**

(2016/C 303/08)

**Rapporteur: Mindaugas MACIULEVIČIUS**

On 16 December 2015, the upcoming Netherlands presidency of the Council of the European Union decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on:

*More sustainable food systems*

(exploratory opinion).

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 11 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 26 May 2016), the European Economic and Social Committee adopted the following opinion by 152 votes to 1 with 1 abstention.

**1. Conclusions and recommendations**

1.1 Recognising the urgent need to tackle the multiple economic, environmental and social consequences of food production and consumption, the EESC calls on the European Commission and Member States to develop a clear EU policy and implementation plan for building a sustainable, resilient, healthy, fair and climate-friendly food system, which encourages cooperation and mutual understanding among all stakeholders along the food supply chain. Better coherence and integration of food-related policy objectives and instruments (e.g. on agriculture, environment, health, climate, employment, etc.) must be ensured taking into account the three pillars of sustainability.

1.2 A transition to more sustainable food systems encompassing all stages from production to consumption is greatly needed — producers need to grow more food while reducing the environmental impact, while consumers must be encouraged to shift to nutritious and healthy diets with a lower carbon footprint. The EU should step up efforts to implement the UN sustainable development goals (SDGs), as they provide a crucial framework for joint action to feed the world sustainably by 2030.

1.3 The EESC acknowledges that no food production system alone will safely feed the planet, but a combination of different conventional, innovative and agro-ecological practices could help better address the environmental and climate implications of current food production systems. In particular, a mixture of precision agriculture, involving further development of ICT and satellite systems, and agro-ecology could complement conventional agriculture by providing a set of principles and practices intended to enhance the sustainability of farming systems, such as better use of biomass, improving storage and mobilisation of biomass, securing favourable soil conditions, fostering crop diversification and minimising the use of pesticides. Further promotion of closed agricultural models could lead to fossil-fuel-free agriculture. The reform of the CAP has introduced a combination of measures (greening, agri-environment-climate schemes, etc.), which can be considered as a step in the right direction.

1.4 A stable and reasonable income for all operators along the food supply chain is necessary to ensure sustainable and steady further investments in agri-environmental technologies and climate-friendly techniques.

1.5 Food waste prevention and reduction is a shared responsibility for all players in the food chain. The EESC welcomes the Commission's plan within the circular economy package to create a stakeholder platform to help frame the necessary measures and to share best practice on food waste prevention and reduction. The EESC calls on the Commission to investigate how the food use hierarchy is being applied in practice in the Member States, including with regard to economic incentives that might provide mixed signals to businesses. Supporting the effective application of the waste hierarchy, the EESC also calls for a review of Regulation (EC) No 1069/2009 such that food not fit for human consumption can be used as animal feed where it is safe to do so.

1.6 Sustainable food choices must be promoted by increasing their availability and accessibility to consumers. The consumption of sustainable food products should be encouraged by creating a stronger market demand, via green public procurement or other approaches. The EESC calls on Member States to revise national dietary guidelines to reflect sustainability and to support food education in school curricula. The EU should also promote origin labelling, the development of labels that clearly convey the sustainability aspect of food products as well as EU-wide visual advertising campaigns for healthier food and diets.

1.7 EU policies, in conjunction with specific research and innovation programmes, combined with financial incentives to food producers, should:

- promote the gradual transition to fossil-fuel-free agriculture models,
- support a more efficient use of resources, including land, water and nutrients, across the whole production system.

1.8 A transition to sustainable food systems requires a comprehensive food policy, integrated with a broad-based bioeconomy strategy, not an agricultural policy alone. Rather than engage in a polarising debate, interdisciplinary thinking is needed, bringing together the DGs of the Commission, a wide range of ministries and institutions in the Member States, together with local and regional governments and stakeholders across food systems, to tackle the interconnected challenges highlighted in this opinion. The EESC hopes that the interdependence of food production and consumption will be recognised and that a suitable European policy approach including different private initiatives will be developed charting a course towards sustainability, health and resilience. However, the common agricultural policy and the common fisheries policy will also play an important role in the EU in the future.

## 2. Introduction

2.1 Acting upon the referral from the Netherlands presidency of the EU, the EESC is drawing up this opinion to highlight civil society's increasing concerns about the environmental, health, economic and social impact of food production and consumption, and the related challenges of feeding the earth's growing population in a resource-constrained world. Food is a central part of all our societies; is both dependent on, and affects, natural resources; has an impact on public health; and plays a pivotal role in the European economy, being the Union's biggest sector in terms of employment and contribution to GDP.



2.2 According to the High-Level Panel of Experts on Food Security and Nutrition (HLPE) of the Committee on World Food Security, a sustainable food system is defined as ‘a food system that delivers food security and nutrition for all in such a way that the economic, social and environmental bases to generate food security and nutrition for future generations are not compromised’ <sup>(1)</sup>. The transition to more resilient and sustainable food systems therefore concerns all of the interrelated and connected activities that go into producing, processing, transporting, storing, marketing and consuming food. The role of global consumption trends as a driver of the way food is produced and the types of food produced is also recognised.

2.3 The EESC will tackle the issue of sustainable food systems in a holistic manner and will mainly focus on the EU context, although the external implications will also be considered as the EU is the largest exporter and importer of agricultural and food products on the global stage.

2.4 A communication on sustainable food was expected in 2014, but was later withdrawn from the Commission’s work programme. The EU action plan for the circular economy of December 2015 took up some of these issues and included food waste reduction as a key priority, thus reflecting the commitment made by the EU and Member States in the context of the 2030 UN sustainable development goals (SDGs) to halve per capita food waste at retail and consumer level, and reduce food losses along production and supply chains (SDG 12.3).

### 3. Main challenges of current food systems

3.1 The UN International Resource Panel identifies food production as having the highest **environmental impact** of any sector in terms of resource use at global level <sup>(2)</sup> — however in the EU this is much lower. Food systems use many natural resources, including land, soil, water and phosphorus, as well as energy, for the production of nitrogen fertiliser, processing, packaging, transportation and refrigeration. Unsurprisingly, therefore, it also has an impact on the environment at the global level, including on biodiversity loss, deforestation, land degradation, water and air pollution, and greenhouse gas emissions. The continued loss of agricultural biodiversity at farm level remains a matter of serious concern <sup>(3)</sup>. Globally, a majority of fisheries are fully or over-exploited. Managing all of these resources efficiently and sustainably is therefore necessary to ensure a continued supply of healthy and affordable food.

3.2 Globally, a third of food produced for human consumption is lost or wasted, representing up to 1,6 billion tonnes of food and generating 8 % of global greenhouse gas emissions <sup>(4)</sup>. Producing food that will not be eaten contributes more than 20 % of global pressure on biodiversity and consumes close to 30 % of all of the world’s agricultural land.

3.3 Annually, around 100 million tonnes of food is wasted <sup>(5)</sup> in the EU, forecast to increase by 20 % by 2020 without preventive action. Food waste in Europe is generated across the supply chain, with a concentration at household level estimated at 46 % <sup>(6)</sup>. It should be noted that the retail and manufacturing sectors have made significant efforts to improve food waste prevention and reduction over recent years. Efforts to enhance production and supply chain sustainability make little sense without emphatic action to reduce waste.

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<sup>(1)</sup> High-Level Panel of Experts on Food Security and Nutrition (2014): *Food losses and waste in the context of sustainable food systems*, HLPE report, Rome.

<sup>(2)</sup> [http://www.unep.org/resourcepanel/Portals/24102/PDFs/PriorityProductsAndMaterials\\_Summary\\_EN.pdf](http://www.unep.org/resourcepanel/Portals/24102/PDFs/PriorityProductsAndMaterials_Summary_EN.pdf)

<sup>(3)</sup> COM(2013) 838 final, [http://ec.europa.eu/agriculture/genetic-resources/pdf/com-2013-838\\_en.pdf](http://ec.europa.eu/agriculture/genetic-resources/pdf/com-2013-838_en.pdf)

<sup>(4)</sup> FAO (2011): *Global food losses and food waste*.

<sup>(5)</sup> The UN definition of food loss and waste can be found at: <http://thinkeatsave.org/index.php/be-informed/definition-of-food-loss-and-waste>

<sup>(6)</sup> Fusions (2016): *Estimates of European food waste levels*. <http://eu-fusions.org/phocadownload/Publications/Estimates%20of%20European%20food%20waste%20levels.pdf>

3.4 Very little is currently known about food losses and food waste generation at farm level <sup>(7)</sup>. Food losses and waste, for example, can be generated due to lack of modernisation in some farms, order cancellations and commodity price volatility, resulting in the ploughing under of crops when it is not economically viable to harvest (but at least this has a positive impact on the environment as it contributes to improve soil organic matter content) or dumping and composting of food that cannot be resold. Another significant challenge is, and will increasingly be, major climate change impacts on weather conditions, and outbreaks of possible diseases. If we factor in these impacts, there is a lot of what could be considered as food waste every year. Compared to the rest of the world, the EU has been very active in addressing this issue, and therefore should support the dissemination of its good practices and know-how in this field.

3.5 Food systems are one of the causes of **climate change**; they are also set to be significantly affected by it <sup>(8)</sup>. Climate change will have consequences for the availability of basic natural resources (water, soil) leading to significant changes in conditions for food production and industrial production in some areas <sup>(9)</sup>. Extreme climate conditions such as flooding, droughts, fires, and strong winds, as well as the further climate-related spread of plant and animal diseases, already affects food production and will do so even more in the future.

3.6 Undernourishment today coexists in the world with the effects of an overabundance of food in certain parts of the world. Some 795 million people go hungry, while the number of overweight/obese people has reached more than 1.4 billion adults globally, representing about 30 % of the total adult population; while obesity-related health conditions are rising rapidly in both developing and developed countries <sup>(10)</sup>. These figures show **profound imbalances in the way that food is produced, distributed and consumed**. Population growth, and a forecast 82 % increase in global meat consumption by 2050, will exacerbate both problems <sup>(11)</sup>. During the past 20 years, as countries around the world have experienced urbanisation and economic growth, a nutrition transition has occurred, changing the face of food production and consumption. Worldwide, eating patterns are shifting to more composite products, more meat and dairy, more sugar and drinks containing sugar <sup>(12)</sup>. At the same time more people have a sedentary lifestyle contributing to a lack of physical activity.

3.7 Livestock plays an important and indispensable part in food systems, as a source of high quality protein and other nutrients such as vitamins and minerals. Livestock also plays a significant role in on-farm and regional nutrient cycles, and in protecting open and diversified countryside, permanent grassland and semi-natural habitats, as well as preserving biodiversity. It also provides people with income, assets and livelihoods. At the same time, the EU also has a lot of agricultural land that in practice is suitable only for livestock grazing. However, over the last 50 years we have seen a more than fourfold increase in global meat and egg production, and milk production has more than doubled. During the same period, there was just a twofold growth in the global human population <sup>(13)</sup>. It should be noted that the composition of the demand has also changed and that the increase in meat, milk and egg production is linked to income increase, whereas the prices have remained low.

3.8 Taking into account plant-based food grown for humans, plant-based feeds grown for livestock, and plant-based food crops used for seeds and industrial purposes such as biofuels, the world currently produces one and a half times the food needed to feed today's population, likely enough to feed the 2050 population. However, current levels of global food waste, and the production of animal feed to sustain increasing meat consumption, create a demand for a significant increase in food production. In order to feed the world sustainably in 2050 and beyond, a combination of productivity and optimisation gains on existing agricultural land and fisheries that is compatible with the stability and quality of the environment, with workplace health and safety and with social justice, as well as a shift towards sustainable diets, and a sustained reduction in food loss and waste is needed.

<sup>(7)</sup> Fusions EU data set 2015: *EC Preparatory Study on Food Waste*, 2011 <http://eu-fusions.org/index.php/publications> [http://ec.europa.eu/environment/eussd/pdf/bio\\_foodwaste\\_report.pdf](http://ec.europa.eu/environment/eussd/pdf/bio_foodwaste_report.pdf)

<sup>(8)</sup> EEA (2015): <http://www.eea.europa.eu/signals/signals-2015/articles/agriculture-and-climate-change>

<sup>(9)</sup> See *EU Strategy on adaptation to climate change* (COM(2013) 216 final).

<sup>(10)</sup> WHO (2015): Global Health Observatory (GHO) data. Available at: [http://www.who.int/gho/ncd/risk\\_factors/obesity\\_text/en/](http://www.who.int/gho/ncd/risk_factors/obesity_text/en/)

<sup>(11)</sup> WRR (2015): *Towards a food policy*.

<sup>(12)</sup> Dutch Cabinet (2015): *Food agenda: for safe, healthy and sustainable food*.

<sup>(13)</sup> FAOSTAT, 2015.

3.9 Increasing prices of agricultural products and agricultural inputs and price volatility over the past decade have been challenging food security and the robustness of the food system, while raising serious concerns for both consumers and producers. On the one hand, high end prices have not resulted in higher income for food producers, on the contrary, the reduction or stagnation of their income is exerting downward pressure on labour, threatening the income stability of all operators. On the other hand, the economic crisis has eroded the purchasing power of consumers. A stable and reasonable income for all operators along the food supply chain is necessary to ensure sustainable and steady further investments in agri-environmental technologies and climate-friendly techniques.

3.10 Recent developments in agricultural markets, especially the dairy sector, provide clear evidence of such potential imbalances, where the cause is not only oversupply in the market, but also politically-driven bans in previous export markets. Future stability will largely depend on the resistance of the supply base to shocks, of which climate change is the most prominent. Farm diversification, innovative financing, income insurance schemes and other innovative market management tools offering protection from climate or market turbulence should be strongly promoted by EU policies.

3.11 The social and redistribution effects of food prices need to be looked at from a producer's as well as from a consumer's perspective. Nowadays, many consumers cannot afford to pay for the highest quality food. Over recent years, the power relations in the food supply chain have changed, leading to a progressive concentration of food manufacturers and retailers in the market and thus to a shift in bargaining power, mostly to the advantage of the retail sector and to the detriment of primary producers. This issue will be addressed in a separate EESC opinion on 'A fairer food supply chain'.

3.12 As the emphasis in world trade increasingly turns to bilateral and mega-regional negotiations in the absence of a conclusion of the WTO 'Doha Round', it is essential that environmental and climate implications, food quality and health standards, the wider sanitary and phyto-sanitary (SPS) standards, as well as the production process (the 'industrial ecosystem' in which production takes place, working conditions, the cultural context of production and labour relations) are fully taken into account. For the EU, it is imperative that any relocation of food production to third countries must be avoided where this would be solely or mainly due to the legal basis for food production being not as demanding as that in the EU. EU policies have a key role to play globally in encouraging the safe and healthy production of food, and prohibiting the import of any foodstuffs where these do not meet SPS or European food safety standards.

3.13 For the last 140 years, producers' cooperatives have clearly demonstrated that they are more resilient to turbulence in the agricultural markets and help avoid relocation of food production. Therefore, further, even stronger, sector- and region-orientated promotion of cooperation between producers and cooperatives, especially small ones, is vital. In particular, specific emphasis should be put on those sectors and regions where cooperation is low.

#### **4. Key areas of intervention for a transition to more sustainable food systems**

##### *Promoting more resource-efficient and climate-resilient food production*

4.1 Reducing the environmental impact of agriculture, aquaculture and fisheries, including greenhouse gas emissions, requires changes in the way food is produced. The adoption of more sustainable practices is needed to halt the depletion of natural resources, as well as to adapt to and mitigate the effects of climate change. Several measures could benefit productivity while increasing environmental sustainability and resilience to climate change, such as increasing the diversity of plant and animal varieties, improving cattle through breeding, plant breeding, enhancing the functionality of agro-ecosystems and water management, promoting and applying research and innovation, optimising soil function, facilitating knowledge transfer and training, and promoting technological changes through investment support. Further development of EU satellite systems and big data centres should be promoted in order to facilitate early detection and prevention or preparedness for extreme weather conditions and different diseases. Precision farming should also be promoted.

4.2 Maintaining the family farm model in Europe is also essential and would require the promotion of generation renewal on the farm, to face an ageing population. This would have a positive impact on job creation in rural areas. It is also important to be able to maintain diversified agricultural production across all regions of the EU. Particular attention should be paid to disadvantaged farming regions. Different types of farms should be recognised and specific targeted tools should be put in place for this purpose.

4.3 In recent years, reorganisations of food supply chains have emerged with the aim of re-connecting producers and consumers and re-localising agricultural and food production. These include community-supported agriculture, short supply chains, alternative food networks, local farming systems and direct sales. Even if the sector is relatively small, it should be promoted further, as it has very positive impact related to the sale of fresh, quality, healthy, heritage food with both social and economic positive impacts. SMEs are also important contributors in this field. The specific role of urban municipalities should be emphasised, as the required infrastructure and appropriate investments should be put in place in urban areas in order to facilitate producers' direct sales. Good private sector practices should also be encouraged, for example when such an infrastructure is created at the private initiative of local shopping centres.

4.4 To stimulate more resource-efficient food production, the reform of the common agricultural policy (CAP) introduced a combination of measures, including mandatory greening, agri-environment schemes, and broad support from the Farm Advisory System and applied research, to address the challenges of food security, climate change, and sustainable management of natural resources, while looking after the countryside and keeping the rural economy alive. This can be considered an important step in the right direction; however its implementation both in terms of red tape and the gains involved could be further improved.

4.5 As regards the fishery chain, it is important to ensure the right balance between healthy and sustainable, as the consumption of fish is healthy, but excessive pressure on fisheries is often diametrically opposed to ecological sustainability. The reform of the Common Fisheries Policy achieved in 2013 should contribute to a more efficient use of fishing resources, in particular through the mandatory objective of a maximum sustainable yield set for all European fish stocks. Sustainable development of offshore and inland aquaculture models is also important.

#### *Fostering prevention and reduction of food waste along the food supply chain*

4.6 The 'Circular economy' package states the commitment of the EU and its Member States to meeting UN sustainable development goal target 12.3 of halving food waste by 2030. To support the delivery of this target, the food-use hierarchy should be a guiding principle in managing food resources, and economic incentives should support this in all relevant EU policies. This would avoid the current situation where it is often cheaper to landfill edible food than it is to prepare and deliver food to food banks.

4.7 Sustainable management of resources also requires increased efforts to re-use residual flows at the highest possible value. New research comparing the cost of food preparation for redistribution, for animal feed, for anaerobic digestion and for landfill in the EU28, would help to identify the role of economic incentives in the proper application of the EU waste hierarchy. Food donation from the hospitality and food service sectors remains challenging and legislation around it poorly understood. This is a key area where European guidance, widely circulated to hospitality businesses, would be particularly useful.

4.8 The 'Circular economy' package also identifies the need to clarify the current guidance around the use of food not fit for human consumption as animal feed. Robust legislation regulating new food waste sterilisation technologies at a centralised industrial level, could ensure the microbiological safety of animal feed while creating new jobs and investment opportunities and reaping the environmental benefits of more effective application of the waste hierarchy.

4.9 As consumer awareness and acceptance is crucial, the provision of teaching materials related to food, food sustainability, and food waste is sought to enhance the value of foodstuffs and to support systemic changes in behaviour. Modules for primary and secondary schools, universities, and specialised programmes in the farming, manufacturing and hospitality sectors, building on a wide range of good practices, are already available.

4.10 The EU has been proactive in fostering activities to reduce food waste for a number of years. The leading example of the EU in the delivery of target 12.3 will have a key role in the success of the target globally, for example through the dissemination of European good practices and know-how.

#### *Strengthening the link between food systems and climate change strategies*

4.11 The impact of climate change is felt on all dimensions of food security — not only on yields and crops but also on farmers' health, the spread of pests and diseases, the loss of biodiversity, income instability, water quality, etc. Loss of arable land due to soil degradation and urbanisation of agricultural land is also a potential concern. Therefore, it is essential to maintain the priority of using land for food production. Institutions and the private sector play a crucial role in ensuring the resilience of food systems, e.g. by enhancing social protection schemes to reduce shocks for households and ensuring continuing investment in low carbon technologies in the agriculture and food sectors; improving crop diversification and the development of genetic resources; investing in resilient agricultural development, both in-farm and off-farm; and implementing systems to better manage risks related to climate change.

4.12 Bearing in mind the economic pillar of sustainability, the Commission and Member States have to consider both the mitigation and sequestration potential, while at the same time providing all means of financial support for implementation, and promoting innovative public-private partnership cooperation mechanisms. Additional indicators on agricultural productivity gains, existing land, diets, and food loss and waste would complete the picture of food systems' impact on climate change.

#### *Promoting healthier and more sustainable diets*

4.13 A healthy food choice is often a sustainable choice<sup>(14)</sup>, particularly within a balanced diet. For example, eating more seasonal, local and diverse plant-based products is good both for health and the environment. A healthier eating pattern also reduces the risk of chronic diseases, the costs of healthcare and the loss of work productivity in the economy. Principles for developing healthy and sustainable dietary guidelines are needed, which can be considered by the Member States. Dietary and procurement guidelines have a direct impact on consumption where they are adopted by public institutions, such as schools and hospitals. It is also worth recognising the nutrition transition under way globally, and the EU's role in providing a positive model on sustainable diets. A 'flexitarian' approach in reducing meat consumption, at least once a week, promoted for instance in The Netherlands, can be considered as a good example in this respect.

4.14 Initiatives such as the EU's school food scheme which include nutrition counselling as well as the distribution of nutritious products contribute to more balanced diets. The Commission should invite Member States to stimulate healthy and sustainable consumption. EU-wide healthy food visual advertising campaigns should be promoted; this could also be a good way of increasing of local consumption during turbulence in the global markets.

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<sup>(14)</sup> Health Council of the Netherlands, *Guidelines for a healthy diet: the ecological perspective*, publication No 2011/08, The Hague: Health Council of the Netherlands (Gezondheidsraad).

4.15 As consumers have become more and more used to buy food products cheaply, the real value of food should be re-emphasised. Low-cost products do not take into account externalities, such as the costs related to water treatment. As mentioned above, food education is needed in schools, along with an understanding of healthy dietary patterns and basic cooking skills that can support good health through home-prepared meals in line with nutrition recommendations as well as food waste reduction.

4.16 It is noted that the Dutch Ministry of Health, Welfare and Sport has initiated an Agreement for Improvement of Food Composition with producer, retail, catering and hospitality sector associations, making products healthier, and enabling the healthy choice to be the easiest choice. This agreement includes ambitious targets on salt, saturated fat and calorie reductions in foodstuffs progressively to 2020, minimising noticeable changes in flavour profiles<sup>(15)</sup>. This opinion calls for the implementation of the EU framework for national initiatives on selected nutrients, namely of the recently approved annex on added sugars.

4.17 Product development, market development and key partnership building can help to make healthier and sustainable choices both easy and attractive. Industry and civil society should investigate and seize opportunities to increase the consumption of seasonal and local fruit and vegetables and other products naturally rich in fibres such as wholegrain food or pulses. This year's designation as UN International Year of Pulses is noted as a starting point.

4.18 Implementing a clear labelling system on the origin, means of production and nutritional value of food would facilitate consumers' choices. Traceability is also very important both for food producers and for consumers, to ensure food safety. A single, easy to understand 'Sustainable food' label should be considered and its feasibility should be assessed by the Commission. More emphasis on technologies like mobile apps, and consumer displays in the retail sector, providing all the required information and full traceability should be further promoted.

#### *Developing the knowledge base and mobilising research and innovation*

4.19 Many of the challenges in addressing global food and nutrition security need the participation of the research community to generate knowledge, foster innovation, engage with the public and help to shape a more sustainable food system. Considerable funding has been made available for this purpose under the EU research and innovation programme Horizon 2020 and the former seventh framework programme. However, research on diets, food losses and waste were not adequately addressed and require increased efforts. The EESC strongly supports the Commission initiative for a long-term strategy for European agricultural research and innovation and also the most recent ambitious decision by DG RTD to develop a comprehensive strategy for an EU food research area, Europe can also promote sustainable nutritional transitions and food loss and waste reduction in other global regions through its Switch programme<sup>(16)</sup>.

4.20 The Milan Expo 2015 EU Scientific Steering Committee identified research challenges in seven broad areas and highlighted the importance of promoting systems approaches and investing in inter- and trans-disciplinary research. The setting-up of an International Panel on Food and Nutrition Security was also recommended and would be a clear step in encouraging an interdisciplinary and inter-sectoral approach.

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<sup>(15)</sup> Dutch Lower House 2014-2015, 32793, No 162.

<sup>(16)</sup> <http://www.switch-asia.eu>



4.21 Research, innovation and development are the main drivers of the transition to a sustainable food system, in line with climate policy objectives. The EESC calls on the EU institutions and Member States to increase the funding for work in this field, and calls for a joint effort where findings are shared between the research communities, practitioners and other stakeholders. The European Innovation Partnership for Agricultural Productivity and Sustainability (EIP-AGRI) supported by the European Agricultural Fund for Rural Development (EAFRD) has a crucial role in enhancing the cooperation and collaboration between various stakeholders and ensuring a stronger link between the practitioners and researchers. In addition, the multi-actors approach under Horizon 2020 is an important tool to ensure that farmers are key actors in the process. The key to successful implementation of innovation is to actively promote it via consultative and educational bodies to end-users across the food system as well as to actively involve end users in the research and innovation activities.

4.22 The EESC stresses that the use of new information and communications technologies (ICT) and existing Commission programmes such as Galileo and Copernicus for the agricultural sector are helping to improve sustainable production techniques for raw materials in the EU. The EESC calls for further research and development in the application of ICT in all areas of food production. These techniques are crucial to promote further precise and more resource-efficient food production techniques, early detection of disease, and climate disturbances and extreme weather conditions. This may in turn lead to less food losses in primary production. More research should also be directed to assessing the potential of innovative types of farming (such as urban farming) as well as to improving animal feed.

*Tackling animal and plant diseases to increase the robustness of the food system*

4.23 The spread of animal and plant pests and diseases, exacerbated by globalised trade and climate change, has a detrimental impact on food systems. Recent outbreaks of African swine fever or of *Xylella fastidiosa* affecting olive trees in southern Italy are just some examples of how plant and animal diseases can disrupt the food system and generate food losses. While having nearly the best early detection and prevention system in the world, the EU's policy and legislative framework on animal and plant health could be further developed and reinforced with a stronger focus on crisis prevention, better surveillance and early detection, preparedness, and management, as well as on the identification and assessment of emerging or new risks both in the EU and outside the EU. A network of reference laboratories already exists for animal diseases, but not for plant diseases. Knowledge and research are the most important pillars for prevention. The EESC calls on the Commission and the Member States to be even more ambitious in urgently funding animal disease research centres and establishing plant disease reference labs. Early detection and prevention systems should also be reinforced, while ensuring that food producers and other operators (e.g. agricultural workers) are duly compensated for any losses, including for financial losses borne by farmers when trade restrictions are imposed in the public interest because of epidemic outbreaks. Furthermore, emphasis needs to be given to establishing more diverse farming systems which are more robust in terms of withstanding biotic stresses.

4.24 Research investment should concentrate on prevention and early detection, as treatment and eradication of an ongoing disease can be very costly and disruptive. Capacity-building and awareness-raising are essential, as is the transfer of knowledge from researchers to farmers and other operators. Knowledge transfer and cooperation with third countries are essential. The EU should provide soft law, guidance, and tools for better surveillance, while stricter import controls are also crucial. Tackling resistance to antibiotics is also essential, and an integrated approach combining human and veterinary healthcare should be adopted ('One Health' approach).

Brussels, 26 May 2016.

*The President  
of the European Economic and Social Committee  
Georges DASSIS*

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**Opinion of the European Economic and Social Committee on ‘A European Sustainable Development Civil Society Forum’**

**(exploratory opinion)**

(2016/C 303/09)

**Rapporteur: Ms Brenda KING**

**Co-rapporteur: Mr Roman HAKEN**

On 16 December 2015, the upcoming Dutch Presidency decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on:

*A European Sustainable Development Civil Society Forum*

(exploratory opinion).

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 11 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 26 May), the European Economic and Social Committee adopted the following opinion by 148 votes to one with no abstentions.

## **1. Conclusions and recommendations**

1.1 The Committee welcomes the UN 2030 Agenda for Sustainable Development. It regards the adoption of this agenda together with the Paris COP 21 agreement on climate change as a big breakthrough in setting a global course of action to end poverty, promote prosperity for all and protect the planet's natural resources in an integrated way.

1.2 The Committee recommends the creation of a European Sustainable Development Forum (The Forum) in partnership with the Commission and representatives from civil society as a platform involving a broad range of civil society organisations and stakeholders in setting the framework for the implementation of this agenda in the EU, and its ongoing monitoring and review.

1.3 The new agenda with its 17 Sustainable Development Goals (SDGs) applies universally to developing as well as to developed countries and will require transformational changes on all sides. The EU and the Member States will have to align all their policies — not solely in development — in a balanced and coherent way.

1.4 As one of the driving forces in the preparation of the UN 2030 Agenda, the EU and its Member States should lead by example in putting the 2030 Agenda into practice and setting up the governance framework. The Committee therefore welcomes the Commission's intention to issue a new initiative in 2016 *Next steps for a sustainable European future* because of its new and most urgent approach to ensure Europe's economic growth and social and environmental sustainability beyond the 2020 timeframe and to implement SDGs in European internal and external policies in an integrated manner<sup>(1)</sup>. The Committee calls on the Commission to give high priority to this initiative, also incorporating a participatory governance framework. It regards this initiative as a necessary step to strengthen the concept of sustainable development throughout Europe by introducing an integrated strategy for a sustainable Europe in a globalised world with a time horizon of at least 2030 which would frame national implementation.

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<sup>(1)</sup> COM(2015) 610 final (<http://eur-lex.europa.eu/legal-content/FR/TXT/?qid=1468295843333&uri=CELEX:52015DC0610>).

1.5 The Committee commits to contribute to the full implementation of the 2030 Agenda for Sustainable Development in the EU. Based on its longstanding experience in outreach to civil society, the Committee feels particularly suited to contributing to a strong involvement of civil society in this context.

1.6 At EU level, arrangements for participatory governance need to be further developed in order to strengthen democratic and inclusive decision making and to allow civil society a stronger role.

1.7 The Sustainable Development Forum, recommended by the EESC, will facilitate the dialogue and communication between the European institutions and non-governmental stakeholders and between non-governmental stakeholders from different constituencies on progress towards sustainable development in the EU. It will raise awareness of the 2030 Agenda, provide an informed debate and foster ownership on all sides involved.

1.8 The Committee is convinced that organising the Forum would be practically feasible and beneficial for the various parties involved. This is based on an in-depth investigation in this opinion, including hearings and meetings where stakeholders expressed support to the idea of establishing the Forum, and considering the very successful example of the European Migration Forum.

1.9 Since the management of SDGs at different levels is a new policy area, appropriate governance frameworks still have to be established and consolidated in the coming years. Therefore, the Forum's set up should allow flexibility in order to align it with the evolving overall governance framework.

1.10 The Forum should involve representatives from a broad range of organised civil society and stakeholder associations, including the private sector and trade unions. The composition should be as inclusive as possible without compromising the possibilities to manage and operate the Forum efficiently. It should also be open to grassroots initiatives in sustainable development. The participation of academia and research should contribute to a fact-based debate.

1.11 The participation of the European Commission at a high level is crucial, representatives from the Council of the EU and the Parliament will be invited and cooperation with the Committee of the Regions is anticipated. National Sustainability Councils and National Economic and Social Councils should be represented, along with similar national bodies devoted to making progress in sustainable development.

1.12 The Forum should be managed by a board composed of a majority of members coming from civil society and stakeholder organisations and other members from the Commission and the EESC.

1.13 The Forum must be well embedded in the processes of SDG implementation, monitoring and review. It should be organised as a continuous working process, meet at least once a year and address inter alia the EU preparation for the annual UN High-Level-Political-Forum on Sustainable Development. The Forum should serve as a platform to discuss the design, set-up and modalities of the EU framework for SDG implementation. Furthermore, the Forum should facilitate the involvement of its constituency in intergovernmental SDG reviews of Member States.

## 2. Introduction

2.1 At the United Nations Sustainable Development Summit, 25-27 September 2015, world leaders adopted the 2030 Agenda for Sustainable Development, including a set of 17 Sustainable Development Goals (SDGs) to be achieved by 2030.

2.2 For the European region, the EU will have a key role in integrating the new agenda into European policies, communicating it, defining milestones, coordinating and providing guidance, as well as monitoring progress and ensuring the quality of (national) peer reviews.

2.3 In order to implement the SDGs, appropriate governance mechanisms have to be put in place at global, regional, national and local level. Based on a participatory approach, and building upon the principles of transparency, accountability and empowering citizens, local communities, businesses, trade unions, NGOs and other civil society players must take an active role at all policy levels.

2.4 In its information<sup>(2)</sup> report the Committee has investigated models for civil society involvement in the implementation of the 2030 Agenda in the EU and put forward recommendations for strengthened participatory governance. The suggested Forum builds on key recommendations of this report.

2.5 Following the presentation of the report at the Commission, the UN HLPF, working groups of the Council and other conferences, the Dutch Presidency of the Council requested that the Committee draw up an exploratory opinion on how a mechanism for civil society involvement at EU level could be practically set up, managed and financed in order to make it an effective tool for participatory governance of the 2030 Agenda. The recommendations from this opinion should facilitate the following political decisions about the introduction of such an instrument.

### **3. Civil society and stakeholder involvement in sustainable development**

3.1 The process leading to the UN 2030 Agenda has been based on a broad participatory dialogue with civil society and stakeholder organisations contributing substantially to the development of the SDGs in the UN Open Working Group. This inclusive approach must be pursued since civil society has a key role to play in each stage of the sustainability policy cycle (i. e. setting goals and targets, establishing implementation strategies and policy programmes, implementation and monitoring). Progress on sustainable development will only be made when it comes directly from committed and innovative businesses, local communities and citizens.

3.2 One of the key findings of the previous EESC information report was that stakeholder engagement in sustainable development works best if it is organised as a structured and continued process rather than being conducted on the basis of solitary topical or ad-hoc consultations. A structured process enables stakeholders to plan ahead and make well-researched contributions.

3.3 The existence of diverging definitions of civil society in this context has to be acknowledged. While from some sides a distinction is made between civil society organisations, engaging in the protection of collective goods, and the private sector the Committee has a broad understanding of 'organised civil society' as comprising all groups and organisations in which people work cooperatively and express their positions, including organisations of the private sector, trade unions and other interest groups<sup>(3)</sup>. The recommendations in this opinion are based on a broad understanding of civil society, covering all non-governmental stakeholders in an inclusive and wide-ranging way since an involvement of all groups and sectors is needed in order to address the challenge of SDG implementation.

### **4. A European Sustainable Development Forum — an added value**

4.1 The Committee has long experience in reaching out to civil society organisations from all sectors and creating value through dialogue and concrete action with European policymakers. The Committee has been promoting an ambitious 2030 Agenda with several opinions and a series of conferences and workshops, organised in conjunction with the Commission and various UN bodies. On the occasion of the negotiation of the 2030 Agenda these have provided a platform for civil society dialogue at EU level. The Committee proposes now to further develop this practice into a permanent and more stable structure.

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<sup>(2)</sup> Information report, EESC-2015-1169 of 17.9.2015, The report was accompanied by a research study from Stakeholder Forum, *Building the Europe We Want — Models for civil society involvement in the implementation of the Post-2015 agenda*, commissioned by the Committee, June 2015.

<sup>(3)</sup> Article 300, paragraph 2, TFEU.

4.2 Based on the report's assessment, the Committee intends to set up a European Sustainable Development Forum (the Forum) in partnership with the Commission and representatives of organised civil society and stakeholders.

4.3 The Forum should provide a regular, stable, structured and independent platform for civil society dialogue on sustainable development at EU level. It should focus on the following tasks:

- Providing a frame for dialogue on sustainable development and facilitating cooperation between the EU institutions and non-governmental stakeholders as well as between non-governmental stakeholders from different constituencies;
- Creating a space for non-governmental stakeholders, players and grass root initiatives to share suggestions, best practice and solutions for a meaningful implementation of the 2030 Agenda;
- Ensuring strong involvement of non-governmental stakeholders in the ongoing monitoring and review of the 2030 Agenda;
- For this purpose organising a continued dialogue process with meetings complemented by other means of communication, such as an e-platform.

4.4 The added value of this Forum will be

- **Outreach:** as the facilitator of the Forum the EESC brings its capacity to reach out to various interested parties and to ensure cross-sectoral integration.
- **Information and advice:** the Forum would show both policy successes and policy shortcomings and failures on the implementation of SDGs in an informed way and foster success through expertise from various stakeholders, exchange on best-practice as well as through safeguarding the long-term horizon and bringing in new perspectives.
- **Raising awareness and creating ownership:** the Forum will raise awareness of the 2030 Agenda and strengthen ownership through the involvement of various stakeholders in the process.
- **Partnership:** the Forum could facilitate multi-stakeholder partnerships for the implementation of SDGs at EU level.

4.5 The Forum offers an opportunity for enhanced dialogue, for building consensus and for scanning controversies. It does not speak on behalf of CSOs nor does it replace advocacy campaigns by participating organisations. The Committee appreciates the effective work of NGOs and other alliances advocating an ambitious implementation of the 2030 Agenda in the EU. It invites all these to participate in the Forum, using it as a platform to promote their messages and engage in a dialogue with a broader range of stakeholders and the EU institutions.

4.6 With its proposal the Committee also builds on the positive experiences of several EU Member States with the effective input of National Sustainability Councils (NSCs) into domestic decision making by government, local communities and corporations, reflecting on the broader debate on sustainability. Members of NSCs represent civil society, advocacy groups and stakeholder associations along with corporate and trade union associations. Appointed by government, their institutional design may vary according to national specificities. Without replacing legitimate advocacy approaches those Councils connect with top level decision makers and operate on a broad base of activities and tasks:

- providing advice to the government;

- bringing stakeholders together, connecting with target groups and expanding vertical integration;
- monitoring progress;
- facilitating policy learning, in particular through Peer Reviews;
- setting the agenda and
- stimulating the outreach of the concept of sustainability.

4.7 The example of the European Migration Forum (EMF) demonstrates the benefits of a platform similar to the Forum, organised by the EESC. The EMF was established as the European Integration Forum in 2009 by the European Commission in cooperation with the EESC<sup>(4)</sup>. Given the success of the Forum, it was decided to expand its scope to include topics related to immigration and asylum. It brings together around 200 participants, including ca. 120 civil society organisations, 20 representatives of local and regional authorities, representatives of EU Member States and EU institutions.

4.8 In 2012 DG International Cooperation and Development very successfully set up a 'Policy Forum for Development' at EU level as a space for multi-stakeholder dialogue with CSOs and local authorities from EU and partner countries to ensure their effective consultation and contribution to the EU development policies and programmes. Participants include development NGOs, trade Unions, cooperatives, foundations and philanthropies, local authorities, chambers of commerce, human rights organisations, relief/humanitarian organisations, environment organisations and youth organisations. However, the Policy Forum only covers aspects of the EU external and development policy, in particular by providing a thorough dialogue with civil society on development policy and projects. This is an ideal complement to the wider sustainable development agenda the European Sustainable Development Forum is aiming at and its imperative for integrating internal and external aspects of SDGs. In practical terms, a great part of the discussion in this Forum will be dedicated to the EU internal implementation of SDGs. The work of the Forum will have to be closely coordinated with the Policy Forum for Development in order to create synergies.

## 5. Main features/building blocks of a European Sustainable Development Forum

5.1 As the SDGs are unprecedented and governance frameworks are still in the process of development, the Forum's setup should focus special attention on the work-in-progress governance aspects and be kept flexible. The Forum will have to integrate itself into the full policy cycle of sustainable development. For this purpose it will need a detailed review once EU and Member State governance frameworks for the 2030 Agenda take shape.

5.2 Having investigated the main features of the Forum in the preparation of this opinion, the Committee is convinced that its initial launch should consist of the following elements.

### 5.3 Participants

5.3.1 As regards the participation of non-governmental stakeholders the objective is to be as inclusive as possible, as pointed out in 3.3, and include representatives from

- development, social, environmental, human rights and non-discrimination NGOs,
- the private sector, including industry, SMEs and micro-businesses, services, and sustainable investment,

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<sup>(4)</sup> EESC opinion on *Elements for the structure, organisation and functioning of a platform for the greater involvement of civil society in the EU-level promotion of policies for the integration of third-country nationals* (OJ C 27, 3.2.2009, p 95).

- trade unions,
- farmers, forestry,
- consumers,
- the cultural dimension of sustainability
- youth,
- urban and rural development,
- and other relevant sectors.

5.3.2 Civil society groups whose interests are normally not well represented at EU level need to be involved. Participants should also include not only representatives of organisations, but genuine initiatives and players in sustainable development who can bring in experience from best practice.

5.3.3 The composition should ensure that different sectors and stakeholder groups are represented in a balanced way and all dimensions of sustainable development are covered appropriately. On the other hand, the varying specific thematic focus of each meeting will also have to be considered. This will lead to core groups for sustainable development policies being represented permanently while the participation of others will depend on the specific thematic focus. Core groups are those that follow up on all 17 SDGs and focus on overarching governance issues. Participation of special focus groups will be based on an open call that sets out the agenda of each meeting.

5.3.4 Membership of the Forum should reflect cross-level governance, as well as continuity and flexibility in expertise. The prime focus will be on organisations working at European level. From the national and subnational level SD Councils, ESCs and local and regional communities should be represented in the Forum. Cooperation with the Committee of the Regions should be anticipated.

5.3.5 On the institutional side the Commission, in particular the Vice-President in charge of sustainable development policy coordination should be present in the meetings and be invited to provide presentations and engage in a dialogue with stakeholders. Representatives of the Council of the EU and the European Parliament should be invited.

5.3.6 Research and science should be represented in the Forum. Involving the scientific pillar could also facilitate the science-policy interface in the implementation of the 2030 agenda at EU level.

5.3.7 Funding for travel and accommodation will have to be provided for civil society organisations with a limited capacity to participate.

5.3.8 In order to balance continuity and flexibility, the selection of non-permanent participants should be made in advance of each Forum meeting, taking into consideration the thematic focus of the meeting and on the basis of an open call. A similar procedure is successfully applied for the European Migration Forum.

5.3.9 To ensure inclusiveness and trust, the conditions for participation will be transparent and participants will be required to sign-up to the EU Transparency Register and appropriate principles, such as the Istanbul Principles for CSO Development Effectiveness <sup>(5)</sup>.

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<sup>(5)</sup> <http://cso-effectiveness.org/-InternationalFramework>

#### **5.4 Organisation and management**

5.4.1 The multiple functions of the Forum have to be taken into account in order to define its institutional status and organisational design appropriately. Independence and credibility of the Forum are of high value. The governance of the Forum will have to be as clear and transparent as possible, avoiding any blurring of responsibilities.

5.4.2 The Forum should be hosted and coordinated by the EESC as the body dedicated to facilitating civil society participation at EU level.

5.4.3 The preparation of meetings should be managed by a board with a mixed composition of representatives from civil society and stakeholder organisations, who will form the majority of board members, as well as representatives of the Commission and EESC. As is the case with the European Migration Forum, board members could be elected by the participants of the SD Forum, based on a rotation principle.

#### **5.5 Working process and meetings**

5.5.1 The Forum should be designed as a continuous working process. Each year there will be regular meetings accompanied by preparatory meetings, be it as 'open space meetings', working groups and continuous cooperation based on online platforms using innovative methods of organising communication processes and events.

5.5.2 The composition and the Forum's way of working should respect the right of the civil society organisations involved to define their contributions in an independent and self-organised manner.

5.5.3 The Forum will strive for a meaningful connection with the SDG implementation process at European level, and at UN and Member State level correspondingly. At Member State level national governments are expected to adapt to the universal goals and to report back to the UN where the UN High-Level-Political Forum (LPF) for Sustainable Development has been established to guide and monitor the implementation of the UN 2030 Agenda. The Forum should meet in plenary at least once a year ahead of the annual HLPF summer meeting so that the outcome can be brought to bear.

5.5.4 For timing of other meetings reference should be paid to the European Semester, budgetary negotiations, and the EC work programme. The Forum shall facilitate the participation of peers from civil society and stakeholders in emerging peer review schemes of Member States governments which are currently explored by the European Sustainable Development Network.

5.5.5 Another important reference point for involving stakeholders in the monitoring is given by the monitoring reports on the implementation of the 2030 Agenda in the EU, particularly Eurostat's monitoring reports which for the debates in the Forum may provide a solid knowledge base.

#### **5.6 Agenda setting**

5.6.1 The plenary meetings' agenda must regularly focus on progress and modalities of the 2030 Agenda in a comprehensive way. In addition the agenda could focus on a specific theme, reflecting a cluster of SDGs or a theme of horizontal importance for many SDGs (e.g. halving poverty and inequality simultaneously). The agenda should be designed in a way that encourages cooperation of stakeholders from different backgrounds.



5.6.2 Since the Forum should act as an independent and transparent body, participants will be consulted in the process of agenda setting via the Forum's management board.

### 5.7 **Knowledge base**

5.7.1 In order to be effective and meaningful the Forum's debates have to build upon an excellent knowledge base. It is to be expected that Eurostat will proceed with its bi-annual reports <sup>(6)</sup> monitoring the implementation of the UN 2030 Agenda in the EU. These reports will form part of the knowledge base for the discussion in the Forum.

5.7.2 Information from independent sources must be included in the process, such as reports and initiatives from organised civil society, national Economic and Social Councils and Sustainability Councils, academia, research bodies, such as the IISD knowledge management system on SDGs, and European agencies as well as citizens' monitoring activities. Information input could be supported by web-based platforms. To obtain expertise through inviting experts or initiating research, the Forum should strive to link to existing research capacities.

5.7.3 Using good practice experiences from national Councils for Sustainable Development the Forum should establish links to research funding institutions and initiate transdisciplinary research into the transformation towards sustainable development throughout Europe.

### 5.8 **Outcome**

5.8.1 The outcome of the Forum meetings and discussion processes should be summarised in reports or other suitable documentation methods. All representatives should see their views and recommendations reflected in the outcome documentation. Resolution of conflicts of interest lies with the Board. The outcome should provide also opportunity for participating organisations to present their results and reports.

5.8.2 If regular progress reports on sustainable development are produced by Eurostat or the Commission, the Forum will suggest taking its findings on board as a shadow report from a civil society perspective.

5.8.3 It must be ensured that the outcome feeds into the work of the Commission and the other European Institutions on the 2030 Agenda and any feedback will be closely monitored.

5.8.4 Another outcome might be a series of European dialogues with special interest groups or other target groups of people, e.g. young people as members of the next generation of decision takers who will reach retirement age in the year 2050.

5.8.5 Furthermore, the Forum may choose to establish new forms of interaction. The establishment of a European Sustainability Award is conceivable and could be awarded for extraordinary action and leadership on the part of civil society.

### 5.9 **Funding**

5.9.1 The EESC could provide its technical infrastructure and the management of the secretariat. Funding for required travel cost reimbursement for participants and speakers as well as the management of on-line platforms and the production of reports and outcome documents will have to be investigated with the cooperating partners.

Brussels, 26 May 2016.

*The President  
of the European Economic and Social Committee  
Georges DASSIS*

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<sup>(6)</sup> <http://ec.europa.eu/eurostat/en/web/products-statistical-books/-/KS-GT-15-001>

## III

*(Preparatory acts)*

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

517TH EESC PLENARY SESSION OF 25 AND 26 MAY 2016

**Opinion of the European Economic and Social Committee on the communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee — The annual Union work programme for European standardisation for 2016**

**(COM(2015) 686 final)**

(2016/C 303/10)

**Rapporteur: Patrick LIÉBUS**

On 5 February 2016, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the:

*Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee — The annual Union work programme for European standardisation for 2016*

(COM(2015) 686 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 10 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May 2016), the European Economic and Social Committee adopted the following opinion by 141 votes, with 6 abstentions.

**1. Conclusions and recommendations**

1.1 This opinion focuses on the key issue of the inclusiveness of the European standardisation system (ESS). This choice reflects the fact that ANEC, ECOS, the ETUC, and SBS, known as the 'Annex III organisations' in the context of Regulation (EU) No 1025/2012 of the European Parliament and of the Council, are all represented by the EESC. That is why, as the 'home of civil society', the EESC intends to focus on the transparency and inclusiveness of the ESS.

1.2 The EESC has also acknowledged the Commission's intention to address the strategic aspects of the European standardisation system in the framework of the annual work programmes.

1.3 As regards relations between the Annex III organisations and the ESS, the EESC calls on the European standardisation organisations (ESOs) to give the Annex III organisations specific member/partner status, with specific rights and obligations. In practice, this should consist of granting the Annex III organisations an unlimited right of appeal and consultative powers, in particular with regard to standards of public interest.

1.4 Recognising that national delegations represent one of the fundamental principles of European standardisation, the EESC stresses the importance of facilitating access to the standardisation process for SMEs and societal stakeholders and their national representatives. In this context, the EESC proposes establishing at national level free access to 'mirror committees' for SMEs and societal stakeholders and their respective representative associations.

1.5 The EESC stresses the fundamental role of the New Approach consultants and commends their contribution to the assessment of standards' compliance with EU policies in the framework of harmonised standards. The EESC therefore welcomes the intention expressed by the Commission to ensure the continuation of their work in the long term.

1.6 In conclusion, the EESC calls for close monitoring of the efforts of the key standardisation players, in order to increase the inclusiveness of the ESS. It could perform this monitoring by setting up an ad hoc forum on the inclusiveness of the ESS. This body would be responsible for holding an annual public hearing to assess progress made in this regard.

## **2. Gist of the communication**

2.1 The Commission set out its strategic vision for European standardisation in a communication and set out the legal framework in Regulation (EU) No 1025/2012 on European standardisation, which has been in force since 1 January 2013. One of the new elements introduced by this regulation is the obligation for the Commission to adopt an annual Union work programme for European standardisation.

2.2 The work programme is a tool to improve cooperation between the Commission and the European standardisation system (ESS) by setting out the Commission's vision and plans for the following year as regards standardisation. The Commission intends to revisit its partnership with the ESS to ensure that it suitably meets the involvement needs of all stakeholders (industry, SMEs, consumers, environmental organisations, workers, etc.).

2.3 The strategic priorities for European standardisation include the adoption of a Priority ICT Standards Plan and services standardisation. The Priority ICT Standards Plan will complement the annual Union work programme.

## **3. General comments**

3.1 The EESC congratulates the Commission on the presentation of the annual work programme for standardisation 2016, and points to the fundamental contribution made by standards to the structuring of the internal market and the competitiveness of businesses. As stated in its Opinion INT/590 of September 2011<sup>(1)</sup>, the annual programme for standardisation is a real asset in terms of transparency, planning and forecasting, especially for players and stakeholders in the European standardisation system (ESS).

3.2 The EESC welcomes the 2016 annual programme as a vehicle for assessing the state of play of the current discussions, but above all because it brings real added value to future programming. The EESC therefore calls on the Commission to better prepare future annual programmes, consulting stakeholders on the technical and strategic aspects and publishing the work programme in the July of the previous year. The EESC welcomes the substance of the priorities in the different sectors.

### **3.3 Priority given to inclusiveness**

3.3.1 The stakeholders who have historically been hampered by difficult access to the ESS — consumers, environmental interests, workers and SMEs, represented by ANEC, ECOS, the ETUC and SBS, known as the 'Annex III organisations' in the context of Regulation (EU) No 1025/2012, along with their national members — are all represented by the EESC. That is why, well aware of the key contribution made by other stakeholders in developing standards and the participation challenges they generally encounter, the European Economic and Social Committee — as the 'home' of civil society — intends to focus most of its efforts on the transparency and inclusiveness of the ESS.

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<sup>(1)</sup> OJ C 376, 22.12.2011, p. 69.

3.3.2 In this context, the implementation of Regulation (EU) No 1025/2012 requires specific attention, as the Commission rightly pointed out in the communication. This includes, in particular, the need to improve the dissemination and publication of the reports provided for in Article 24 of the Regulation, as well as communication and information regarding them.

3.3.3 The EESC welcomes the Commission's intention to closely monitor the progress and efforts of all the ESS players to make the system more inclusive. To this end, the EESC would like the Commission to play a proactive role, in particular as body which co-finances the ESS.

3.3.4 The Committee also welcomes the conclusion of the process of financing the Annex III organisations and calls for further administrative simplification and the adoption of a longer-term perspective, in order to ensure that these organisations implement a multiannual strategy.

#### **3.4 *The joint initiative on standardisation***

3.4.1 The Committee welcomes the proposed joint initiative on standardisation, along with the involvement of stakeholders in the system, particularly the Annex III organisations, as a key sign of the revitalisation of the public-private partnership underpinning the ESS. In this context, the EESC would like to stress that it is very important that the measures proposed in the final version of the joint initiative on standardisation are aimed at and clearly contribute to better inclusiveness, to ensure ownership by all the stakeholders, particularly the Annex III organisations.

3.4.2 The EESC welcomes and supports the proposed action in the area of the joint initiative on standardisation regarding an analysis aimed at gaining better understanding of the opportunities and challenges of making standards freely available, which could be part of a study on the economic and societal impact of standards.

#### **3.5 *The work of the European standardisation organisations***

3.5.1 The EESC welcomes and commends the role played by the CEN, Cenelec and ETSI as independent, neutral, professional organisations with rules and procedures that ensure compliance with the WTO founding principles in the area of standardisation and with the principles established by Regulation (EU) No 1025/2012.

3.5.2 In order to improve the participation of all stakeholders in standardisation, the EESC invites the European standardisation organisations (ESOs) to grant the Annex III organisations specific member/partner status, with particular rights and obligations according to their respective status and roles, including unrestricted access to technical bodies and draft standards being drawn, with due respect for a confidentiality policy that caters for the need for consultation. The EESC proposes that a reflection be launched on making access free, given the EU's contribution to the financing of ESOs and Annex III organisations.

3.5.3 The EESC also proposes to reinstate an unlimited right of appeal for Annex III organisations, including in relation to work in which they were not directly involved from the beginning, and to give them advisory power when standards are ratified.

3.5.4 The EESC highlights the importance of inclusive, quality standardisation. The EESC points out that fast production and publication of standards cannot be considered an objective in its own right, especially if that would be a barrier to the EESC's objective of including Annex III organisations in the ESS. The EESC warns the ESS against any decision which, on the pretext of speed, would limit participation and openness.

3.5.5 The EESC points out that the inclusion of stakeholders can only take place transparently and with their participation. In order to highlight, strengthen and implement the principle of national delegation, the EESC stresses the importance of facilitating access to the standardisation process for SMEs and their national representatives, which remains a challenge, as mentioned in point 4 of the communication.

3.5.6 In this connection, the EESC proposes establishing at national level free access to 'mirror committees' for SMEs and societal stakeholders and their respective representative associations. It is also especially important for it to be easy for them to participate and contribute during the public consultation phase, when practical or technical barriers must be non-existent.

### ***3.6 The new Vademecum on standardisation and guides for Annex III organisations***

3.6.1 In the framework of the implementation of the new Vademecum on European standardisation, the Committee congratulates the Commission on the call to ESOs to train their technical staff and bodies on the content of the new document and the measures it includes.

3.6.2 The EESC also calls on the Commission to ensure that all its departments wishing to make use of standardisation to implement European policies disseminate, understand and use the Vademecum. It would also be useful to arrange for it to be published on the Commission's website along with relevant information.

3.6.3 The EESC especially wishes to highlight the importance of officers of ESO technical bodies being familiar with the various CEN-Cenelec guides on drafting standards, taking into account the needs of societal stakeholders and SMEs (i.e. CEN-Cenelec Guides 2, 5 and 17 and CEN Guide 4). The Committee welcomes, in this context, the work already started by the CEN-Cenelec SME Working Group and the Societal Stakeholders Working Group, and calls on them to pursue it with tangible, ambitious measures. It should be stressed that these CEN-Cenelec guides should be used throughout the standardisation process, from the reflection on the need to draft a standard through to its publication.

### ***3.7 ICT standardisation and IPR in standardisation***

3.7.1 The EESC questions the added value of the Priority ICT Standards Plan proposed in Chapter 3.1 of the communication. This document appears to be an unnecessary addition to the Rolling Plan for ICT Standardisation and the annual standardisation programme. The Committee fears duplication of sources and levels of priority, which could make monitoring of the debate and stakeholder involvement more difficult.

3.7.2 In the area of intellectual property rights (IPRs), the Committee warns of the imbalance existing between users and holders of standard essential patents (SEPs), particularly in situations where an innovative SME is not in a position to know the number of patents it is likely to use and who holds them. The EESC therefore proposes that ETSI draft a practical guide for the negotiation of SEP licence agreements for SMEs, applying the FRAND (fair, reasonable, and non-discriminatory) requirements.

3.7.3 With regard to the FRAND requirements, the Committee stresses the need for these principles to be better defined in order to make it easier to grasp their scope and how to implement them in practice.

3.7.4 In this context, the EESC also calls on ETSI to improve the quality and transparency of the database of IPR declarations. This is important for ensuring a degree of predictability for SEP users and reassure innovative SMEs as to the costs and procedures for negotiating the aforementioned licence agreements.

### ***3.8 New Approach consultants***

3.8.1 The EESC stresses the fundamental role of the New Approach consultants referred to in Chapter 7.2 of the communication, and commends their vital contribution to a reliable assessment of standards' compliance with EU legislation and policies in the framework of harmonised standards.

3.8.2 The EESC welcomes the intention — expressed by the Commission in point 7.2 of the communication — of ensuring the long-term availability of the assessment. The Committee wishes to this independent assessment to be given greater precedence over any other internal assessment carried out by ESOs.

3.8.3 The EESC calls for the consultants' independence to be further strengthened, possibly through the direct hiring of 'New Approach consultant' contractors by the European Commission.

### 3.9 *Standardisation requests and mandates*

3.9.1 The EESC stresses the importance of the process of preparing the European mandates that the Commission sends to ESOs to request the drafting of a standard. The EESC calls on the Commission to make this process even more transparent and inclusive, particularly for Annex III organisations.

3.9.2 The EESC stresses the importance of verifying whether the effect of a standard meets the original aim, checking in particular that its scope has not been extended during the work.

3.9.3 The Committee stresses the importance of the preparatory work for standardisation, in particular in assessing the economic and societal impact of the standards and identifying the stakeholders concerned and involving them in the standardisation work.

3.10 With regard to international cooperation, the EESC underlines the substantial difficulties still encountered by Annex III organisations in following this work, and calls on the ESOs and national standardisation bodies, to take all possible measures provided for by their cooperation agreements with the ISO and the IEC to ensure transparency, participation and inclusion of all stakeholders, particularly where the work is linked to a standardisation request from the Commission.

## 4. *Specific comments*

4.1 The EESC could create an ad hoc forum on the inclusiveness of the ESS. The forum would meet regularly, at least once a year, and bring together members of the Committee wishing to contribute to the involvement and inclusion of stakeholders — including societal stakeholders and SMEs. The Annex III organisations would be regularly invited to meetings of the forum.

4.1.1 The forum could, among other things, be responsible for organising an annual public hearing on the inclusiveness of the ESS. As part of this event, the EESC would invite the ESS stakeholders and the Commission and publicly question them with regard to the activity reports provided for in Article 24 of Regulation (EU) No 1025/2012, with a view to improving knowledge and dissemination thereof. The EESC would take this opportunity to involve the European Parliament in this activity.

4.1.2 The forum could also finance a study on the membership of national mirror committees to assess how representative and inclusive they are.

Brussels, 25 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles’**

**(COM(2016) 31 final — 2016/0014 (COD))**

(2016/C 303/11)

**Rapporteur: Mr Jan SIMONS**

On 4 February and on 11 February 2016, the European Parliament and the Council respectively, 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 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles*

(COM(2016) 31 final — 2016/0014 (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 10 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May), the European Economic and Social Committee adopted the following opinion by 157 votes to 2 with 2 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the EC proposal and its aim to improve the effectiveness of the legal framework for achieving economic, environmental and social goals, contributing to foster independence and accountability in the system. However, the importance of creating well-balanced legislation should be stressed, as well as the need for establishing effective cost-efficient measures.

1.2 In order to reduce the differences in interpretation and strictness in application across Member States, the EESC supports the proposed shift from a directive to a regulation. The EESC strongly suggests doing the same in future with all internal market rules, where appropriate.

1.3 This revision exercise involves adopting a range of legislative acts and synchronising a number of deadlines. The Commission, the Parliament and the Council are urged to adopt a suitable and ambitious timeline for adoption of the delegated and implementing acts, which is currently absent.

1.4 Detailed market surveillance prescriptions aim to effectively exclude non-compliant products from this specific market. However, it is necessary to put in place effective and cost-efficient measures, especially those impacting on market operations and product cost. An effective and straightforward system for coordination and cooperation between all the parties involved, especially the Member States' activities, is essential.

1.5 Improvements to the designation, periodical verification and functioning of technical services are positive elements, but a number of onerous and redundant requirements are proposed which would increase costs and delays both to the administrations and manufacturers without yielding any real benefits.

1.6 More detailed procedures should be established to introduce the new concept of time validity for approval certificates more efficiently.

1.7 The EESC welcomes further clarification and simplification of the procedures and requirements impacting on small and medium enterprises, together with niche markets, spare parts and components. It also recommends that the type-approval of aftermarket products impacting on safety and environmental performances be duly considered and regulated.



## 2. Introduction and background

2.1 The automotive industry is a major player in the EU economy. It provided 2,3 million direct jobs and 9,8 million indirect jobs in 2012. About 75 % of the original equipment components and technology for vehicles comes from independent suppliers. The turnover totals EUR 859 billion, which represents 6,4 % of the EU gross domestic product.

2.2 The legal framework for the EU type-approval system is Directive 2007/46/EC <sup>(1)</sup>, setting out the procedures for the approval of new vehicles, trailers and their systems and components to ensure safety and environmental standards. Seventy specific technical regulations are required, many of which are international regulations established by the United Nations.

2.3 General provisions concerning market surveillance apply in accordance with Regulation (EC) 2008/765 <sup>(2)</sup>.

2.4 The Commission started reviewing the legal framework for motor vehicle type-approval already in 2010.

2.5 The current framework has come under particular criticism since September 2015, after it was revealed that Volkswagen had used 'defeat devices', a special type of software to circumvent the emissions requirements. In 2016, the Commission indicated that 'the mechanisms for ensuring a harmonised implementation and enforcement of the current legal framework are not sufficiently robust' and 'that, as a result of divergences in the interpretation and application of the rules', by Member States, 'the Directive's main objectives have been undermined'.

2.6 The Commission's impact assessment on this proposal identifies a huge cost for non-compliant vehicles and parts that may total up to EUR 12 billion annually.

## 3. Commission proposal

3.1 The main results of a public consultation (carried out in 2010), an impact assessment and a fitness check (2013), together with the conclusions of the Communication 'CARS 2020: Action Plan for a competitive and sustainable automotive industry in Europe' (2012), call for a revision of the procedures for the surveillance of the automotive products on the EU market to make sure that all vehicles and parts meet the regulatory requirements, whilst at the same time limiting the administrative burdens, supporting research and the development of innovative products, encouraging international harmonisation and considering the needs of small and medium enterprises.

3.2 The proposal will help to achieve three objectives:

- to reinforce the independence and quality of the testing of vehicles to be placed on the market,
- to improve the effectiveness of the market surveillance system by controlling new vehicles and parts or those already on the road,
- to reinforce the type-approval system with greater European oversight.

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<sup>(1)</sup> 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ L 263, 9.10.2007, p. 1).

<sup>(2)</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

3.3 Amongst other measures, the Commission proposes to modify the remuneration system to avoid financial links between testing laboratories and manufacturers, which could lead to conflicts of interest and compromise the independence of testing. The proposal also provides for more stringent performance criteria for these technical services, which should be regularly and independently audited to obtain and maintain their designation. National type-approval authorities will be subject to peer reviews to ensure that the relevant rules are implemented and enforced rigorously across the EU.

3.4 This proposal establishes a scheme for managing and coordinating spot-checks on new vehicles and parts and those already on the road, and gives the Commission power to carry out checks and initiate recalls.

#### 4. General comments

4.1 The EESC welcomes the EC proposal as a whole, and stresses the importance of achieving well-balanced legislation. The effects of this proposal will result in establishing cost-beneficial measures able to:

- allow for a better level playing field where market operators would benefit from fair competition,
- improve protection for consumers and the environment against non-compliant products which are contributing to road accidents and poor air quality,
- carefully consider the needs of small and medium enterprises,
- help restore consumer's trust in this market sector.

4.2 One aspect requiring attention is the timetable for the introduction of new requirements and procedures which will give administrations and manufacturers sufficient lead time to adapt. This timetable should also be fully synchronised with all the related delegated and implementing acts to be adopted in the near future by the Commission.

4.3 Renewed emphasis is placed on market surveillance and dedicated new prescriptions are being introduced to address the specific situation of this market sector. However, steps must be taken to avoid the proliferation of comparable controls and the multiplication of requests for similar information to avoid market distortions and excessive burdens or costs, and objects related to market surveillance should be obtained at market prices; in this respect, a robust and effective system for coordination and cooperation between all the parties involved (market surveillance authority, market operators, manufacturer, type-approval authority) must be put in place also taking into account best practices existing in and/or outside Europe.

4.4 The EESC supports the aim of fostering the effectiveness of the type-approval framework by reducing the differences in interpretation and strictness in application across Member States and to make the whole legal system more robust. A first step forward is the proposed shift from Directive 2007/46/EC to the legal instrument of an EU regulation which is deemed most appropriate. The EESC strongly suggests doing the same in future with all internal market rules, where appropriate.

4.4.1 The proposal places great importance on improving procedures for the designation and periodical verification of the technical service(s) appointed by a type-approval authority as a testing laboratory. This can be considered as a positive feature. However, the proposal runs the risk of establishing onerous and redundant requirements that may increase costs and time delays without any real benefit, which would probably result in inadequate implementation. Moreover, excessive verification of the technical services qualifications, including double or cross-checks between authorities from different Member States, as well as the proposed frequency of verifications, do not seem cost efficient and can be in contradiction with the UNECE approval system.

4.4.2 The considerably more rigid and tighter principles for the invalidation of type-approval certificates, especially in the case of minor or administrative non-conformities, seems to go against the principles of 'better regulation' and should not lead, as now proposed, to the interruption of product sales.

4.4.3 The proposed scheme for a national fee structure, stipulating how the Member State should collect and manage the revenues deriving from type-approval activities seems disproportionate and threatens to make smaller authorities incapable of offering valuable services.

4.5 A completely new concept relates to the time validity of a type-approval certificate, which would expire after 5 years, with the possibility of being renewed if the type-approval authority certifies that it still complies with the applicable rules. This new measure can effectively help to reduce the number of 'invalid' certificates, but the extreme complexity and extensive nature of such certificates, which include hundreds of sub-certificates with different expiry dates, each linked to a different supplier of parts or components, requires more detailed and robust procedures than those described in the proposal.

4.5.1 It should be made clear if and how these procedures also relate to component or system approval, for which, in any case, type-approvals granted under the framework of the United Nations (UNECE) can only be regulated under the corresponding legal framework.

4.6 In order to raise the profile of vehicle strategies and specific functioning parameters that may influence safety and environmental performances, the proposal obliges the manufacturers to grant full access to any software or algorithm to the type-approval authority. These requirements are quite broad and need more detailed prescriptions, targeting the different cases and making clear that industrial confidentiality must always be respected.

4.7 The proposal intends to revise procedures and requirements impacting on small and medium enterprises and on niche products. The EESC welcomes the intention to further clarify and simplify procedures concerning:

- 'multi-stage vehicles' built by two or more manufacturers in subsequent stages,
- individual approvals, for one or more particular vehicle(s),
- national small series, for limited production at national level,
- EU small series for buses and trucks for limited production at European level (passenger cars and vans already qualify for EU small series approval).

4.7.1 The EESC also recommends that the type-approval of aftermarket products impacting on safety and environmental performances be duly considered and regulated.

## 5. Specific comments

5.1 'End-of-series' is a procedure needed to allow the registration of vehicles that remain unsold for commercial reasons while their type-approval expired due to technical obstacles to upgrading to new requirements. This procedure is already in place, but gives each Member State the right to act independently. The EESC particularly welcomes the proposal to harmonise the procedure at European level, but the proposed text still gives Member States the right to reject or limit the procedure. Only a truly European procedure can provide the certainty and stability needed to sustain the EU single market.

5.1.1 The 'end-of-series' text needs further clarification and editorial corrections, while time constraints could be further simplified in order to reduce the economic impact on sales volumes that are relatively marginal compared to the whole market.

5.2 The electronic 'Certificate of Conformity' exists already in some Member State and a Europe-wide project, 'EReg', is about to finalise a procedure for vehicle 'electronic registration' without paper documents. Two systems, the European Type-Approval Exchange System, 'ETAES', and the United Nations Database for the Exchange of Type-Approvals, 'DETA', deal with electronic archiving of type-approval certification. It would have been appropriate for the Commission to include in its proposal an incentive for the prompt introduction of European harmonised procedures for electronic submission and exchange of type-approval information and registration data to one common EU electronic database with public access as far as industrial confidentiality allows, which would result in the reduction of red-tape and costs and time savings for administrations, manufacturers and consumers, together with environmental benefits.

5.3 The revision of the legislative text is not consistent with the current system for numbering and item identification, which has been in place for many years. A change in the numbering system is not justified and would be a huge complication and create additional red tape for both administrations and manufacturers and it is reasonable to envisage several mistakes occurring for this reason, leading to higher costs and delays. A type-approval dossier can easily contain hundreds of pages of information, with thousands of numbered lines.

5.4 In the new 'end-of-series' procedure, it is proposed to print some specific information on the Certificate of Conformity (CoC) of each single vehicle in question, but this is impractical because the CoC is generally printed before the vehicle enters the market so it is neither possible to add further data at a later stage nor effective, because vehicles that are not sold cannot be identified from the outset. Should more information be needed for a selected number of vehicles at a certain time, then a separate document can be provided by the manufacturer, in line with the current procedure.

5.5 It is proposed to give type-approval authorities a three-month period in which to draw up an application for national small series approval and decide whether to accept it or not. This seems to be an excessive delay, especially for small businesses, and could be reduced to two months.

Brussels, 25 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments as regards certain dates**

**(COM(2016) 56 final — 2016/0033 (COD))**

**and on the**

**Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories as regards certain dates**

**(COM(2016) 57 final — 2016/0034 (COD))**

(2016/C 303/12)

**Rapporteur: Mr Daniel MAREELS**

On 25 February 2016, the European Parliament decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the:

*Proposal for a Directive of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments as regards certain dates*

(COM(2016) 56 final — 2016/0033 (COD)).

On 25 February 2016, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 114 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 Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories as regards certain dates*

(COM(2016) 57 final — 2016/0034 (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 10 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 26 May), the European Economic and Social Committee adopted the following opinion by 132 votes to 2 with 1 abstention.

## **1. Conclusions and recommendations**

1.1 In view of the circumstances outlined in the body of the opinion, the Committee accepts the Commission's proposals, postponing the application of the entire MiFID II rulebook by one year from 3 January 2017 to 3 January 2018. This postponement is supposedly justified by a number of significant technical — and IT — challenges and by the fact that a partial postponement would be far from straightforward, as it would in turn raise a number of other difficult issues with regard to clarity, legal certainty, the potential for market disruption, additional costs and investments, etc. Nonetheless, the Committee calls for every effort to be made to avoid postponing the implementation of MiFID II any further and to ensure that the investor protection rules are not compromised in practice during the postponement period. Until the new rules are implemented, the current rules under MiFID I must, where necessary, also continue to apply in full.

1.2 This recommendation by the Committee is particularly apposite given that it has in the past called for certain reforms to the financial markets<sup>(1)</sup> and urged that they be implemented quickly, as, for example, when MiFID II was adopted in 2014. MiFID II refers to the revised and strengthened version of the European directive introduced in 2007, MiFID I<sup>(2)</sup>, and the introduction of MiFIR<sup>(3)</sup>. In short, MiFID II aims to make Europe's financial markets more transparent and efficient and to provide greater protection for investors.

1.3 When consulted specifically on the review and strengthening of MiFID, the Committee stated: 'The overarching objective of the directive is to increase the transparency and efficiency of trading and limit market volatility, but also to increase the integrity of intermediaries and protection of investors and open European markets up to genuine competition in financial services provision. The EESC supports these objectives and sees the proposal as a whole as a step in the right direction'<sup>(4)</sup>. Those objectives, and the implementation of the new texts, must not be jeopardised in any way by the proposed postponement.

## 2. Background

2.1 The regulation of financial markets has taken a new direction since MiFID I was drawn up in 2007 with the ultimate aim of promoting fair and transparent markets. The directive primarily made improvements in terms of competition and closer integration of Europe's financial markets. MiFID I has resulted in a liberalisation of the market for order execution. Competition between trading platforms has increased, and the market has become more fragmented. Rules were also introduced to protect investments and market integrity.

2.2 In response to the financial crisis, there were calls for more and closer supervision, and shortcomings were identified with regard to investor protection and in the operation and transparency of financial markets. It was also necessary to take account of a number of new technical developments on the market, for example concerning high-frequency and algorithmic trading.

2.3 This resulted in the existing framework being replaced and strengthened, a process that culminated in 2014 with MiFID II and, associated with that, the introduction of MiFIR. These texts replace MiFID I. The aim of MiFID II is to make Europe's financial markets more transparent and efficient and to provide greater protection for investors.

2.4 MiFID II covers more financial instruments and ensures that trading takes place on regulated platforms. It improves the transparency and oversight of financial markets, as well as the conditions for competition in the trading and clearing of financial instruments. The revised MiFID rules also strengthen the protection of investors by introducing robust organisational and conduct of business requirements.

2.5 When the texts were drafted in 2014, it was stipulated that they should be transposed into national law<sup>(5)</sup> by 3 July 2016 and should enter into application by 3 January 2017.

2.6 The purpose of the present proposal is to postpone the entry into application of MiFID II by one year, from 3 January 2017 to 3 January 2018.

2.7 This postponement is mainly due to the technical implementation challenges met by ESMA<sup>(6)</sup>, national competent authorities (NCAs) and stakeholders, as a result of the high level of complexity of MiFID II and the significant number of implementing measures required, not least with regard to reporting obligations. The structures for this need to be created more or less from scratch, which will take longer than was originally estimated.

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<sup>(1)</sup> OJ C 143, 22.5.2012, p. 42.

<sup>(2)</sup> Markets in Financial Instruments Directive.

<sup>(3)</sup> Markets in Financial Instruments Regulation.

<sup>(4)</sup> OJ C 191, 29.6.2012, p. 80.

<sup>(5)</sup> More specifically the directive, MiFID II. MiFIR is a Regulation.

<sup>(6)</sup> European Security and Markets Authority.

### 3. Comments

3.1 When MiFID II was adopted, the intention was that it should be transposed by the Member States by 3 July 2016 and that the texts would enter into application on 3 January 2017.

3.2 Among other things, MiFID II provides for an extensive system of data collection with a view to achieving its objectives. In order to collect data in an efficient and harmonised manner, a new data collection infrastructure must be developed. This obliges ESMA, in conjunction with competent national authorities, to establish a Financial Instruments Reference Data System (FIRDS) covering the entire range of financial instruments that are included in the increased scope of MiFID II. In accomplishing this task, FIRDS will necessitate linking of data feeds between ESMA, NCAs and around 300 trading venues across the European Union. According to the available information, the vast majority of the new IT systems underpinning FIRDS will need to be built from the ground, based on new parameters<sup>(7)</sup>.

3.3 It is claimed that given the complexity of the new framework and the need for a very large number of delegated and implementing acts, the date of applicability of MiFIR was deferred by 30 months from the date of entry into force. In spite of the aforementioned unusually long period, stakeholders, such as trading platforms, NCAs and ESMA claim not to be in a position to ensure that the necessary data infrastructures will be in place and become operational by 3 January 2017. In particular, ESMA informed the Commission before the end of 2015 that a delay in the technical implementation of MiFID II was unavoidable, claiming that this was due to the size and complexity of the data that needed to be collected and processed for the new framework to become operational, particularly in certain cases<sup>(8)</sup>, and that the absence of data collection infrastructures has implications across the entire scope of MiFID II<sup>(9)</sup>.

3.4 The Commission has accepted this situation and has therefore weighed up the possibilities of partially or completely postponing MiFID II. For the Commission, however, a partial postponement of this kind would evidently be far from straightforward, and would in any event raise a number of significant new problems, relating among other things to the risk of confusion, delineation between rules that can be immediately implemented and those that cannot, and the establishment of transitional rules — which could in turn create new issues and risk further delays. Cost-effectiveness would also have to be taken into consideration.

3.5 According to the Commission, in view of the supposed current technical and IT problems, the supposed fact that partial implementation would not be easy, and the fact that every effort should be made to avoid further delays — which could not be ruled out in the event of partial entry into force — the Commission backs the proposal to postpone the full implementation of MiFID II by one year as probably the most reasonable and acceptable option.

3.6 The EESC regrets that the Commission did not respond immediately when it was first informed about the delays in the technical implementation of the MiFID II directive, in 2015, and that it has not taken any initiatives to resolve the issue or to find another solution to the problems. This would have made it possible to improve the operating conditions of the financial markets and provide better protection for investors.

3.7 Although it has to be accepted that under present circumstances, postponement is the least negative option, the EESC considers that implementation must only be postponed once and that every effort must be made to avoid further delays in implementing MiFID II. In addition, it is also important to ensure that the rules in the new MiFID II regarding investor protection, which are not themselves affected by the current difficulties, are not jeopardised in practice pending implementation of the new rules as from 3 January 2018. Until the new rules are implemented, the current rules under MiFID I must, where necessary, also continue to apply in full.

Brussels, 26 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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<sup>(7)</sup> COM(2016) 56 final — 2016/0033 (COD), cf. recital 4.

<sup>(8)</sup> COM(2016) 57 final — 2016/0034 (COD), cf. recital 5.

<sup>(9)</sup> COM(2016) 57 final — 2016/0034 (COD), cf. recital 6.



**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission — Investing in jobs and growth — maximising the contribution of European Structural and Investment Funds’**

**(COM(2015) 639 final)**

(2016/C 303/13)

**Rapporteur: Dimitris DIMITRIADIS**

On 14 December 2015, 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 — Investing in jobs and growth — maximising the contribution of European Structural and Investment Funds*

(COM(2015) 639 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 14 April 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May), the European Economic and Social Committee adopted the following opinion by 182 votes to 1 with 1 abstention.

## **1. Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) welcomes the new approach under Article 16(3) of the Common Provisions Regulation <sup>(1)</sup> of summarising and presenting the results of negotiations between Member State (MS) authorities and their partners in order to provide an overview of the main achievements of this process. The EESC believes that this offers the necessary starting-point for assessing and monitoring the effective and efficient use of the scarce resources available for the financial period 2014-2020 and for better monitoring of performance and progress towards achieving indicator targets.

1.2 The EESC supports the efforts of the European Commission to maximise the impact of the European Structural and Investment Funds (ESIFs) and supports the view that this should be the top priority in the post-crisis period. However, it warns that there is a particular need, both at EU and at MS level, to improve simplification for beneficiaries, and for more precise targeting to meet their needs.

1.2.1 In this regard, the EESC calls for closer involvement of and cooperation between the social partners and stakeholders in the work of the High Level Group of Independent Experts on Monitoring Simplification for Beneficiaries of the European Structural and Investment Funds <sup>(2)</sup>, and calls on the Commission to ensure more effective and transparent communication on the composition and work of the high level group. The EESC is convinced that the social partners and other stakeholders could contribute to the identification of both good and bad practices, and help in introducing simplification options in their MS.

1.3 The EESC welcomes the new ESIF regulations <sup>(3)</sup> as they establish thematic concentration and focus on possible ways of mitigating the negative effects of the crisis. The EESC particularly appreciates the new instruments and approaches such as the Youth Employment Initiative (YEI), the European Alliance for Apprenticeships and the new fund to combat poverty <sup>(4)</sup>.

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<sup>(1)</sup> Regulation (EU) No 1303/2013.

<sup>(2)</sup> Commission Decision of 10 July 2015, C(2015) 4806 final.

<sup>(3)</sup> OJ L 270, 15.10.2015, p. 1; OJ L 347, 20.12.2013, p. 289; OJ L 347, 20.12.2013, p. 259; OJ L 347, 20.12.2013, p. 487.

<sup>(4)</sup> COM(2012) 727 final; COM(2013) 144 final; OJ C 120, 26.4.2013, p. 1; OJ L 72, 12.3.2014, p. 1.

1.4 At the same time, the EESC expresses its concern about issues that are still unclear in the Regulations shaping the use of the ESIFs.

1.4.1 The EESC warns that whenever the decisions and risks involved are passed on to the MS, there is a high probability that they will adopt too conservative an approach to avoid possible sanctions from the Commission, thereby preventing a large proportion of eligible beneficiaries from accessing the ESIFs.

1.4.2 The EESC calls for simplified procedures for group exemptions from the state aid rules for organisations representing disabled people and groups of beneficiaries in vulnerable positions.

1.5 The EESC praises the Commission for taking a step forward in adopting the European Code of Conduct on Partnership <sup>(5)</sup>, which governs the involvement of the social partners and other stakeholders at all stages of programming, as well as their participation in both the decision-making process and the implementation and monitoring of ESIFs.

1.6 On the other hand, the EESC has some concerns about the way these regulations and the new instruments and approaches are applied in the MS, as the different practices employed at national level place the social partners in an unequal position. For example, the European Code of Conduct on Partnership is not fully implemented and respected by all MS: the social partners are not adequately recognised in the implementation of the YEI and the importance of their joint action is not fully recognised by all MS, which is reflected in the failure to tap their potential for coping with the negative effects of the crisis, better managing industrial change and creating jobs and growth. The EESC proposes to the Commission that legal and practical measures to guarantee full implementation of the partnership principle and the code of conduct be adopted by no later than the end of 2016 and that more specific provisions and measures be put in place to avoid these different practices at national level.

1.7 The EESC calls for a mid-term review of the regulations governing investment through the ESIFs and especially of those concerning state aid <sup>(6)</sup>, since these generate the greatest amount of uncertainty — for both the MS and beneficiaries — and are the main source of the risk of financial correction. This should be part of the Commission communication and proposal for a Council regulation on the mid-term review of the Multiannual Financial Framework (MFF) 2014-2020. The EESC urges the Commission to maintain the course set out in the Political Guidelines of the Juncker Commission <sup>(7)</sup>, which state that the 'investment environment has to be improved and fund absorption needs to be strengthened'.

1.8 Public procurement is another area of uncertainty and constant problems, and the EESC expresses its regret that during the last 10 years no workable solution, valid for all MS, has been found that provides for a highly transparent, swift and efficient way of choosing subcontractors when the ESIFs are used. The specific national regulations on public procurement add further complexity to this area.

1.9 The EESC believes that the EU funds should be used chiefly not only to achieve the targets of Europe 2020 but also for more investments in the real economy. The Commission should introduce quantified evaluation of the effectiveness and efficiency of the contribution of funds already invested.

1.10 Last, but not least, the EESC urges the Commission to devote more effort to extending the coverage of the Small Business Act at national and regional levels and to oblige the MS to implement it, especially when it comes to ESIF investment.

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<sup>(5)</sup> OJ L 74, 14.3.2014, p. 1.

<sup>(6)</sup> OJ L 352, 24.12.2013, p. 1; OJ L 204, 31.7.2013, p. 11; OJ L 248, 24.9.2015, p. 9.

<sup>(7)</sup> [https://ec.europa.eu/priorities/publications/president-junckers-political-guidelines\\_en](https://ec.europa.eu/priorities/publications/president-junckers-political-guidelines_en).

## 2. Background and legislative basis

2.1 Article 16(3) of the Common Provisions Regulation <sup>(8)</sup> tasks the Commission with summarising and presenting the results of negotiations between MS authorities and their partners, in order to provide an overview of the main achievements of this process.

2.2 The efforts of the Commission to maximise the impact of the ESIFs and to improve simplification for beneficiaries are also reinforced by the creation of the High Level Group <sup>(9)</sup> monitoring simplification for ESIF beneficiaries.

2.3 New ESIF regulations <sup>(10)</sup> were adopted to provide better regulation for the current programming period and to establish thematic concentration. The Commission, in close cooperation with the MS and the social partners, has developed new instruments and approaches such as the Youth Employment Initiative (YEI), the European Alliance for Apprenticeships and the new fund to combat poverty <sup>(11)</sup>.

2.4 The Commission adopted the European Code of Conduct on Partnership <sup>(12)</sup>, which governs the involvement of the social partners and other stakeholders at all stages of programming and their participation in both the decision-making process and the implementation and monitoring of ESIFs.

## 3. General comments on ESIF investments in today's socio-economic context

### 3.1 *ESIFs as a key driving force of economic and social cohesion and source of public investment*

3.1.1 During a time of crisis, it is natural for the role of the ESIFs to be growing, especially in the MS that are most affected by the crisis. Nevertheless, the ESIFs should by no means replace public and especially private investment, but rather must create the conditions for boosting such investment. The EESC calls upon the Commission and the MS to continue their efforts to improve private investment and the business environment, as already outlined in relation to the third strand of the Investment Plan for Europe <sup>(13)</sup> and the European Fund for Strategic Investments, which will become a major development tool only if they can work with the ESIF. The Commission should assess how the fund's investments affect private investments and calculate the co-efficient of the push effect in the real sector.

3.1.2 The EESC regrets that the current communication only deals with the outcome of the negotiations for the current programming period and does not summarise and build on lessons learned from the past. **It is necessary for the Commission to analyse carefully the real impact of investing EU funds during the previous programming period and to draw very specific conclusions regarding the positive and negative experiences as a starting-point for adding value to the investment process.**

3.1.3 The EESC has the impression that although the Commission communication emphasises 'investing in jobs and growth' in the title, the text of the document lacks any special focus on employment and job creation. The EESC recommends that the Commission give more attention to the impact of different policies on promoting employment and reducing unemployment, in order to assess whether and to what extent invested funds have had a real impact on the labour market.

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<sup>(8)</sup> See footnote 1.

<sup>(9)</sup> The group is charged with identifying both good and bad practices, and helping to disseminate simplification possibilities among Member State authorities. Its work will contribute to the achievements of the general objectives of better regulation and the 'budget focused on results initiative', COM(2015) 639, p. 6.

<sup>(10)</sup> See footnote 2.

<sup>(11)</sup> See footnote 3.

<sup>(12)</sup> See footnote 4.

<sup>(13)</sup> An Investment Plan for Europe, COM(2014) 903 final.

### 3.2 Framework for more effective ESIFs

3.2.1 As already stated in recent opinions <sup>(14)</sup>, the EESC is of the view that the outdated and extremely broad definition of SMEs means that using this term leads to an overly wide policy focus which impedes the delivery of specific and tangible results. Moreover, unless more precise segmentation criteria are applied, the reporting of results achieved is misleading, since according to the current definition SMEs account for 98 % of European businesses. Using such broad segmentation criteria makes it impossible to gather and process information with a view to assessing the real improvement in the situation for the different groups of vulnerable companies that are important to creating and maintaining jobs and badly need support in doing so — e.g. micro-businesses and companies in remote and rural areas. Such companies, even if they are not innovative, highly competitive or sophisticated, nevertheless make a valuable contribution to regional development and cohesion.

3.2.1.1 **The EESC strongly calls for an immediate update of the definition of SMEs so as to ensure greater clarity, for a distinction to be drawn between different categories of SMEs** in order to better target their needs and expand and diversify the sources of information for them, and for improved coordination of the sources and methods of gathering information about various SMEs and the methods of processing and analysing statistical data between MS.

3.2.2 The widely advocated use of financial instruments is being undermined by many cases of misuse due to a lack of information and effective monitoring at MS level. For example, financial instruments designed to provide low-interest loans to SMEs in many cases do not reach those SMEs that lack financing but instead are used by well-financed SMEs to further decrease their financing costs. The same goes for financial guarantees for SMEs. In most cases, this situation is not even recognised due to a lack of adequate assessment mechanisms and of a system for collecting feedback from end-users.

3.2.3 The efforts of the Commission to improve simplification for beneficiaries are commendable, but simplification should not be carried out without the participation of end beneficiaries. In this regard, it is a pity that the methods used by the MS for receiving feedback from beneficiaries are too bureaucratic and targeted too broadly. In most cases these fail to explore in depth the real cause of the problems and therefore fail to deliver workable solutions. The Commission should bear in mind that SMEs have different needs: easier access to finance, greater access to accompanying measures, coaching and mentoring, etc.

3.2.4 One of the main obstacles companies face is the lack of proper and timely information. The Commission constantly states that information must be complete and affordable, and that all procedures should be transparent but effectual. In this regard, the Commission itself has made access to funding opportunities rather complicated. Businesses, especially micro and small enterprises, should know where to search for information about the various programmes and projects that are supported directly by the Commission. Whilst central information portals for all operational programmes and financial instruments are available in the MS, there should be such a portal at EU level as well.

3.2.4.1 The information provided should be user-friendly to ensure efficient communication and so that it is fully understood by all relevant participants in the funding process. The EESC calls on the Commission to try to avoid complicated call guidance and give a chance to projects with high potential prepared by companies themselves, not by professional application writers. The EESC strongly recommends that the Commission assess the work of its European contact office and to take urgent measures where there is inefficiency, as the officers often provide different, confusing and consequently unclear information, which is sometimes even contradictory.

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<sup>(14)</sup> Green Paper on Building a Capital Markets Union; Access to finance for SMEs; Family Business in Europe as a source of renewed growth and jobs.

3.2.5 The EESC strongly recommends that the Commission develop and establish a user-friendly portal that provides a brief description of all funding options at EU level and links to the webpage of each individual programme. The Commission has already gained valuable experience with the TED portal, which is user-friendly and provides a lot of information.

3.2.6 The same applies to reporting on projects that have already been approved or even completed. The Commission has no public, summarised statistics on projects already approved for financing by countries under the individual programmes. The information is incomplete and is fragmented across various electronic formats.

3.2.7 There should be detailed analysis of the impact of projects implemented during the previous programming period, including the failures and the extent to which the funds invested contributed to achieving the European objectives. There is no assessment of the effect of ESIFs on SMEs and of their contribution to boosting competitiveness. Often MS and the Commission forget that the main generator of new jobs is SMEs and that they need more and better targeted support.

3.2.8 The EESC is concerned about the extent to which the auditors working at the Commission are adopting the simplification of procedures and costs. Often an overly formal, administrative approach can be observed, which indicates that the auditors need more practical experience of the audited sector. The EESC therefore recommends detailed communication about the simplification procedures between experts in the different DGs and Commission auditors, as rules for spending the funding are quite often interpreted differently.

3.2.9 The EESC also strongly recommends introducing simplified cost options under the ESF. For example, under Article 14(1), the task of defining simplified cost options is delegated by the Commission to the MS, which is inappropriate<sup>(15)</sup>. According to the guidelines for applying simplified cost options under Article 14(1), the MS express their opinions about defining the simplified cost based on their research and then the Commission adopts a delegated act, which, however, unnecessarily complicates the procedure and undermines the discretion given to the MS. A solution would be for the Commission to define standard scales of unit costs and lump sums for typical European Social Fund (ESF) activities, the calculation of which would not be subject to audit.

3.2.10 The EESC believes that it would be useful to further reduce indicators in the operational programmes (OPs). The introduction of common indicators was a good starting point, but certain OPs still have a large number of specific indicators, some of which were artificially introduced by the Commission during the negotiation process. The EESC is of the view that the focus when monitoring OPs should be shifted away from specific indicators towards common indicators, as this will allow for better comparison between single OPs in different MS.

3.2.11 The EESC would welcome greater use of outcome (as opposed to output) indicators across the ESIFs and would also encourage a focus on the discrete contribution of the ESIFs to growth and the development of environmental indicators to capture the new cross-cutting emphasis on the environment.

3.2.12 The EESC welcomes in principle the fact that more flexibility and room for manoeuvre are offered to beneficiaries by local development tools (such as Integrated Territorial Investment and Community-Led Local Development)<sup>(16)</sup>. However, the EESC wonders to what extent these instruments can really be used on the ground, given their high complexity and the lack of clarity as to practical arrangements and the division of funding, tasks and responsibilities between the different operational programmes.

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<sup>(15)</sup> Article 14(1) of Regulation (EU) No 1304/2013 states 'In addition to the options referred to in Article 67 of Regulation (EU) No 1303/2013, the Commission may reimburse expenditure paid by Member States on the basis of standard scales of unit costs and lump sums defined by the Commission'.

<sup>(16)</sup> Community Led Local Development (CLLD).

#### 4. Expected achievements of the ESIF programmes

##### 4.1 *R&I, ICT and SME development*

4.1.1 The EESC insists as far as research and innovation (R&I) is concerned that the international economic and technological environment and trends should be observed and monitored very closely and taken directly into consideration when shaping specific action at EU level, and that this information should then be passed on to MS level. In addition, since developments unfold extremely rapidly in these areas, it is necessary to design a framework that offers a very high degree of flexibility so that measures can be adapted.

4.1.2 It is necessary for the Commission to consider exactly what type of incubators and technological centres were set up during the last programming period and how sustainable they have been, and to determine exactly what results were achieved through their contribution to R&I in the EU — by comparison with the main global competitors — before continuing to support these arrangements. **There are many concerns about the added value of incubators and technology centres for promoting R&I and about the transparency of their funding in general. The EESC calls for in-depth analysis and measurement of investments vs benefit at operational level, and as regards return on investment, added value and sustainable outputs.**

4.1.3 The EESC strongly supports the efforts to promote the digital single market and the quoted achievements, which are estimated to affect 14,6 million households and 18,8 million people. However, it would be useful to know whether these figures relating to households and people **are based on a proper analysis**, including actual **percentages** of total European households and population. The EESC cannot gauge whether or not the support envisaged for companies will be sufficient to guarantee the achievement of these goals, and therefore calls on the Commission to carry out a thorough impact assessment, which should also include indicators of improvement in terms of more and better jobs and of European citizens' welfare and living standards. Digitalisation of services does not necessarily mean that the jobs created are decent and of good quality. The lack of in-depth research into the impact of digitalisation on the labour market jeopardises the achievement of the Europe 2020 goals. The EESC has already expressed its concerns about digitalisation and its influence on social security systems in recent opinions <sup>(17)</sup>.

4.1.4 The EESC considers the proportion of SMEs supported and the expected number of jobs created to be totally inadequate and would like to see stronger achievements in this regard. The Committee calls on the Commission to establish European benchmarks and to closely assess and monitor the performance of the MS against these.

4.1.5 The EESC has some concerns about the way funding is allocated between companies for programmes directly funded by the Commission, as companies in certain MS are obviously in a better position. For example, according to official statistics a total of 36 732 eligible proposals were submitted under Horizon 2020. The first 100 calls break down as follows: 29 794 full proposals in single-stage calls, 5 617 outline proposals in the first stage of the two-stage calls, and 1 321 full proposals in the second stage of the two-stage calls. However, most of the applications came from the five biggest MS: the United Kingdom, Italy, Germany, Spain and France. These are countries with a large number of approved projects, while other countries have very low success rates. The EESC therefore strongly recommends that a thorough analysis of this situation be carried out soon, and that measures be developed and implemented to improve the dissemination of information and promote equal access and ensure geographical balance.

4.1.6 The situation is the same with the large-scale projects and with the appointed evaluators, where there is a much lower participation rate among the new MS. This explains why some countries have a poor innovation profile: they have no access to fresh funding coming directly from the EU. This issue should be addressed promptly and efficiently.

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<sup>(17)</sup> OJ C 13, 15.1.2016, p. 40.



#### **4.2 *Environment, climate change, energy and transport***

4.2.1 The EESC welcomes the estimated contribution to energy efficiency, but would like these estimates to be expressed in relative terms so as to have a clearer picture of the overall achievement of the goals relating to environmental protection and combating climate change.

4.2.2 The communication notes that six MS plan to use around EUR 2 billion for smart electricity and gas infrastructure. The question is whether the Commission has made sure that these plans create synergies and added value at EU level, as opposed to being uncoordinated.

4.2.3 The EESC draws attention to the lack of methodology, analysis and assessment of how effective renewable energy sources are and how using them tackles climate change. It is not clear whether climate change is due to pollution from the use of conventional energy sources, to industrial production or to increased car traffic and the gases this emits into the environment. The introduction of alternative energy sources may adversely affect economic growth because the energy produced is costlier. Win-win solutions need to be sought to avoid this.

4.2.3.1 In order to address this issue of competitiveness, the EESC recommends that the Commission carry out an analysis of the real impact of using renewable energy sources and the degree of pollution produced by each conventional source. Funding allocated to combat climate change can thus be targeted more effectively, for example to develop new technologies for clean cars at low cost and with a high degree of safety.

#### **4.3 *Employment, social inclusion and education***

4.3.1 The EESC observes with great regret that there is still no coherent and integrated policy on migration and management of refugee flows. The thousands of young people and children entering European territory over the past 2 years have led to a situation where there is a high risk of people falling below the EU poverty line. Instruments and policies in this area also vary across the different MS.

4.3.2 The EESC views the integration of refugees as an important and urgent policy matter, but regional policy and regional funds are not enough to tackle this complex challenge: a specific policy and funds need to be introduced.

4.3.3 There has been a long delay in implementing the YEI. The EESC has always encouraged active involvement of civil society in this work, we continue to urge in particular that the MS should include youth organisations and youth services in delivering the YEI. The EESC believes that further analyses are needed in order to determine the reasons for the YEI's slow start. As youth unemployment is a serious problem for the labour markets of many EU countries, the Commission should ensure more efficient implementation of the YEI. A possible solution is to further extend the deadline set in Article 22(a) of Regulation No 779/2015. The guideline for verification was adopted by the Commission on 17 September 2015, which does not allow sufficient time for the MS to adopt their management structures to meet the deadline.

4.3.4 The Commission should establish a special web portal for implementation of the YEI and show statistics for the targets already achieved. The EESC recommends that the Commission collect information from the MS, as 2 years have already passed since the initiative was launched.



4.3.5 The EESC believes that the Commission should be conscious of the fact that inactive young people are not a homogeneous group and therefore require different levels of support and intervention to fully participate in education, training and employment. All this should be in line with the actual needs of the respective labour market, so as to ensure better prospects for future employment. To this end, the EESC recommends more involvement of young people and their organisations, in close cooperation with potential employers and their respective organisations in the implementation of the YEI and a move away from purely administrative approaches that do not allow flexibility in YEI national action plans.

4.3.6 Education is the key to the future economic growth and development of the MS, and to increasing the competitiveness of the EU among other world markets. The lack of high-qualified workers in all MS has very serious negative effects. Moreover, the gap between supply and demand is concentrated in several sectors — engineering, high technologies, telecommunications, etc. The EESC believes that the growing gap between labour market realities and the education system will create specific structural obstacles to production in the next 10 to 15 years. The EESC recommends that funding for education should be more focused on increasing the attractiveness and quality of vocational education/training courses and that reforms be undertaken to ensure that education is more effectively geared to labour market needs and is in accordance with the needs of MS for different professions, disciplines, sectors and industries. The Commission should invest more in adult education too as adults make up the largest group of unemployed and employed people and they need advanced skills and to update their knowledge, especially in new technologies.

#### **4.4 Strengthening institutional capacity and efficient public administration**

4.4.1 Functional analyses should be carried out in each MS with the aim of strengthening the institutional capacity of public authorities, and a European platform for exchanging information should be set up. Reforms of public administration and judicial systems in the MS must be preceded by an impact assessment for funding spent during the previous programming period.

4.4.2 The EESC is concerned that during the 2007-2013 programming period the Commission implemented a form of ex-post conditionality. The new measures introduce ex-ante conditionality during the current programming period, assessing whether the conditions necessary for the effective implementation of funds are in place before investment commitments have been determined, as well as a more contentious form of macroeconomic conditionality. In the latter case, allocation of funding is conditional on national governments and regions already having strong economic growth, well-organised administrations and high-quality public services. The Commission reserves the right to suspend funding if these preconditions are not fulfilled.

4.4.3 The EESC considers simplification to be one of the most important factors for success in implementing the programme. Although there are sufficient incentives within the regulatory framework for this programming period to speed up the process, there is still room for more tailored support from the Commission to the MS. The Commission's view regarding the acceptability of different practices should be expressed more clearly, in order to help those MS with less experience make use of the different options for simplification (for example, simplified cost options), so that there can be more confidence in the end results. The EESC is concerned about the fact that the communication mentions 750 ex-ante conditionalities to be met by the MS<sup>(18)</sup>.

### **5. European territorial cooperation/INTERREG**

The EESC strongly recommends that the Commission establish more non-GDP indicators for measuring quality of life and quality of economic growth.

5.1 The EESC has concerns regarding how effective the programmes will be with local and regional authorities still in debt, albeit the increase in public debt stems mainly from the activities of the central authorities. This means that some regions or municipalities are excluded from financing.

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<sup>(18)</sup> Communication from the Commission on Investing in jobs and growth — maximising the contribution of European Structural and Investment Funds, COM(2015) 639 final, p. 14.

5.2 The ESIF regulation is quite conservative and sets legal limits on reprogramming the existing partnership agreements. This approach is somewhat impractical and will be unworkable if another crisis occurs. The burdensome procedures hamper flexibility in the application of the ESIFs and could impede achievement of the Europe 2020 objectives.

5.3 Territorial cooperation programmes should be more widely open to local authorities, by applying the principles of administrative division of the individual MS less strictly. This is because many communities falling under the authority of administrative municipalities or areas may not participate in calls independently because they have to obtain the approval of a higher authority. This hinders the development of small communities in mountainous areas in particular.

## 6. Country fiches

6.1 The Commission should be more assertive in monitoring the implementation of recommendations in individual MS and not least in ensuring their promotion and a commitment to the process in other MS. All of these recommendations should be implemented with greater involvement of the social partners. It is noteworthy that in recent years there has been a growing level of dissatisfaction with the ongoing reforms in many countries. Reforms are often imposed without taking into consideration the traditions of different nations. The legislation adopted at European level is implemented very liberally in some MS and very conservatively in others. That is why greater ownership is needed on the part of social stakeholders.

6.2 The MS face a very complicated procedure for reprogramming that will lead to more red tape, since it entails the same requirements as preparing a partnership agreement (performance indicators, conditions, etc.), which means involving more experts and agreeing to additional expenditure. Burdening current employees with too many additional obligations can make them less effective in their work — the opposite of the desired effect.

6.3 The social partners and other stakeholders represented on the monitoring committees of the OPs often complain about the power of the national administration when decisions are made, and about the pressure to present financial figures instead of focusing on real improvements. They also complain about the lack of cost-benefit analysis.

Brussels, 25 May 2016.

*The President  
of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on the proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services**

[COM(2015) 615 final — 2015/0278 (COD)]

(2016/C 303/14)

**Rapporteur: Ask Lønbjerg ABILDGAARD**

On 13 January 2016, 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 on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services*

[COM(2015) 615 final — 2015/0278 (COD)].

The Section for Employment, Social affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May 2016), the European Economic and Social Committee adopted the following opinion by 152 votes with 1 abstention.

## **1. Conclusions and recommendations**

1.1 The EESC warmly welcomes the proposal from the European Commission for a European Accessibility Act.

1.2 The EESC finds that the proposal for a European Accessibility Act is a good example of EU legislation aimed at making the Internal Market able to serve both citizens and companies.

1.3 Based on market surveillance and analyses of barriers of an EU-wide nature related to accessibility for persons with functional limitations, the EESC proposes a gradual expansion of the scope of the proposed directive after evaluation of the implementation of this proposed directive and in consultation with the stakeholder, in order to cover payment terminals, hospitality services, insurance services, electronic magazines and newspapers as well as the physical premises and websites allowing access to products and services otherwise covered by the directive.

1.4 The EESC encourages all parties concerned to broaden the interpretation of the legal base of the proposal, Article 114 TFEU, in order to avoid a too narrow focus on existing market fragmentation related to accessibility requirements.

1.5 The EESC proposes including transport infrastructure and vehicles not otherwise covered by EU regulation regarding accessibility explicitly in the scope of the directive in order to avoid unintended regulatory gaps.

1.6 The EESC recommends that a specific provision be included in the text of the Directive stipulating that from the entry into effect of the Directive, its obligations are only to apply to new products or services. This will avoid losses incurred from investment in accessibility that has already taken place.

1.7 The EESC proposes the introduction of an EU-wide accessibility labelling scheme as a means of ensuring that persons living with functional limitations are able to find reliable and easily available information about the accessibility of products and services.

1.8 The EESC recommends that the directive provide for strong and well-equipped enforcement bodies capable of cooperating across Member States with a view to the creation of a level playing field for economic operators regarding accessibility requirements.

1.9 The EESC underlines the importance of active market surveillance in order to avoid compliance with the European Accessibility Act by all relevant parties depending too heavily on individual complaints from consumers living with functional limitations.

1.10 The EESC recommends considering the inclusion of 'understandable' as a requirement in relation to all relevant products and services covered by the scope of the Directive.

## 2. Background to the proposal

2.1 Accessibility measures prevent or remove barriers to the use of mainstream products and services. It allows the perception, operation and understanding of those products and services by persons with functional limitations, including people with disabilities <sup>(1)</sup>, on an equal basis with others.

2.2 The demand for accessible products and services is high and the number of citizens with disabilities and/or functional limitations will increase significantly with the ageing of the European Union's population.

2.3 Taking into account demographic ageing, it is expected that in 2020 approximately 120 million persons in the European Union will have multiple and/or minor disabilities.

2.4 Improving the functioning of the internal market for accessible products and services, serves both the needs of these citizens/consumers and companies.

2.5 At present, economic operators are confronted with divergent, and often contradictory, national accessibility requirements preventing them from benefitting from the potential of the internal market.

2.6 Accessibility is an integral part of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) <sup>(2)</sup>, to which the EU is a party together with 25 of its Member States <sup>(3)</sup>.

2.7 The proposed Directive is also meant to support Member States in achieving their national commitments as well as their obligations under the UNCRPD regarding accessibility, and thereby to fulfil the obligations of the EU as party to the Convention.

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<sup>(1)</sup> According to the United Nations Convention on the Rights of Persons with Disabilities, persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

<sup>(2)</sup> United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

<sup>(3)</sup> While all the EU Member States have signed the UN CRPD, at present, Finland, Ireland and the Netherlands are in the process of ratifying the Convention.

2.8 As indicated above, differences between Member States as regards legislation, standards and guidelines on accessibility already exist to some extent and are very likely to increase as Member States develop new accessibility rules. This is partly a consequence of the entry into force of the UNCRPD for the EU and the majority of the Member States, as well as the general character of its provisions, which are open to different interpretations and practices when they are implemented at national level.

2.9 Consequently, authorities and all economic actors alike face uncertainties concerning the accessibility requirements for the potential cross-border sales of products and services, and concerning the applicable policy framework for accessibility. Moreover, there is a risk that additional uncertainties will be added in the future along with further implementation of the UNCRPD by Member States.

### 3. Gist of the proposal

3.1 The proposed Directive is meant to provide for a common EU definition and implementation framework for accessibility requirements of certain products and services.

3.2 The proposed Directive will harmonise accessibility requirements for a list of products and services:

- computers and operating systems
- ATMs; ticketing and check-in machines
- smartphones
- TV equipment related to digital television services
- telephony services and related equipment
- audiovisual media services (AVMS) and related equipment
- air, bus, rail and waterborne passenger transport services
- banking services
- e-books
- e-commerce.

3.3 Moreover, the proposal applies the same accessibility requirements to define and give content to the — already existing, but undefined — obligation of accessibility laid down in EU law, such as in the area of Public Procurement and the Structural and Investment Funds.

3.4 The proposal does not prescribe in detail how the obligation to render a product or service accessible by complying with the defined accessibility requirements has to be achieved in practice. If this approach leads to obstacles in the internal market, the proposal gives the Commission other options to provide guidance to Member States such as standardisation or implementing measures.

3.5 The proposal includes the possibility of using voluntary harmonised standards to provide presumption of conformity with the accessibility requirements. It also opens up the opportunity for the European Commission to issue technical specifications where inadequate European standardisation leads to obvious gaps in accessibility guidelines.

3.6 The proposal provides for light conformity assessment (self-declaration) and existing market surveillance mechanisms to assess compliance of products with accessibility requirements. It also provides a lighter procedure for checking compliance of services.

3.7 The proposal obliges Member States to set the application of all measures of the Directive, including the free circulation of products and services, at six years after the entry into force of the Directive.

#### 4. General comments

4.1 The European Economic and Social Committee (EESC) warmly welcomes the proposal from the Commission as a legal instrument designed to make the internal market serve citizens and companies alike.

4.2 The proposal has significant potential for delivering increased transparency, clarity and consistency across the internal market for economic operators, including manufacturers and service providers, thereby lowering the price of accessible goods and services in the EU. In particular, the proposal has the potential for lowering the entry threshold for smaller economic operators who have accessibility solutions to offer outside their often narrow national markets.

4.3 In addition, the proposal has the potential for building up confidence among consumers with accessibility needs in cross-border purchases of goods and services, in particular as a consequence of the inclusion of e-commerce in the scope of the proposal.

4.4 The EESC is persuaded that the proposal for a Directive would be even better suited to serve its purpose if equipped with a more comprehensive scope and stronger enforcement mechanisms.

4.5 The EESC is recommending that the Commission reconsider its narrow interpretation of Article 114 TFEU. The interpretation underpinning the proposal significantly limits the scope of the Directive and does not take potential future barriers to the cross-border delivery of accessible goods and services sufficiently into account thereby threatening to curtail the inclusion of accessibility solutions in the long-term planning of companies operating in sectors and markets not encompassed by the scope of the proposal.

4.6 The proposed scope is limited to an extent where only parts of a service might be covered by the accessibility requirements of the Directive, making other parts inaccessible or, in some cases, making the service as a whole inaccessible to persons with functional limitations. An example would be banking services; the directive does not make it mandatory for banks to make their physical premises accessible to persons with functional limitations.

#### 5. Specific comments

5.1 Based on market surveillance and analyses of barriers of an EU-wide nature related to accessibility for persons with functional limitations, the EESC is recommending considering the gradual inclusion, after evaluation of the implementation of this proposed directive and in consultation with the stakeholders, of the following elements in the scope of the Directive:

- payment terminals, such as point of sale customer card payment systems;
- hospitality services, including hotels;
- insurance services, including private and public pension schemes;
- electronic versions of newspapers and magazines;
- the built environment connected to, or allowing access to, the products and services otherwise falling under the scope of the directive;
- websites and mobile applications made available by economic operators otherwise falling under the scope of the directive.

5.2 In general, the EESC recommends that the interpretation of Article 114 TFEU is broadened to allow for a wider scope of the directive. In accordance with case law of the ECJ, potential market fragmentation, the technical complexity of the regulation of a given market and consumer protection are all aspects which could also be taken into consideration when legislative acts are proposed based on Article 114 TFEU <sup>(4)</sup>. Current market fragmentation is, hence, not the only criterion to be applied when the scope of the directive is to be determined.

5.3 The EESC proposes including transport infrastructure and vehicles not otherwise covered by EU regulation regarding accessibility explicitly in the scope of the Directive in order to avoid unintended regulatory gaps. A moderate expansion of the scope of the Directive of this nature would allow for the definition of requirements regarding the accessibility of relevant transport infrastructure, premises connected to transport infrastructure as well as vehicles, which are not covered by existing EU legislation, thereby avoiding the arbitrary distinction between different transport modes and transport infrastructure and facilitating accessibility of the whole transport chain for persons with functional limitations wishing to travel.

5.4 The EESC finds that it should be made clear that, from its entry into effect, the Directive only applies to new products and services, so as to avoid losses incurred through investment in accessibility that has already taken place. Given the short life span of information technology products and services, it would make sense to shorten the time frame of six years for entry into effect, at least for provisions applying to information and communication technology and the related services.

5.5 If parts of the built environment and physical infrastructure were to be included in the scope of the directive as recommended by the EESC, applying progressive implementation of the accessibility requirements could be considered, with products and services related to information and communication technology falling within a shorter time frame for implementation and the built environment falling within a longer one.

5.6 The EESC proposes that the directive explicitly provide for the creation of an EU-wide label for accessibility of products and services that could facilitate the implementation of the directive. CE-marking, as provided for in the proposal from the Commission, is not meant to be a way of signalling accessibility to consumers with functional limitations. The consumer cannot be expected to be familiar with the scope of the proposed directive and will, consequently, not be able to determine whether the CE-mark on a given product signals compliance with the European Accessibility Act or compliance with applicable EU legislation of a different nature. Hence, the use of CE-marking should be considered as an instrument which allows for marketing of products and services in compliance with applicable legislation, not as information to consumers about accessibility.

5.7 As the CE-marking scheme does not cover services, the EESC is of the opinion that there are additional reasons to create a new accessibility label for the EU as a consequence of the European Accessibility Act. A label covering the accessibility of services should, by nature, also include a certain level of awareness about accessibility among relevant staff.

5.8 The EESC would like to underline that the directive should provide for a safeguard against the lowering of existing accessibility standards applicable in Member States. The undermining of well-functioning existing accessibility labelling schemes should also be avoided. At the same time, it is essential that the directive is made use of in order to ensure that contradictory accessibility requirements for economic operators are avoided.

5.9 The EESC proposes that two additional definitions are included in the directive:

- a definition of service provider, in order to avoid any possible misunderstanding related to the fact that some service providers covered by the proposal in question are not falling under the scope of other pieces of EU legislation dealing with the provision of services;
- a definition of website, in order to avoid any possible misunderstanding related to the provision of certain functionalities on a given website through the use of third party sites. All websites, and functionalities thereof, related to the products and services falling under the scope of the directive should be explicitly covered by means of such a definition.

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<sup>(4)</sup> Case C-217/04, *UK v. European Parliament and Council*, 2 May 2006.



5.10 The EESC finds it important that particular attention is paid to the application of the proposed provisions regarding fundamental alterations and disproportionate burden with a view to avoiding that exemptions from the general obligations of the directive are applied in an arbitrary manner. The EESC recognises the need for the assessment of the need for fundamental alterations and the application of the concept of disproportionate burden on a case by case basis. It is suggested that representatives of organised civil society, including social partners, and in particular representatives of organisations of persons with disabilities, are involved in the application of the concepts of fundamental alteration and disproportionate burden in connection with the market surveillance otherwise envisaged in the directive.

5.11 The EESC proposes that the provisions regarding enforcement of the directive are strengthened in the text of the proposal. It is essential that enforcement bodies help to create a level playing field for economic operators across the EU in order to achieve the directive's objective, namely the free circulation of accessible products and services in the internal market. For this reason, an enforcement body in one Member State needs to be obliged to cooperate with enforcement bodies in other Member States. Furthermore, enforcement bodies should be equipped with sufficient analytical capacity and technical expertise. This would also allow enforcement bodies to provide all relevant stakeholders with guidance regarding the correct application of the accessibility requirements of the proposed directive.

5.12 The EESC underlines the importance of active market surveillance in order to avoid effective and transparent application of the proposed directive depending too heavily on individual complaints. An approach to market surveillance based on individual complaints implies a significant risk of arbitrary application of the directive and potentially also different conditions for economic operators across Member States, a situation which the directive is designed to avoid.

5.13 The EESC finds it positive that annex 1 to the proposal for a directive outlining the applicable functional accessibility requirements also includes 'understandable' as a criterion aimed at facilitating access by persons with intellectual disabilities, as well as the public at large. However, the cases in which 'understandable' has been selected as a relevant functional requirement appear rather arbitrary. The EESC recommends the Commission to consider the inclusion of 'understandable' as a requirement in relation to all relevant products and services covered by the scope of the directive and its annexes.

Brussels, 25 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**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 768/2005 establishing a Community Fisheries Control Agency’**

**(COM(2015) 669 final — 2015/0308 (COD))**

**the**

**‘Communication from the Commission to the European Parliament and the Council — A European Border and Coast Guard and effective management of Europe’s external borders’**

**(COM(2015) 673 final)**

**and the**

**‘Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC’**

**(COM(2015) 671 final — 2015/0310 (COD))**

**(2016/C 303/15)**

**Rapporteur: Mr Giuseppe IULIANO**

**Co-rapporteur: Mr Cristian PÎRVULESCU**

On 21 January and 4 February 2016 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 Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 768/2005 establishing a Community Fisheries Control Agency*

**(COM(2015) 669 final — 2015/0308 (COD))**

**the**

*Communication from the Commission to the European Parliament and the Council: A European Border and Coast Guard and effective management of Europe’s external borders*

**(COM(2015) 673 final)**

**and the**

*Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC*

**(COM(2015) 671 final — 2015/0310 (COD)).**

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 12 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May), the European Economic and Social Committee adopted the following opinion by 133 votes with 2 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC broadly supports the Commission’s proposed modifications to the regulations, but also makes some observations.

1.2 The border closures decreed by some Member States are seriously jeopardising the exercise of free movement. The European institutions should ensure that Schengen is able to function. At the plenary session on 17 February 2016, the EESC adopted an important resolution <sup>(1)</sup> in defence of the Schengen area, which calls on the Council and the Member States to ensure freedom of movement and to consolidate and enlarge the Schengen area.

1.3 The Schengen rules should be applied in the same way in all Member States, meaning that new legally binding measures need to be adopted. However, the EESC disagrees with the Commission's proposal to establish mandatory and systematic checks of EU citizens at the external borders of Schengen, as this constrains the exercise of one of the fundamental freedoms.

1.4 For Schengen to function smoothly, the external borders, which are common borders, should be managed jointly by the EU and Member States. The EESC was the first institution to propose the creation of a European border guard.

1.5 The proposal to strengthen Frontex's mandate with new equipment and with a rapid reserve pool of 1 500 border guards and experts should go hand in hand with more transparency regarding the Agency's governance and actions, as well as more accountability.

1.6 There is a need to improve cooperation between the border agency and national authorities. The Agency must enhance its risk analysis centre, potentially by posting liaison officers to Member States and by holding a mandate to assess resources and operational capacity. The EU must ensure that Member States cooperate with regard to border operations carried out by the Agency.

1.7 The Agency's right to intervene, even when a Member State has not requested it to do so, is the most sensitive measure in the Commission's proposal. The EESC is in favour of the Commission having the ability to decide to deploy the Agency at the external borders, but only in emergencies and following transparent procedures to keep European legislators (Parliament and Council) directly informed.

1.8 There must be better coordination between the various agencies and institutions with responsibilities for border control, coastal surveillance, maritime security, rescue at sea, customs and fisheries. However, these agencies and institutions should continue to fulfil their respective missions. The EESC therefore proposes that the regulation should refer to a European Border Guard, and that the term 'coast' should be omitted <sup>(2)</sup>.

1.9 Border control should not be 'militarised'. The Border Guard must be akin to a civilian police force, not a military force.

1.10 When people's lives or safety are at risk at external borders, whether maritime or land borders, the primary obligation of the Border Guard and the other institutions involved at these locations is to rescue people and give them adequate care. The EESC points out that in recent months, many people driven out by nearby wars have died along Europe's coasts and borders, while the authorities have failed to take the necessary measures to rescue and protect them.

1.11 The EESC believes that the Commission's proposal for improving the management of external borders must be adopted in tandem with changes in the common asylum system. The current crisis has been prompted by the EU's inability to put in place the common asylum system and give adequate protection to the hundreds of thousands of displaced persons and asylum seekers who are arriving at our borders. Some governments have rejected the Commission's proposals and the Council's decisions to implement relocation and resettlement programmes and have refused to meet their obligations deriving from the Treaty and international law.

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<sup>(1)</sup> OJ C 133, 14.4.2016, p. 1.

<sup>(2)</sup> OJ C 177, 18.5.2016, p. 57.

1.12 The EESC points out that in many cases, border authorities have not respected the principle of 'non-refoulement' explicitly set out in international law on asylum and in the Treaty. The Committee suggests that the new integrated external borders system should provide more guarantees that human rights will be respected.

1.13 In order to work with the Agency to protect fundamental rights, the EESC suggests that a representative of the Committee should become a member of the Consultative Forum. The Committee also suggests that the Fundamental Rights Officer's role should be strengthened, enabling him to act on his own initiative and implement the complaint mechanism suggested by the Ombudsman.

1.14 The Committee draws attention to the abandonment and lack of protection currently affecting the thousands of unaccompanied minors in the EU who have arrived in Europe after having been displaced by war, and suggests that the Commission should implement urgent protective measures.

## 2. Background

2.1 Regulation (EC) No 2007/2004 established a European Agency for the Management of Operational Cooperation at the External Borders of the Member States (Frontex).

2.2 The EESC drew up an opinion <sup>(3)</sup> supporting the establishment of Frontex, recalling the need to respect the right of asylum (principle of 'non-refoulement') and to uphold fundamental rights at the border.

2.3 Regulation (EC) No 863/2007 then established a mechanism for the creation of Rapid Border Intervention Teams (RABIT) and amended Council Regulation (EC) No 2007/2004 as regards that mechanism, regulating the tasks and powers of guest officers. This amendment to the regulation means that, through the Agency, Member States can ask for rapid border intervention teams of appropriately trained experts from other Member States to be deployed in their own territory.

2.4 The EESC drew up an opinion <sup>(4)</sup> in support of updating the regulation. However, the opinion drew attention to the need to improve the protection of human rights and the right to asylum. It also warned of the risk of 'militarising' the surveillance and control of external borders.

2.5 Directive 2008/115/EC — the Return Directive — sets out common standards and procedures to be applied in Member States for returning illegally staying third-country nationals, 'in accordance with fundamental rights ... including refugee protection and human rights obligations'.

2.6 Frontex was last modified in October 2011: responsibility for border control was deemed to be shared between the EU and Member States, and integrated management was instituted. European teams of border guards began to be constituted, but it remains up to the Member States to request assistance from the Agency. Frontex was also assigned a larger role in return operations, and it was given greater responsibility to protect fundamental rights.

## 3. Commission proposal: A European Border and Coast Guard and more effective management of the external borders

3.1 The Commission's proposal to establish a European Border and Coast Guard is one of the measures to strengthen the management and security of the EU's external borders put forward in the European Agenda on Migration and addresses the need to strengthen security checks at the EU's external borders, in accordance with the measures called for by the home affairs ministers on 20 November 2015 <sup>(5)</sup>.

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<sup>(3)</sup> OJ C 108, 30.4.2004, p. 97.

<sup>(4)</sup> OJ C 44, 11.2.2011, p. 162.

<sup>(5)</sup> <http://www.consilium.europa.eu/en/press/press-releases/2015/11/20-jha-conclusions-counter-terrorism>

3.2 The European Border and Coast Guard will consist of a European Border and Coast Guard Agency built from Frontex and from the Member States' border management authorities, which will continue to provide day-to-day management of external borders.

3.3 The new European Border and Coast Guard will have a rapid reserve pool of 1 500 border guards and experts who can be deployed in less than three days, technical equipment, a monitoring and supervisory role, and the right to intervene; will carry out coast guard surveillance; will hold a mandate to work in third countries; will guarantee internal security; and will play a stronger role in returns. A standard European travel document for return will ensure wider acceptance of returnees by third countries.

3.4 The European Commission has also put forward other measures to manage the EU's external borders and protect the Schengen area without internal borders. To further increase security for European citizens, the Commission is proposing to introduce systematic checks against relevant databases of all people entering or leaving the Schengen area. The proposals will help to manage migration more effectively, improve the internal security of the EU, and safeguard the principle of the free movement of persons.

3.5 The Commission is proposing a specific change to the Schengen Borders Code to introduce mandatory systematic checks of EU citizens at external land, sea and air borders against databases such as the Schengen Information System, the Interpol Stolen and Lost Travel Documents Database, and relevant national systems. This proposal also reinforces the need to verify the biometric data on EU citizens' passports when the authenticity of the passport or the legitimacy of the holder is in doubt. Checks will now also be mandatory when leaving the European Union.

#### 4. General comments

4.1 At the meeting of the European Migration Forum<sup>(6)</sup> on 26 and 27 January 2015, civil society, invited by the Commission and the EESC, discussed the humanitarian emergency in the Mediterranean and the arrival of mixed flows of migrants and asylum seekers with the European institutions. Building on the Forum's conclusions, the Commission adopted a number of initiatives to improve border and asylum policies. However, the Committee regrets that the Forum's conclusions have not been taken into consideration by the Council. Many of the current problems could have been avoided if its recommendations had been put into practice.

4.2 The current crisis is highlighting the limitations in how the external borders are managed, as well as the insufficient mandate currently held by Frontex. A number of EESC opinions<sup>(7)</sup> have argued that the EU should consider the Schengen area's external borders as common borders; responsibility should therefore be shared between the EU and the Member States.

4.3 The Committee was the first institution to propose the creation of a European border guard. It has also made proposals<sup>(8)</sup> to protect fundamental rights in connection with border control and return policy.

4.4 The EESC believes that the Commission's proposals for improving the management of external borders must be adopted in tandem with changes in the common asylum system. The mass influx of displaced persons at the external borders of a few countries is overwhelming their ability to react, highlighting the fact that the Dublin system is not able to manage large-scale arrivals of displaced persons and asylum seekers. Responsibilities must be shared, and based on solidarity. The Committee suggests:

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<sup>(6)</sup> <http://www.eesc.europa.eu/?i=portal.en.events-and-activities-european-migration-forum-1>

<sup>(7)</sup> OJ C 451, 16.12.2014, p. 1, OJ C 458, 19.12.2014, p. 7, OJ C 44, 11.2.2011, p. 162.

<sup>(8)</sup> OJ C 128, 18.5.2010, p. 29.

4.4.1 that the EU follow through on the emergency relocation plan and the launch of the permanent relocation mechanism agreed at the European Council of 22 September 2015;

4.4.2 that resettlement programmes be expanded to transfer refugees from outside the EU and to resettle them within its borders, in cooperation with third countries and the UNHCR, and

4.4.3 that new relocation programmes within the EU be set up, providing financial incentives for Member States that accept them. The relocation mechanism must be permanent and effective and must be based on a distribution key.

4.4.4 The EESC has argued elsewhere<sup>(9)</sup> that the Dublin system should be modified and replaced with a more inclusive system in the EU that takes account of asylum seekers' wishes and ensures that responsibility is shared among the Member States.

4.5 The Commission proposal strengthens the border agency's role in return operations. The Committee recalls that:

4.5.1 the administrative procedure for expulsion must examine each case individually, and each person is entitled to submit their administrative and legal claims to the authorities, and

4.5.2 the Charter expressly prohibits collective expulsions and ensures that no one may be removed, expelled or extradited to a state where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment (the principle of non-refoulement).

4.5.3 The EESC has warned<sup>(10)</sup> that the EU should not consider Turkey to be a 'safe country' in terms of asylum; the UNHCR and various NGOs have also stated that the recent agreement between the EU and Turkey does not fully comply with international law on asylum because 'refugees need protection, not rejection'<sup>(11)</sup>. Moreover, Macedonia's decision to close its borders to refugees amounts to a violation of the right to asylum.

4.6 The EESC welcomes the fact that the reform of the Frontex regulation of October 2011 would institute a Consultative Forum and a Fundamental Rights Officer, and also welcomes the fact that the new proposal for a regulation has incorporated some of the Committee's proposals<sup>(12)</sup> to protect fundamental rights at the external borders.

## 5. Specific comments

5.1 The Committee would like to see an approach taken that is both *integrated* and *preventative*, which focuses on the careful analysis of data regarding mobility at the EU's borders and anticipation of where and when national authorities may need assistance. It is also necessary to establish a set of directions and indicators to help gauge the extent to which this integrated system is accomplishing its complex mission. The experience and evaluation procedures of the Schengen system are relevant to the construction of a similar mechanism for managing information and operational measures.

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<sup>(9)</sup> OJ C 451, 16.12.2014, p. 1.

<sup>(10)</sup> OJ C 71, 24.2.2016, p. 82.

<sup>(11)</sup> <http://www.unhcr.org/56ec533e9.html>

<sup>(12)</sup> OJ C 128, 18.5.2010, p. 29.

5.2 As regards the binding decisions and the agency's right to intervene, although the Committee deems this necessary, it also believes that the EU should use all necessary means to ensure that Member States cooperate with any action taken by the agency at the borders. The EESC is in favour of the Commission having the ability to decide to deploy the Agency at the external borders, but only in emergencies and following transparent procedures to keep European legislators (Parliament and Council) directly informed. This will be key to the success of the integrated and coordinated approach to border management, which should be accompanied by greater transparency, and greater capacity to provide explanations regarding its governance and actions.

5.3 The Committee considers it necessary to increase coordination between the many agencies that have responsibility for coastguard operations, border control, customs, maritime safety, maritime search and rescue, environmental protection and fisheries. Duplication can be avoided and savings can be achieved, at least in the EU budget. However, these agencies and institutions should each maintain their full remits and should not be subordinated to a supra-structure aimed at ensuring security.

5.4 The EESC welcomes the establishment of a European Border Guard drawing on a standing corps of 1 500 experts (border guards). The size of the corps may be amended over time, as needs dictate. Important elements here are the rapidity with which these border guards will be deployed to border areas and the way in which they will work with their colleagues.

5.5 Another key aspect of operational preparation is training. The Committee considers that training is necessary, both for the European corps of border guards and for border guards in the Member States. The agency should play an active role in such training and in disseminating best practice among border guards in all Member States. Training programmes should emphasise fundamental rights, as border guards are the first point of contact for refugees and immigrants, most of whom are highly vulnerable.

5.6 The Committee welcomes agency involvement in return operations. Since this policy will be brought to the fore in future, the resources earmarked for it by the agency might be insufficient. Clarification is needed, however, in the communication and at operational level, as to how the agency will go about playing its role in return activities, especially when acting on its own initiative. The agency must also ensure that the return operations it participates in uphold the fundamental rights of the individuals concerned <sup>(13)</sup>.

5.7 The agency should cooperate with all the authorities involved in order to ensure adequate reception conditions for returnees, including with regard to their safety. The EESC believes that respect for human rights is an essential condition for conclusion of readmission agreements with third countries, and is opposed to individual Member States or the EU entering into return arrangements agreements with countries that have not ratified the main international instruments for the protection of human rights or that systematically violate such rights <sup>(14)</sup>.

5.8 Protecting fundamental rights must be a priority for the agency. Fundamental rights are for everyone, not just for EU citizens. Asylum seekers and immigrants are protected by the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union <sup>(15)</sup>. Specifically, the Committee is concerned about fundamental rights being upheld in operations that take place in third countries, compliance with the principle of non-discrimination in screening operations on entry into the EU, collective expulsions and expulsions of migrants and asylum seekers to countries where human rights are violated, and the protection of highly vulnerable individuals such as unaccompanied minors and women.

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<sup>(13)</sup> Article 19 of the EU Charter of Fundamental Rights expressly prohibits collective expulsions and ensures that no one may be removed, expelled or extradited to a state where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

<sup>(14)</sup> OJ C 128, 18.5.2010, p. 29.

<sup>(15)</sup> OJ C 128, 18.5.2010, p. 29.



5.9 In order to ensure that the protection of fundamental rights receives the necessary attention and support, the Committee is willing to help the agency by sitting on its consultative forum on fundamental rights. The Committee also recommends that the agency be open to independent assessments of its operations and procedures. As regards the internal organisation of the agency, the Committee considers that the appointment of the fundamental rights officer may be sufficient, as long as this officer is backed up by a solid working structure, a substantial remit and significant resources.

5.10 The Committee welcomes and recognises the need for the establishment of a new European travel document for the return of third-country nationals.

5.11 The Committee believes that the Schengen Code could be amended, but that efforts should be made to ensure that controls for EU citizens, travelling both within the Schengen area and outside it, do not curtail their mobility, an essential freedom for Europeans. If these controls become the norm — carried out using more or less advanced technologies — it will cast doubt on the sustainability of the Schengen system.

5.12 The Committee would reiterate the need for openness — at all levels and in all operations — towards civil society. The EESC points out that the role of civil society and of citizens has been instrumental in averting an even more serious humanitarian situation both in Member States' waters and on their territories. The Committee considers that providing assistance to civil society is a priority issue; despite very limited resources, it has sought to provide help in extreme situations.

Brussels, 25 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets, repealing Council Regulation (EC) No 1006/2008’**

**(COM(2015) 636 final — 2015/0289 (COD))**

(2016/C 303/16)

**Rapporteur: Mr Gabriel SARRÓ IPARRAGUIRRE**

On 17 December and 22 December 2015 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 of the European Parliament and of the Council on the sustainable management of external fishing fleets, repealing Council Regulation (EC) No 1006/2008*

(COM(2015) 636 final — 2015/0289 (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 11 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May), the European Economic and Social Committee adopted the following opinion by 146 votes to 4 with 8 abstentions.

## **1. Conclusions**

1.1 The EESC supports the objectives pursued by the European Commission in this proposal and therefore considers it necessary to review the existing regulation, in order to promote simplification, increase transparency, improve governance, guarantee effective monitoring of the enforcement of rules, reaffirm reciprocity with third countries and preserve the millennium-old fishing culture, while ensuring its sustainability.

1.2 However, the Committee believes that as it stands the proposal is liable to place an excessive administrative and bureaucratic burden on the European Commission, Member States and operators which, in the absence of the necessary technical, material and human resources, would undermine the intended simplification exercise and lead to negative socio-economic consequences for employers and workers in the fisheries sector.

1.3 The EESC calls for sufficient budgetary and human resources for both the unit at the European Commission's Directorate-General for Maritime Affairs and Fisheries responsible for these matters and for the Member States' supervisory authorities to enable them to carry out their tasks properly.

1.4 The Committee is in favour of the responsibility for the fishing authorisation procedure falling to the Member States, allowing the European Commission to verify the validity of the authorisation based on eligibility criteria. As guardian of the Treaties, the Commission will thereby ensure that Member States fulfil their obligations.

1.5 The EESC calls on the European Commission, the Council of EU Fisheries Ministers and the European Parliament to take into account the general and specific comments set out in this opinion.

## 2. Background

2.1 The Common Fisheries Policy (CFP) covers the conservation of marine biological resources and the management of fisheries and the fleets exploiting those resources. It encompasses fishing activities carried out in Union waters, as well as those carried out outside its waters by Union fishing vessels. The CFP was amended by Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013.

2.2 Council Regulation (EC) No 1006/2008 of 29 September 2008 deals with authorisations of Union vessels to fish outside Union waters and authorisations granted to third country fishing vessels to operate in Union waters.

2.3 The Commission considers it necessary to revise the existing regulation on fishing authorisations with a view to properly including the new CFP objectives and ensuring consistency with Council Regulations (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (IUU), and No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the CFP.

2.4 Similarly, the Commission stresses the EU's international obligations as a contracting party to the United Nations Convention on the Law of the Sea, through its accession to the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and through the FAO International Plan of Action to Prevent, Deter and Eliminate IUU fishing.

2.5 The proposal broadens the scope to cover issues such as direct authorisations in cases where there is no sustainable fisheries partnership agreement in force with the third country in question, authorisation and notification of fishing vessels' support vessels, monitoring reflagging operations, the reallocation of unused fishing opportunities and the need to establish a legal framework to enable the EU to better monitor the activities of fishing vessels chartered in the EU in accordance with the provisions adopted by the relevant regional fisheries management organisation.

2.6 Similarly, the proposal covers many other issues such as the exchange of electronic data between Member States and the Commission, the establishment of an electronic register for EU fishing authorisations, the consistency of rules for third country vessels operating in EU waters, including the rules on catch-related data, with those applicable to EU fishing vessels, as well as the possible adoption by the Commission of delegated acts and, where appropriate, immediately applicable implementing acts.

## 3. General Comments

3.1 The EESC supports the objectives pursued by the European Commission in this proposal, namely to strengthen the EU's ability to monitor its fleet fishing outside EU waters, irrespective of the context in which they carry out their activities, taking into account the need to strike a balance between monitoring the EU fleet more effectively and reducing the workload of the national authorities and the EU. The Committee considers it necessary to review the existing regulation, in order to promote simplification, increase transparency, improve governance, guarantee effective monitoring of the enforcement of rules, reaffirm reciprocity with third countries and preserve the millennium-old fishing culture, while ensuring its sustainability.

3.2 However, the Committee believes that, as it stands, without specifying the appropriate tools for simplifying the system the proposal is liable to create an excessive administrative and bureaucratic burden which, in the absence of the necessary technical, material and human resources, would undermine the intended simplification exercise. It is necessary to establish a licensing procedure that is effective and that guarantees the legality of licenses but that is also both simple and quick. Otherwise it would have a serious impact on EU operators who would suffer the consequences of delays in issuing licences and would therefore lose fishing days and find themselves negatively affected from a socio-economic point of view.

3.3 The EESC is aware of the shortage of staff at both the unit in the Directorate-General for Maritime Affairs and Fisheries of the European Commission which is responsible for these matters and as well as within Member States' own supervisory authorities. It therefore calls for sufficient budgetary and human resources to enable them to carry out their work properly.

3.4 Reaffirming the important role of the European Commission throughout this process, the Committee is in favour of the responsibility for the fishing authorisation procedure falling to the Member States, while allowing the Commission to verify the validity of the authorisation based on eligibility criteria.

#### 4. Specific comments

4.1 In the EESC's view, the definition of 'observer program' within the meaning of Article 3(f), in addition to the scheme under the auspices of a Regional Fisheries Management Organisation (RFMO), should also cover Member State schemes, not only for the verification of the vessel's compliance with rules but also for data collection.

4.2 Article 5(1)(d) of the proposal provides that the flag Member State may only issue a fishing authorisation if the operator and the fishing vessel have not been subject to a sanction for a serious infringement during the twelve months preceding the application for authorisation. The EESC believes that this eligibility criterion should be deleted as it may give rise to a double penalty which is disproportionate and discriminatory. The Committee feels that Regulations 1224/2009 (control) and 1005/2008 (IUU fishing) already provide for the procedure and sanctions for serious infringements both within and outside EU waters.

4.3 Article 7(5) stipulates that, upon request from the Commission, the flag Member State shall refuse, suspend or withdraw authorisation in cases of 'overriding policy reasons' (...). The EESC believes that this wording is too vague and could lead to situations of legal uncertainty for operators, depending on what the European Commission considers to be 'overriding policy reasons' in each case. The article should clarify that the refusal, suspension or withdrawal of the authorisation will be carried out upon request from the Commission where it deems there to be a serious risk of possible infringement.

4.4 Article 8 provides that a Union fishing vessel may only carry out fishing activities in waters of a third country if this country is a contracting party or non-contracting cooperating party to an RFMO. The EESC draws attention to the situation in Guinea-Bissau, with which the EU has a sustainable fisheries partnership agreement but which is not a contracting party or a non-contracting cooperating party to the International Commission for the Conservation of Atlantic Tunas (ICCAT). As such, the Committee considers that the EU should not become involved in any issues that affect the sovereignty of third countries. On the other hand, such a requirement would place the EU fleet in a position of competitive disadvantage vis-à-vis the fleets of third countries which do not have to comply with that requirement. In any case, the EESC encourages the Commission to continue its efforts, through the Fisheries Partnership Agreement, to ensure that Guinea-Bissau participates in the work of the ICCAT, with a view to the sustainable exploitation of resources.

4.5 With respect to Articles 12(3) and (4), the EESC is concerned that the European Commission might slow down the procedure for issuing fishing authorisations.

4.6 As regards Articles 13 and 14, which refer to the reallocation of unused fishing opportunities in the framework of sustainable fisheries partnership agreements, the Committee calls on the European Commission to implement this reallocation in a way that ensures consistency in the reallocation of fishing opportunities in both EU waters and under bilateral fisheries agreements with third countries, such as Norway.

4.7 Article 18(c) provides that the flag Member State may only grant a fishing authorisation if the operator has provided evidence of the sustainability of the planned fishing activities, on the basis of a scientific evaluation provided by the third country and/or by a RFMO, and an examination of this evaluation by the flag Member State based on the assessment of its national scientific institute. The Committee believes that this final examination by the flag Member State should be deleted.

4.8 Article 19(2) stipulates that the European Commission will have fifteen days to examine the documents provided by the Member States and, in the event of a problem with a given fishing vessel (vessel and/or shipowning company), a further two months to oppose the granting of the authorisation. Applying this section could lead to a considerable delay in the granting of direct fishing authorisations.

4.9 Article 27 provides that the flag Member State shall notify the Commission of the fishing authorisation at least fifteen days before the start of the fishing activities on the high seas. In line with the above, the EESC considers that the deadline of fifteen days should be removed, simply stipulating that it should be communicated to the European Commission 'before' the start of the activities.

4.10 The EESC considers it highly desirable that any exchange of information between the Commission and the Member States, as well as with third countries, take place electronically. It also considers it necessary to set up an electronic register of fishing authorisations.

Brussels, 25 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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## APPENDIX

The following point of the section opinion was amended to reflect amendments adopted by the assembly but received more than one quarter of the votes cast (Rule 54(4) of the Rules of Procedure):

**Point 4.2**

*Article 5(1)(d) of the proposal provides that the flag Member State may only issue a fishing authorisation if the operator and the fishing vessel have not been subject to a sanction for a serious infringement during the twelve months preceding the application for authorisation. The EESC believes that it is necessary to adequately sanction operators who commit a serious infringement: refusal to grant the fishing authorisation is not a double penalty but the application of an eligibility criterion. The Committee believes that this measure should apply only in the case of final judgements.*

**Reason**

This could give rise to a **double penalty**, which would be **disproportionate**, since the operator and the captain of the vessel would be subject not only to the penalties provided for in Articles 90 to 92 of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the CFP, and Articles 42 to 47 of Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, but also to the non-eligibility to obtain authorisation.

Those articles already provide for heavy penalties for operators who commit serious infringements ranging from financial penalties (at least five times the value of the fishery products obtained when committing the serious infringement) to the following additional penalties:

- 1) the sequestration of the fishing vessel involved in the infringement;
- 2) the temporary immobilisation of the fishing vessel;
- 3) the confiscation of prohibited gear, catches or products;
- 4) the suspension or withdrawal of authorisation to fish;
- 5) the reduction or withdrawal of fishing rights;
- 6) the temporary or permanent exclusion from the right to obtain new fishing rights;
- 7) the temporary or permanent ban on access to public assistance or subsidies;
- 8) the suspension or withdrawal of the status of approved economic operator granted pursuant to Article 16(3).

Article 92 of Regulation No 1224/2009 also lays down a points system for serious infringements. When the total number of points equals or exceeds a specified number, the fishing licence shall be automatically suspended for a period of at least two months. That period shall be four months if the fishing licence is suspended a second time, eight months if the fishing licence is suspended a third time and one year if the fishing licence is suspended a fourth time as a consequence of a licence holder being assigned the specified number of points. In case of the holder being assigned the specified number of points for a fifth time, the fishing licence shall be permanently withdrawn.

Secondly, we believe that it infringes the **principle of non-discrimination**, since the same infringements do not incur the same penalties within and outside EU waters. For the same infringements, those fishing outside the EU would have an additional penalty such as non-eligibility to obtain a fishing authorisation for 12 months. This would mean creating a double standard for similar infringements.

**Result of the vote:**

For 92

Against 50

Abstentions 23

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008’**

**(COM(2016) 39 final — 2016/023 (COD))**

(2016/C 303/17)

**Rapporteur: Mr Vladimír NOVOTNÝ**

On 4 February 2016, the European Parliament, and on 18 February 2016, the Council, decided to consult the European Economic and Social Committee, under Articles 192(1), 207 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 on mercury, and repealing Regulation (EC) No 1102/2008*

(COM(2016) 39 final — 2016/023 (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 11 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May), the European Economic and Social Committee adopted the following opinion by 153 votes to 2 with 3 abstentions.

## **1. Conclusions and recommendations**

1.1 The Committee unreservedly recommends adoption of the Proposal for a Regulation of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008 **as a first step towards ratification of the Minamata Convention** by the European Union as a whole and by its Member States.

1.2 The worldwide problem of mercury emissions requires a global approach, as embodied by the Minamata Convention. The EU has been, along with Japan, the prime mover in reducing the burden of mercury on the environment (and on the population), but we have to realise that mercury and its compounds will remain an element of the environment forever.

1.3 The Committee notes that sustained EU action on mercury globally and, in particular, within its own bounds has brought the Union a 75 % reduction in man-made mercury emissions since 1990 and the legislation in force guarantees further progressive reduction.

1.4 The Committee recommends that further EU action accord with the ratified Minamata Convention once it has come into force. The Committee is convinced that the legislative framework governing primarily missions — but also manufacturing processes and products — is sufficient to meet convention commitments without jeopardising the competitiveness of the EU as a whole.

1.5 It is essential, in the Committee's view, that a commensurate portion of the EU's scientific and research capacity be devoted to the question of mercury and its alternatives in the manufacturing processes and products.

1.6 The Committee further recommends that, following ratification of the Minamata Convention, the relevant EU bodies, together with Member State signatories to the convention, take part in the first conference of the parties to the convention on mercury (COP 1) — which is currently being arranged — and contribute new knowledge to enable further reduction of man-made emissions from mercury and its use in products and manufacturing.

## 2. Introduction

2.1 Mercury is a natural component of the earth, with an average abundance of approximately 0,05 mg/kg in the earth's crust, with significant local variations. It is also present at very low levels throughout the biosphere. Mercury absorption by plants explains its presence in fuels such as coal, oil and natural gas — but also in biofuels. In terms of mercury emissions, combustion of biomass is practically the same as burning coal. Mercury and its emissions are addressed in detail in United Nations Environment Programme (UNEP) documents <sup>(1)</sup>.

2.2 Once released, mercury persists in the environment, where it circulates between air, water, sediments, soil and biota in various forms. Its form can change (primarily by microbial metabolism) to methylmercury, which has the capacity to collect in organisms and especially in the aquatic food chain (fish and marine mammals). The bioaccumulation of mercury and other heavy metals and their long-range atmospheric transport potential are why they are considered a global environmental threat.

2.3 In some parts of the world, especially outside the EU, considerable numbers of people are exposed to mercury significantly above safe levels. The best estimates indicate that mercury emissions to the atmosphere from human activities amount to 1 960 tonnes/year worldwide and 87,5 tonnes/year (4,5 % of the total) for the EU. Direct emissions into water amount to 900 tonnes/year and natural emissions (rock erosion and volcanic activity) is around the same amount. An overview of anthropogenic mercury emissions can be found in Appendix 1.

2.4 Despite a decline in global mercury consumption (global demand is less than half of 1980 levels) and low prices, production of mercury from mining is still occurring in a number of countries around the world. The largest producers are China and Kazakhstan. In Europe, primary production ceased as far back as 2003, but mercury is isolated as a by-product of other extractive processes and treatment of raw materials. This mercury is classified as waste and is treated in line with legislation on waste.

2.5 Large quantities of mercury are also coming onto the global market — as a result of the conversion or shutdown of chlor-alkali facilities — from countries where, unlike the EU, trading in this mercury has not been banned.

2.6 Emissions from coal combustion and incineration processes, including for steel and manufacture of non-ferrous metals, are the predominant source of anthropogenic emissions and especially of immissions of mercury compounds in the vicinity of specific sources of emissions in the EU. Examination of the various options covers both the capture of mercury along with other elements in the process of cleaning gas emissions and capture processes specifically for mercury where these selective processes make sense.

2.7 Another major source of man-made emissions, mainly of elemental mercury, stems from the use of amalgam for dental fillings. It would appear that emissions (primarily into water) are far easier to monitor in this area and that the technologies available for this are widely used in the developed world.

2.8 The Committee has already voiced civil society's position on harmful emissions of mercury and its compounds in earlier opinions and the present opinion is a natural continuation of these <sup>(2)</sup>.

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<sup>(1)</sup> UNEP, (2013). Global Mercury Assessment 2013: Sources, Emissions, Releases and Environmental Transport. UNEP Chemicals Branch, Geneva, Switzerland.

<sup>(2)</sup> OJ C 318, 23.12.2006, p. 115.  
OJ C 168, 20.7.2007, p. 44.  
OJ C 132, 3.5.2011, p. 78.

### 3. The Commission document

3.1 The Union and 26 Member States have signed a new international convention on mercury. This, the Minamata Convention, addresses worldwide the whole life-cycle of mercury, from primary mercury mining to the management of its waste. Its aim is to safeguard human health and the environment from human emissions of mercury and its compounds to air, water and land. The Union and the vast majority of Member States have signed this new international convention on mercury, which already has 128 signatures and has been ratified by 25 participating countries <sup>(3)</sup>.

3.2 A detailed assessment of the Union acquis has identified a limited number of regulatory gaps that need to be filled in to ensure the full alignment of Union legislation with the convention <sup>(4)</sup>. This proposal seeks to address those gaps, which concern the following issues:

- the import of mercury;
- the export of certain mercury-added products;
- the use of mercury in certain manufacturing processes;
- new mercury uses in products and manufacturing processes;
- mercury use in ASGM (artisanal and small-scale gold mining) and
- mercury use in dental amalgam.

3.3 In the interest of legal clarity, the obligations resulting from the convention that are not yet transposed into EU law should be incorporated into a single legal act.

3.4 Legal clarity and coherence need to be strengthened and this proposal should, to this end, repeal and replace Regulation (EC) No 1102/2008, while nevertheless assuming those essential obligations that remain necessary.

3.5 The goals of this initiative are also consistent with those of the Europe 2020 strategy for smart, inclusive and sustainable growth. This proposal will help to level the playing-field worldwide for industrial processes using or unintentionally emitting mercury and mercury compounds and the manufacturing and trading of mercury-added products, thereby promoting the competitiveness of Union industry.

3.6 In addition, the proposal also simplifies and clarifies the acquis as much as possible so it can be better and more effectively implemented.

3.7 The impact assessment concluded that the ratification and implementation of the Minamata Convention will yield the EU significant environmental and human health benefits, mainly due to the expected fall in mercury emissions originating in other parts of the world.

### 4. General comments

4.1 The Committee endorses the adoption of this proposal for a regulation of the European Parliament and the Council, since it represents the culmination of efforts over a long time to create a responsible legal environment that enables the sustainable, worldwide and long-term restriction of adverse effects from mercury and its compounds. The Committee notes that the proposal for a regulation is fully in line with the main objective of protecting health and the environment from the harmful effects of mercury.

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<sup>(3)</sup> <http://mercuryconvention.org/Convention/tabid/3426/Default.aspx>

<sup>(4)</sup> Commission Staff Working Document, Impact Assessment Accompanying the documents Proposal for a Regulation of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008 and Proposal for a Council Decision on the conclusion of the Minamata Convention on Mercury, SWD (2016) 17 final.

4.2 The Committee warmly welcomes the contribution that not just the EU institutions, but also the various Member States, have made in the conception, negotiation and ratification of the Minamata Convention.

4.3 It is also very pleased that the whole process has respected — both now and earlier — the crucial principles of subsidiarity and the principle of proportionality, without this prejudicing the effectiveness of the legal instruments adopted at pan-EU level and worldwide.

4.4 The Committee is convinced that the efforts Europe has made will help to secure swift ratification of the Minamata Convention by the end of 2016 and a proper curbing of the health and environmental risks that come from anthropogenic emissions of mercury and its use worldwide. The Committee also affirms its conviction that the regulation of the European Parliament and the Council should not — and will not — go beyond the scope of what the Minamata Convention requires.

## 5. Specific comments

5.1 The EESC is also pleased that the regulation reflects the outcomes of consultations with stakeholders in the EU and of discussions on the Minamata Convention conducted in expert fora under the auspices of the United Nations Environment Programme (UNEP). The Committee congratulates the Commission on the successful completion of the very demanding and extensive task of analysis that has resulted in the proposal for a regulation.

5.2 The Committee agrees with the Commission's view that any trade restrictions that were to go beyond the requirements of the convention — in other words, that instigated an unconditional mercury import ban — would not be justified, since they would cost Union industry more without yielding any environmental benefits of note.

5.3 The Committee also shares the view expressed by the Commission in its proposal for a regulation that export restrictions on certain mercury-added products would also not be justified, given that mercury input and releases into the environment would remain largely unchanged and that such a prohibition could actually raise mercury emissions in third countries.

5.4 The Committee (in keeping with the conclusions of the consultations and the results of studies) unreservedly endorses the argument that restricting the use of mercury in certain manufacturing processes and in new manufacturing processes should be proportionate to the risks entailed and will come about as the result of technological progress over the longer term.

5.5 The Committee nevertheless endorses the provisions of the Minamata Convention stipulating that parties must take measures to discourage the development of new manufacturing processes using mercury and the production and placing on the market of new mercury-added products.

5.6 The Committee notes that the application of Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants has resulted in a significant limitation of mercury emissions from the energy sector — the sector contributing most to anthropogenic emissions and mercury immissions in soil and water as a result of atmospheric deposition — and that this trend is continuing. Since 1990, mercury emissions from human activity have dropped in the EU by more than 75 %<sup>(5)</sup> and full implementation of Directive 2010/75/EU on industrial emissions will do a great deal to cut mercury emissions further. Endorsing the Commission's view, the EESC believes there is no need as yet to change or add to the requirements of the Industrial Emissions Directive with regard specifically to emissions of mercury.

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<sup>(5)</sup> Source: EEA, Trends in Emissions of Heavy Metals [http://www.eea.europa.eu/data-and-maps/daviz/emission-trends-of-heavy-metals-3#tab-chart\\_3](http://www.eea.europa.eu/data-and-maps/daviz/emission-trends-of-heavy-metals-3#tab-chart_3)

5.7 The EESC endorses the approach proposed to limit mercury emissions from industrial processes based on the concept of the best available techniques (BAT) and their reference documents (BREFs).

5.8 The EESC stresses the need for legislative measures on permanent and safe storage of mercury withdrawn from industrial processes in suitable geological structures — in disused salt mines, for example. The EESC calls on the Commission to set out as a matter of urgency criteria to apply to storage facilities and requirements for the storage of waste contaminated with mercury.

5.9 The Committee appreciates the balanced approach taken by the European Commission on the use of amalgam in dentistry based on the latest available scientific knowledge. It considers that requirements on equipment in dental care establishments — namely the obligation to install mercury separators and the restriction on the use of dental amalgam to its encapsulated form — are enough to effectively limit the release of mercury into the environment and to protect human health <sup>(6)</sup>. At the same time, the EESC draws attention to the possible risks — as yet inadequately understood and not fully specified — of the new dental materials that are to replace the use of amalgam.

5.10 At the same time, the EESC draws attention to the rising costs of services reimbursed by public healthcare budgets and to the possible health and social effects on certain categories of patients were these costs to be passed on to them.

Brussels, 25 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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<sup>(6)</sup> Scientific Committee on Health and Environmental Risks (SCHER): Opinion on the environmental risks and indirect health effects of mercury from dental amalgam (update 2014).

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Decision of the European Parliament and of the Council on the use of the 470-790 MHz frequency band in the Union’**

**(COM(2016) 43 final — 2016/0027 (COD))**

(2016/C 303/18)

**Rapporteur: Mr Raymond HENCKS**

On 16 February 2016 and ... 2016 respectively, the Council and 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, on the:

*Proposal for a Decision of the European Parliament and of the Council on the use of the 470-790 MHz frequency band in the Union*

(COM(2016) 43 final — 2016/0027 (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 3 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 26 May 2016), the European Economic and Social Committee adopted the following opinion by 167 votes, with 3 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the Commission's proposal for coordinated release, together with a specific timetable, of the newly available capacity on the 694-790 MHz frequency (referred to as 700 MHz). This will enable mobile operators to provide wireless broadband services in the framework of advanced 4G and the future 5G technology, while reducing the geographical digital divide by improving coverage of rural areas and increasing transmission speeds.

1.2 It fears, however, that the prices of the new technology used in the 700 MHz band, together with the auction price of the new capacity, could entail additional costs for consumers which would be unaffordable for a growing section of the population, as well as for some small enterprises, to the point where there is a risk that a large number of vulnerable people may not have the financial means to participate in the new digital drive. The EESC therefore calls on the Member States to set up a support scheme, in compliance with the EU rules on State aid, to avoid any further deepening of the economic divide.

1.3 The physical properties of radio spectrum propagation in the 700 MHz band may well rekindle the debate on the potential health effects of exposure to electromagnetic fields. The EESC urges <sup>(1)</sup> the Commission once again to continue its work in this area, in line with the precautionary principle, particularly as more in-depth research is still needed.

1.4 The EESC would call on Member States to make it a requirement, when granting rights of use of the 700 MHz band for wireless broadband communications services, to ensure that the various public transport networks benefit from the requisite channels in order to provide good coverage.

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<sup>(1)</sup> OJ C 242, 23.7.2015, p. 31.

1.5 Finally, given that some Member States have already auctioned the new frequencies and begun national procedures for their use, the EESC calls on the Commission to monitor developments in this situation very closely and intervene within the scope of its remit in this area should it detect the slightest risk of fragmentation of the single market.

## **2. Introduction/background**

2.1 The end of analogue television and the transition to digital terrestrial television, which uses technologies that take up much less of the radio spectrum than analogue technology, have made for considerable savings in terms of bandwidth (around 18 % of total resources) as a result of previously freeing up digital dividend in the 800 MHz band for mobile communications.

2.2 The current spectrum used by terrestrial television is located at the lower end of what is referred to as the UHF band (470-862 MHz), where frequencies have more robust radio spectrum propagation properties (less attenuation than is the case with higher frequencies).

2.3 These frequencies transmit signals further and have better penetration, which is particularly suited to rural coverage and in-building transmission. The release of low frequencies is very beneficial to ultra-fast bidirectional mobile broadband communication. It also brings down the cost of network construction (since fewer transmitters or transmission stations are required) and benefits public finances through the sale of the rights of use of these frequencies to operators on the basis of detailed rules laid down by telecoms regulators. This explains why they are sometimes referred to as 'golden' frequencies. Mobile operators, as well as audio-visual operators, compete to have these frequencies awarded to them by the public authorities.

2.4 At present, the 470-790 MHz band is used for the transmission of audio-visual media services, including digital terrestrial television, and for Programme Making and Special Events ('PMSE equipment' such as wireless microphones and in-ear monitors used during performances and to give directions in television studios). The frequencies currently used for latest generation of mobile communications technology are the 800 MHz, 900 MHz, 1 800 MHz and 2 600 MHz bands.

2.5 The 2012 World Radiocommunication Conference decided to allocate a substantial proportion of the 470-790 MHz (referred to as 700 MHz) frequencies released in Europe and Africa to mobile broadband services.

2.6 The allocation to mobile services of 700 MHz capacity, offering additional broadband frequencies, is fully in line with the objective of the EU's multiannual radio spectrum policy programme (RSPP) of providing citizens with access to broadband speeds of not less than 30 Mb/s by 2020.

2.7 According to the Commission's calculations, the new allocation of frequencies will entail costs for television operators, caused by the transition from the MPEG-2 digital television broadcasting standard to the MPEG-4 standard (from EUR 600 to 890 million) and/or to HEVC (from EUR 450 to 660 million), and for consumers, with an additional EUR 40 to 100 per household required for the purchase of new decoders or adaptors.

## **3. Gist of the proposal for a decision**

3.1 The proposal under consideration seeks to take advantage of the 700 MHz spectrum capacity released to achieve near-global harmonisation of this frequency band, namely through the coordinated designation and authorisation of the frequency at EU level. This will involve:

- harmonised technical conditions for wireless broadband electronic communications services based on the principle of technology and service neutrality;



- Member States adopting and communicating across the Union their national roadmaps on repurposing the 700 MHz band and concluding the necessary cross-border coordination agreements by the end of 2017;
- adopting a common deadline (by mid-2020) for making capacity available on the 700 MHz band; and
- requiring Member States to authorise the transfer of the rights of use of the spectrum by June 2022.

3.2 With regard to the sub-700 MHz frequency band, this will involve:

- ensuring availability of the 470-694 MHz frequency band, or parts of the band, for the terrestrial provision of audiovisual media services, including free television, to mass audiences and for use by wireless PMSE equipment, based on national broadcasting needs;
- undertaking a review of spectrum use in the sub-700 MHz frequency band by 2025 in light of the conclusions of the 2023 ITU World Radiocommunication Conference.

#### 4. General comments

4.1 The EESC welcomes the fact that capacity released on the 700 MHz band is being allocated for the provision of wireless broadband electronic communications services, whilst maintaining sufficient capacity for digital terrestrial television.

4.2 It also welcomes the Commission's proposal for coordinated release together with a specific timetable, as this will avoid a repetition of the negative experience of 'disorderly' implementation that occurred when authorising use of the released spectrum in the 800 MHz band after 2008 without a timetable for implementation. At the same time, the EESC suggests that the Commission assist Member States in the timely conclusion of cross-border frequency agreements with non-EU neighbouring countries in order to facilitate the process of making the 700 MHz band available for wireless broadband within the single market.

4.3 Allocating 700 MHz capacity to mobile operators will allow them, in the medium term, to remain at the cutting edge of progress on the mobile communications market, which is currently geared to the rollout of a comprehensive 4G system and will eventually open up to 5G, which is now in its test phase and likely to reach speeds of 10 to 50 Gb/s. 5G technology will provide consumers with higher speed broadband, enabling the expansion of the Internet of Things, internet videos, e-health applications and holograms, etc.

4.4 The EESC notes with satisfaction that future connectivity through the 700 MHz band is particularly suited to ensuring better coverage of rural areas, which will help to reduce the geographical digital divide.

4.5 The new allocation of frequencies will, however, generate a cost for consumers which will certainly be higher than the Commission has anticipated (see paragraph 2.7 above). This is because the costs for operators, resulting from the change in coding standards for digital television, as well as the purchase price for mobile operators for new capacity on the 700 MHz band, will be passed on to customers who, in addition to having to purchase new TV adapter/decoders, will also need new smart phones when the 5G mobile services become available.

4.6 This means there is a risk that the prices consumers will have to pay, directly or indirectly, as a result of reallocating the 700 MHz frequency could become unaffordable for a growing section of the population, as well as for some small enterprises, which often pay more for online access than 'integrated' users as they do not meet the terms of offers designed to benefit large-scale users. As a result, a large number of vulnerable people will not have the autonomy needed to claim their rights, some of which, such as certain benefits or allowances for the elderly or for young job-seekers, can in some instances only be accessed online. In order to prevent any further deepening of the economic divide, and to guarantee universal digital connectivity, the EESC calls on the Member States to set up, in compliance with the EU rules on State aid, a support scheme for vulnerable consumers so that everyone can benefit from the new digital drive.

4.7 The physical properties of radio spectrum propagation in the 700 MHz band may well rekindle the debate on the potential health effects of exposure to electromagnetic fields. The EESC urges <sup>(2)</sup> the Commission once again to continue its work in this area, in line with the precautionary principle, particularly as more in-depth research is still needed.

4.8 The proposal for a decision requires Member States to 'consider taking measures to ensure a high-quality level of coverage of their population and territory when they grant rights of use of the 700 MHz band for wireless broadband electronic communications services'. The EESC believes that in this case operators will need to have access to the requisite channels to ensure good ultra-fast mobile broadband coverage, not only in the most rural areas but also on the various public transport networks.

4.9 Given that some Member States have already auctioned the new frequencies and begun national procedures for their use, the EESC calls on the Commission to monitor developments in this situation very closely and intervene within the scope of its remit in this area should it detect the slightest risk of fragmentation of the single market.

Brussels, 26 May 2016.

*The President  
of the European Economic and Social Committee  
Georges DASSIS*

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<sup>(2)</sup> See footnote 1.

**Opinion of the European Economic and Social Committee on ‘The future of the EU’s relations with the ACP Group of countries’**

(2016/C 303/19)

**Rapporteur: Brenda KING**

On 15 July 2015, the European Commission decided, under Article 304 of the Treaty on the Functioning of the European Union, to invite the European Economic and Social Committee to draw up an opinion on:

*The future of the EU’s relations with the ACP Group of countries.*

The Section for External Relations, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 19 April 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May 2016), the European Economic and Social Committee adopted the following opinion by 192 votes to none with 4 abstentions.

**1. Recommendations and conclusions**

1.1 The expiry of the Cotonou agreement in 2020 provides the opportunity to review the ACP-EU partnership and determine what form it should take and what issues should be addressed. While the Commission and the European External Action Service (EEAS) are keen to renew the relationship — as the ACP countries are considered key partners — it has stressed that it will explore all options, including alternatives to a treaty and to a collective approach.

1.2 The European Economic and Social Committee (EESC) notes that with regards to continuing with the ACP as a collective, this is a decision that should be made by the ACP countries.

1.3 The EESC recommends that the EU should aim to achieve a modern, equal and effective partnership with the ACP countries that transcends a donor-recipient relationship and is based on a coherent and integrated EU external policy, based on the principle of policy coherence for development (PCD).

1.4 This framework should guarantee the involvement of civil society organisations, including the private sector, whose specific task should be to monitor and assess the impact of the implementation of this Agreement on the sustainable development of the Parties. Civil society should be provided with the technical and financial support needed to undertake this role.

1.5 The CPA is in its current form — blending investment and economic development with a political, values-driven approach — is already complimentary to the Sustainable Development 2030 Agenda (SDGs). The post-Cotonou arrangement would however, have to take into consideration the recommendations outlined in this opinion, and also, provide for monitoring and evaluation of the agreement. The EESC stands ready to play a central role in this process.

1.6 The EESC recommends that all forms of development support that the EU gives to third countries should fall under the same legal framework and should be subject to the same democratic scrutiny by the European Parliament, while retaining the same positive aspects of the EDF.

1.7 The EU-ACP partnership already provides a comprehensive framework for tackling global issues such as climate change, and this proved effective at the COP21 negotiations. Joint efforts must be bolstered in order to build resilience in ACP and EU countries, and to counter the potential negative impacts: natural disasters, economic ruin and also climate migration.

1.8 The EESC supports civil society organisation (CSO) involvement from conception, inception through to monitoring, and implementation and ex post review of EU-ACP policy domains. Through a holistic process of structured dialogue and regular consultation with CSOs, the partnership will deliver on the spirit of CPA to fully include NSAs as outlined in Article 6 of CPA.

1.9 Building on the *acquis* of EU-ACP cooperation, both partners in parity can effectively develop joint strategies in the future south-south and triangular frameworks for development cooperation. Mutual exchange amongst these partners can be an effective catalyst to address the new framework of international development and global challenges, including those related to the role of middle-income countries.

1.10 Future partnership must embody the 'partnership of equals', underscored in the new framework, which recognises the universality of challenges across EU and ACP countries: income inequality, youth unemployment, climate change and more. In joint cooperation and as equals, EU and ACP partners can strive to solve development challenges in both the EU and ACP states.

## 2. Introduction

2.1 The European Union (EU) and the 79 countries of Africa, the Caribbean and the Pacific (ACP) have a comprehensive and legally binding international cooperation agreement that has united more than half of the world's nation states. Named the Cotonou Partnership Agreement (CPA or Cotonou), it was signed in Benin in 2000, and aims to strengthen the long-standing cooperation in politics, trade and development between the EU and the ACP countries. This agreement has led to the creation of a range of institutions that facilitate ACP-EU cooperation among governments, public officials, members of Parliament, local authorities and civil society, including the private sector. It builds on a historic relationship between the EU and its former colonies, which has since evolved through a succession of post-colonial agreements: from the association agreements of Yaoundé I and II Conventions between the European Economic Community and former French colonies in Africa (1963-1975), to the successive ACP-EU Lomé Conventions (1975-2000), and the latest Partnership Agreement signed in Cotonou (2000).

2.2 The CPA is due to expire in 2020 resulting in the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy issuing a Joint Consultation Paper, dated 6 October 2015. The purpose as stated in the consultation document is *'to explore the extent to which it remains valid for the future and offers a platform to advance joint interests'* given the context of the institutional, political and socioeconomic developments in both the EU and the ACP in a world that has changed significantly over the past 15 years.

### 2.3 Involvement of civil society — Specific comments on political dialogue

2.3.1 The EESC welcomes the fact that Article 6 of the CPA supports the involvement of non-state actors (NSAs) by acknowledging that they are essential players in the partnership. However it is disappointed that cooperation has remained so government-oriented despite the recognition that political dialogue is important for fostering civil society participation in the development process.

2.3.2 The EESC reiterates the crucial role of non-government stakeholders throughout the development process and in the monitoring of the EPAs. It is clear that a more open and participatory post-Cotonou framework stands better chances of achieving meaningful outcomes.

2.3.3 The EESC notes with disappointment that a number of ACP countries are introducing restrictive legislation to curtail the work of NSAs, which in some cases has had detrimental implications for the active participation of CSOs. The 2014 CSO Sustainability Index<sup>(1)</sup> highlights that in many countries in sub-Saharan Africa, CSOs — particularly those focused on advocacy and human rights — are facing increasing restrictions or threats of restrictions on their work.

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<sup>(1)</sup> <https://www.usaid.gov/africa-civil-society>

2.3.4 The EESC recommends that whatever the framework agreed post-2020, it should reinforce the legitimacy of CSOs in particular, and NSAs in general, as veritable stakeholders in policy processes. Moreover, the EESC is aware that the implications of excluding NSAs are fundamentally detrimental. It therefore calls for stronger technical and financial commitments to encourage and bolster the active participation of CSOs.

### 3. Background — CPA

3.1 The 1957 signing of the Treaty of Rome associated the overseas countries and territories (OCTs) with the European Economic Community (EEC) in a formal and privileged cooperation framework which has structured Europe's relationship with ACP countries. The ACP Group, created by its members with the Georgetown Agreement in 1975, initially comprised of 46 ACP states: 36 African, seven Caribbean and three Pacific states. Today, the ACP group consists of 79 countries — 48 in sub-Saharan Africa, 16 in the Caribbean and 15 in the Pacific (Cuba is a member, although not a signatory of the CPA, and South Africa is a contracting party to the CPA, although exempt from certain provisions). Since 2000, ACP-EU cooperation has been governed by the CPA.

3.2 The CPA's core objective of 'reducing and eventually eradicating poverty, consistent with the objectives of sustainable development, and the gradual integration of the ACP Group into the world economy' is presented in three complementary pillars:

- **Political dialogue.** The CPA was avant-garde, as it is based on comprehensive political dialogue that requires important bilateral commitments. It states, 'The dialogue shall focus, inter alia, on specific political issues of mutual concern or of general significance for the attainment of the objectives of this Agreement, such as the arms trade, excessive military expenditure, drugs and organised crime, or ethnic, religious or racial discrimination. The dialogue shall also encompass a regular assessment of the developments concerning the respect for human rights, democratic principles, the rule of law and good governance.'
- **Economic and trade relations.** The CPA departs from the logic of former trade agreements under Yaoundé and Lomé, which were governed by non-reciprocal preferences granted unilaterally by the EU. The EU recognised that 'as regards the economic fundamentals, the truth is that the current system has failed; that ACP countries have become increasingly marginalised in world trade, even with the generous tariff preferences'<sup>(2)</sup>. The new trade agreements to be negotiated under the CPA — the Economic Partnership Agreements (EPAs) — were designed to overcome this history and finally to allow the ACP countries to integrate into the world economy. The EPA also adheres to World Trade Organisation (WTO) rules by reducing the negative impact of the 'non-reciprocal preferences' on non-ACP developing countries and encourages regional integration, by linking up with existing ACP regional economic institutions and free trade areas (FTAs). Although negotiations for these reciprocal and asymmetrical free trade agreements began in 2002, the Cariforum is the first and only region to sign a comprehensive EPA (in 2007), which goes beyond trade and includes the 'Singapore issues'. The negotiations with the other regions have been sought with friction based on different visions for economic development and to date only several interim-EPAs (i-EPAs) covering trade in goods only, have been concluded with Southern African Development Community (SADC), East African Community (EAC) and Economic Community of West African States (Ecowas).
- **Trade and regional integration.** The EPA aims to foster regional integration and is premised on the logic that greater regional integration boosts trading capacities and in turn, boosts growth, employment and economic development. However, the criticism surrounding the EPA claims the exact opposite, that the EPA is in fact a hindrance to greater regional integration. This argument is premised on the belief that the EPA does not provide for the necessary structural transformation of ACP economies, which would allow them to strengthen their place in and move up the global value chain (GVC).

<sup>(2)</sup> Karel de Gucht, European Commissioner for Trade, *A partnership of equals*, 20th Session of the ACP-EU Joint Parliamentary Assembly, Kinshasa, 4 December 2010, p. 3. Accessed 26 December 2012, [http://trade.ec.europa.eu/doclib/docs/2010/december/tradoc\\_147082.pdf](http://trade.ec.europa.eu/doclib/docs/2010/december/tradoc_147082.pdf)

- **Trade and sustainable development.** Ironically, the EPA has come under much criticism for not being ambitious enough, especially in relation to sustainable development. The i-EPAs with the three African regions have received criticism, inter alia, from Members of the European Parliament for not having sustainable development chapters at all. In their view, this undermines the ambitious scope of the agreement, the EU's own commitment to sustainable development and its own principle of policy coherence for development (PCD). In the case of the Cariforum-EU EPA, despite the agreement being the only comprehensive one to date, critics have pointed out that restrictive export provisions could undermine the region's ability to respond to systemic shocks and in turn, undermine the region's ability to attain food security.
- **Development cooperation.** The cooperation tools and methods are meant to operationalise the CPA's principles by focusing on results, partnership and ownership. The programming and implementation of the European Development Fund (EDF) are therefore designed as a joint responsibility.
- **The EDF** is directly financed through voluntary contributions by EU Member States outside of the EU budget, but it is negotiated in parallel with other EU external financing instruments to ensure consistency. It is managed by the European Commission and the European Investment Bank (EIB). The EIB manages the Investment Facility and provides loans, guarantees and funds from both the EDF and its own resources, for private companies in ACP countries for short- and long-term private and public sector projects
- **The EDF's total allocations have increased** while retaining its inter-governmental character and governance structure, which has allowed it to become the largest element in EU development cooperation aside from the Multiannual Financial Framework (MFF). Based on the EDF's unique history and legal status, as well as its inter-governmental basis, the European Parliament (EP) has no co-decision power over it. The EP Development Committee does engage in general policy discussions and is an important CPA stakeholder. The Joint Parliamentary Assembly (JPA) also has the power to carry out parliamentary scrutiny over EDF allocations of the national indicative programmes (NIPs) and regional indicative programmes (RIPs)
- **The EDF and budgetisation.** The EP, through the special discharge procedure, grants discharge to the European Commission for its management and implementation of EDF. Budgetisation — inclusion of the EDF in the EU's budget — remains a source of friction between the EP and the Council, although the Commission has suggested that the EDF be included in the EU budget on several occasions.
- The EESC believes that all forms of support that the EU gives to third countries should fall under the same legal framework and be subject to the same democratic checks of the EP. It therefore calls for the integration of the EDF into the EU budget while preserving the positive aspects of the EDF (e.g. reciprocity and mutual responsibility). This will result in a more coherent EU development policy.

#### 4. Background — a changing world

4.1 As acknowledged in the Joint Consultation Paper, the world has transformed significantly from when the agreement came into force in 2000. At the EU level, the EU has enlarged to include 13 new Member States between 2000 and 2013, to comprise of a total of 28 Member States. The new Member States do not have the colonial historical links, and in turn, a different or absent history of trade, economic and political relations with ACP states, beyond the relations since accession to the EU. On a global level, the world has become more populated, connected, interdependent, complex and volatile with new challenges such as climate disruption, the impacts of globalisation, increase in acts of terrorism, conflict and mass migration.

4.2 Since 2000, there has been the emergence of other economic powers in Africa, Asia and Latin America and other partnership groupings, such as the African Union and the G77 with many ACP countries on target to achieve middle-income status between 2020 and 2030, thus reducing their dependence on foreign aid.



4.3 The EU's partnership with the three regions that compose the ACP Group has been strengthened outside — although in synergy with — the CPA. This is reflected by the Africa-EU strategic partnership, the joint Caribbean-EU partnership strategy and the strategy for a strengthened partnership with the Pacific Islands. Cooperation with regional and sub-regional organisations has also increased, particularly with the EPAs and in the area of peace and security.

4.4 Although there have been successes in global development, there are still significant gaps ranging from hundreds of millions of people still living in extreme poverty, to gender inequality, to global emissions of carbon dioxide increasing by over 50 % since 1990. At the international level, a new global framework on sustainable development goals (SDGs) and its financing has been adopted in September 2015, addressing at the same time the interlinked challenges of poverty eradication and sustainable development. It is underpinned by a new 'global partnership', mobilising all means of implementation and all actors and applies universally to all countries.

4.5 The EESC therefore recommends an effective framework for international relations beyond a donor-recipient relationship, that is fit for purpose in order to implement the SDGs and deliver better outcomes to the citizens of both ACP and Europe through political, economic and development cooperation.

## 5. Specific comments

### 5.1 *Development cooperation pillar*

5.1.1 The EESC believes that rebalancing the partnership, in line with the 2030 Agenda, with its 17 SDGs, will be the most appropriate the framework to 'strengthen the means of implementation and revitalise global partnerships' (SDG 17). The SDGs offer a common framework, including 169 targets, which aims to end poverty and hunger, ensure access to affordable and sustainable energy for all, build resilient infrastructure, combat climate change and its impact, and promote rule of law and equal access to justice for all.

5.1.2 In line with the principle of policy coherence for development (PCD), the SDG framework offers a complimentary and holistic guide for future EU-ACP relations to achieve joint objectives, which will have global reach. Moreover, in light of the fact that internal EU policies have external implications, which can have adverse impacts on partner countries, working together to achieve the SDGs has a positive spillover effect for assuring PCD through aligning priorities while also respecting regional development agendas.

5.1.3 The financial resources required to achieve the SDGs are enormous, with infrastructure investment accounting for about 80 % of these resources, according to the World Bank and other multilateral development banks. Although the EDF remains an important source of funding for least developed countries, it is small in comparison to many countries' overall budgets, and is expected to decrease. However domestic resource mobilisation (DRM) in many ACP countries can be a key source of funding development. The World Bank 2013 report on financing for development post-2015 estimates that between 50 % and 80 % of infrastructure financing under SDGs is expected to be from countries' own domestic resources.

5.1.4 The EESC therefore believes that the development funding should be used to build capacity to mobilise and use domestic resources. For example, according to the OECD, every dollar of overseas development assistance (ODA) spent on building tax administrative capacity has the potential to generate thousands of dollars in incremental tax revenues depending on the country situation. It is estimated that taxes are just 10-15 % of GDP in most African countries<sup>(3)</sup>. Similarly resource-rich countries can be supported to build their capacity to negotiate fair contracts with mining, and other extractive companies so as to improve revenues to deliver on their SDG commitments. Moreover, ACP countries should be supported in their aims to industrialise and process their own raw materials and commodities for local, regional and international markets.

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<sup>(3)</sup> The Economist, 16.4.2015, *Making Africa work*.



5.1.5 The EESC also recommends future cooperation to address the serious shortage of skilled workers in fast-growing sectors in ACP countries, especially as the UN predicts that there will be 2,5 billion Africans — a quarter of the world's population <sup>(4)</sup>. Such sectors include the extractive industries, energy, water, and infrastructure, as well as agriculture, health and telecommunications. This skill shortage is one of the reasons why ACP countries export raw materials that are processed elsewhere in the world, to the detriment of ACP industries and jobs. These countries also need their own research and innovative solutions to tackle their development challenges, including climate change. However, the researcher-to-population ratio is very low in African countries. Burkina Faso, for example, has 45 research and development (R & D) specialists per million people, and Nigeria has 38, in comparison to an average of 481 in Latin America and 1 714 in East Asia <sup>(5)</sup>. Circular migration should also be included to address the skills shortage. Already Erasmus+ provides for circular migration of EU youth: similar provisions should be put in place for ACP youth. This requires reframing the debate on migration to focus more on mobility, especially amongst youth, for education and training, internships and exchanges, and more.

5.1.6 The EU and its Member States, in line with the principle of PCD, and the aforementioned recommendation to build tax administrative capacity using development support, should effectively tackle the issue of illicit financial flows (IFFs). Tax governance is of primary importance and has the potential to enhance the sustainable development of ACP countries. In Africa in particular, more is lost in IFF than the continent receives via ODA and FDI combined.

5.1.7 The future partnership must also recognise the non-negligible role of remittances from migrant employment and diasporas that have become a fundamental source of foreign direct investment (FDI) in ACP countries, surpassing ODA. It is nevertheless important that EU Member States honour their commitment to provide 0,7 % GNI, as part of upholding the principle of PCD.

## 5.2 *The economic and trade relations pillar*

5.2.1 The EPAs are intended to foster regional integration and included the creation of ACP regional economic communities (RECs). The negotiations started in 2002 but there was a time pressure due to the WTO's waiver — maintaining preferential treatment for developing countries in the ACP Group vis-à-vis other non-ACP developing countries — which was due to expire at the end of 2007.

5.2.2 The EPA negotiations became difficult due to a number of reasons: varying negotiating capacities and maturity of ACP RECs; different visions of development and regional integration; different vision of trade based on reciprocity amongst others. Since negotiations began in 2002, there are now both comprehensive EPAs and interim EPAs (i-EPAs), as well as a number of different trade regimes that apply to ACP countries, including the generalised system of preferences (GSP/GSP+) and the 'Everything but arms' (EBA) arrangement.

5.2.3 As the EPA aims to contribute to sustained economic growth, poverty eradication, raising living standards and regional integration amongst others, effectively implementing and monitoring the functioning of EPAs will be crucial to achieve these aims.

5.2.4 The EESC therefore strongly recommends that a framework be put in place (i.e. joint consultative committees) to ensure CSOs, in both the EU and ACP regions, have a role in monitoring structures of the EPAs, that their recommendations as a result of the monitoring are enforceable and that the processes are compatible with sustainable development and this will continue to be in place post 2020. Where the negotiations for EPAs such as with the SADC have already been concluded and it is, therefore, unlikely that they can be reopened, the EESC would support a Protocol to the EPA being negotiated to this effect.

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<sup>(4)</sup> See footnote 3.

<sup>(5)</sup> <http://www.worldbank.org/en/news/press-release/2014/04/15/world-bank-centers-excellence-science-technology-education-africa>

5.2.5 EU Delegations (EUDs) are key actors and should engage with local NSAs, and EU and ACP countries' regional institutions in order to have transparent, coordinated and effective joint action. Furthermore, there should be joint coordination of the EUD CSO roadmaps and the corresponding ACP regional CSO strategy, in order to foster a comprehensive approach to CSO engagement.

5.2.6 The EESC further recommends that these joint consultative committees (JCCs) includes a broad participation of civil society with equal involvement of academia, business and social partners (inter alia, including farmers, women and youth organisations) and that these JCCs are adequately resourced with an accessible budget to facilitate their ability to act effectively and autonomously. Furthermore, the EESC underscore the importance of funding for CSO participation in the partnership by both partners, in order to fully embody the 'partnership of equals' that the EU and ACP strive for.

### 5.3 EDF

5.3.1 The EDF is viewed as a predictable and reliable source of development finance that plays an important role in maintaining ACP interest in the CPA. A controversial form of EDF funding is budget support, or direct aid to national budgets, either with predefined priority setting (sector budget support) or without (general budget support). In the period 2002-2010, the Commission committed a total of EUR 6,2 billion for general budget support — over 90 % for Africa. In spite of this, whatever the form of this future partnership, relations with the Caribbean and the Pacific should neither be diluted nor should the graduation of middle-income countries, in general, act as a hindrance to sustainable development. Future partnership must foster and prioritise inclusiveness.

5.3.2 On average, a fifth of EDF funds are used for sector and budget support. Although budget support is generally regarded as an effective way to channel donor aid, it weakens accountability and governance because it lacks proper monitoring and sufficient conditionality. It is also not very visible as it becomes part of the country's overall budget so most citizens and national stakeholders are unaware of the size of EDF contributions.

5.3.3 The EESC strongly recommends that in order to improve the accountability and transparency all forms of development support that the EU gives to third countries should fall under the same legal framework and should be subject to the same democratic scrutiny by the European Parliament, while retaining the same positive aspects of the partnership.

5.3.4 Feedback from EESC regional meetings reveal that civil society actors consider the EU tendering procedures for funding to be too long, bureaucratic and opaque. Furthermore, application processes are too cumbersome for many NSAs, with relevant information poorly disseminated in some countries.

5.3.5 The EESC has regularly advocated for capacity building of CSOs with access to the necessary resources to be effective partners in fostering ownership for, as well as monitoring of, developmental strategies, governance and human rights in their respective countries and regions, as stated in Article 6 of the CPA. These principles must be upheld in both EU and ACP countries.

Brussels, 25 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on the Joint communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions**

**‘Review of the European Neighbourhood Policy’**

**(JOIN(2015) 50-final)**

(2016/C 303/20)

**Rapporteur: Mr Andrzej ADAMCZYK**

**Co-rapporteur: Mr Gintaras MORKIS**

On 18 November 2015 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:

*Joint communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Review of the European Neighbourhood Policy*

(JOIN(2015)50-final).

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 19 April 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May), the European Economic and Social Committee adopted the following opinion by 162 votes to 15 with 21 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the adoption by the High Representative and the European Commission of the Joint Communication on the Review of the European Neighbourhood Policy, and acknowledges that many of the proposals made by the EESC in the Opinion on the Joint Consultation Paper *Towards a new European neighbourhood policy* <sup>(1)</sup> are included in the review, which is an attempt to redefine the ENP in order to make it more effective.

1.2 The need to revise the ENP is, on the one hand, a result of the failure of the uniform ‘one size fits all’ approach and, on the other, a consequence of ongoing fragmentation and decomposition of the relative uniformity of both the Southern and Eastern Neighbourhood.

1.3 The new ENP should acknowledge that the roots of the dramatic developments in those regions lie in both external pressure and internal instability, linked to poverty, inequality, lack of opportunities, corruption political and religious radicalisation as well as violent extremism.

1.4 The intention in revising the ENP is to make it flexible enough to keep on board those countries which are not able or not willing to meet all the requirements related to economic integration or alignment with the *acquis communautaire*. In this sense the new ENP is designed in a spirit of inclusiveness.

1.5 In order to limit the damage resulting from dramatic developments in the neighbourhood, the Communication sets a new priority of **stabilisation** and a new approach of **differentiation**.

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<sup>(1)</sup> EESC Opinion on the Joint Consultation Paper *Towards a new European neighbourhood policy* (OJ C 383, 17.11.2015, p. 91).

1.6 The emphasis placed on stabilisation explains why the issue of internal and external security has such a prominent place in the communication. Nevertheless, although instruments at the disposal of the EU are limited, the present reactive attitude should be replaced by a proactive policy of dynamic diplomatic efforts aiming at conflict prevention and peaceful solution of frozen conflicts.

1.7 The EESC would like to stress the importance of economic development as the main precondition for a stable and safe environment in the EU's neighbourhood. The EU should be very consistent in providing economic support for the ENP partners and enhancing long-term conditions and motivation to pursue economic reforms, increase competitiveness and modernise business regulations.

1.8 It is also very clear that the economic development must be accompanied by its social and environmental dimensions, only these factors going together may effectively contribute to real progress, stability and social peace.

1.9 The EESC understands that the new working method of differentiation reflects the sense of political realism, growing gaps between partner countries and their different aspirations. However, even if not all the economic criteria can be met, the EU must not compromise on the matter of fundamental European values, including social dimension, respect for universal human rights, democracy and rule of law. It is regrettable that the principle of respect for the ILO labour standards is not mentioned in the communication as a cornerstone of sound industrial relations.

1.10 There is not enough emphasis on the role of organised civil society and autonomous social and civil dialogue. The objectives of the ENP, including stabilisation, will never be met without substantial involvement of independent organisations of civil society. We must never forget that the European integration is, above all, a peace project, and civil society is vitally interested in its success.

1.11 The Communication is silent on the existing deficit of social and civil dialogue as well as violation of right to association and freely organise in the ENP area.

1.12 The communication appears to be proposing a rather defensive approach of limiting the ENP's ambitions because of its shrinking potential. It is true that the EU has been confronted with disruptive, sometimes dramatic developments in both the Southern and Eastern Neighbourhood. However, lack of vision will not help overcome the deadlock. The EESC suggests defining a new, bold, dynamic ENP agenda, including the prospect of accession to the EU for some partner countries, especially in the East, which have such aspirations and are able and willing to meet the requirements.

1.13 The EESC welcomes the declaration that better communication and promoting EU policies will be at the heart of the new ENP in order to better explain the rationale of EU policies and the positive impact of concrete EU actions. However, it is equally important to limit the danger resulting from misinformation, disinformation and propaganda which are in conflict with the reality, EU values and ENP objectives.

1.14 It has to be stressed that the ENP in both the South and the East is undermined by external factors. Da'esh is trying to destabilise, among others, the Southern Neighbourhood through terror and war. Russia's diplomatic efforts and military action target the ENP directly, especially Eastern Partnership. Moreover, its military intervention in the South strengthens the authoritarian regime in Syria.

## **2. The need for a new, revised ENP**

2.1 The EESC welcomes the Commission's review of the European Neighbourhood Policy, which aims to redefine its goals and general approach following dramatic developments in the EU's neighbourhood.

2.2 The EU's relations with its neighbourhood are based on Article 8(1) of the TEU, which states that the Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.

2.3 Originally, the goals of the ENP were quite ambitious and the general objective was to achieve the closest possible political association and the greatest possible degree of economic integration with the EU's southern and eastern neighbours.

2.4 One of the consequences of economic integration is potentially greater access to the EU's single market, which must go hand in hand with difficult political, economic and institutional reforms, as well as commitment to democracy, the rule of law and respect for human rights.

2.5 However, since 2003-2004, when the ENP was designed, the neighbourhood has undergone dramatic changes and the original 'one size fits all' principle has proved to be completely ineffective.

2.6 Since 2014, the Eastern Neighbourhood has been severely affected by the aggressive policy of the current Russian presidential administration and government, especially the war in Ukraine and (partly successful) manoeuvres to attract the EU's eastern neighbours to the Eurasian Economic Union dominated by Russia.

2.7 Acknowledging that each country has the right to its own political perspective, it should be noted that Russia's present administration wishes to develop its own neighbourhood policy, which is incompatible with the ENP, and wants to be considered as a global player and an entity of similar importance to the EU.

2.8 Although the EU's constructive cooperation with Russia could potentially be beneficial for both sides, it seems unlikely that in the foreseeable future it is possible to avoid the conflict of interest in the Eastern Neighbourhood, unless Russia changes its aggressive and subversive attitude. Recent developments in Syria are the evidence that this may apply also to Southern Neighbourhood.

2.9 In the Southern Neighbourhood, the war in Syria, conflicts in Libya, the emergence of Da'esh, controversial political developments in some countries of the region and other armed conflicts in the Middle East mean that the high hopes for peace and democratic transformation associated with the Arab Spring have been fading, at least with regard to the near future.

2.10 All these negative developments and growing gaps in many areas between different countries in both the Southern and Eastern Neighbourhood call for reprioritisation, a new approach, new working methods and more proactive and effective EU diplomacy. The communication is a response to these challenges.

### **3. Stabilisation — a new priority**

3.1 The Commission accepted the EESC's views on the need to make stability, increased security, flexibility and differentiation, as well as greater mutual ownership, priorities of the revised ENP. The review identifies stabilisation as the most urgent challenge in many parts of the neighbourhood and therefore recommends that it be made the main political priority of the new ENP.

3.2 The EESC believes that this recommendation is well-founded, as recent developments provide evidence that the EU has only partially been able to foster stability, prosperity and security in the neighbourhood.

3.3 It is also very clear that threats to the neighbourhood's stability may not only represent major obstacles to the democratic transition and reform process called for by the EU, but also have a negative impact on countries which are successful in their ENP-driven transformation and on the EU itself.

3.4 Conflict prevention and conflict management should be substantially strengthened, especially as many frozen conflicts remain a serious threat to stability in both the Southern and Eastern Neighbourhood. In order to play a positive role in finding peaceful solutions, Europe should, on the one hand, remain impartial, and on the other hand, assist victims, the most vulnerable and threatened.

3.5 It is also quite evident that the instability is not only a result of external pressure, and the joint communication is right to identify a link between instability and poverty, inequality, lack of opportunities and corruption, which may all increase vulnerability to radicalisation. However, the document is lacking a balance between the economic and social dimensions, underestimating the important role of welfare and social protection for stability.

#### 4. Differentiation

4.1 The new ENP has been designed to reflect different aspirations, ambitions and interests of partner countries and the situation resulting from differing developments in particular countries of the EU's neighbourhood.

4.2 The joint communication declares that 'the EU will continue to work with partner governments, civil society and citizens on human rights and democracy related issues'. This statement is far from categorical, reflecting the new sense of political realism and readiness to water down the firm promotion of European values enshrined in the EU Charter of Fundamental Rights.

4.3 There is no mention, in the communication, of the ILO Conventions and Recommendations. However, respect for the ILO core labour standards is a bottom line which must not be crossed; this principle must not be weakened by the differentiation.

4.4 The communication states that 'that different patterns of relations will emerge, allowing a greater sense of ownership by both sides. The EU is ready to discuss the possibility to jointly set new partnership priorities, which would focus each relationship more clearly on commonly identified shared interests'. This signifies not only a change in the language but also abandoning a rather 'normative approach' focusing on the transposition of European values in partner countries.

4.5 The change of strategy may be partly due to a desire to dispel the illusion that all peoples want to adopt EU democratic standards and only oppressive regimes prevent them from doing so. Nevertheless, the EESC represents the position that no compromise on universal human rights or democratic values may be envisaged.

4.6 It is also true that some partner countries expressed the opinion that the ENP was too prescriptive and did not sufficiently reflect partner countries' specificities and aspirations.

4.7 The incentive-based 'more for more' approach has proved to be only partly efficient. It has not worked in countries where local elites resisted EU-driven transformation. Moreover, the 'more for more' principle sometimes gave the impression of paying for respecting EU values. However, the only way to ensure that EU values are respected is to make people and communities believe in their universal significance and adopt them as theirs. It is not effective to buy values for projects. In this respect, the EESC appreciates the declaration that 'the EU will explore more effective ways to make its case for fundamental reforms with partners, including through engagement with civil, economic and social actors'.

4.8 Nevertheless, even taking into account the new differentiated approach, we must not let the 'more for more' principle become 'more for less' for the sake of the new paramount objective of stabilisation in the neighbourhood. The principle of conditionality in implementing the 'tailor-made' policy within the ENP needs to be further developed.

4.9 It remains to be seen whether the new differentiation approach does not in practice mean a gradual dismantling of the ENP and smooth transition towards a purely bilateral approach.

4.10 It should be also stressed that the new 'joint ownership', meaning less patronising and more genuine partnership, combined with the differentiation, must not lead to a pick and choose policy where partner countries can pick only such parts of the partnership which are convenient to their governments.

4.11 The differentiation will also affect the way in reporting about the progress made by partner countries. A new style of assessment will be developed focusing on specific goals agreed with partners. It is to be regretted that the present transparent way of preparing progress reports in similar format for all countries simultaneously will be replaced by a series of reports of different nature for different countries, in formats which still have to be determined.

## **5. Role of organised civil society**

5.1 The communication does not pay enough attention to the role of organised civil society or to either social or civil dialogue. There is only a vague reference to the need for deeper engagement with civil society, including social partners, and to 'expand outreach to relevant members of civil society in its broadest sense as well as social partners'.

5.2 There is a clear deficit of civil and social dialogue in almost all countries, both in the Southern and Eastern Neighbourhood, although there are also countries such as Tunisia or Georgia where substantial progress in this respect has been made.

5.3 The communication is silent on violation of the right to association and to freely organise employers, workers or NGOs in the ENP area and lacks a vision of how to provide them with an enabling environment to engage in policy-formulation, programming, implementation, monitoring and evaluation of public authorities policies.

5.4 The communication puts emphasis on the reform of public administration and on delivering ENP partners' commitments to gender equality, but there is no mention of the role of civil society in this respect.

5.5 The EESC is committed to working with its partner organisations in the ENP countries with the clear objective of jointly monitoring the implementation of the ENP and observing the impact of the new differentiation approach.

## **6. Migration and mobility**

6.1 Although the EU strategy and concrete action related to migration and mobility are not specific to the ENP, cooperation with partner countries in this respect is crucial.

6.2 Finding a solution to the ongoing refugee crisis must be part of a larger EU strategy, but efficient and effective implementation of the ENP migration and mobility agenda may be of great relevance to it.

6.3 The communication very rightly states that 'addressing the root causes of irregular migration and forced displacement is central to stabilisation in the neighbourhood'. However, this is not very coherent with the differentiation approach, which may mean a less ambitious attitude to condemning systematic violations of political, social and economic rights by some partner governments, even if this remains the main root cause of instability.



6.4 The EESC also points out that visa facilitation initiatives should be assessed as one of the most crucial instruments with regard to closer interaction with the ENP countries. The EESC firmly supports visa facilitation schemes and warns that dismantling the Schengen Area might put them at stake.

6.5 The EESC also supports the declaration included in the communication that 'the EU will continue to foster a realistic and fair narrative on migration and to combat vigorously all forms and manifestations of racism and discrimination promoting intercultural dialogue, cultural diversity and mutual understanding'.

## **7. Economic development for stabilisation**

7.1 The EESC welcomes the efforts to strengthen competitiveness, support the economies of the ENP partners and improve prospects for the local population as the main precondition for a stable and safe environment in the EU's neighbourhood. All the neighbouring countries have economic problems; however, they are very different in nature, in terms of both their causes and their scale and impact on stability. Therefore, the aspect of differentiation for the future development of relations with neighbourhood countries is called for, among other things, by their economic and social differences. Reforms in public administration, judicial systems and the security sector, as well as fighting corruption and organised crime, are priority areas for further cooperation. Progress in all these areas is crucial for stability, but also safe and stable environment is necessary to achieve success.

7.2 The EESC appreciates the inclusion of the need to fully and effectively implement AA/DCFTA agreements which have already been signed, along with reforms in the ENP countries. However, in order to benefit from the DCFTA, partner countries have to undergo a difficult process of essential modernisation of production and services. The Communication is clear in this respect and declares the EU's support in capacity building to meet the challenges of the DCFTA.

7.3 The aim of completed free trade between the EU and ENP countries, striving for closer cooperation, should not be abandoned. The possibility of access to the EU market motivates neighbouring countries to pursue economic reforms and modernise production and businesses. However, even the DCFTA signatory countries have difficulties in modernising their economies due to the unstable political and economic situation, which does not encourage investment. Access to the EU and other international markets is directly related to the issues of employment and young people's prospects of being integrated into the labour market. Entrenchment of oligarchs and corruption obstruct economic reforms. The EU should apply more pressure and use all possible means to improve the situation so as to make it possible to attract investment capital into countries representing sound economic environment.

7.4 It is also clear that the implementation of the DCFTA will implicate great social challenges. Therefore, the involvement of all stakeholders in the process, especially social partners, is of crucial importance. Domestic advisory groups and civil society platforms can play a positive role in this respect and should be included in all aspects of implementation of the DCFTA

7.5 The EESC is pleased to note that the Communication genuinely gives the question of education and professional training (especially for young people) proper attention. It is likely that there will be increased support for primary and secondary education systems in the countries where this is most needed, and there will be increased possibility for the neighbourhood countries to participate in Erasmus + in terms of scale and funding; other measures will also be used for the development of skills of young people — thus making access to the labour market much easier.

7.6 The development of transport links with neighbourhood countries can further contribute to the strengthening of their economies. The provision that the EU should extend the major trans-European networks in the Eastern partner countries and, together with the international financial institutions and other partners, promote investment as well as develop benchmark Euro-Mediterranean transport network plans, should be most welcomed. These plans are also very important for organisations of civil society who should be actively involved in their implementation.

7.7 The EU is dependent on neighbour countries in terms of energy supply. Therefore, joint energy projects are mutually important and necessary for both parties. The issues of energy saving and energy efficiency and reduction of emissions and projects in the area of renewable energy are especially relevant. The joint communication rightly stresses the need to strengthen EU's energy dialogue with neighbourhood countries in the field of energy security, energy market reforms and the promotion of sustainable energy economy with the aim of building a resilient Energy Union with an ambitious climate policy at its core.

7.8 The EESC welcomes the declaration that 'agriculture is a major source of jobs in many partner countries and the EU should continue to support sustainable and inclusive policies and investment in modernisation of the sector, and diversification to other income creating activities in rural areas where necessary'. It should be stressed however, that the harmonisation in the area of agriculture and food production, as a consequence of the implementation of the DCFTA, must not result in lower quality of agricultural products or decrease of labour standards.

## **8. The security dimension**

8.1 The EESC welcomes strong emphasis on the security dimension in the Joint Communication. Strengthening partners' resilience to external and internal threats, as well as promoting modernisation for long-term economic and social stability, is of key importance.

8.2 The EESC supports the priorities listed under ENP security, placing fundamental importance on fighting terrorism, preventing radicalisation and organised crime, disrupting corruption and fighting cybercrime. These priorities could be underlined as constituting the core task of increasing security in both the ENP and the EU itself.

8.3 It should be stressed, however, that not only terrorist or criminal organisations represent a threat to stability of the ENP countries, but also certain governments which break international law and provoke conflicts and crises in the ENP region.

8.4 The EESC welcomes the initiative to give fresh impetus to cooperation on matters related to the Common Security and Defence Policy (CSDP), pointing out in particular the possibility of using CSDP missions and operations, EU Battlegroups when necessary, in practical implementation of shared responsibility and security interests. However, the CSDP instruments and diplomatic efforts should be used not only as a response to crises, but also as a political tool for crisis prevention. The EU should emphasise the need for greater involvement in conflict prevention and diplomatic mediation between potentially conflicting countries or non-government actors.

## **9. Regional dimension**

9.1 The EESC welcomes the Joint Communication's position of preserving the existing principal regional cooperation formats — strengthening of the Eastern Partnership programme and regional cooperation in the Southern Neighbourhood. However, it should be stressed that, within existing regional frameworks, significant discrepancies and diversities have evolved during last several years. It might be encouraging to propose a clearer distinction between the ENP partners, between those who have already achieved a higher level of integration with the EU (through association agreements and deep and comprehensive free trade areas — AA/DCFTA) or intend to do so, and the remaining countries.

9.2 It remains unclear how the new ENP will promote further closer cooperation with those partner countries which are successful in AA/DCFTA implementation and have European aspirations. The EESC reiterates its opinion that a clear European perspective of accession should be offered to some countries in the Eastern Neighbourhood. This would mobilise and motivate not only their governments in efforts to transform their countries and align their legislation with the *acquis communautaire*, but also encourage organised civil society to contribute to these efforts. This would also bring European values and identity closer to the citizens of partner countries.

9.3 The EESC supports the idea of thematic frameworks, which should promote the general movement towards more tailor-made initiatives and projects for interested parties from the Southern and Eastern Neighbourhood. However, the proposed idea seems to be just too broad and lacking a clear aim. Forums for discussions on such issues as migration, energy and security are the very first step towards deeper cooperation on the aforementioned challenges. The EU should be clearer about the specific outcomes it wants to achieve in using these thematic frameworks.

9.4 It should be taken into account that some neighbours of neighbours (particularly Russia) were invited to participate in the ENP, but have never taken up this opportunity. Therefore, the thematic platforms should be used exclusively for specific purpose-oriented objectives and not to provide opportunities for third party actors to promote their objectives at the expense of ENP principles. The format of cooperation with 'neighbours of neighbours', as described in the Communication, is far from being well defined, therefore, any case of such cooperation must be closely monitored so as to make sure it is not abused by any third party to undermine the interest of partner countries, the EU or the ENP itself. Involvement and cooperation with other actors beyond the neighbourhood (or neighbours of neighbours) should be based on a goodwill and sovereign decision of the ENP partners to include new actors in their cooperation with the EU.

## 10. Flexibility of financial instruments

10.1 The EESC welcomes the initiative to 'leverage considerable additional funding by further enhancing its cooperation with major International Financial Institutions and through the Neighbourhood Investment Facility (NIF)' and the mid-term review of EU external financial instruments in 2017. It should be clearly stressed that increased needs and challenges in the EU neighbourhood require not only more effective redistribution of aligned EUR 15 billion through the European Neighbourhood Instrument (ENI) over the period 2014-2020, but also substantial additional resources.

10.2 The EESC supports the proposals to use a 'flexibility cushion' within the ENI for urgent allocation of resources for unforeseen needs and to adapt financial regulations so that unused funds can be carried forward to the following year.

10.3 However, we think that the primary focus of the ENP should be on improving the existing financial instruments instead of emphasising new financial structures or 'trust Funds'. Closer cooperation between Member States and partner countries should result in greater transparency of expenditure and accountability. This will include the ability to react faster to the changing political and security situation on the ground, redirecting funds where necessary. The EU should also adopt a clear approach in cases where partners do not choose closer integration, creating incentives for respect for fundamental values and further key reforms.

10.4 The EU and the Member States should explore opportunities to expand joint programming in the ENP. Enhanced transparency of programming and reporting on results must be made available to Member States and other stakeholders. Civil society organisations can play an important role in this respect.

## 11. Visibility, communication and outreach

11.1 The EESC welcomes the determination to increase the visibility of EU policies and promote more effective communication of the new ENP. The Communication very rightly points out that 'improved public diplomacy will contribute to better explaining the rationale of EU policies and the positive impact of concrete EU actions'. It is equally important not to ignore the damage resulting from misinformation, disinformation and propaganda, which are in conflict with EU values and the principles of the ENP.

11.2 The EU should find proper instruments and sources to deal with communication challenges in the ENP partner countries and within the EU. The EU East Stratcom Task Force established by the EEAS is just the very first step in increasing awareness among the EU and ENP partners' citizens of hostile and disruptive discourses in public communication. The EEAS should not step aside from commitments to strengthen EU strategic communication much further.

11.3 Migration challenges both in the ENP region and within the EU should be given the highest priority in terms of strategic communication and public diplomacy. The EU and its Member States should acknowledge that miscommunication on migration and refugee policy may do a lot of damage to the coherence of the Member States and ENP partners' trust, and even to the stability of the EU.

Brussels, 25 May 2016.

*The President  
of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 258/2014 establishing a Union Programme to support specific activities in the field of financial reporting and auditing for the period of 2014-20’**

**(COM(2016) 202 final — 2016/0110 (COD))**

(2016/C 303/21)

On 28 and 29 April 2016 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 Regulation of the European Parliament and of the Council amending Regulation (EU) No 258/2014 establishing a Union Programme to support specific activities in the field of financial reporting and auditing for the period of 2014-20*

(COM(2016) 202 final — 2016/0110 (COD)).

Since the Committee had already set out its views on the content of the proposal in question in opinion CES 1031/2013 — 2012/0364 (COD), adopted on 20 March 2013 <sup>(1)</sup>, it decided at its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May), by 154 votes to 1 with 7 abstentions, not to draw up a new opinion on the subject but to refer to the position it took in the above-mentioned document.

Brussels, 25 May 2016.

*The President  
of the European Economic and Social Committee*  
Georges DASSIS

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<sup>(1)</sup> OJ C 161, 6.6.2013, p. 64.

**Opinion of the European Economic and Social Committee on the ‘Proposal for a regulation of the European Parliament and of the Council fixing the adjustment rate provided for in Regulation (EU) No 1306/2013 for direct payments in respect of the calendar year 2016’**

**(COM(2016) 159 final — 2016/0086 COD)**

(2016/C 303/22)

On 11 April 2016 the Council decided to consult the European Economic and Social Committee, under Article 43(2) of the TFEU, on the:

*Proposal for a regulation of the European Parliament and of the Council fixing the adjustment rate provided for in Regulation (EU) No 1306/2013 for direct payments in respect of the calendar year 2016*

(COM(2016) 159 final — 2016/0086 COD).

Since the Committee has already set out its views on the content of the proposal in question in its opinions CES2942-2013\_00\_00\_TRA\_AC, adopted on 22 May 2013 (\*), EESC-2014-02897-00-00-AC, adopted on 5 June 2014 (\*\*) and EESC-2015-02052-00-00-AC-TRA, adopted on 22 April 2015 (\*\*\*), it decided, at its 517th plenary session of 25 and 26 May 2016 (meeting of 25 May), by 161 votes to 2 with 8 abstentions, not to draw up a new opinion on the subject, but to refer to the position it had taken in the above-mentioned documents.

Brussels, 25 May 2016.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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- (\*) EESC opinion NAT/602 on the Proposal for a Regulation of the European Parliament and of the Council on fixing an adjustment rate to direct payments provided for in Regulation (EC) No 73/2009 in respect of calendar year 2013 (OJ C 271, 19.9.2013, p. 143).
- (\*\*) EESC opinion NAT/646 on the Proposal for a Regulation of the European Parliament and of the Council on fixing an adjustment rate for direct payments provided for in Council Regulation (EC) No 73/2009 in respect of calendar year 2014 (OJ C 424, 26.11.2014, p. 73).
- (\*\*\*) EESC opinion NAT/668 on the Proposal for a Regulation of the European Parliament and of the Council on fixing the adjustment rate provided for in Regulation (EU) No 1306/2013 for direct payments in respect of calendar year 2015 (OJ C 291, 4.9.2015, p. 60).









ISSN 1977-091X (electronic edition)  
ISSN 1725-2423 (paper edition)



**Publications Office of the European Union**  
2985 Luxembourg  
LUXEMBOURG

**EN**