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(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

398th PLENARY SESSION, 26 AND 27 MARCH 2003

Opinion of the European Economic and Social Committee on 'Consumer education'

(2003/C 133/01)

On 18 July 2002 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion, on 'Consumer education'.

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 5 March 2003. The rapporteur was Mr Hernández Bataller.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee unanimously adopted the following opinion.

1. **Introduction**

1.1. Developing an adequate, effective consumer protection policy calls for a series of measures to safeguard consumer safety and welfare, particularly from an economic and health point of view. Key components of such a policy include the quality, composition and safety of goods and services, and the conditions under which they are manufactured and maintained; clear and accurate commercial communications and advertising; guarantees in contracts; protection of privacy; protection of the public interest; the gradual harmonisation of rules; the development of channels for co-regulation and the settlement of disputes out-of-court; and support for consumer organisations.

1.2. At the same time, European consumers need to be given the skills and knowledge that will enable them to operate in an increasingly complex, convergent and sophisticated market so that they can effectively exercise their rights, meet their responsibilities and benefit from all the possibilities and safeguards that the EU has provided to protect their interests. Consumer education is therefore essential if the consumer protection framework as a whole, and the single market and other policies, are to be applied and really work well.

1.3. The importance of consumer education is clearly enshrined in Article 153 of the EU Treaty, which calls on the Community to promote consumers' rights to information and education, and is also clearly linked to consumer protection in documents such as the Green Paper. Of course, the subsidiarity principle means that a large part of responsibility in the area of education falls on national, regional and local authorities. However, this does not mean that the issue cannot or should not be debated at Community level so that specific actions can be proposed to improve consumer education. This is particularly true given the progressive establishment of the single market and the problems associated with it, such as cross-border transactions, the European dimension of consumer rights, and the need for Member States to exchange experiences that could be useful to the EU as a whole. The development of joint consumer education policies is even more important in the light of imminent enlargement and the need to prepare citizens and consumer organisations in the candidate countries with specific programmes offering information and training on the European Community. Action on this is already under way and must be stepped up following accession by the new Member States.

1.4. For its part, in the explanatory memorandum of its Communication to the European Parliament, the Council, the Economic and Social Committee, and the Committee of the Regions on Consumer Policy Strategy 2002-2006 [1], the European Commission points out the need for the general

[1] COM(2002) 208 final.

public to be given more information. To achieve the objectives of this new strategy, the Commission points out that 'more attention should be given to the education of consumers so that they can shop with confidence in the full knowledge of their rights'. The EESC believes that more information is also required concerning the price, quality and safety of goods and services, the way in which they are manufactured and other characteristics such as their environmental impact.

2. **The importance of the 'educated consumer'**

2.1. It is important for account to be taken of the considerable added value inherent in the concept of 'educated consumer' — as a necessary condition for becoming an 'informed consumer' — when guaranteeing adequate consumer protection. Whether descriptive or offering proposals, studies conducted in recent years on the situation of consumers in the EU tend to highlight the following:

a) the need to increase consumer confidence so that they play a more active role vis-à-vis innovative products, become more involved in civil society organisations and benefit from the single market;

b) the fact that information alone is not enough to instil the level of consumer confidence needed or to promote among people (both young people and adults) a critical and responsible attitude towards consumption.

2.2. With regard to confidence, it must be remembered that recent scandals in the food sector — both primary and industrial — have to a large extent undermined consumers' perception of safety. In addition to this, there is a great deal of uncertainty when it comes to assessing the quality and suitability of complex goods and services such as functional foods (novel foods), e-commerce and on-line banking services. Another example of this is the experience gained by the introduction of the euro, which has highlighted the need for greater efforts in the area of information and training, and the danger that insufficient information and training could create scepticism towards the single market. Education should therefore also be seen as an important part of overall consumer protection policy and a key factor in improving the public's confidence in and acceptance of the European Community system, underpinned by the chance to participate in and critically assess processes.

2.3. With regard to information, this is an essential part of consumer protection and the Commission's aim to develop 'a modern, efficient and reliable information policy' is therefore very fitting. However, it must be pointed out that, firstly, there are still many barriers that prevent consumers being given comprehensive information and, secondly, while information is a crucial factor in restoring and generating consumer confidence, it is not enough. Consumer confidence is not achieved simply by increasing the quantity of information available, guaranteeing access to it, or even improving the quality of this information. People also need:

— a wealth of knowledge enabling them to take in, interpret, understand and assess information received, and adopt a standpoint on it. This includes, in particular, the basic rules on the functioning of the economy, the ethical and social dimension of consumption, models of sustainable consumption, solidarity, cohesion and integration, rights and duties as a consumer, etc.;

— a series of skills and resources enabling them to use both information and their own experience to take effective decisions that are in their best interests.

2.4. Information is merely the 'raw material' of communication. Access to information implies the existence of 'latent knowledge', but does not in itself guarantee the existence of a 'reasonably well-informed' consumer, according to the criteria adopted by the European Union itself. Information only truly benefits the citizen if the latter, through education, can understand this information and is motivated to use it to make decisions in a 'reasonably observant and circumspect' way, to again use the terminology found in the case law of the Court of Justice of the European Communities (CJEC).

2.5. Consumers need more than mere information if they are to be genuinely effective in their choice and use of goods and services. They should also be able to use and apply this information. Given the importance of consumption in the world today, consumers need skills if they are to be active citizens and fully participate in society.

3. **Content and techniques of consumer education**

3.1. From the point of view of content, consumer education must endeavour to give consumers a proper understanding of the various social, technical, legal and regulatory concepts associated with consumer protection, i.e.:

— a proper understanding of the composition of goods and services, the safety and quality criteria that apply to each product, the way products are used, consumed and maintained, and the associated costs. The more complex and sophisticated a product, the more important it is that scientifically correct and impartial information is provided. This is the case, for example, of what are known as novel foods, and IT or telecommunications;

— a proper understanding of commercial communication, in particular when distinguishing product information from the 'hype' of advertising or promotional material. One important aspect here is the fact that it is becoming increasingly difficult to properly identify commercial communication, as it is integrated more and more in other types of supposedly informative or recreational content, such as newsmaking, sponsorship, product placement, hidden or disguised advertising, etc.;

— a proper understanding of contract terms, many of which are increasingly complicated owing to the variety of options associated with increasingly personalised products. Telephony products, with their complex packages, tariffs and conditions, are a good example of an area in which training is needed;

— a proper understanding of consumer rights when bringing complaints through the various administrative, legal and out-of-court channels. Accordingly, only the existence of truly educated consumers can enable market self-regulation and co-regulation mechanisms to really work in the future, thus strengthening their position as market players.

3.2. From the technical point of view, it is important to develop educational tools and materials that are clearly designed to equip consumers with the knowledge and skills needed for action. These tools and materials should also be attractive, and motivate and catch the attention of potential users.

3.3. The possibilities offered by new technologies are an important factor in meeting this objective, as they provide virtual as well as real training. On-line interactive education through the Internet and e-mail (e-learning), audiovisual material (CDs) and digital means of communication are all instruments offering more than traditional media (e.g. magazines, publications, press, radio, television). However, this also requires more decisive policies to better equip and train people to use these new technologies.

3.4. Consumer education should also take account of essential differences between different sectors of the population, in particular with regard to age and education.

3.4.1. Consumer education in schools should therefore be approached through regulated teaching channels, even if complementary initiatives are also introduced in the area of informal teaching. It is important for programmes and projects to be developed to improve cooperation between national and local authorities in the area of education, improve cooperation between centres, and increase the involvement and motivation of school children, for example through awareness-raising measures. Finally, one must not of course forget to train teachers of all disciplines in consumer-related issues so that these issues can be integrated — through specific teaching modules — into education across the board.

3.4.2. Consumer education initiatives should also be extended to higher education and specialised training, in order to open up training to even more people. It is therefore essential that universities are involved, by including consumer issues on curricula (whether as a core, horizontal or optional subject) and specifically devising teaching modules, materials and tools for students following education or training.

3.4.3. Finally, one should not forget the importance of both adult education and ongoing training, which should also be extended to other types of consumers who have no contact with school or academic life. A special effort must be made to devise practical training materials and tools that address everyday problems. Consumer associations and other social organisations would seem to be the most effective channels for distributing these materials in a decentralised manner. Account must also be taken of the need to reach the most vulnerable consumer groups and those whose personal circumstances bring a special need for protection and training with regard to the single market, the new scenario of technical convergence, and innovations in the bio-food sector. There is a particular need for education targeting the following groups:

— immigrants, so that they are fully aware of their rights and duties as citizens and, in particular, as consumers throughout the European Union, thus making it easier for people to move to another Member State in pursuit of employment or professional advancement;

— young people who are not in higher education and who can be best reached via youth associations in the various Member States.

4. **The educational role of consumer associations**

4.1. According to the aforementioned Commission Communication on Consumer Policy Strategy 2002-2006, one of the objectives of the new strategy is the 'proper involvement of consumer organisations in EU policies'. Particular attention should be paid to training the staff of these organisations in specific aspects such as cross-border transactions, financial services and the rights of EU consumers in the internal market.

4.2. In early 2002, the Commission launched a project entitled 'Preparation of training actions for personnel of consumer organisations', which comprises an initial phase for preparing material and training trainers, followed in 2003 by courses organised for the aforementioned personnel.

4.3. The Committee believes that training designed for consumer associations should not have solely internal objectives such as optimising management, strengthening their position, structure and capacity, lobbying effectively on behalf of consumers, participating in the drafting of EU policies and consolidating their position as market players in organising demand.

4.4. The role of consumer associations in developing training strategies should also be targeted at consumers in general, as they play an important role in giving citizens advice and helping them solve their problems.

4.5. Consumer organisations could therefore, with the appropriate support, do more than provide advice, or merely disseminate and distribute training materials and tools designed by experts or within the EU institutions. They could also play a fundamental role as active training providers for consumers in general. Their high level of credibility and contact with the public make them a very effective channel for disseminating and raising awareness of Commission initiatives and this must also be used and taken into account in the area of consumer education. For this 'knock-on effect' to work, consumer association members must be made a prime target of the Commission's training actions, so that by 'training trainers' consumer education can become a reality in the EU.

5. **Specific comments**

5.1. A greater effort should be made to design schemes that complement current initiatives and are aimed at both school-age children and consumers involved in adult education. Initiatives also need to be publicised in order to raise awareness of them.

5.2. Consumer education initiatives must also be extended to higher education and specialised education, by involving universities and designing materials and tools especially for such students.

5.3. Neither must one forget the importance of ongoing training, which offers the possibility of training to other types of consumers who have no contact with school or academic life. A special effort must therefore be made to devise practical training materials and tools that address everyday problems. Particular account must also be taken of particularly vulnerable consumer groups and those with a special need for practical guidance in this single, convergent and increasingly technological market.

5.4. Consumer organisations should be given Commission support enabling them to play a fundamental role in educating people, as they are a very effective channel for disseminating training content and enjoy a high level of credibility and contact with the public.

5.5. The Commission should therefore give greater economic support to consumer organisations' projects in this area, in particular transnational projects that have the added value of a European dimension.

6. **Conclusions**

In view of the above, it can be concluded that now would be a good time to develop the following actions at Community level:

6.1. to organise and give impetus to the work of a group of permanent experts, comprising education professionals with an in-depth knowledge of consumer affairs, who can systematise on an ongoing basis the work carried out in each country and draw up the reports needed to further apply the Treaty of Amsterdam with regard to consumer education;

6.2. for the Commission to present a plan to consolidate European networks that promote consumer education, through significant and ongoing projects;

6.3. to set up a database including all the schemes that have been financed by the Commission in recent years and, if appropriate, the most significant schemes conducted in the Member States, in such a way that it can be consulted by other countries (including the candidate countries) and can foster an attitude of cooperation, dissemination and dynamism that promotes consumer education;

6.4. to study the possibility of setting up a virtual school of consumer education, drawing on new technologies and the experience already gained by different countries in this area. Account should also be taken of experience gained from education at European level in the various stages of education, e.g. the Erasmus project;

6.5. to develop Commission proposals that:

— help make consumer education widely available so that all European citizens can be educated and trained as consumers, as is their right and duty;

— enable educational actions to be coordinated more effectively and proper educational material to be drawn up, including the use of the Internet, so as to take account of the different characteristics of European consumers;

— provide training for trainers, adult consumers and vulnerable groups;

— ensure that the members of consumer organisations and other consumer bodies and institutions are given high-quality ongoing training.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on 'Simplification'

(2003/C 133/02)

On 18 July 2002 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on 'Simplification' (Single Market Observatory).

The Section for the Single Market, Production and Consumption, which was responsible for the Committee's work on the subject, adopted its opinion on 5 March 2003. The rapporteur was Mr Simpson.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee adopted the following opinion with 81 votes in favour and two abstentions.

1. **Introduction**

1.1. When presenting the programme of the current Commission to the European Parliament in February 2000 [1], President Romano Prodi identified 'the promotion of new forms of governance' as one of the four strategic objectives of this Commission's term of office. This included a greater degree of openness on the part of the Commission, simplifying the body of Community law and reducing its volume, the better involvement of civil society in the legislative process and developing connectivity through networking. The objective of these measures, in toto, was to achieve better law-making. However, the Commission recognised that it could not act alone in this endeavour.

1.2. Since October 2000, the European Economic and Social Committee (EESC) has issued three Opinions [2] on the subject of simplifying and improving the regulatory environment of the European Union, reflecting the importance that it attaches to this topic. One of these Opinions [3] was prepared at the instigation of the President of the Commission, Romano Prodi. The EESC has also issued an Opinion on the Commission's 2002 Review of the Internal Market Strategy [4] that dealt, inter alia, with simplification issues and recognised their quintessential importance to the completion of a true Internal Market.

[1] COM(2002) 705 final.

[2] OJ C 14, 16.1.2001, OJ C 48, 21.2.2002 and OJ C 125, 27.5.2002.

[3] OJ C 125, 27.5.2002, p. 105.

[4] OJ C 241, 7.10.2002.

1.3. The first of these Opinions ('Simplifying Rules in the single market': rapporteur Mr Vever) [1] introduced the concept of independent impact assessments, possibly prepared by an external body, and proposed a number of specific measures. It also recommended the adoption of codes of conduct by the various players and set out a Code of Conduct for the EESC.

1.4. The second Opinion ('Simplification': rapporteur Mr Walker) [2] reiterated these proposals and made a number of additional recommendations, including giving legislative texts a finite life ('sunset' legislation), exempting SMEs from some regulations or some parts of some regulations, codifying existing legislation and speeding-up the simplification process.

1.5. In its third Opinion ('Simplifying and Improving the Regulatory Environment': rapporteur Mr Walker) [3]: the EESC developed its proposal for an independent body at the European level and suggested that it might be modelled on the Office of Regulatory Affairs in the USA. It also set out an Action Plan for the Commission, the Council, the European Parliament, the EESC, the Committee of the Regions and the Member States. In addition, it proposed a number of further measures.

1.6. A synthesis of the observations and recommendations contained in these previous Opinions is contained in Appendix 1.

1.7. In addition, the EESC held a hearing on 10 September 2002, under the auspices of its Single Market Observatory, on the topic of, 'Simplifying Single Market Rules — Which Priorities?'

1.7.1. The hearing concluded that, in contrast to the position in earlier years:

— simplification is now seen as a topic of interest to all groups in society;

— the broad inclusion of actors and the harnessing of different methodologies (including co- and self-regulation) is necessary to make simplification work; and

— the over-riding question now is how to put simplification into practice.

1.7.2. In connection with this hearing, the EESC sent a questionnaire to a wide range of socio-economic organisations and other single market-users. The results of this survey showed that:

— 65 % of respondents think that European legislation is unnecessarily complex;

— 60 % support the Commission's Action Plan but the other 40 % do not think that it goes far enough;

— 90 % think that national legislation is too complex and that simplification measures must be undertaken at national level if the EU simplification plan is to succeed;

— 75 % support the idea of more self-regulation or co-regulation.

1.8. The unsatisfactory nature of the present regulatory environment is widely acknowledged, not least by the Commission, which has committed itself to achieving real and lasting improvements. The EESC commends and supports this intention but considers that such a goal is beyond the reach of the Commission alone. Its realisation will require a meaningful level of commitment from the European Parliament, the Council and the Member States and the concerted efforts of all of them, acting in partnership. The Committee welcomes this further opportunity of lending its active support to such a process.

1.9. As Commissioner Bolkestein [4] has said, 'Markets cannot work without rules but bad rules are a burden that we cannot afford to bear.' He advocated that, 'Regulation should be rolled back .... competition is our best friend .... emphasis on rules too often suffocates competition.' In declaring that rules needed to be simplified as a priority he said that, 'We must increase the speed of rule-making; legislation lags behind the market; we are in danger of imposing yesterday's rules on tomorrow's economy.'

2. **The Commission's Communication**

2.1. Recently, the Commission has published a Communication to the European Parliament and the Council in four documents, which makes formal proposals for changes to the way in which the Community governs itself. The first of these

[1] OJ C 14, 16.1.2001.
[2] OJ C 48, 21.2.2002.
[3] OJ C 125, 27.5.2002.

[4] Speaking at the hearing on Simplification held under the auspices of the SMO at the EESC building on 10 September 2002.

documents is a summary Communication ([1]) reviewing the basic concepts and ideas and is supported by three other more detailed Communications ([2]) on particular aspects of the proposals.

2.2. The Commission has prepared these Communications in the knowledge that the simplification and better governance of the Community is, in itself, a desirable objective but that the conclusions of the Laeken Convention and the Inter-Governmental Conference (IGC), which will follow in 2004, may have further implications for governance.

2.3. These Communications have identified improvements that can and should be made within the present legislative framework without detracting from the significance of, or waiting for, the proposals that will emerge from the Convention on the Future of Europe for submission to the IGC. The Commission believes that the proposals in the Communications should come into force at the beginning of 2003 ([3]). The Communications should be read and understood in the context of the White Paper on European Governance ([4]) that was published in July 2001.

2.4. That White Paper set out key assumptions about the failings and weaknesses of the present systems of governance and the need for change. These emphasised, inter alia, a lack of understanding by citizens of the working of the EU. The Commission considers that the measures now proposed are necessary to 'strengthen the credibility of the Community in the eyes of its citizens ([5])'.

2.5. The recent Communications emphasise three approaches to improvements:

(1) an action plan ([5]) for the improvement of law making through the European institutions ([6]) and Member States by simplifying and improving the regulatory environment;

(2) improving the process of consultation through the promotion of a stronger culture of dialogue and participation by interest groups ([7]); and

(3) a more systematic approach to assessing the impact of initiatives ([8]).

2.6. The details of the Commission's proposals under these headings are summarised in Appendix 2.

3. General comments

3.1. In its previous opinions, the EESC has indicated its acceptance of the need for regulation and made plain the fact that it does not necessarily equate improving the regulatory environment with a process of deregulation. It does, however, share the Commission's concerns that poor-quality regulation is hindering economic development and undermining the quest for full employment by imposing unnecessary compliance burdens on business, and especially small businesses.

3.1.1. Frequently, poor-quality regulation also has the defect of failing to meet its regulatory objectives. Additionally, poor-quality regulations (or legislation) may mean that the Courts are asked to make an interpretation which can be an expensive process, time consuming, and may not meet the original intentions of those who developed the legislation.

3.2. As the EESC has pointed out in its Opinion on the 2002 Review of the Internal Market Strategy ('Delivering the promise') ([9]), poor quality regulation is costing the European Union upwards of EUR 1 000 billion per annum.

3.3. It is not just businesses that suffer the negative impact of poor-quality regulation; national administrations and citizens in their daily lives are also adversely affected. These undesirable consequences stem primarily from the complexity of the regulatory environment and this, in turn, derives from two sources, which constitute separate but related simplification issues that need to be tackled in different ways.

3.3.1. The first of these stems from the obscure, convoluted and sometimes downright contradictory nature of legislative texts. This may be due on occasion to poor legal draughtsmanship in the original document, sometimes even requiring the intervention of the courts to interpret the legislators' intentions. More often, it is attributable to the piecemeal way in which a large body of European legislation has evolved, with amendments to legal texts, amendments to the amendments and legislation which is seen to be needed to meet specific circumstances being tacked on to instruments which were not conceived for that purpose in the first place.

([1]) COM(2002) 275 final, 5.6.2002.
([2]) COM(2002) 276-278 final.
([3]) COM(2002) 275 final, para. 6.
([4]) COM(2001) 428 final.
([5]) COM(2002) 278 final — Introduction.
([6]) An apparent omission is that the Commission refers only to the Council and the Parliament. It does not refer to the EESC or the Committee of the Regions.
([7]) COM(2002) 277 final.
([8]) COM(2002) 276 final.
([9]) OJ C 241, 7.10.2002, p. 180.

3.3.1.1. Most often, it emanates from the amendments to the original texts that are promulgated in the European Parliament and/or the Council in an attempt to obtain sufficient consensus to ensure that the legislation is enacted. These amendments frequently have the additional effect of negating the impact assessments that were carried out in relation to the original proposals.

3.3.1.2. Another major constituent of this complexity is the sheer volume of the corpus of legislation, both at European and national levels, which makes it difficult to access for all but the most specialised legal experts.

3.3.2. The second source of complexity comes from the widespread differences in the regulatory regimes of the Member States, which have the effect of fragmenting the supposedly single market into fifteen discrete legal jurisdictions. This results:

— partly from delays by the Member States in the transposing of Community legislation into national law;

— partly from the fact that, in the process of transposition, Member States interpret the legislation in the light of their own legal customs and usage, in other words they put a national 'spin' on it;

— partly from variations between Member States in the level of enforcement of enacted legislation;

— partly from the derogations and exemptions which Member States extract from the negotiating process which precedes the enactment of much Community legislation; and

— partly from the insistence by Member States on the observance of national agency regulations, established business practices and traditions which, while they may not have the force of law, are nevertheless treated as mandatory.

3.3.3. In this context, the EESC notes with regret the disappointing progress which has been made in the transposition of EU legislation into national law in the Member States ([1]). While transposition deficits have decreased markedly over the last ten years, this trend has been reversed in the last six months and two-thirds of Member States fail to meet the target of a deficit of 1,5 %. The majority of them will have their work cut out to meet the target of zero overdue Directives by the Spring Council meeting of 2003. Meanwhile, the number of infringement cases has increased considerably over the last ten years and there has been little progress in reducing the infringement cases involving misapplication of legislation.

3.3.4. The net effect of all this is to create distortions of competition and discourage intra-Community trade. It is virtually impossible for businesses, and especially small businesses, to understand the extent of their legal obligations when trading with a Member State in which they are not established; too often, faced with the complexities and risks involved, they simply prefer not to avail themselves of the opportunity.

3.4. The EESC has previously argued in two separate opinions ([2]) that the volume of direct EU legislation is relatively low. The proportion of legislation which emanates directly from the EU and directly affects individual citizens will vary from country to country. However, the vast majority of legislation is composed of a hierarchy of national laws, government ordinances, agency regulations, collectively-agreed regulations and byelaws at regional, municipal and local levels. This hierarchy is pyramidal in shape; the further down one goes, so the volume of legislation increases, the transparency diminishes and the consistency declines.

3.5. Logically, therefore, the EESC supports the thrust of the Commission proposals for a more informed decision-making process based on more rigorous preliminary assessments.

3.6. The EESC has reservations about some aspects of the processes now being introduced.

3.6.1. The introduction of the impact-assessment measures and the wider consultation network has been presented in the context of a European Union of 15 Member States. The enlargement of the EU will make these changes more wide-ranging and complex. In the early years, an expectation of simplification may be blurred by the consequence of expansion. Nevertheless, an improved understanding of the rationale of EU regulation and legislation will be just as important in the new Member States as for the present Members.

3.6.2. Similarly, there is a danger that improved decision-making at the centre of the Community may be achieved at the risk of enhancing the perception of further centralisation unless there are safeguards to ensure that the principle of subsidiarity is protected and strengthened.

([1]) Internal Market Scoreboard No 11, November 2002.

([2]) OJ C 48, 21.2.2002, p. 130 and OJ C 125, 27.5.2002, p. 105.

3.6.3. The EESC notes that, whilst the proposed changes may codify the preparation of legislation and regulation, these changes (in themselves) do not introduce any steps to reduce the amount of, and impact of, existing legislation. Simplification through deregulation will call for other proposed actions.

3.7. The EESC is well established as a conduit between many aspects of organised civil society, the social partners and the Commission. This relationship has proved mutually beneficial to all the parties involved. The Commission has now created an enhanced mechanism for consultation and is, in part, relying on the new media/internet to facilitate this process.

3.8. To maximise the benefit to be gained, the EESC recommends that the Commission should ensure that the appropriate specialist sections of the EESC are able to draw on consultative responses to strengthen the work of the Committee in preparing its opinions for the Commission. Possibly the Parliament would wish to make a similar suggestion.

3.9. This suggestion would call for appropriate administrative arrangements and also an acknowledgement of the implications for the time-tabling of the various stages of legislative preparation.

3.10. The EESC notes that it is encouraged by the Commission to take a more proactive role [1] and signifies its willingness to do so.

3.11. The EESC welcomes the fact that the Commission has committed itself [2] to be more transparent in the way in which it exercises its right of initiative and take greater account of diversities. In particular, it welcomes the Commission's assurance [2] that it will endeavour to ensure that 'the substance of its legislative proposals are restricted to the bare essentials.'

3.12. The EESC would stress the need to implement the Commission's proposals within the shortest possible timeframe.

3.13. The Committee would point out that in the context of the simplification process the existing levels of European standards, including social, environmental and consumer protection, should not be lowered. These standards should not fall victim to the simplification process either through their cancellation or through any changes to them.

4. **Specific comments**

4.1. The EESC has consistently supported Commission proposals for wider consultation. However, the formal consultation process should not be limited to interlocutors of the Commission's own choosing. There is a need to engage all stakeholders in the process. It is important to avoid a situation where Commission proposals merely represent the shopping lists of the most influential lobby groups. The consultation process will not work unless all the actors throw their weight behind it. Small businesses and their representative organisations need to be more pro-active and put more resources into the process. Simplification will only work if it takes into account the views of those who are affected by it.

4.1.1. To ensure that the views of all the civil society players concerned are taken into consideration, it is very important not to exclude a priori specific organisations, and consequently the people whom they represent, from the Commission's consultations. In other words, consultation should not be limited solely to organisations with a European structure; otherwise, civil society bodies will not be able to make an input if there is no European umbrella organisation for their sector or if they do not belong to such an umbrella organisation. Rather, the Commission should give greater publicity to its legislative proposals and actively encourage views from all directly concerned organisations (local, regional, national and pan-European). All persons, organisations or businesses which are, or are likely to be, affected by proposed legislation have a legitimate locus in the consultation process and the right to make their voice heard.

4.1.1.1. The EESC has already recommended [3] that the consultation process should be widened by inviting submissions from all interested parties so that consultation should be effectively at the option of the consultee. It advocates that full use should be made of the Internet to provide ease of access for this purpose.

4.1.1.2. The EESC shares the Commissions concerns [2]:

— to ensure the quality and particularly the equity of consultations leading up to major political proposals;

— to systematise and rationalise the wide range of consultation practices;

— to guarantee the feasibility and effectiveness of the process;

[1] COM(2002) 277 final, Section II.
[2] COM(2002) 275 final.

[3] OJ C 125, 27.5.2002.

— to ensure the transparency of consultation from the point of view of the bodies or persons consulted; and

— to demonstrate accountability by making public, as far as possible, the results of the consultation and the lessons that have been learned.

4.2. The EESC accepts that a process of wider consultation may extend the time interval between the introduction of a legislative proposal and its eventual enactment but considers that time spent in ex-ante consultation is time gained, not lost, because it leads to a greater degree of consensus and wider acceptability of legislative proposals.

4.3. Presumably, it is implicit in the new system that the EESC would be consulted about the content of the main policy-impact assessments but the Committee suggests that this should be acknowledged explicitly.

4.4. The EESC reiterates its conviction that impact assessments should be prepared for all legislative proposals but, as it has already indicated ([1]), the impact assessments prepared by the Commission are frequently invalidated by amendments to the draft legislation that are introduced in the European Parliament or the Council. There is no point in improving the quality of Commission impact assessments, and requiring their universal application, if they are negated by subsequent amendments to the text. It is, therefore, essential that both in the Parliament and the Council, where a proposed amendment would introduce changes not covered by the impact assessment, it should be supported by an impact assessment and that these assessments should be drawn up at least to the same standards as those submitted by the Commission.

4.4.1. The EESC reiterates its position that there is a need for an independent, inter-institutional body to monitor the process of impact assessment. It also considers that this process should be based on a system of Regulatory Impact Analysis (RIA).

4.4.2. The EESC endorses the Council's recommendation that impact assessments should be made publicly available. It also welcomes the Commission's intention ([1]) to prepare impact assessments in line with the European sustainable development strategy.

4.5. The EESC warmly welcomes the Commission's decision ([2]) to add, where appropriate, a review clause, or even a revision clause, to its legislative proposals. It endorses the Commission's concern to preserve legal certainty for operators when applying this process.

4.6. In addition to widespread consultation in the formulation stage of the legislative process there is a need for systematic and formalised ex-post consultation procedures. Small businesses, in particular, are unlikely to get involved in ex-ante consultations because most of them are too concerned with their day-to-day problems to be aware of the existence of pending legislation but they will provide feedback on the impact of legislation once it has come into force; much the same applies to the smaller and less well-organised civil society bodies. This ex-post feedback should then be used to refine and improve the process of preparing subsequent impact assessments.

4.7. This year marks the tenth anniversary of the introduction of the single market and simplification has been on the European agenda for the whole of that time but there is very little evidence of any practical progress. This is particularly true in relation to the *acquis communautaire*, which currently runs to some 85 000 pages. Much of this is of such impenetrable obscurity that it leaves many people confused and contributes in no small measure to a feeling of disenchantment with the concept of 'Europe'. The process of codification could reduce this text to around 22 000 pages, a reduction of the order of 75 %.

4.7.1. It is regrettable that this work was not initiated in the earliest stages of the enlargement process in order to reduce the burden imposed on the candidate countries in fulfilling their obligation to adopt the *acquis*. The Commission needs to embark on a concerted programme of codification as a matter of urgency. As Mr Patrick Cox, the President of the European Parliament, has said ([3]), 'We have created a legal jungle ... there is no single area of public policy which has been subjected to a single act of codification.' Despite the Commission's good intentions, one is left with the impression that they are too busy adding to the *acquis* to have any time for codifying or simplifying it.

4.8. In the context of the single market it is preferable that European legislation should be promulgated by way of Regulations rather than Directives because the former, being binding, are not susceptible to mutation in the transposition process and therefore do not give rise to distortions in intra-Community trade, as is the case with Directives. The EESC is

([1]) COM(2002) 275 final.
([2]) COM(2002) 278 final.

([3]) In an address to the Plenary Session of the EESC on 19 September 2002.

aware that it is frequently more difficult and protracted to secure agreement in the Council for Regulations, because of their binding nature, but considers that the measure of success is not the speed of passing legislation but its impact on the real economy. The EESC hopes that the Laeken Convention on the Future of Europe will address this issue.

4.9. The EESC is pleased to note that a rolling programme of review for simplification and the reduction in volume of the *acquis* is about to be launched ([1]) and it calls upon the Council, the European Parliament and the Member States to cooperate fully in this programme in order to deliver meaningful results within the shortest possible timescale.

4.10. In order to be effective, this programme will require the active cooperation of the Council, the European Parliament and the Member States to process the amending legislation in a timely and accurate manner. As the latest Internal Market Scoreboard shows ([1]), the record of the Member States in this regard does not augur well for the prospects of persuading them to cooperate effectively in a process of simplification and reform of the regulatory environment; if their performance does not improve, attempts to reduce the volume of the *acquis* by a process of codification or recasting of legislation are likely to worsen the situation rather than improve it.

4.11. The EESC finds it unconscionable that, on average, the elapsed time between the introduction of a legislative proposal by the Commission and its eventual incorporation in the statute books of the Member States is eight years ([2]). It therefore agrees with the Commission on the desirability of speeding up the process of law-making.

4.12. In its previous Opinions, the EESC has consistently stressed the need for legislation to be accessible to those whom it affects. It is therefore pleased to note the Commission's intention to improve the accessibility and transparency of Community legislation, whether in preparation or already adopted, by expanding public access to EUR-Lex ([3]) and exploring other options, such as Internet forums.

([1]) COM(2002) 705 final.
([2]) Commission presentation to the EESC's Single Market Observatory, 18 December 2002.
([3]) http:/www.Europa.eu.int/eur-lex/en/index.html

5. Debate in the Council of Ministers

5.1. The Commission proposals, as outlined in the four documents of the Communications, have now been considered by the Council of Ministers in the format of the Competitiveness Council ([4]). In a discussion and resolution on Simpler Legislation, the Council has welcomed the Action Plan, the proposals for systematic consultation of interested parties and the use from 2003 of impact assessments to be attached to all substantial regulatory proposals. The Council recommends that these impact assessments should be made publicly available.

5.2. The Council also endorsed the call for Member States to play their full parts in the processes.

5.3. Perhaps with some significance, the Council conclusions are less than explicit in reference to the actions and commitments of the Council itself. In a rather more general statement the Council states its intention to provide 'fresh impetus' and requests the Permanent Representatives Committee to 'give due consideration to setting up a working party on better regulation' (*et al*).

5.4. The Council may be understandably reluctant to comment on, or make decisions on, the current decision-making relationships between the Council and the Commission before there is greater clarity in the conclusions expected from the Convention on the Future of Europe and the following IGC.

5.5. The EESC would, however, wish to restate its support for a more streamlined executive decision-making structure within the European institutions and, in particular, improved systems within the Commission, including a strong degree of internal monitoring. The proposed Action Plan outlines possible administrative changes that would command support.

5.6. The debate on simplification of the means of governance and better regulation has moved dramatically in the past year. This momentum must be continued in the preparation and follow through to the IGC in 2004.

6. The need for Partnership Agreements

6.1. One of the reasons why there has been so little progress to date has been the failure to create partnership. What is needed are not only partnerships at the Council level, where they will be difficult to achieve, but also with the other institutions. Further agreement is needed at the administrative level within and between the institutions and the Member States to implement the principles of simplification.

([4]) Press statement on the conclusions of the Council on 30 September 2002.

6.1.1. It has to be recognised that not everyone shares the same objectives but this should not be allowed to inhibit the development of an atmosphere of trust, cooperation and mutual confidence between the various players. This spirit needs to be formalised and encapsulated in partnership agreements. The various players need to enter into commitments to consult and liaise with each other.

6.2. In order to make a positive contribution to the implementation of the process of simplifying and improving the regulatory environment, objectives which have too often been frustrated in the past by a combination of indifference and self-interest, these agreements must involve the acceptance of binding commitments by all the signatories to work actively and expeditiously for the achievement of the agreed objectives. There is a need to inculcate a culture of dialogue and participation.

7. **Conclusions**

7.1. The EESC wishes to stress the seriousness of the issues related to simplification, better regulation and improved governance and the importance of finding an effective solution to the identified problems in this area within the near future. It reiterates that it does not see this primarily as a deregulatory issue. The choice is not only between regulation and self-regulation but between good, harmonised regulation and poor-quality, fragmented regulation at both the European and Member State levels.

7.1.1. It is not just a question of simplification but of legislative effectiveness and legal certainty. Simplification needs to be implemented as a matter of urgency but, to be effective, it must be a continuous and permanent process and transparency is the key to its success. There is a need to engage all the stakeholders in every aspect of the process. The EESC therefore strongly supports the Commission's proposals for wider consultation; this should include ex post consultation and a preparedness to use this feedback to improve the process of preparing subsequent periodic impact assessments.

7.1.2. The EESC broadly supports the proposals contained in the Commission documents and particularly welcomes the extension of regular impact assessments to the Commission's annual work programme.

7.2. The codification of the *acquis communautaire*, which could bring about a dramatic reduction in its volume and a commensurate improvement in its clarity, coherence, accessibility and effectiveness, is a process that is long overdue. It should be initiated without further delay and prosecuted with determination and perseverance.

7.3. The success of the simplification initiative will depend, inter alia on the formation and execution of an effective partnership agreement between all the players involved in the legislative process at both the European and Member State levels and a resolve to use their best endeavours to achieve the stated objectives.

7.4. The EESC advocates that impact assessments should be based on a formal system of Regulatory Impact Analysis. Their preparation should be a mandatory requirement for all bodies that exercise legislative powers, whether of initiation or amendment, at both the European and Member State levels. If amendments to the draft legislation invalidate the original impact assessment, these amendments should be supported by an amended impact assessment.

7.5. The EESC applauds the Commission's resolution [1] to bring the principles of accountability, proportionality, transparency and legal certainty to bear in improving the regulatory environment. Governance which lacks these principles cannot be truly democratic. The EESC calls upon the European Parliament and the Council to commit themselves firmly in the same direction. As the Commission says [1], the achievement of better law-making is a veritable ethical requirement.

7.6. At the Lisbon Summit meeting in March 2000, the European Union adopted the mission statement, to become within ten years, the most competitive and dynamic knowledge-based economy in the world, capable of sustaining economic growth with more and better jobs and greater social cohesion. The improvement of the regulatory environment and the removal of distortions in the single market caused by differences in regulatory regimes are essential to the realisation of that ambition.

7.7. In the final analysis, the success of this project will depend upon the existence of the necessary political will to carry it through. It is to be hoped that this political will exists.

[1] COM(2002) 275 final.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council relating to restrictions on the marketing and use of nonylphenol, nonylphenol ethoxylate and cement (twenty-sixth amendment of Council Directive 76/769/EEC)'

(COM(2002) 459 final — 2002/0206 (COD))

(2003/C 133/03)

On 13 September 2002 the Council decided to consult the Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 March 2003. The rapporteur was Mr Nollet.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee adopted the following opinion by 83 votes in favour, with 3 abstentions.

1. Introduction

1.1. The EESC took note of the gist of the Commission document and its annexes, noting in particular the impact analysis which had been made.

1.2. The EESC carried out searches of databases with regard to the toxicity of nonylphenol, nonylphenol ethoxylate and cement and their various uses in the manufacture of very many products.

1.3. The Proposal for a directive of the European Parliament and of the Council relating to restrictions on the marketing and use of nonylphenol, nonylphenol ethoxylate and cement (twenty-sixth amendment of Council Directive 76/769/EEC) has been drawn up under the heading 'Dangerous substances: nonylphenol and cement'.

1.4. For the sake of clarity, the EESC thought it desirable to deal with the two aspects separately, i.e. firstly nonylphenol, and secondly cement as regards chromium content and effects on health and in terms of allergic reactions in certain circumstances.

1.5. The employers' and trade union federations of the chemical, building and cement industries were consulted.

2. Nonylphenol and nonylphenol ethoxylates

2.1. *Introduction*

2.1.1. Nonylphenol (NP) is used mainly as an intermediate product in the production of nonylphenol ethoxylates (NPEs) and resins. Nonylphenol is also used as an intermediate product in producing a plastic additive (TNPP) which is used as a stabiliser in certain polymers such as polyethylene and PVC. Nonylphenol is never used as such in consumer preparations or applications.

2.1.2. The ethoxylates of nonylphenol (NPEs) form a category of chemicals often used as 'detergents' and maintenance products in many industrial processes. They are also used in the production of wallpaper pastes, natural and synthetic textiles, and leather. In addition, they are used as additives (emulsifiers) in latex paints and in certain pesticides. In Europe, nonylphenol ethoxylates have been used for some years now in common household cleaning and personal toiletry products, such as liquid detergents for washing dishes, general cleaning products, soaps and shampoos.

2.1.3. Most NPEs are discharged into sewers where they decompose into nonylphenol, an extremely toxic by-product.

2.1.4. A very interesting study of nonylphenol and its ethoxylate derivatives can be accessed on the Internet site of a Canadian research institute (http://www.ec.gc.ca/substances/ese/eng/psap/final/npe.cfm) — Environment Canada.

2.1.5. Some questions were put to economic, social and scientific circles on the possibility of totally or partially withdrawing nonylphenol from the market. The reply was that nonylphenol is used as an antioxidant in making certain polymers such as polystyrene and PVC, but is also and above all used in nonylphenol ethoxylates which have a wide range of uses. The latter are not toxic in themselves, but end up in sewers where they break down and release nonylphenol, which pollutes the environment.

2.1.6. Nonylphenol ethoxylates can be replaced with alcohol ethoxylates (non-ionic surfactants) or sulphonates of linear alkylbenzene, alkyl sulphonates, ether alcohol sulphates (anionic surfactants) or betaines (amphoteric surfactants). These surfactants are more difficult to synthesise and especially difficult to obtain in a very pure state (high cost). To obtain the same properties as those of nonylphenol ethoxylates, the industry sometimes needs to use several surfactants, incurring a higher cost.

It should be emphasised that, according to the spokesperson for CEFIC (European Chemical Industry Council), substitute products exist, but not for all preparations.

2.2. *Health risks*

2.2.1. Nonylphenol has a marked corrosive effect on the skin.

2.2.2. The EESC asked the Commission representatives to make available to it, if possible, European-level statistics covering preventive measures in the Member States, and where appropriate covering compensation for occupational diseases. The EESC has not received the information requested, which is not available in Eurostat either. By way of example, in Belgium nonylphenol is mentioned in the list of occupational diseases under heading 1.123.01 (phenols or similar substances). For nonylphenol in particular, it has not been possible to ascertain whether there are any compensation claims. For the phenols or similar substances heading the figures for Belgium are 4 claims submitted in the three years from 1999 to 2001, and 3 claims for review in the same period.

2.3. *Opinion of the chemical industry (CEFIC)*

2.3.1. The chemical industry employers' federation takes the view that the draft directive is the result of an analysis and evaluation of risks under Regulation (EEC) No 793/93. Producers of NP/NPEs have made their position known on the Internet site http://www.cefic.org/cepad.

2.3.2. The enterprises concerned take the view that this directive poses no problem for them.

2.3.3. CEPAD (the European Council for Alkylphenols and Derivatives) has submitted its views on the question.

2.4. *The EESC's opinion on nonylphenol and nonylphenol ethoxylates*

2.4.1. The EESC agrees that the Commission needs to reconcile economic and social imperatives, the protection of workers' health in terms of a policy of prevention and, where necessary, compensation for occupational diseases, and a concern for environmental protection; it takes the view that the present proposal for a directive of the European Parliament and of the Council responds to these concerns.

3. **Chromium VI in cement**

3.1. *Introduction*

3.1.1. The draft directive of the European Parliament and the Council, and scientific studies, have shown that cement preparations containing chromium VI can induce allergic reactions in certain circumstances, if they come into direct, prolonged contact with the skin. The CSTEE (the European Commission's Scientific Committee on Toxicity, Ecotoxicity and the Environment) confirmed the adverse effects on health of the chromium VI contained in cement.

3.1.2. In the draft directive in question, the Commission suggests that, in order to protect human health, it is necessary to restrict the marketing and use of cement and cement preparations containing more than 2 ppm of chromium VI. Use will have to be limited for manual work where there is a risk of contact with the skin.

3.1.3. Chromium and soluble chromates are used in ferrochromium alloys, in electronic chromium-plating for anti-corrosion surfaces, in the manufacture of (bi)chromates for pigments, in tanneries, as pesticides, in welding (chromium-based alloys), in fireproof bricks, as mordants in dyeing processes, in photoengraving and in wood processing. Cement generally contains chromium. It is mentioned in the list of occupational diseases under the heading 'sinus'.

3.1.4. It is possible to reduce the presence of hexavalent chromium in cement either by using raw materials with a low chromium content (this is not a simple matter, since cement-makers extract raw materials from deposits close to the factory) or by adding ferrous sulphate to the clinker to reduce hexavalent to trivalent chromium (insoluble). It is worth stressing here that this is only effective for a limited duration, as ferrous sulphate is not a stable substance.

3.1.5. For welding purposes, hexavalent chromium can be reduced to trivalent chromium by adding zinc to the welding alloys.

3.2. *Health risks*

3.2.1. Chromium VI is dangerously carcinogenic by inhalation. The organs affected are the lungs and the facial sinuses.

3.2.1.1. In cement, when wet, chromium VI is also a skin irritant (chromate eczema). This is also true of chromium III.

3.2.2. The EESC has not found European-level statistics on this (or on nonylphenol). Given this lack of data, it is practically impossible to obtain a full picture of the situation in the various Member States, and this is an obstacle to developing a true prevention policy.

3.2.3. By way of example, in Belgium hexavalent chrome appears in the list of occupational diseases under heading No 105 (chromium or its compounds).

3.2.3.1. For the three years from 1999 to 2001, 117 claims for recognition of an occupational disease were submitted, along with 21 claims for review.

3.2.4. Even in the mechanised use of cement, mortar or concrete, final work often has to be done by hand (fitting of links, corners, staircases etc.). Research in Germany has shown that about 16 % of all work with cement has to be done manually.

3.2.5. A reduction in this percentage seems unlikely. Even for those 16 %, chromium VI concentration and hence the likelihood of developing eczema must be minimised.

3.2.6. As a result, the Commission proposal should seek to amend the relevant paragraph of Annex I of Directive 76/769/EEC to read as follows: 'May not be placed on the market or used as a substance or constituent of preparations, if it contains more than 0,0002 % soluble chromium VI of the total dry weight of the cement, for all activities, where there is a risk of contact to the skin.'

3.2.7. As the contributions of the French cement industry trade union, and of CEMBUREAU (European cement sector) in particular, confirm, it should be emphasised that no-one questions that users coming into contact with cement can suffer from skin complaints for many reasons.

3.2.8. The Scandinavian countries, for example, have considerable experience in the use of cements with a low soluble chromium content. Since the 1980s these countries have been restricting the use of cements containing more than 2 ppm of chromium VI. As a result, the working conditions of users handling cements have improved considerably. This experience has also shown that the addition of ferrous sulphate does not involve any technical difficulties, and that the quality of the cements is not affected by it.

3.2.9. The EESC emphasises the importance of information, particularly for non-professional users. Without prejudice to the application of other Community provisions on classification, packaging and labelling of dangerous substances and preparations, the packaging of cement must carry legible information on the date of packaging, storage conditions and the storage period during which the soluble chromium VI content is below 0,0002 % of the total dry weight of the cement.

This information for consumers should stress the advisability of using gloves when handling cement directly.

3.2.10. CEMBUREAU has made available to the EESC extensive documentation and the available statistics.

3.3. *The EESC's opinion on chromium VI and cement*

3.3.1. On the basis of the information obtained, the EESC draws attention to four points:

1) the need for the cement sector not to view the debate in purely economic terms and for it to confirm its wish to cooperate in achieving a lasting solution;

2) the users, i.e. the concrete and construction sectors, have not been sufficiently consulted by the Commission;

3) this also applies to the European social organisations for those sectors;

4) as noted in the CEMBUREAU document, the CEN (European Committee for Standardisation), on the initiative of European cement producers, has begun to develop a common standard for determining the soluble chromium VI content of cement.

3.3.2. The EESC notes that CEMBUREAU has commissioned an epidemiological survey of available data on cement-related dermatitis to be carried out by an independent expert (National Institute of Occupational Health (NIOH), Oslo, Norway).

The results of this survey will be made available to the EESC at the time of their publication (planned for April 2003).

3.3.3. The EESC thinks it desirable to acquaint itself with the conclusions of this survey before adopting a final position, and reserves the right to return to the matter in a possible new opinion.

3.3.4. The EESC would like to be informed of any amendment which may be tabled by the Commission.

3.3.5. The EESC intends, within a limited timescale, to encourage structured consultation between the social partners in the sectors concerned.

3.3.6. The EESC notes that CEMBUREAU has said it maintains contacts with ERMCO (European association for ready-to-use concrete), BIBM (International Bureau for Precast Concrete), FIEC (European Construction Industry Federation) and EFBWW (European Federation of Building and Woodworkers in the EEC) to develop a complete approach to the question of workers' health.

3.3.7. A convention between the parties designed to guarantee health protection for people coming into contact with cement would be highly desirable, and would be likely to make an important contribution, on the part of the social partners concerned, to the draft directive under discussion; as a result, its adoption and its implementation by the Member States would be made easier.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on:

— **the 'Proposal for a Directive of the European Parliament and of the Council concerning the alignment of measures with regard to security of supply for petroleum products',**

— **the 'Proposal for a Directive of the European Parliament and the Council concerning measures to safeguard security of natural gas supply', and**

— **the 'Proposal for a Council Directive repealing Council Directives 68/414/EEC and 98/93/EC imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products, and Council Directive 73/238/EEC on measures to mitigate the effects of difficulties in the supply of crude oil and petroleum products'**

(COM(2002) 488 final — 2002/0219 (COD) — 2002/0220 (COD) — 2002/0221 (CNS))

(2003/C 133/04)

On 15 October 2002, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposals.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for the Committee's work on the subject, adopted its opinion on 13 March 2003. The rapporteur was Mr Cambus.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee adopted the following opinion with 96 votes in favour and three abstentions.

1. Summary of the Commission's proposals

1.1. The three texts presented to the EESC follow on from the Green Paper entitled 'Towards a European strategy for the security of energy supply [1]'.

1.2. There is a common background to the texts presented by the Commission, namely the fact that, over the next 20 years, the EU's external energy dependency could increase from 70 % to 90 %, in the case of oil, and from 40 % to 70 %, in the case of gas. Energy is a vital commodity for the economy (production and transport), whilst also providing private comfort for individuals. As most oil and gas production is based in areas of political uncertainty, security of supply with regard to both oil and gas is clearly a strategic requirement for the EU.

1.3. In its communication, the Commission identifies two types of risks with regard to energy supply, namely: physical shortage caused by technical problems (loss of installations) or political difficulties (deliberate suspension of all or part of deliveries) and the spiralling of prices to levels which would place a heavy burden on the EU and would exact a heavy cost in terms of loss of growth and jobs (an increase of USD 10 per barrel would cut the EU's rate of growth of GDP by 0,5 %) and which would also place an unbearable burden on households as final users (e.g. for heating or motor vehicle fuel).

1.4. As regards oil, two directives [2] have already been introduced with a view to addressing security of supply in the Member States by imposing on them an obligation to maintain stocks corresponding to 90 days' consumption for three categories of petroleum products, (motor gasolines, middle distillates and heavy fuel oil), with adjusted conditions for oil-producing Member States.

1.4.1. Member States are free to implement these obligations in whatever form suits them, ranging from stockholding by private operators to stockholding by public bodies.

1.4.2. The completion of the internal energy market makes it necessary to proceed to a further stage in order to: improve competition in the refined products sector, guarantee that this market operates properly, make the EU's security stock capacity more credible and more high profile, and ensure that the action taken by Member States in the event of oil market crises is both uniform and coherent.

1.4.3. The proposals put forward with a view to achieving these objectives are as follows: the creation of a central body in each Member State to help new entrants and those not having their own installations to respect the storage obligations; the possibility of holding stocks in another Member State, so as not to place transnational operators at a disadvantage; increasing the stockholding requirement from 90 days' consumption to 120 days' consumption, with one-third of the stocks being held by the central body in order to raise the profile of the strategy for ensuring security of supply; and finally, the introduction, at EU level, of a joint regulatory framework covering the release of stocks of petroleum products and involving an appropriate decision-making process under the comitology procedure.

1.4.4. The Commission also puts forward a novel idea in respect of oil: the possibility of using strategic reserves to intervene on the market with the aim of seeking to reduce the impact of speculation on the volatility of prices for petroleum products when supply crises are anticipated.

1.5. Turning to the gas sector, the situation here is characterised by (a) a delay in opening up the internal market, even though gas is accounting for an ever larger share of the EU energy market because of, inter alia, its role in electricity generation (between 50 and 60 % of electricity is generated from gas) and (b) a high level of external dependence since 40 % of gas is supplied from three sources outside the EU. The International Energy Agency (IEA) has no means of intervention at its disposal in respect of gas.

1.5.1. Before the gas sector was opened up to competition, security of supply was ensured by supply companies which enjoyed a monopoly. Once the market for gas is opened up, there will be several market players; the responsibilities of each of these players will therefore have to be redefined in order to ensure security of supply for gas users.

1.5.2. The situation with regard to gas differs from that for oil from the point of view of the technical scope for holding stocks, which mainly depends on subterranean geology. The aim of the Commission's proposal is to extend to gas the principles set out in respect of oil but without simply transferring the same instruments. The aim is for the Member States to adopt a minimum joint approach with a view to completing and protecting the market.

1.5.3. With a view to ensuring security of gas supplies, the Commission proposes to impose an obligation on Member States to define the responsibilities of operators for ensuring the supply of gas for a period of 60 days of average consumption to customers who are not in a position to replace

[1] COM(2000) 769 final.

[2] Council Directive 68/414/EEC of 20.12.1968 imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products and Council Directive 98/93/EC of 14.12.1998 amending Directive 68/414/EEC imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products. The first directive imposed an obligation on Member States to keep stocks corresponding to 65 days' consumption, a figure which was subsequently increased to 90 days' consumption by the second directive.

gas with an alternative fuel. It is, however, proposed that new entrants to the market for gas and companies with small market shares be exempted from this obligation. The Commission intends to monitor closely long-term contracts and the contribution which they make towards ensuring security of supply in the Member States.

1.5.4. In the event of crises and in order to ensure solidarity between Member States, the Commission wishes to be able to take decisions to release stocks of gas held in the Member States and actually to interrupt supplies to the interruptible market.

1.6. From a general standpoint, the proposals put forward by the Commission are based on the affirmation that, once the energy market in the EU has been opened to competition, the strategy for ensuring security of supply can no longer be pursued most effectively at the level of operators or individual Member States; this responsibility will therefore have to be assumed by the EU.

2. **General comments**

2.1. *Relevance of the proposal*

2.1.1. The EESC expresses its appreciation for this proposal, which follows on from the Green Paper on the security of energy supplies and carries out a thorough appraisal of the EU's security of energy supply in respect of oil and gas. After devoting ten years mainly to organising the energy market, opening to competition the monopolies which have traditionally existed in the fields of electricity and gas, and promoting renewable sources of energy, it is important that the Community now backs up this action by tackling the fundamental issues relating to the supply of these products; the EU has a structural deficit in domestic production of energy products and is therefore highly dependent on non-EU suppliers. It is important to note the major roles played by oil and gas in the EU's energy balance, particularly in transport and energy-generation (which has been responsible for a very sharp increase in the consumption of gas), and their consequent contribution to growth, employment and private comfort.

2.2. *Subject of the proposal*

2.2.1. Of the energy products imported by the EU (coal, gas, oil and uranium), oil and gas are undoubtedly those which play the most significant role in the context of the energy balance. Furthermore, they are imported from regions in the world which suffer from a lack of diversification and are exposed to political risks. In view of the strategic importance of oil and gas, it is therefore vital to establish specific policies for these products.

2.2.2. The EESC considers that these two energy sources — natural gas and oil — give rise to fundamentally different problems; in including them in the same package of measures, we must not underestimate the impact of these differences. The first of these differences is that gas is generally speaking both a raw product and a final product at one and the same time; it has a low technological added value within the EU, whereas most oil is imported in the form of crude and subsequently processed within the EU. This explains why the price of gas has generally followed the price of oil, with the aim of enabling the full range of competing uses of these two forms of energy to be developed. This also explains the existence of 'destination clauses', which are incompatible with the rules of the single market; this matter is currently being addressed in the case of new contracts. The supporters in favour of opening up the gas sector to competition hope that this will be a way of reducing, if not completely removing, the link between the prices of these two forms of energy. Furthermore, on a global level the companies producing oil and gas are frequently the same since prospecting for one of these products frequently leads to the discovery of supplies of the other.

2.2.3. The second difference relates to the structure of the market. There has long been a worldwide market for oil and it is transported from the areas of production to the areas of refining and consumption by ship rather than pipeline. This is not the case with gas. The market for gas is organised on a regional level (the EU obtains its supplies mainly from Norway, Algeria and Russia; the USA links up with Canada and Mexico to provide a market for gas; and Japan, Korea and Indonesia form a further market). The EU market has been the most stable — the American market is less stable and the Asian market is more expensive. Although this is outside the scope of this opinion, the recent events which have had such an impact on the coastlines and populations of Spain and France bolster the case for the increased use of pipelines to transport oil wherever this is technically feasible, even if it would seem to be more costly in purely economic terms.

2.2.4. The third important difference is that within the EU natural gas is generally transported to end markets by pipeline, whereas petroleum products, including LPG, are transported by pipeline from import and storage areas to refineries but are then generally transported by tankers to the final point of consumption. Any provisions which serve to shift strategic and operational stocks of refined petroleum products away from the centres of consumption will thus increase the number of transport operations by lorry.

2.2.5. The EESC therefore wishes to clearly differentiate the measures to be taken in respect of these two energy sources, even though it is desirable, as the Commission proposes, to set out common guidelines.

2.2.6. The EESC would like the proposal for a Directive to cover also the candidate states when addressing the question of security of energy supply, considering the impact on both the new Member States and the current Member States. It is important to negotiate the deadlines by which the candidate states will have to comply with the storage levels and procedures applicable to the existing Member States and to discuss the technical and economic issues with which the candidate states could be confronted in this context.

3. **Specific comments**

3.1. *Comments on the proposals in respect of oil*

3.1.1. The EESC endorses the proposal to oblige the Member States to set up a central security stockholding body, which is to hold stocks representing one third of the specified obligations. The EESC believes that these centralised stocks will fulfil the need to highlight the existence of the EU's strategic stocks and will help to discourage those who may be tempted to engage in price speculation. The EESC also endorses the possibility for several Member States to meet this stockholding requirement on a joint basis and for Member States to hold their mandatory stocks in another Member State. The best way to provide for this could be, in the EESC's view, to have stocks earmarked by the operator concerned or to have recourse to centralised stockholding bodies, whose establishment is proposed by the Commission. The aim is to ensure clear identification of the parties responsible for managing stocks held outside a Member State.

3.1.2. The EESC does, however, wonder — for a variety of reasons, set out below — whether it is advisable to oblige the Member States to increase their security stocks from 90 days' consumption to 120 days' consumption. Any increase in the stockholding requirement clearly provides better guarantees that crises can be overcome but these improved guarantees come with a price tag; it is essential to fully appreciate what is at stake and the likely outcome of such an increase before taking the requisite decision.

3.1.2.1. Member States are currently obliged by the EU (under Directives 68/414/EEC and 98/93/EC) to hold stocks of finished products (listed in three categories) corresponding to 90 days of average consumption. Under provisions established by the IAE, of which they are members, EU Member States have to hold stocks equivalent to 90 days' imports; this latter requirement generally imposes a greater obligation, particularly in view of the fact that the IAE stipulates that an allowance of 10 % has to be made to cover, inter alia, bottom-of-tank stocks which cannot be used. As a result of this and in view of the additional precautions that some states may take, the actual stocks held by IEA member states are estimated by the agency to correspond, on average, to 114 days' imports, whereas the stocks held by EU Member States are estimated by the Commission to correspond to 115 days' consumption. Nonetheless, the impact of increasing the mandatory obligation to 120 days could not be described as minimal; it would have a very onerous effect on the southern Member States, which, for reasons of climate and because of their lower heating requirements, hold stocks of the order of 90 days, whereas the reserves of some northern Member States already exceed 120 days.

3.1.2.2. Since the Yom Kippur War in 1973, which led to the imposition of an oil embargo by some Arab states, oil-consuming states have not had to face new physical disruptions of supply brought about by political events. The spiralling of oil prices as a result of the 1973 embargo prompted a number of reactions, in particular, the substitution of other energy sources, such as nuclear power and, to a lesser extent, renewables. This reduced the marketing outlets for oil-producing countries for many decades. Producer and consumer states consequently became aware that they had a joint interest in avoiding any drop in oil production and consumption levels. This being the case, the development of political relations conducive to good commercial cooperation seems to be an approach which should be pursued, particularly in view of the fact that the USA is in the process of refocusing its commercial relations on our side of the Atlantic and, in particular, Africa.

3.1.2.3. It is, however, not possible to rule out the risk of incidents being caused by, for example, terrorists, which could lead producers and consumers to reduce supplies of oil from one localised geographic area for a certain period. In such a case, it is unlikely according to experts that, if it has not been possible to find a suitable solution to the problem within the period of 90 days covered by the current level of the mandatory reserves, 30 more days will be long enough to find such a solution.

3.1.2.4. The economic impact of a decision to increase the level of strategic stocks to 120 days differs according to whether this involves (a) topping up existing unused physical stocks, in which case the only additional cost to be taken into account would be that of adding to the products tied up in this way or (b) increasing the actual volume of the necessary storage installations. In view of the ever growing distrust and fear felt towards all classified industrial installations, there are few areas in the EU which are prepared to accept the building or expansion of storage facilities for petroleum products, bearing in mind that 'Seveso' type installations are involved here. Finally, the bill for this increase in strategic stocks is likely to have to be met by consumers; such a measure would, of course, not be very popular and nor would it be particularly conducive to maintaining growth.

3.1.3. The EESC does not agree with the line taken by the Commission towards the IEA. Since its establishment in 1973, the IEA has had the role of coordinating the reactions of member countries confronted by crises leading to a physical shortage of oil supplies in the world. The IEA has, since its establishment, adjusted its rules of operation to bring them into line with the changing background situation, with, incidentally, the participation of the EU. It was not the IEA's task to intervene when prices shot up since this is not its role.

3.1.3.1. As the oil market is a worldwide market and since one third of production capacity is situated in the OPEC countries, a coordinated response has to be organised at world level if it is to be effective. The argument which holds good in the EU, to the effect that a reaction by one Member State acting alone and in opposition to the other Member States would be ineffective, is even more valid in the case of reactions at world level to serious oil supply crises. In the EESC's view it is therefore essential for the EU's strategy on security of oil supply not to be separate to that adopted by the other major consumer states; to that end the EU's strategy should be based on a close collaboration with the IEA. By speaking with one

voice, EU Member States will certainly carry more weight within and in their dealings with the IEA than if they adopted a Eurocentric approach, which does not make very much sense since the oil market is a worldwide market.

3.1.4. Whilst the EESC shares the Commission's concerns over the damaging effects of sharp increases in oil prices on the EU economy and household purchasing power, it is, however, very guarded about the Commission's proposal for using strategic stocks to intervene on the market in a counter-cyclical way when the prices rise sharply. The EESC bases its standpoint on a number of arguments.

3.1.4.1. Regulating oil prices is a difficult task as the price of these products has an inbuilt volatility. It is impossible to achieve a fine balance between supply and demand. Investments in exploiting oilfields are decided upon, on average, five years before production starts and on the basis of forecasts which are never strictly confirmed by the actual situation at the time in question. Subject to this technical and economic constraint, the OPEC states keep the variation in oil prices within the range of USD 22-28 per barrel; this appears to be the average level of prices which is acceptable to all the players involved. If the OPEC states did not take this action, price volatility would no doubt produce prices ranging from USD 3-60 per barrel. OPEC accounts for almost 40 % of global oil production, which enables it to regulate prices in this way. The EU, for its part, accounts for only between 20 % of global oil consumption; it is therefore an illusion to believe that, on the strength of a percentage of the market which is less than half of that controlled by OPEC, the EU would be capable of achieving more effective results, possibly by acting independently of cooperation at world level through the IEA.

3.1.4.2. Oil prices may spiral out of control when the oil industry and consumers fear an imminent actual physical shortage, brought about by serious political or climatological factors which could come into play (such as wars, terrorist attacks or earthquakes). The reason why prices go up is because all buyers rush to increase their reserve stocks. How is it possible to imagine that, in such a situation, when all the actors involved fear the worst, the authorities in the EU could decide to oblige the Member States to release part of their strategic reserves in order to hold price levels for a brief moment, only to have to reconstitute these reserves later at a high price in order to contend with the risk of a real physical shortage? This is hardly credible.

3.1.4.3. There is also a practical difficulty since oil purchases are computer managed on the basis of the workload plans of refining units and price thresholds. The strategic stocks cannot be included amongst the lists of regular suppliers to be found in the management programmes; under these circumstances reserves could only be marketed using 'manual' and hence onerous processes. This would fly in the face of the need for rapid intervention, designed to wrong foot the market. However, announcements of intention to place stocks on the market would not be incompatible with this requirement.

3.1.4.4. Finally, the decision to release strategic stocks would be a costly venture and this cost would have to be justified and endorsed by the European Parliament, as the idea of an EU body taking such a decision and then presenting the bill to the Member States would not go down well. The cost would be very high, even if we assume that only the one-third of the strategic reserve managed at a central level would be available for use in this way as this corresponds to almost one month's oil consumption in the EU and would be placed on the market probably at the equivalent to USD 20 per barrel, only to be renewed at a much higher price later.

3.1.4.5. The experience gained with the world tin market, where producer and consumer states organised the market and concluded six agreements between 1953 and 1981, demonstrates that action taken to control prices failed to produce the desired result. The theory that measures to control demand are the way to bring an influence to bear on prices has not been borne out in practice.

3.1.4.6. There is a kind of contradiction between, on the one hand, the EU doctrine based on the efficiency of the market in dealing with monopolies, oligopolies and administrations and, on the other hand, the readiness to give one of the EU institutions the power to intervene on the oil market in the event of unfavourable developments.

3.2. *Proposals relating to gas*

3.2.1. The EESC endorses the decision to oblige Member States to introduce policies for ensuring supplies of gas in order to guarantee supplies, under difficult conditions, to customers lacking alternative fuel options (non-interruptible customers with no alternative fuel switching capacity), be such customers households or businesses. The EESC shares the Commission's view that these policies, setting out the responsibilities of the various market participants, should not stand in the way of the development of the internal market in gas, which is in the course of being completed.

3.2.2. The EESC endorses the proposed formula for assessing the obligation to ensure that security of gas supply can be maintained for a period of 60 days of average consumption, in the event of supplies being restricted.

3.2.3. The EESC understands that, given the current situation as regards the internal market for gas, the Commission does not wish to penalise unduly companies which are 'new entrants' to the market or 'companies with small market shares'. The EESC does not however believe that consideration should consequently be given to exempting these companies on principle from the security of supply provisions to be implemented by the Member States. It should be up to the Member States to define the best way to reconcile, on the one hand, the priority which has to be attached to maintaining security of supply for customers with, on the other hand, the real opening-up of the market.

3.2.3.1. Household customers and very small enterprises do not have the necessary knowledge to gauge the reliability of an offer made by a gas supplier, if the state does not require the supplier in question to assume his share of the responsibility, irrespective of how big or small he may be. Furthermore, the proposed exemption would result in a difference of treatment vis-à-vis oil suppliers which are required in the Commission's proposal to contribute to stocks — and to make payments to the central stockholding agency.

3.2.4. The EESC is pleased to note that the Commission has adopted a more realistic approach to long-term contracts, which it criticised considerably on the occasion of the opening-up of the market in gas to competition, singling out the 'take-or-pay' clauses for special criticism. These contracts and clauses are justified on the grounds of the size of the investments required to market natural gas and the shared desire of producers, purchasers and investors to recoup and make a profit on their investments and ensure security of supply. In the EESC's view, however the Commission cannot readily oblige Member States to accept minimum requirements in long-term contracts since in a market which is open to competition each company is free to decide how it manages its supplies.

3.2.5. The EESC endorses the proposal made by the Commission that it be authorised to put forward recommendations to Member States on the measures to be taken in the event of a disruption in supplies from a key supplier to the EU. If no effective action is taken on these recommendations, the Commission wishes to be authorised to require Member States to take action. The EESC highlights the fact that, in such a case, it would be difficult for the Commission to assess the exact nature of the constraints in connection with the use of stocks and operation of networks, particularly as regards security. Gas stocks form part of the integrated management of the gas-supply system; they cannot be arbitrarily requisitioned. Furthermore, it is not possible to hold stocks for excessively long periods without using them.

3.2.6. The EESC supports the proposal that Member States report to the Commission on their respective situations as regards supply problems and the policies which they are pursuing in order to promote security of supply.

3.3. *Oil and gas*

3.3.1. The EESC believes that, from the public standpoint, the strategy for ensuring security of energy supply has to be transparent; this transparency has been explicitly requested by consumer representatives.

3.3.2. The EESC recognises that Member States have traditionally ensured their own security of energy supply by selecting the most appropriate ways and means which best meet their political needs. Oil and gas are not the only sources of energy in the Member States; some Member States chose to invest heavily in hydroelectric and/or nuclear power. Should Member States be faced with supply crises affecting any one of the energy sources making up their overall energy-supply package, it is normal that they should be able to take into account their overall energy situation. That being the case, direct intervention by the EU should be ruled out, in accordance with the principle of subsidiarity.

3.3.2.1. The role of the EU should be to (a) define common standards, as it has done in the documents under consideration; (b) ensure that the Member States apply these standards, which it is proposing to do by means of the reports to be presented by the Member States; and (c) propose coordination and solidarity instruments, particularly in respect of the management of strategic oil and gas stocks.

3.3.3. The EESC draws attention to the fact that another way of responding to the risk of oil and gas supply difficulties in the EU is for the Commission to continue its actions and incentives for promoting: diversification of energy supply sources; research in the field of non-polluting, renewable sources of energy; and a reduction in the consumption of hydrocarbon fuels.

3.3.4. In the light of the provisions of the Treaty of Nice, the EESC considers that it should be involved in the assessment and monitoring of the policies for ensuring security of oil and gas supplies since the EESC itself comprises representatives of the various economic and social components of organised civil society and represents producers, consumers, workers and movements for the protection of the environment.

4. **Conclusions**

4.1. The EESC supports the Commission's objective of defining common guidelines for ensuring security of oil and gas supplies in the EU, following on from the Green Paper on security of energy supply and backing up the guidelines already introduced for achieving a European energy market.

4.2. On the subject of oil supplies, the EESC endorses the Commission's proposal to oblige the Member States to set up a central body responsible for security stocks. The intention is to give greater prominence to the holding of such stocks, ensure cost-transparency and not discriminate against companies without their own storage facilities, thereby avoiding any distortion of competition.

4.2.1. The EESC takes a very guarded line as regards the proposal to increase the security stockholding requirement from 90 days' consumption to 120 days' consumption for all Member States, bearing in mind that, in practice, northern states need to hold larger stocks than southern states for obvious climatological reasons, as they do at present. The EESC believes that there are no compensatory benefits to justify the additional cost of such a decision.

4.2.2. The EESC gives a similarly guarded response to the proposal to use these strategic stocks for the purpose of bringing an influence to bear on oil prices in cases where fear of a possible physical shortage leads companies to engage in precautionary purchases, thereby giving rise to panic and consequent price increases.

4.2.3. The EESC takes the view that, in order to give it sufficient clout and prospects of success, action by the EU to manage oil supply crises should be carried out within the framework of the IEA.

4.3. As regards gas supplies, the EESC shares the Commission's desire to give the Member States responsibility for laying down the rules to be followed by companies in order to ensure security of supply.

4.3.1. The EESC believes that the proposal to take appropriate steps to ensure supplies of gas equivalent to 60 days' average consumption represents an effective approach.

4.3.2. The EESC underlines the fact that the storing of gas is a very different matter from the storing of oil; the constraints and technical difficulties involved need to be appreciated when stocks have to be used in the event of supply crises.

4.3.3. The EESC notes that companies which are new entrants to the market may be exempted from the obligation to hold security stocks; it wonders what impact this measure may have and proposes that responsibility for it should lie with the Member States.

4.4. In the light of the EESC's own nature and role, it believes that it should be associated and involved in the monitoring and assessment of the policies for ensuring security of oil and gas supplies; such involvement would fulfil the need for transparency expressed by representatives of European consumers.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending European Parliament and Council Directive 2001/25/EC on the minimum level of training of seafarers'

(COM(2003) 1 final — 2003/001 (COD))

(2003/C 133/05)

On 23 January 2003 the Council decided to consult the European Economic and Social Committee, under Article 80 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 March 2003. The rapporteur was Mr Chagas.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee adopted the following opinion by 97 votes for and 3 abstentions.

1. **Background**

1.1. The Commission presented, on 13 January 2003, a proposal for a directive concerning the setting up at Community level of an efficient and reliable system for the recognition of Certificates of Competency issued outside the European Union (EU), the purpose being for the recruitment of proficient third countries' crews to work on board Community ships.

1.2. Measures already in place include:

— Directive 94/58/EC on the Minimum Level of Training of Seafarers ([1]);

— Directive 98/35/EC ([2]) Amending Directive 94/58/EC;

— Consolidation Directive 2001/25/EC ([3]).

1.3. According to the current procedure, when a Member State recognises by endorsement a certificate issued by a third country it is required to notify the Commission after having verified whether the third country complies with the requirements of STCW95. In addition, the Commission informs the other Member States about the notification submitted so as to afford the opportunity to raise an objection.

1.4. The new proposals remain consistent with the objective of earlier Directives, namely, the establishment of a specific procedure and criteria for the recognition by Member States of Certificates of Competency issued by third countries in accordance with the requirements of the International Maritime Organisation (IMO) Convention of Standards of Training, Certification and Watchkeeping from 1978 as amended.

1.5. In addition, the Commission makes proposals to bring existing provisions in line with the international Conventions, laying down language requirements for certification of seafarers, as well as for the communication between ship and shore-based authorities.

1.6. The Commission's proposal seeks to amend Directive 2001/25/EC in the following way, to:

— improve, strengthen and simplify the current procedure for the recognition of certificates issued by third countries, by introducing a system of Community-wide recognition of third countries complying with the minimum requirements of the STCW Convention;

— introduce specific procedures for the extension and withdrawal of the Community-wide recognition of third countries' certificates, as well as the continuous monitoring of compliance of the third countries with the relevant requirements of the STCW Convention;

— update the Directive as regards language requirements for certification of seafarers and communication between the ship and the shore-based authorities, in line with the

([1]) Council Directive 94/58/EC of 22.11.1994 on the minimum level of training of seafarers (OJ L 319, 12.12.1994, p. 28) — EESC Opinion: OJ C 34, 2.2.1994, p. 10.

([2]) Council Directive 98/35/EC of 25.5.1998 amending Directive 94/58/EC on the minimum level of training of seafarers (OJ L 172, 17.6.1998, p. 1) — EESC Opinion: OJ C 206, 7.7.1997, p. 29.

([3]) Directive 2001/25/EC of the European Parliament and of the Council of 4.4.2001 on the minimum level of training of seafarers (OJ L 136, 18.5.2001, p. 17) — EESC Opinion: OJ C 14, 16.1.2001, p. 41.

relevant requirements of the STCW Convention and the International Convention for the safety of life at sea, 1974, as amended (Solas Convention);

— provide for specific amendment procedures for adapting the Directive to future changes in Community law.

2. **General comments**

2.1. The EESC recognises the necessity for a procedure for the recognition of Certificates of Competency for seafarers, which are issued by third countries, the purpose being to allow ship owners the ability to recruit seafarers holding such certificates to serve onboard ships flying the flag of a Member State.

2.2. The EESC recognises the application of the procedure is an indispensable condition for the recruitment of non-community seafarers onboard any Community ship in order to ensure the safety of life at sea and protection of the marine environment.

2.3. The EESC acknowledges the need for uniformity in the recognition process and to ensure that the administrative burden is kept at a minimum, consistent with integrity of the system employed. The recognition of a third country, following the evaluation of Maritime Training and Certification systems posed is consistent with the requirements of STCW95.

2.4. In order to avoid duplication it is recognised that the European Maritime Safety Agency (EMSA) has an important function in ensuring quality of the assessment procedures. The EESC duly notes that this must be thorough and complete given that recognition will be global Community-wide of a third country's systems and procedures. In order to ensure effectiveness it will be necessary to provide appropriate resources of a financial, human and technical nature.

2.5. The EESC acknowledges that the validation period, for a third country, will be for a period of 5 years. In so doing it is noted that there is provision for extension or withdrawal of recognitions in order to accommodate any unpredictable change of the situation in a third country.

2.6. The EESC welcomes the additional provision concerning language requirements for Certificates of Competency issued by Member States.

2.7. The EESC draws the attention of the Commission to the adverse effects of permitting third country nationals to sail in unlimited numbers on ships of Member States. While acknowledging a necessity, in some instances, lack of any limitation on the number of certificates issued presents a considerable threat to the continued employment of EU national seafarers and the sustainability of the maritime skills base in Member States.

2.7.1. The EESC urges Member States to work with the social partners to bring about a balanced employment regime to ensure the sustainability of the EU maritime skills base.

2.8. The EESC expresses disappointment that, in updating the current procedures with respect to the issuance of certificates for third country nationals, there are no protective social provisions with respect to their employment so as to ensure equality of protection under the relevant national laws of Member States.

2.9. What is more, despite the concerns expressed in the 2002 Commission's Communication on the training and recruitment of seafarers, in particular with regard to the need of attracting EU youngsters into the profession, the only concrete measure introduced will precisely have the contrary effect, making it easier for third countries' cheaper crews to be admitted onboard EU vessels.

2.10. The EESC notes with interest that the Commission will address the issue of seafarers' working and social conditions on board EU vessels in future legislation. This might be a positive step towards ensuring an appropriate treatment of all seafarers independently of their nationality at EU level.

3. **Specific comments**

3.1. *Article 1.1*

The proposal to insert, into the existing relevant provisions of the Directive, a reference to Regulation I/2, paragraph 1, Article VI, paragraph 1 of the STCW Convention the requirement for the translation of certificates and endorsements into English, in case the original language is not English: 'If the language used is not English, the text [the endorsement] shall include the translation into that language', is accepted. Similarly, it is acknowledged that endorsements shall be issued in accordance with Article VI, paragraph 2 of the STCW Convention. These two amendments should be as stated.

3.2. *Article 1.2*

The amendment should be made to ensure that Regulation 14, paragraph 4 of Chapter V of the Solas Convention that prescribes '... English shall be used on the bridge as the working

language for ... bridge-to-shore safety communications ... unless those directly involved with the communication speak a common language other than English'.

3.3. *Article 1.3(b)*

The proposal should be accepted with no further amendments though arguments may be offered for further extension with respect to the decision on the recognition of a third country by the Commission. This would only serve to introduce delay into the recognition process and possibly introduce additional unnecessary risks. For this reason it should remain at the three-month period, as suggested.

3.4. *Article 1.3(d)*

It is acknowledged that, where the Maritime Safety Committee (MSC) of the International Maritime Organisation (IMO) has not been able to identify the third country as having demonstrated full and complete effect of the provisions of the STCW Convention, the Commission will reassess the recognition of the country and the Member States concerned shall take appropriate measures to implement the decision taken in accordance with established procedures. Recognising the need for some flexibility in order to effect replacement of seafarers on ships, a transitional period of a maximum of three months is suggested.

3.5. *Article 1.4*

It is suggested that the decision for extension of a recognition should be taken at least three months before the expiry period of validity. The one-month period provided in the Commission's proposal, is too short for the ship operating company to organise properly and proceed with the replacement of the crewmembers whose endorsed certificates would not be extended.

It is also suggested that Member States intending to withdraw recognition, should provide adequate time to ship operating companies in order to proceed with the replacement of affected crewmembers. A period of at least three months is proposed.

4. **Conclusion**

4.1. Without prejudice to the comments above, the EESC acknowledges the Commission's proposal.

4.2. The EESC, while accepting the desirability for an efficient and reliable system for the recognition of Certificates of Competency issued outside the European Union, expresses grave concern with the respect to the future employment of EU nationals and the retention of the European Maritime Skills Base.

4.3. The EESC acknowledges the intended role of the EMSA in ensuring integrity of the procedures and request that the Commission consider that adequate resources are made available at both the Member State and European levels.

4.4. The EESC, while acknowledging the importance that the Commission places on maritime education and training in the interests of safety of life at sea and protection of the marine environment, expresses concern that no additional measures have been taken to ensure that third country nationals are not exploited on ships of Member States. It encourages the Commission to progress in the presentation of legislation that ensures adequate protection onboard vessels calling EU ports.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council and the European Parliament laying down a Community Action Plan for the conservation and sustainable exploitation of fisheries resources in the Mediterranean Sea under the Common Fisheries Policy'

(COM(2002) 535 final)

(2003/C 133/06)

On 9 October 2002 the Commission decided the consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

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 March 2003. The rapporteur was Mr Chagas.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee unanimously adopted the following opinion.

1. Introduction

1.1. This Communication from the Commission [1] lays down an action plan for Mediterranean fisheries, thereby laying the foundations for a new vision and a new framework for fisheries in the region.

1.2. This new vision would take full account of all the factors allowing for responsible and sustainable fisheries, and would be part of an integrated approach based on new requirements regarding the environment in which fishing activities are conducted in each Member State.

1.3. The new framework, meanwhile, would be based on a new approach to the jurisdiction of maritime waters and relations with third countries operating in the area, and allow for the full application of all components of the CFP, in particular fisheries conservation policy; studies and research conducted by official bodies in the Member States and other international organisations suggest that stocks are overexploited and require effective action to promote regeneration.

1.4. In particular, the Commission action plan recommends the following:

— adopting a concerted approach to the declaration of Fisheries Protection Zones,

— using fishing effort management as a key instrument,

— improving fishing methods to reduce the negative impact on stocks and the marine environment,

— improving control and enforcement measures,

— improving the availability of scientific advice,

— increasing the participation of the fisheries sector in the consultation process,

— promoting international cooperation.

2. General comments

2.1. Fishing activities in the Mediterranean are very important both economically and socially and, in many instances, their specific importance far exceeds their relative importance in terms of contribution to GDP. In terms of employment, the Mediterranean fleet generates 42 % of EU jobs in the sector.

2.2. The overwhelming majority of vessels operating in the Mediterranean — and 80,2 % of all Community vessels operating in the area — are less than 12m long. The Mediterranean fleet can therefore be described as an essentially artisanal fleet.

2.3. Owing to the narrowness of the continental shelf and the types of vessel operating in the area, this fleet fishes very close to the coast in territorial waters. It is therefore unique not only in terms of enterprise structure, but also in terms of type of activity, nature of the work, capital investments and amount of catches.

2.4. The special nature of Mediterranean fisheries also determined the way in which the Common Fisheries Policy was applied in the area and subsequently adapted since it was introduced.

2.5. Although, in general terms, the CFP's structure and market policies were applied in the Mediterranean as in other Community areas, its conservation policy — possibly the most important part of the Common Fisheries Policy — was not applied as rigidly. This is also true of control policy.

[1] COM(2002) 535 final.

2.6. Integrated fisheries management requires an analysis of biological, economic and social aspects, appropriate management instruments, and dialogue between the sector, the authorities and the scientific community.

2.7. The Committee welcomes this Commission Communication and the measures it proposes to meet its objective of redefining the Common Fisheries Policy in the Mediterranean within three years, which implies — inter alia — applying the full array of management instruments that already exist within the CFP. This is a very ambitious objective given the short space of time the Commission has given itself to achieve it.

2.8. The EESC has, furthermore, called for such action in a number of previous opinions [1].

2.9. The Committee also highlights the Commission's intention that actions taken at Community level to meet this objective should be the result of a broad debate with the social partners, either within the existing relevant bodies or in bodies set up for this purpose. Setting up a Regional Advisory Council for the Mediterranean, as envisaged in the roadmap, could be a major step in the right direction. The EESC also welcomes the work being done to set up a Mediterranean-wide fishermen's association, and stresses the importance of involving all the main stakeholders — in particular, ship owners and employees' representatives — in this process.

2.9.1. The widespread illegal fishing that is practised in the Mediterranean by vessels from outside the region flouts good practice and is incompatible with responsible and sustainable fisheries. The Committee stresses the need to promote cooperation between coastal states, and therefore welcomes the holding of a regional conference to map out new developments for Mediterranean fisheries.

2.10. The Committee particularly welcomes the idea of considering a new approach and common position on extending the area of jurisdiction over territorial waters, as the current situation is very inconsistent. Some Member States in the area have between 6 and 12 miles of territorial waters, another has a 49-mile Fisheries Protection Zone, and a future Member State has a 25-mile Exclusive Fishing Zone. This situation and initiatives by some Member States, who in practice have extended their waters by adopting environmental protection zones, point to the need to address this issue carefully but ambitiously.

2.11. The EESC welcomes this approach and calls for efforts to be made at EU level with a view to reaching a common position on the jurisdiction of maritime waters, and for this to be pursued multilaterally between all the coastal states of the Mediterranean. This could be the cornerstone of successful CFP reform in the Mediterranean.

2.12. A common position on extending territorial waters could make a huge contribution, inter alia, to standardising CFP management, harmonising procedures, increasing the level of responsibility of stakeholders, and combating illegal fishing and any other actions that flout good practice or fail to meet responsible fishing criteria.

2.13. The Committee welcomes this approach, which should not lead to an increase in fishing effort, but should ensure that the Member States concerned can control this effort more effectively. However, the Member States must be given the human, technical and financial resources needed to apply control measures properly.

2.14. Studies and advice produced by the relevant official bodies in the Member States and other scientific bodies all agree on the depleted state of fisheries resources in the Mediterranean. It is therefore a matter of urgency that the conservation policy is fully applied in order to ensure the sustainable exploitation of fisheries resources and the continuity of this activity, which is very important both economically and socially for the survival of certain regions and their communities.

2.15. Simultaneously implementing Community fisheries conservation and management policy in the Mediterranean and encouraging the active intervention of regional coordination bodies — e.g. by improving cooperation with other neighbouring countries in the region — could be highly beneficial for the future of Mediterranean fisheries and would also have positive repercussions for other areas. The FAO's sub-regional projects (e.g. Adriamed, Copemed and Medsudmed) could provide the basis for consolidating scientific cooperation.

2.16. Preparing the reform of the Common Fisheries Policy in the Mediterranean requires knowledge of the situation in which action will be taken and, in particular, of the state of stocks, their biological make-up and/or their chance of regenerating.

[1] OJ C 85, 8.4.2003.

2.17. Fishing depends on a complex biological situation that is affected by many factors — climatic, environmental and others — about which more needs to be known.

2.18. If this economic activity is to continue and biodiversity be preserved, very specific rules for the conservation and management of biological resources must therefore be introduced. Failing this, we are simply contributing towards their depletion.

2.18.1. By increasing multilateral cooperation, these rules should be harmonised and applied to all fleets operating in the Mediterranean.

2.19. To ensure that decisions — and indeed all the regulatory machinery governing Mediterranean fisheries — are sound, scientific advice on fisheries also needs to be improved.

2.20. While the various institutes and scientific communities throughout the Member States have made an effort to produce scientific studies and advice relevant to the sector, these efforts must be adapted to the genuine realities and needs of the sector if such material is to be objective and relevant.

2.21. Moreover, with regard to fisheries in both the Atlantic and the Mediterranean, the EESC has already stressed that there is a need to 'strengthen research in this field, encouraging better cooperation and exchange of information at European level and allocating appropriate resources' ([1]). The Committee is therefore concerned by the reduction of funding available for research in the sector under the 6th Framework Programme.

2.22. Setting up a Mediterranean subgroup within the STECF ([2]) could be extremely useful in supporting new management actions and measures, if it is given the appropriate human and financial resources.

2.23. As previously stated in its Opinion ([1]) on the roadmap ([3]), the EESC welcomes the gradual reduction of fishing practices and methods that have a negative impact on the marine environment, and calls for more selective and environmentally-friendly methods and fishing gear to be adopted. As it has stated on numerous occasions, it is essential that social and economic stakeholders are involved in drawing up these measures and in preparing the planned revision of Regulation (EC) No 1626/94.

2.24. An in-depth analysis is also needed of fishing activities that are termed 'recreational fishing' but which are sometimes comparable to professional activity.

2.25. The CFP's objectives in the Mediterranean must safeguard the Community's leading role in applying its various policies in order to ensure sustainable activities and consistent policies, while also ensuring that national and local bodies are properly involved in the various areas, in particular through Regional Advisory Councils.

2.26. In order to safeguard the environmental conditions necessary for protecting fisheries resources, considerable vigilance is needed regarding environmental measures and actions to fight pollution and protect the biotope. This is particularly pressing in a sea such as the Mediterranean.

2.26.1. Protection of the marine environment is essential if fishing activities are to be sustainable. Greater consideration must be given to this area and words translated into action as part of a genuinely comprehensive and integrated policy for the protection of the marine environment that addresses, inter alia, the serious pollution problems caused by accidents involving ships carrying fuel or dangerous goods, or oil spills at sea.

2.27. The adjustments and reforms that will need to be introduced to enable the CFP to be applied in the Mediterranean are bound to have repercussions on the social fabric.

2.28. Indeed, the full application of the conservation, structure and market policies in the Mediterranean — even after they have been adapted to the specific characteristics of the area — will have social consequences for people who make their living from the sea.

2.29. The Committee stresses that support should be provided for the development of aquaculture as a complement to traditional fishing activity.

2.30. The EESC recommends that Common Fisheries Policy reform in this region should take full account of the social dimension, as this is a key element that will lend it credibility.

([1]) OJ C 85, 8.4.2003.
([2]) Scientific, Technical and Economic Committee for Fisheries
([3]) COM(2002) 181 final.

In particular, it points to the Opinion currently being prepared on the 'Action plan to counter the social, economic and regional consequences of the restructuring of the EU fishing industry' and, given the essentially artisanal nature of the sector in this region, the role that could be played by women.

2.31. In the meantime, the introduction of socio-economic measures by the Member States must be harmonised so as to prevent undesirable distortions of competition and ensure appropriate levels of social protection. This is currently not the case.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of studies, vocational training or voluntary service'

(COM(2002) 548 final — 2002/0242 (CNS))

(2003/C 133/07)

On 21 October 2002 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 March 2003. The rapporteur was Mr Pariza Castaños.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee adopted the following opinion by 88 votes to none with five abstentions.

1. **Summary of the proposed directive**

1.1. The draft directive concerns entry and residence conditions for four distinct categories of third-country nationals. The first is students, meaning those entering for higher or professional education purposes. The second is school pupils, meaning those in secondary education and coming through exchange schemes. Thirdly are unremunerated trainees, receiving vocational training without pay. The fourth category comprises volunteers, those coming to perform solidarity-based activities as part of a voluntary programme carried out by a non-profit organisation.

1.2. The directive will not apply to asylum seekers or persons receiving subsidiary protection, or to persons with long-term resident status.

1.3. In order to allow persons of any of the four categories to enter, the directive imposes a number of requirements common to all four categories and others which are specific to each of them. The common requirements are, basically, to hold a passport and parental authorisation (where applicable), to have health-care insurance, not to be considered a threat to public policy, and to have paid the fees for processing the residence permit (where required by the Member State).

1.4. Students (in higher or professional education) must also prove that they have been admitted to an educational establishment, they have adequate resources to cover their costs and, where the Member State so requires, that they possess sufficient language skills and have paid the establishment's enrolment fees.

1.5. School pupils taking part in an exchange programme must, in addition to the general requirements, be within age limits determined by each Member State, show that they have been admitted to a secondary education establishment, show that they are taking part in an exchange programme, prove that the body running the exchange scheme assumes liability for them and, lastly, that they will be hosted by a family during their stay.

1.6. In addition to the general requirements, unremunerated trainees must be covered by a training contract with an enterprise or training establishment, must have sufficient resources to meet their subsistence costs and, if the Member State so requires, have adequate knowledge of the language.

1.7. In addition to the general requirements, volunteers must be within age limits determined by each Member State, hold a contract with the organisation running the voluntary programme specifying the volunteer's tasks and the resources provided to cover subsistence costs, be covered by liability insurance for their activities and receive an introduction to the host State's language, history and political and social structures.

1.8. Mobility within the European Union is envisaged only for students. Students holding a residence permit for one Member State may apply for one in another Member State in order to follow part of the studies already commenced, or to follow another course complementing the one completed.

1.9. The draft directive states that each Member State is to determine the subsistence resources which students and unpaid trainees must have.

1.10. Health-care insurance is required for all four categories of person: in the case of students, the draft directive states that insurance which may be provided by the establishment in which they are enrolled is sufficient.

1.11. Any Member State may limit exchange schemes to pupils from countries which reciprocate by admitting nationals from that Member State.

1.12. The residence permits issued are different in each case. Student permits are to be for one year and renewable provided the initial conditions of issue continue, although renewal is subject to demonstrating progress in the studies undertaken. Permits for exchange pupils are for a non-renewable one year period, as are those for unremunerated trainees and volunteers. Only permits for trainees may be renewed on an exceptional basis.

1.13. Member States which have issued permits may withdraw them if the holder no longer meets the initial conditions, or on grounds of public policy.

1.14. The draft directive regulates entitlement to paid work, whether employed or self-employed, specifying that this must take place outside study time and allowing Member States to set maximum working hours within a range of 10 to 20 hours a week. It also provides that Member States may withhold this right during the first year of residence and withdraw it if students fail to make sufficient progress in their studies.

1.15. Procedural guarantees are provided regarding submission of permit and renewal applications. Grounds must be given in any decision to refuse, refuse to renew, or withdraw a permit, and such decisions may be challenged in the courts.

1.16. The draft directive also provides for a fast-track procedure for issuing student and pupil exchange permits. This may be done by formal agreement between the appropriate Member State authority and the educational establishment or organisation operating the exchange scheme.

2. **General comments**

2.1. With this proposal for a directive, the European Commission is continuing to fulfil the mandate given by the Tampere European Council, which declared a common immigration policy for the EU to be a political objective. The aim of the directive is to ensure proper legal management of migration flows, opening legal channels for the entry of persons for study, training and voluntary purposes. The EESC welcomes the Commission's intention to legislate on legal channels of immigration. In all its opinions, the Committee

has criticised the Council regarding the general thrust of its decisions, and the lack of a clear undertaking for immigration to be channelled through legal and transparent arrangements. In its opinion on illegal immigration [1], the EESC called for work to be speeded up on common EU legislation providing for legal immigration, guaranteeing fair treatment for immigrants, and promoting integration-oriented policies and social attitudes.

2.2. The EU's foreign policy increasingly embraces cooperation and association programmes with the developing countries. Training young people from these countries in the EU involves investment in human resources which the Member States should foster under these cooperation programmes. The Erasmus World programme, which promotes quality higher education and cooperation with third countries, should be used to develop closer links and lay the foundations for better cooperation between the EU and students' countries of origin [2]. There is also a need to encourage recognition of academic and professional qualifications [3] in order to facilitate student mobility.

2.3. The EESC generally supports the content of the proposed directive. It opens the door to suitable common EU legislation for managing migration flows of students, trainees and volunteers.

2.4. The EESC sees the mobility granted to students, to complete their studies in Member States other than those granting the original permit, as a positive step forward. Free movement for students will allow them to enhance their education, and will bring them closer to enjoying equal rights with European students.

2.5. The EESC also warmly welcomes the right to work up to a maximum of 20 hours a week, and during holiday periods, which the draft directive grants to students. Students need basic economic resources in order to continue with their studies; a limited amount of work experience will also be beneficial to their education and familiarise them with European host societies.

2.6. The proposed approach regarding procedural guarantees is also appropriate, notwithstanding the comments made below.

2.7. The first aspect of the proposal to which the EESC would wish to contribute with its views is a tangential one: the opportunity for students to stay in the host country after completing their studies. It is no secret that several Member States have gone so far as to amend their immigration laws to facilitate this, and that there is a growing interest in retaining them as workers given the lack of skilled manpower in some sectors. The phenomenon may expand considerably, generating a dangerous brain drain away from developing countries.

2.8. The draft directive refers to this issue in the explanatory memorandum [4], pointing out that the brain drain must not be amplified, but arguing that this is not the business of the directive under discussion but rather of the directive on the entry of migrants for employment purposes [5]. The EESC would emphasise a basic idea: training in Europe for third-country young people should constitute a factor for development of those countries, not a problem [6].

2.9. This is a complex issue, where the right to employment of an individual who has completed their studies must be reconciled with the concern of the country of origin not to lose its most qualified citizens. Member States should, in cooperation with the countries of origin, take steps to help students (once their studies are completed) find employment in their countries of origin, by means of cooperation and association programmes.

2.10. The Committee also proposes that the European Commission introduce a system for assessing how many persons, whose studies were funded from their countries of origin, are now working in the EU. This should provide a picture of the human capital which thus flows from the less developed countries towards the EU. On the basis of this estimate, the EU Member States should respond by helping these countries in their development efforts, more specifically by contributing to the funding of their educational systems.

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[1] EESC opinion in OJ C 149, 21.6.2002.
[2] EESC opinion on Erasmus World.
[3] EESC opinion in OJ C 61, 14.3.2003.
[4] Point 1.4.
[5] EESC opinion in OJ C 80, 3.4.2002.
[6] EESC opinion on the Communication from the Commission on a Community immigration policy, OJ C 260, 17.9.2001.

3. **Specific comments**

3.1. *Entry and residence conditions*

3.1.1. Articles 6(1)(b) and 9(b) stipulate that the Member States will define the resources students and unremunerated trainees respectively must have. In the Committee's view, it should be added that these resources must be determined bearing in mind that they are entitled to work part-time and during holidays (subject to the limits indicated in Article 18).

3.1.2. The draft directive explains that students who are insured by virtue of being enrolled with an establishment are considered to hold the required health-care insurance (Article 6(b)). The EESC believes the same should apply to exchange pupils, unremunerated trainees and volunteers; in all cases, the host establishment or company can assume liability for their health-care insurance.

3.1.3. Knowledge of the course language, which Member States may require of students (Article 6(1)(c)), should be assessed according to flexible criteria. For example, language-learning could proceed in parallel with studies, subject to an adequate initial level.

3.1.4. The proposal states that trainees must have sufficient resources to cover their subsistence expenses (Article 9(b)), in the same way as for students. The EESC feels that it should be added that such resources may, in the case of trainees, be provided by the company or training centre concerned. This would enable people from less developed countries to enter for training periods financed by development cooperation funds provided by bodies, companies and training centres. Such an arrangement must not involve payment for work. The resources should be directed to the organisation or institution running the cooperation programme.

3.2. *Residence permits*

3.2.1. Under Article 10 of the proposal, concerning residence permits for volunteers, the Member States are to set a minimum and a maximum age. The EESC would point out that older people are increasingly involved in carrying out voluntary work: the reference to a maximum age should therefore be removed.

3.2.2. With respect to the period for which residence permits are granted to students, a possible problem arising from matching the permit duration to the study period should be avoided. Article 11(1) stipulates that the permit is to be issued for a period of one year, except where the course of study is less than one year. The Committee would point out that in several Member States, what is considered to be a one-year course covers a period of nine months: a restrictive interpretation of this article should not lead to nine-month permits being issued not covering holiday time, as this would mean removing the opportunity to work during the holiday period, as provided in Article 18.

3.2.3. The condition that 'acceptable progress' must be made in studies in order to renew students' permits must be accompanied by extensive safeguards against arbitrary action by Member States. Article 11(2)(d) should guarantee that any decision is based on the opinion of the educational establishment and, consequently, on academic grounds.

3.3. *Rights*

3.3.1. The draft directive grants students the right to work, under conditions which, as set out in the general comments above, the EESC considers appropriate.

3.3.2. The EESC urges that the directive grant unremunerated trainees the right to work part-time and during holiday periods on the same footing as students. There is no justification for the Member States being able to restrict this possibility (Article 18).

3.3.3. Measures must be introduced to prevent unpaid trainees receiving training in a company from being exploited for work purposes. No company should be allowed to use trainees illegally as unpaid labour. It is right to stipulate that they may not carry out paid work in the same enterprise where they are being trained (Article 18). Employees' trade union representatives should also be informed of the situation of these unremunerated trainees.

3.4. *Procedure*

3.4.1. The EESC warmly welcomes the scope that Article 19 gives the Member States to allow, by way of exception, other procedures for residence permit applications, and to allow regularisation where considered appropriate.

3.4.2. It is important that fast-track procedures be implemented by means of agreements. The Erasmus World programme will provide new opportunities to foster agreements of this type between EU and third country educational establishments [1].

[1] EESC opinion on Erasmus World.

3.5. *Procedural guarantees*

3.5.1. The EESC considers the proposed maximum period of 90 days for administrative decisions on admission or renewal to be excessive: the time limit should be no more than 60 days.

3.5.2. The draft directive grants the right of individuals to apply to the courts for review of decisions. However, as the EESC has argued in previous opinions [1], such appeals must have suspensory effect on administrative decisions, where they involve amending, withdrawing or refusing to renew a residence permit.

[1] EESC opinion on the Proposal for a Directive on the status of third-country nationals who are long-term residents, OJ C 36, 8.2.2002.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council adopting a multiannual programme (2004-2006) for the effective integration of Information and Communication Technologies (ICT) in education and training systems in Europe (eLearning Programme)'

(COM(2002) 751 final)

(2003/C 133/08)

On 19 December 2002 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 March 2003. The rapporteur was Mr Rodríguez García Caro.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee unanimously adopted the following opinion.

1. **Introduction**

1.1. The conclusions of the Lisbon European Council in March 2000 included the need for European education and training systems to be adapted to the needs of the knowledge economy, and declared information technologies to be one of the basic components of this new approach.

1.2. In these conclusions, the Member States were also urged to ensure that this new economy did not compound, inter alia, problems of social exclusion, and called for the promotion of digital literacy.

1.3. eLearning is the educational component of the Action Plan eEurope 2002 [2], which develops the Lisbon strategy. Its targets include connecting schools to the Internet and training as many teachers as possible in these technologies. The Action Plan eEurope 2005 [3] includes eLearning as one of the most important measures.

1.4. The eLearning Action Plan [4] developed the four action lines of the eLearning initiative in ten key actions in order to

[2] See the Action Plan eEurope 2002 — An information society for all — COM(2000) 330 final

[3] See the Action Plan eEurope 2005 — An information society for all — COM(2002) 263 final.

[4] See the Commission Communication — eLearning — Designing tomorrow's education — COM(2000) 318 final.

achieve greater coherence and synergy between the various Community programmes and instruments, and thereby facilitate access for citizens.

1.5. In its resolutions on these Communications, the European Parliament recognised that this initiative was helping to strengthen the single European educational area, and called for it to be developed under a specific programme so as to avoid duplication with existing programmes.

1.6. Under Articles 149(4) and 150(4) of the Treaty establishing the European Community, the European Commission is submitting this Proposal for a Decision to the European Economic and Social Committee for an Opinion.

2. **Gist of the proposal**

2.1. The general objective of the Proposal for a Decision is to promote and facilitate the use of information and communication technologies in European education and training systems, as an essential element of their adaptation to the needs of the knowledge society and of the European model of social cohesion.

2.2. The implementation period will be from 1 January 2004 to 31 December 2006.

2.3. The objectives will be pursued in the following areas:

— fighting the digital divide, which can affect people who — owing to their geographical location, social situation or special needs — are not able to access traditional educational and training provisions;

— European virtual campuses, to encourage new organisational models for universities, building on existing cooperation frameworks;

— e-twinning European schools, to strengthen and develop schools networking that makes it possible for all European schools to build pedagogical partnerships with a school elsewhere in Europe;

— transversal actions, to promote e-learning in Europe and foster public-private partnerships.

2.4. The financial framework for the implementation of the programme is EUR 36 million, to be distributed as follows:

— 25 % for e-learning for fighting the digital divide;

— 30 % for virtual campuses;

— 25 % for e-twinning schools;

— 10 % for transversal actions and monitoring of e-learning;

— 10 % for technical and administrative assistance.

3. **General comments**

3.1. As the Committee pointed out in its opinion on The European dimension of education: its nature, content and prospects [1], education is above all a process based primarily on the values of humanism. Any education planning option must be compatible with these values.

3.2. The Committee welcomes the proposed Decision, which has been referred for consultation. Notwithstanding the comments and recommendations made in this opinion, we consider this initiative to be extremely positive.

3.3. In addition to the comments made in this document, and with specific regard to the eLearning programme, the Committee reiterates the comments and recommendations made in its opinion on the Communication from the Commission to the Council and the European Parliament entitled The eLearning Action Plan — Designing tomorrow's education [2].

3.3.1. The Committee considers the eLearning sector to be particularly strategic in building the Europe of tomorrow. Given the complementary nature of the new programme, and its extremely limited budget, the Committee recommends that other Community instruments should continue to be used in this area.

3.3.2. Moreover, the Committee considers that the amounts that have been allocated to help the programme meet its very ambitious objectives are extremely insufficient. The Committee therefore calls for a significant increase in funding for the programme. It also recommends that it focus on two areas:

— fighting the digital divide,

— school twinning via the Internet.

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[1] See EESC opinion, OJ C 139, 11.5.2001, point 2.4.1.1.
[2] See EESC opinion, OJ C 36, 8.2.2002.

3.4. For education to have a truly European dimension, account must be taken of the many different education systems found in Europe. For this reason, we welcome the genuine involvement of the EFTA states and candidate countries in the programme. The many cultures and languages, as well as the differences existing between the various countries, lend an unsurpassable richness to the European education system as a whole.

3.5. To meet the objectives of the eLearning programme, and before we can aspire to the general use of new Information and Communication Technologies (hereinafter ICT), the barriers that exist — or may exist — to ICT access need to be overcome.

3.5.1. Both in the area of infrastructures and equipment, and the use of new products, services and content, existing difficulties reinforce the barriers between those who can use ICT, and those who lack the necessary means and resources to do so.

3.5.2. The European Union in general and the Member States in particular must continue their efforts to ensure that all EU citizens can access ICT under equal and fair conditions.

3.6. The Committee welcomes the fact that the proposed Decision presents a specific action plan with its own budget, but stresses the need to prevent actions overlapping with existing programmes. The coordination, cooperation and information measures contained in the proposed Decision must help meet this objective. Creating synergies between the different programmes will help enhance the new actions proposed under the eLearning programme.

3.6.1. In its opinion [1] on the Proposal for a European Parliament and Council Decision establishing the second phase of the Community action programme in the field of education 'Socrates' [2], the Committee called for increased coordination and cooperation between the different programmes to ensure that measures and related resources are applied efficiently.

3.7. In its opinion on the Communication from the Commission: Review of reactions to the White Paper 'Teaching and learning: towards the learning society' [3], the Committee highlighted the need to use specifically European educational multimedia, and train educators so that they can use them and teach other people how to use them. Socrates was already a step in this direction, which must be broadly reinforced and fleshed out through the instruments made available to EU citizens under the eLearning programme.

3.8. This new programme must make a considerable effort to foster any actions that help prevent discrimination against groups who find it particularly difficult to use ICT. The Committee therefore urges the Commission and the Member States to do their utmost to prevent the exclusion of the most underprivileged groups, in general, and the disabled, in particular [4].

3.9. Promoting the use of ICT in education and training systems in Europe will not on its own necessarily guarantee high-quality education, but must be accompanied by the introduction of overall quality management systems based on the quest for excellence. ICT are just another tool in the process of ongoing quality improvement. If the quality of teaching is unacceptable, the introduction of new technologies will simply increase the dissemination of and access to low-quality education. ICT improve access to education and training systems, but do not guarantee per se an improvement in the quality of education and training.

3.10. Access via ICT to new learning and training possibilities and methods may change the teaching models with which we are familiar. Open and distance learning may improve and become widespread through these initiatives. Any measure that brings education and training closer to citizens must be welcomed and backed by all EU institutions and the Member States.

3.11. Strengthening the European dimension of education is an objective that affects all EU institutions. The fact that such technology enables information to be received and knowledge to be jointly acquired, thereby facilitating its transmission, is a key factor in reinforcing a European area of education and training that, while recognising cultural diversity, overcomes barriers and distances, and brings cultures and languages together [5].

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(1) See EESC opinion, OJ C 410, 30.12.1998.
(2) See OJ L 28, 3.2.2000.
(3) See EESC opinion, OJ C 95, 30.3.1998.
(4) See EESC opinion, OJ C 94, 18.4.2002.
(5) See EESC opinion, OJ C 139, 11.5.2001, point 2.5.

4. **Specific comments**

4.1. The Committee fully shares the objectives of the eLearning Programme, as a specific programme dedicated to e-learning. However, it considers that both its meagre financial resources and the dispersion of its actions over a wide area will make it difficult to achieve these objectives.

4.1.1. In a Europe that attracts an ever-greater number of immigrants from very different cultures, it is essential that we use all the means available to encourage closer relations and understanding between different cultures. Accordingly, the Committee calls on the EU as a whole and Member States in particular to make the greatest possible effort to achieve this.

4.2. Likewise, the Committee is convinced that ICT are extremely useful in improving lifelong learning. In a world that is undergoing rapid and constant change, new ways of keeping people's qualifications and training up to date need to be found, so that they can maintain and improve the knowledge and skills required by the labour market. The Committee believes that, by ensuring that their human assets are always up to date, companies can become more competitive. It therefore welcomes initiatives that are a step forward in improving EU citizens' access to ongoing training.

4.3. Improvements to the quality of products, content and services proposed by new ICT must be underpinned by an environment that is favourable for European companies in the sector. Steps must be taken to ensure that such products and their content are designed with European needs in mind. In addition to the potential benefits in terms of employment in the EU, support for these companies should also lead to the creation of products and services that take account of the multifocal cultural reality in which we live.

4.4. The exclusion of certain groups — whether for geographical, social, gender-related, age-related or any other reasons — is one of the greatest threats to the dissemination and use of ICT. Any actions developed to prevent such exclusion must be fostered and supported.

4.4.1. If nothing is done to put an end to the various means of exclusion that exist, other developments relating to eLearning may be affected. The Committee therefore believes that the percentage of funds earmarked for 'fighting the digital divide' should be significantly increased, as a strategy to offer as many citizens as possible access to eLearning.

4.5. The virtual university could be seen as a more advanced and interactive system of the open university. This model, which is already being developed by a number of further education establishments in Europe, must provide special courses for those people who, owing to very different circumstances, are unable — or unwilling — to follow learning and training through traditional systems.

4.5.1. The Committee welcomes wholeheartedly this type of initiative and stresses the need to improve and reduce the cost of Internet access for EU citizens, so that the development of this model of university organisation is not hindered. Such developments also allow for very close cooperation between further education establishments in the various Member States, thereby making education in Europe more of a force for integration.

4.5.2. Activities developed as part of the Socrates/Erasmus programme and its offshoot, Erasmus World [1], can be carried out through these virtual campuses, thereby improving cooperation between establishments and the virtual mobility of teachers and pupils through the Internet.

4.5.3. However, the Committee believes that the development of these new organisational models for teaching must by no means put an end to traditional forms of learning through physical attendance, mobility and direct contact between teachers and pupils. In particular, physical attendance can help young people get more out of these new tools through contact with their teachers. The virtual university must be seen as additional support in certain circumstances and for certain people, but must not become an independent form — or indeed the only form — of teaching and learning.

4.6. Inter-school cooperation via the Internet must be a key element of knowledge and communication in coming years. Facilitating such communication between school children in Europe will in the medium term increase understanding of customs and cultures in the EU. The younger people are when they have such access, the easier it will be to foster understanding between people later in life.

4.6.1. In the Committee's view, the best way to develop closer relations and inter-school cooperation could be to use these resources to improve school children's access to and

[1] See the Proposal for a European Parliament and Council Decision establishing a programme for the enhancement of quality in higher education and the promotion of intercultural understanding through co-operation with third countries (Erasmus World) (2004-2008); (COM(2002) 401 final), and the EESC opinion on this subject.

knowledge of the various languages in Europe. Language courses run by native teachers could therefore be set up in schools as a kind of exchange that would increase students' knowledge of the language and culture of those participating in school networks.

4.7. The Committee therefore recommends extending school twinning via the Internet to pre-secondary levels from the outset, in the conviction that the younger the beneficiaries of these initiatives are, the easier it will be for them to adapt. A similar process occurs when language learning begins at an early age.

4.8. The Committee calls for greater use to be made of the Internet in disseminating Europe's cultural and linguistic diversity, and rejects the temptation to use only one vehicular language to circulate information and knowledge.

4.9. The Committee shares and welcomes the programme's objective of improving cooperation between the public and private sectors. Companies can contribute their experience in these developments and can in turn directly receive the information they need to provide products and services tailored to a changing situation.

4.10. Internal communication and coordination between the Commission's own services is essential to ensuring that the different committees for the various Community programmes in the fields of education, training, research, social policy and regional development have specific knowledge of the actions undertaken, in order to prevent overlap or projects that are presented and developed receiving support from two or more programmes simultaneously.

4.10.1. The Committee urges the Commission to improve communication and coordination in order to develop this programme more effectively and efficiently.

4.11. The Committee welcomes this specific Programme, but not its budget allocation. It therefore believes that greater efforts should be made to boost the funding.

4.12. The series of assessments planned — which correlate with similar actions envisaged under other programmes with similar objectives — should provide a basis for studying whether to bring together under a single programme the various lines of action designed to promote the dissemination and use of ICT in the field of education and training in Europe.

4.12.1. In order to use available resources more effectively and more efficiently, the Committee believes it is necessary to carry out such an analysis and then come up with a proposal setting out a single programme, in order to maximise resources and minimise the cost of distributing actions among the various programmes.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions — The future of the European Employment Strategy (EES) "A strategy for full employment and better jobs for all"'

(COM(2003) 6 final)

(2003/C 133/09)

On 14 January 2003 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 March 2003. The rapporteur was Mr Koryfidis.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee adopted the following opinion by 93 votes to five with three abstentions.

1. Introduction

1.1. At the end of 1997 the Luxembourg summit launched the European Employment Strategy (EES). The ambition was to achieve decisive progress within five years, especially in the areas of long-term unemployment and youth unemployment. Even before the entry into force of the Treaty of Amsterdam, the summit initiated implementation of the new open method of coordination, which is enshrined in Article 128, by ratifying the first set of Employment Guidelines.

1.2. Article 126 of the Treaty reaffirms national competence for employment policy while also stating that employment is a common concern and inviting the Member States to develop a coordinated strategy at EU level.

1.2.1. Largely inspired by the Treaty provisions on coordination of economic policy [1] and by the coordination of employment policies which began at the Essen European Council in 1994, the new Article 128 laid down the framework for the development of national employment policies based on the EU's common priorities and interests.

1.2.2. According to this new framework, policy coordination is achieved on the basis of a 'management by objectives' approach. More specifically, this involves the following steps:

— The Employment Guidelines are decided each year by the Council following a proposal by the European Commission.

— National employment action plans (NAPs) are drawn up by the Member States based on the guidelines.

— The NAPs are evaluated in a joint report on employment by the European Commission and the Council.

— The next year's guidelines are laid down on the basis of this evaluation.

1.2.3. Since 2000, the Council, following a proposal from the Commission, has published specific recommendations for the Member States as a supplement to the Employment Guidelines.

1.2.4. The 'management by objectives' approach was also backed up with measurable targets at European and national level in many areas and with the progressive development of agreed statistical indicators to measure progress.

1.2.5. Synchronising the Luxembourg process with the process of coordinating the broad economic policy guidelines constitutes the new framework for implementation of the new EES.

1.2.6. Since the very start, the EESC gave effective support [2] for the preparatory work that led to adoption of the European employment strategy. Since then it has been involved, always actively, in formulating the guidelines and more generally in assessing and shaping the European employment strategy [3].

[1] Treaty Articles 98 and 99.

[2] OJ C 19, 21.1.1998.

[3] OJ C 209, 22.7.1999, OJ C 368, 20.12.1999, OJ C 14, 16.1.2001, OJ C 36, 8.2.2002.

2. **The Commission Communication**

2.1. In the Communication from the European Commission, the EES is singled out as being a key tool to meet the ambitious Lisbon objectives of full employment, quality in work and social inclusion/cohesion through employment.

2.2. However, it is pointed out that, in order to be effective, the EES will have to be articulated with a range of other policies which are well established and Treaty based, as in the case of the Broad Economic Policy Guidelines, or more recent, such as in the area of education and training, entrepreneurship, social inclusion, pensions and immigration.

2.3. The open method of coordination of the EES based on Article 128 of the Treaty is considered to have proved its value. Following the request of the Barcelona European Council calling for a strengthening of the EES and the conclusion of the Council debate on the 'streamlining', consideration must be given to the optimal use of the instruments provided by the Treaty and developed by the practice so far. In specific terms, the requirements are as follows:

— stable and result-oriented Employment Guidelines;

— specific policy guidance through recommendations;

— focus on implementation through NAPs;

— the Joint Employment Report;

— building on evaluation and mutual learning;

— ensuring consistency with other processes;

— better governance.

2.4. The Communication points to the need for a new generation of Employment Guidelines which will move away from the horizontal objectives and specific guidelines clustered under four pillars of the first period of the EES (1997-2002). The new generation will have to incorporate:

— the three overarching objectives reflecting the Lisbon balance;

— a stronger emphasis on the delivery and governance of the EES;

— the identification of a limited number of priorities;

— specific messages addressed to the social partners;

— the definition of appropriate targets.

2.5. The three overarching objectives of employment policy associated with the Lisbon strategy are:

— full employment;

— quality and productivity at work;

— cohesion and an inclusive labour market.

2.6. The priorities proposed by the Commission as being essential for achieving the overarching objectives above define the content of the new EES more specifically. These are:

— active and preventive measures for the unemployed and the inactive;

— making work pay;

— fostering entrepreneurship to create more and better jobs;

— transforming undeclared work into regular employment;

— promoting active ageing;

— immigration;

— promoting adaptability in the labour market;

— investment in human capital and strategies for lifelong learning;

— gender equality;

— supporting integration and combating discrimination in the labour market for people at a disadvantage;

— addressing regional employment disparities.

2.7. Lastly, the Communication refers to the effective delivery and governance of the new EES. Making particular mention of the European Parliament Resolution of September 2002 emphasising the need to better integrate the EES with national, regional and local labour market policy and with ESF policies, the Communication highlights the importance of the involvement of national parliaments, local actors, NGOs and civil society in the European employment process. The emphasis must be on achieving the following goals:

— effective and efficient delivery services;

— strong involvement of the social partners;

— mobilisation of all relevant actors;

— adequate financial allocations.

3. **General comments**

3.1. The EESC agrees that the employment policies implemented by the Member States under the EES over the period 1997-2001 in order to improve the functioning of labour markets have led to an increase in the employment rate and a reduction of unemployment.

3.1.1. However, compared to the Lisbon targets on levels of employment and participation, and on unemployment and productivity per worker in the EU as a whole — targets which the EESC accepts and endorses — there are still substantial weaknesses and deficiencies.

3.1.2. Moreover, disparities related to gender, age and disability, as well as disparities between Member States and between regions within Member States, continue to give cause for concern.

3.1.3. On the one hand, responsibility for this lies with the Member States and their inadequate response to the demands and obligations arising from the Lisbon strategy and objectives. On the other hand, it should also be pointed out that achieving these objectives will require European economic policy to be more strongly geared towards the objective of high levels of employment. That can only be secured by considerable improvements in future coordination between the European broad economic policy guidelines and the EES employment policy guidelines. In this context, the EESC deeply regrets the loss of impetus in the Lisbon strategy as a result, inter alia, of the global economic crisis. Consequently, all European leaders and, in particular, monetary and fiscal authorities must reiterate their commitment to achieving the Lisbon objectives and must learn the lessons of past failures in order to remain on course, in particular by supporting reflationary macroeconomic policies. These measures are essential to achieving the objective of 3 % growth which underpins the whole Lisbon strategy and which will enable more, better quality jobs to be created.

3.2. This being the case, in order to achieve the Lisbon objectives, also bearing in mind the forthcoming enlargement [1] in particular, the EESC feels that the Member States must promote the structural changes envisaged.

3.2.1. The EESC supports the view that the key priority of the new EES must be to achieve the objectives set at Lisbon on more and better jobs and greater social cohesion.

3.2.2. At the same time, the EESC supports the view that the Lisbon objectives on increasing employment rates and the supply of jobs, promoting better quality in work and increased productivity, consolidating labour markets without exclusion and reducing disparities between regions are interlinked and complementary.

3.2.3. The Committee also takes the view that achieving the above-mentioned objectives will require first and foremost:

— strong and sustainable economic growth [2] and

— rebuilding confidence among European citizens and creating a positive vision for the future, based on citizens' involvement, ensuring a more balanced distribution of the wealth produced and the surplus created by modern technology [2].

3.2.3.1. The EESC obviously endorses the aim of sustainable economic growth in particular, the policies associated with it and the interlinking of these with employment policies. However, it would stress particularly the need for a multi-faceted approach to the problem taking account of the international economic situation, the single market and optimum utilisation of it, consolidating the Eurozone and using it to greater effect and the need to develop more integrated and uniform policies on all matters, including immigration.

3.2.4. In addition, the Committee would point out that the unemployment problem in a 25-member EU may assume different, more critical forms and proportions if there are no integrated preventive policies developed immediately.

3.3. The EESC emphasises its agreement with the three similarly interlinked objectives of the new EES, namely:

— increasing the employment rate and full employment;

— quality and productivity at work;

— social cohesion in a labour market without exclusions.

[1] OJ C 85, 8.4.2003.

[2] Resolution to the Spring European Council of 21 March 2003.

3.4. The EESC feels that fewer, simpler and more constant guidelines concentrating on the new priorities of the EES and on measurable objectives will make the EES more effective.

3.4.1. In line with the views expressed in previous EESC opinions, the guidelines must maintain a broad and integrated policy scope, encompassing labour market policies, economic growth, entrepreneurship, employee protection and social protection, which help to increase employment and improve quality in work.

3.5. In the course of its work, the EESC has welcomed the new priorities put forward, such as the policy on active ageing [1], the combination of social protection and employment [2], the priority concerning immigration [3] and the priority of transforming undeclared work into regular employment [4]. The EESC would also stress the need to marry active ageing policies with consideration for difficult work situations and the current state of the economy, which is leading to company restructuring on a major scale, all too often resulting in redundancy for older workers. Ambitious social programmes must ensure that redundancies are accompanied by back-to-work or retraining measures while also leaving open current opportunities for early retirement.

3.5.1. The Committee also stresses the need to promote quality in work under the policy for more and better jobs given that quality jobs are proven to be more viable and are associated with increased productivity.

3.5.2. It also emphasises the importance of ensuring a balance between flexibility and safety in the labour market.

3.6. The EESC feels that synchronising the Luxembourg process with the process of coordinating the Broad Economic Policy Guidelines is essential for effective management of the EES. As the EESC has reiterated many times in the wider context of viable development, employment must be a major part of the economic policy mix and the objectives thereof.

3.7. The EESC feels that there is a need for a strong commitment by the social partners at all levels — European, national and local — from the policy-making stage through to policy evaluation and implementation.

3.7.1. The EESC welcomes the fact that significant progress has been made in developing a true territorial dimension and endorses the willingness to increase the involvement of civil society at local level.

3.7.2. The Committee would also point out that the quality of the EES would certainly be improved if the national action plans were discussed and approved by national parliaments in the context of annual national employment policy budgets.

3.8. As pointed out in previous EESC opinions, in order to improve the effectiveness of the new EES, there is still a need for:

— the guidelines to be combined with quantitative objectives, especially at national, regional and local level;

— greater emphasis to be put on results and on more effective implementation (including the monitoring thereof) and

— these results to be accompanied by recommendations.

3.8.1. The EESC firmly believes that these recommendations in particular provide the key to implementation of the strategy by the Member States. Therefore, the annual review of implementation and progress in relation to the objectives set (based on the NAPs and the performance indicators) will have to continue, and EES reform will thus also have to focus on increasing the onus on Member States, for instance, through additional quantifiable objectives.

3.8.2. In any event and irrespective of the results, the relevant statistical data are vital for feedback on the EES. The EESC highlights the importance of such data and calls on the Commission to work in a coordinated manner and with all its resources to secure in good time reliable statistical data based on comparable and credible indicators for all the Member States.

4. **Specific comments**

4.1. Based on the points made above, the EESC feels that the new EES, which includes concrete intermediate targets, may help to achieve the Lisbon objectives inasmuch as it will be accompanied by firm and integrated guidelines. The effectiveness of these will be monitored systematically.

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[1] EESC opinion on ageing workers, OJ C 14, 16.1.2001 and OJ C 36, 8.2.2002, point 2.2.
[2] OJ C 117, 26.4.2000.
[3] OJ C 125, 27.5.2002.
[4] COM(2002) 487 final, 3.9.2002.

4.2. If the choice of guidelines with a three-year time frame is to be productive, it must tie in with the major challenges of the present time, of which the most prominent are the economic situation (recession) and the forthcoming enlargement of the EU.

4.2.1. In any event, the EESC particularly welcomes the new element of the EES, i.e. guidelines with a three-year time frame, as this makes it possible to develop medium-term policies to solve the unemployment problem.

4.3. In order to create the conditions for addressing the major medium and long-term challenges, as well as quality in jobs and improved productivity, the EESC attaches particular importance to the question of investment in human capital. It considers lifelong learning to be a guideline of prime importance and strongly emphasises the need to substantially increase the relevant investment using public and private resources. At the same time, it highlights the need to find and develop a more flexible and productive way of using the funds available, emphasising the role and contribution of the Structural Funds and particularly of the European Social Fund for this purpose.

4.4. In addition to tying the guidelines in with today's major issues (point 4.2) and giving priority to investment in human capital, as well as simplifying the guidelines and underpinning those in the previous EES which have proved effective, it will be necessary to reinforce the newly introduced elements in the new generation of employment guidelines, specifically:

4.4.1. There should be a guideline devoted to enhancing preventive and active measures for the long-term unemployed, the inactive, the disabled, women, young people and ethnic minorities with the aim of removing the obstacles preventing them from entering and staying in the labour market and in viable jobs. In that connection, particular importance is also attached to identifying jobseekers' requirements at an early stage and the appropriate provision of support and reintegration schemes.

4.4.1.1. As regards the disabled [1], an integrated institutional approach is required, including strengthening employment guideline 7, powerful incentives for employers who employ disabled workers and the creation of the necessary conditions for familiarising disabled people with modern technologies.

4.4.2. There should also be a guideline devoted to the gradual conversion of undeclared work into legal employment and of the black economy into legitimate economic activity. This can be achieved with a combination of measures and incentives, by simplifying procedures and by reducing taxation on work.

4.4.3. Another guideline should be devoted to the creation of favourable conditions for developing businesses and reinforcing entrepreneurship, especially for small and medium-sized enterprises, as well as partnerships (cooperatives, associations, mutual societies), the prime objective of which would be to create more high-quality and durable jobs.

4.4.3.1. On the subject of entrepreneurship in particular, the EESC would point out that

— entrepreneurial activity, including that by people who aim to provide social services and/or services of general interest, is the real job creator;

— small enterprises are usually labour-intensive, creating more jobs than large enterprises, which tend to be more capital-intensive;

— an increase in the number of small and medium-sized enterprises in the EU on its own is not an adequate indicator of policy success;

— care must be taken to ensure that there is an increase in the number of small businesses and that people are not being forced to opt for independent entrepreneurial activity because the regular labour market does not provide any opportunity or prospect of paid employment [2];

— businesses in the traditional sectors still contribute to job creation and should therefore be included in European and national policies in support of enterprises;

— there is a need to improve quality in the creation of enterprises by providing appropriate training for prospective entrepreneurs and support services for emerging businesses.

4.4.4. Another guideline should be devoted to the management of migration trends [3] and the integration of immigrants into an evolving society through employment.

[1] OJ C 241, 7.10.2002.

[2] OJ C 368, 20.12.1999, point 3.2.

[3] OJ C 125, 27.5.2002, point 4.1.12.

4.4.4.1. The EESC believes it is necessary for the EU to develop a uniform immigration policy as immigration, illegal immigration and undeclared work are interlinked. With regard to the new EES, the EESC supports the inclusion of immigrants in the formal labour market as this may contribute to achieving the Lisbon objectives and social cohesion.

4.4.4.2. In this connection, the Committee endorses the Commission principle of non-discrimination in relation to non-EU workers, but feels that this must be linked to the clear and reliable management of new labour immigration and effective measures to combat undeclared work.

4.4.5. Lastly, the removal of regional disparities in employment, both between Member States and within them, is also a priority to which the new EES should devote a guideline.

4.4.5.1. The EESC feels that this guideline should focus on mobilising the Member States and local social partners and territorial authorities.

4.5. The EESC does not agree with the Commission's argument ([1]) regarding 'poverty traps' as it is too much of a generalisation ([2]).

4.6. The Committee endorses the high priority given to reducing the number of accidents at work ([3]). This should also be a priority in the Member States.

4.7. The Committee welcomes and endorses the line taken by the Commission in promoting the mobilisation of all players, including civil society and NGOs, in the employment strategy and creating opportunities for them to be involved ([4]).

5. Conclusions and proposals

5.1. The EESC endorses the three interlinked objectives of the new EES, i.e.:

— increasing the employment rate and full employment;

— quality and productivity at work;

— cohesion in a labour market without exclusions.

The Committee feels it is extremely important that these objectives be translated into clear guidelines for the Member States.

5.2. This endorsement, as well as the EESC's proposals, take account of the following factors:

— the role of economic policies in creating growth and therefore jobs;

— the current economic slowdown;

— the major step of enlargement;

— the longstanding trend towards an ageing population;

— the continuing disparity between the sexes, despite a slight improvement.

5.3. The EESC feels that investment in human capital and the development of the institution of lifelong learning are key factors for achieving the objectives of the new EES. With regard to the latter in particular, the EESC proposes that there should be higher quantitative objectives for 2010 in the EES than those given ([5]).

5.4. The proposal to make work pay highlights the complex interconnection between social protection and employment, as well as the need for synergy between policy areas which affect one another (e.g. fiscal policy and taxation, benefit policy and social protection, job protection).

([1]) Point 2.2.2 of the Communication.

([2]) Experience in the Member States shows that this only happens in particular cases and that there are legal provisions prohibiting abusive claims. The EESC fears that this generalisation might be interpreted in the Member States as an incentive to cut all social welfare services.

([3]) Last sentence of point 2.2.2 of the Communication.

([4]) This approach follows on from the positive example set by involving the economic and social partners in the Structural Funds monitoring committees. The economic and social partners see it as their own particular challenge to be involved in national dialogue on the EES. For example, they are directly implicated in the use of the term 'Social Economy' in point 2.2.11, in pursuing the goal of cohesion and an inclusive labour market and in delivery and governance at local level.

([5]) 'By 2010, the EU-average level of participation in lifelong learning should be at least 15 % of the adult working age population (25-64 age group) and in no country should it be lower than 10 %' COM(2002) 629 final, point 59. 'The EESC therefore feels that the proposed European benchmark for lifelong learning should be modified to make it more ambitious. A target of bringing the country with the lowest performance today up to the level of the highest performer by 2010 is ambitious, but necessary.' EESC opinion in preparation (point 3.6.1), on COM(2002) 629 final (European benchmarks in education and training).

5.4.1. In this context, the EESC proposes that the Member States establish incentives to subsidise unemployed people who are receiving education or training (lifelong learning). It is clear that these incentives will be provided in addition to the unemployment benefit paid by the state where the unemployed person resides. Social Fund resources could be used for this purpose.

5.5. The EESC feels it is right that immigration policy is highlighted as a facet of the new EES and points out the need to give priority to developing a single EU immigration policy.

5.6. The Member States will have to commit administrative and financial resources (even if, in some cases, it is necessary to restructure public spending) to support implementation of the ambitious goals of the new EES.

5.6.1. On this point, the Committee calls for national parliaments to be involved in procedures to do with the EES. If NAPs were discussed and approved by national parliaments in the context of the corresponding annual national budgets, this would certainly improve the quality of employment policy, as well as helping to integrate it more effectively with the various other national and European policies.

5.7. The EESC proposes the immediate implementation of the social partners' proposal for tripartite cooperation on growth and employment, as well as formalisation of the subsequent proposal of the European Commission to hold a tripartite social summit before the Spring European Council.

5.8. The Committee also agrees with the proposed quantitative objectives in the new EES with 2010 as the target date and feels that relevant intermediate national objectives should be set. These should be determined by the Member States and systematically assessed under the open method of coordination.

5.9. The EESC feels that an integrated policy to create more high-quality and viable jobs requires favourable conditions to foster entrepreneurship in general and thus all kinds of enterprises. It therefore calls on the Member States and the Commission to develop specific and integrated policies according to circumstances. With the prime objective being to create more high-quality and viable jobs, the EESC points out in particular the importance of actually implementing the recommendations of the European Charter for Small Enterprises and bolstering such enterprises, as well as partnerships (cooperatives, associations, mutual societies).

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

APPENDIX

to the opinion of the European Economic and Social Committee

The following amendment was rejected but obtained at least one-quarter of the votes cast:

Point 4.4.2

Last sentence — amend to read as follows:

'... There should also be a guideline devoted to the gradual conversion of undeclared work into legal employment and of the black economy into legitimate economic activity. This can be achieved with a combination of measures and incentives, and by simplifying procedures ~~and by reducing taxation on work~~.'

Reason

Reducing taxation on all types of work would lead to huge reductions in revenue, as taxes would have to be removed almost completely in order to make illegal work unprofitable. If taxes were only to be cut in sectors where illegal work is rife, whole sections of industry would have to be subsidised. This would lead to completely unacceptable distortions of competition between sectors.

Result of the vote

For: 41, against: 48, abstentions: 8.

Opinion of the European Economic and Social Committee on the 'Communication from the Commission — European benchmarks in education and training: follow-up to the Lisbon European Council'

(COM(2002) 629 final)

(2003/C 133/10)

On 20 November 2002 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 March 2003. The rapporteur was Mr Koryfidis.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee adopted the following opinion by 101 votes in favour, with one abstention.

1. Introduction

1.1. The strategic goal set by the Lisbon European Council in March 2000 for Europe to become by 2010 'the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion' ([1]) has been crucial in providing the momentum for closer European cooperation in the field of education and training.

1.2. This cooperation ([2]), which is necessary in all respects, not only to achieve the Lisbon objectives, but more generally with a view to European integration, has so far established a number of important points of reference, including the following:

— an agreement ([3]) between the Heads of State and Government on certain concrete common objectives for education and training systems in Europe as part of the wider principle of lifelong learning;

— a report ([4]) 'on the concrete future objectives of education and training systems';

— a new overall goal ([3]) 'to make Europe's education and training systems a world quality reference by 2010';

— a joint detailed work programme ([5]) on the objectives of education and training systems in Europe, including an explanation of how the Open Method of Coordination may be applied to the sector in question and provision for the Commission and the Council to submit an interim joint progress report on the implementation of the programme to the Spring European summit in 2004.

1.3. The present Communication is an attempt by the Commission to fill a real gap, which is the lack of specific European benchmarks for promoting the above-mentioned programme and specifically for measuring progress towards a particular goal as part of an objective system of comparative assessment.

1.4. It should be noted that, according to Articles 149 and 150 of the EU Treaty, the Member States have full responsibility for teaching content and the organisation of education and training systems. It therefore falls to the Member States to take measures to achieve the common education goals and the relevant Lisbon objectives. In this sense, the Open Method of Coordination in the field of education and training does not have the same implications or the same ramifications in practice as it does in other EU policy areas (e.g. the economy, employment).

1.4.1. Overall, the above observation does not undermine the substance of the Commission proposal on a European role and European dimension in questions of education, training and particularly lifelong learning. On the contrary, it demonstrates the powerful momentum which has recently developed in the EU towards achieving the Lisbon objectives. This momentum is such that, in a number of cases, it is having the

([1]) Conclusions of the Lisbon European Council, 23-24 March 2000, point 5.
([2]) The cooperation also includes the candidate countries.
([3]) Conclusions of the Barcelona European Council, 15-16 March 2002, point 43.
([4]) Council document 6365/02 of 14.2.2001.
([5]) COM(2001) 501 final.

effect of breaking through the existing institutional barriers and boundaries which stand in the way of meeting today's needs ([1]). Those needs relate to Europe's position in the world and its role in shaping a new and modern global political, economic, social and technological balance. The driving force and, at the same time, the objective of this momentum are the knowledge, policies and tools associated with it and, by extension, education.

2. **The Commission proposal**

2.1. The Commission proposal calls on the Council to adopt the following European benchmarks by May 2003 ([2]):

— By 2010, all Member States should at least halve the rate of early school leavers, with reference to the rate recorded in the year 2000, in order to achieve an EU-average rate of 10 % or less.

— By 2010, Member States will have at least halved the level of gender imbalance among graduates in mathematics, science, technology whilst securing an overall significant increase of the total number of graduates, compared to the year 2000.

— By 2010, Member States should ensure that average percentage of 25-64 years olds in the EU with at least upper secondary education reaches 80 % or more.

— By 2010, the percentage of low-achieving 15 year olds in reading, mathematical and scientific literacy will be at least halved in each Member State.

— By 2010, the EU-average level of participation in lifelong learning should be at least 15 % of the adult working age population (25-64 age group) and in no country should it be lower than 10 %.

2.2. The Commission also emphasises as a sixth benchmark (but first in terms of priority) achievement of the Lisbon objective of substantial annual increases in per capita investments in human resources, and, in this respect, calls on the Member States to set transparent benchmarks ([3]) to be communicated to the Council and Commission as provided for in the detailed work programme on the objectives for education and training systems.

2.3. The Commission supports its proposal for the Council to adopt the six European benchmarks above by

— giving specific reasons for its choice to keep the benchmarks at European level ([4]);

— explaining how the indicators for monitoring progress on each separate objective are determined ([5]);

— adopting a specific standard format for measuring progress ([6]);

— defining what the Open Method of Coordination is and how it will be used in the field of education ([7]).

3. **General comments**

3.1. In its opinions on education, training and lifelong learning ([8]), the EESC has highlighted the importance of

([1]) A typical example is the first of the points agreed by the Council on 14 February 2002 (2002/C 58/01) which reads as follows: 'The Council, the Member States and the Commission have the responsibility for ensuring the outcome of the follow-up work, each within their respective areas of competence. The Council, in cooperation with the Commission, has responsibility for deciding on the main subjects of the educational and training objectives as well as on whether and where to use indicators, peer-reviews, exchange of good practices and benchmarks'.

([2]) The purpose of the deadline is so that these benchmarks can be taken into account in the interim report on implementation of the detailed work programme on the objectives of education and training systems in Europe, which the European Council has asked the Commission and the Council to submit to the Spring European summit in 2004.

([3]) National benchmarks adopted by the Member States in these fields, obviously on a voluntary basis.

([4]) Point 1.3 and especially points 21 and 23 in COM(2002) 629 final.

([5]) Points 16, 17 and 18 in COM(2002) 629 final.

([6]) Point 16 in COM(2002) 629 final.

([7]) Points 14 and 15 in COM(2002) 629 final.

([8]) Including, in addition to those mentioned below, points 4.10 and 4.11 of the opinion on the Communication from the Commission to the Council and the European Parliament entitled 'The eLearning Action Plan — Designing Tomorrow's Education' (OJ C 36, 8.2.2002), points 3.2. and 3.5.3 of the opinion on the Commission staff working paper — Promoting language learning and linguistic diversity (OJ C 85, 8.4.2003) and point 3.5 of the opinion on the Proposal for a European Parliament and Council Decision establishing a programme for the enhancement of quality in higher education and the promotion of intercultural understanding through cooperation with third countries (Erasmus World) (2004-2008).

cooperation in education to achieve the EU's major current objectives, for example:

— In its opinion ([1]) on the White Paper ([2]) on Education and Training — Teaching and Learning: Towards the Learning Society, the EESC felt that '... the aim of modernising and upgrading educational and training systems and, most of all, the aim of achieving a learning society, cannot be reached by the Member States pursuing separate paths or strategies, or by summit-level discussions, investigations or choices. The only way to bring this about is a comprehensive and consciously systematic social effort. This social effort must possess a common and acceptable vehicle for coordination, common and acceptable procedures for reconciling opposing views and common, clear and acceptable subordinate objectives. Only the EU and its bodies, particularly the Commission, can coordinate this social effort to bring about a learning society'.

— In the own-initiative opinion entitled 'The European dimension of education: its nature, content and prospects' ([3]) it says that 'the ESC calls for faster implementation of the positions adopted by the extraordinary European Council in Lisbon. It also feels that an overall effort is required to clarify terms and to define more clearly the responsibilities and roles which will fall to the various levels involved in education. Lastly, it would propose continuous monitoring and evaluation of all measures at all levels, an exercise which the ESC is willing to take part in'.

— In its opinion ([4]) on the Commission Memorandum on Lifelong Learning, the EESC stated that 'it considers lifelong learning and areas of education relating to the information society and the new economy to be part of the European domain of education and learning, and therefore recommends that they should be promoted as part of an open method of coordination and comparative assessment'.

3.2. Based on the views expressed above, the EESC is clearly in favour of the Commission proposal to lay down European education benchmarks. Indeed, it considers the proposal to be another step in the laborious and long-drawn-out process of trying to develop a European dialogue to clarify educational concepts and to identify and align education goals. These efforts will have to be intensified still further, as achievement of the Lisbon objectives, with which the process is directly associated, requires modern education systems and common high-level education objectives.

3.3. With this in mind, and with a view to the functionality of the proposal and the greatest possible contribution to work towards the EU's major objectives, the EESC points out that:

— it considers the Commission's proposal ([5]) to develop the open method of coordination in the field of education to be ambitious, but realistic;

— it also considers that the proposed method ([6]) for monitoring progress is effective with regard to both the identification of comparable reality-based indicators in each case and the overall image the EU presents to the world and the education sector;

— it appreciates that the decision ([7]) not to translate the proposed European benchmarks to national level for the time being is necessary.

3.4. The EESC agrees with the six specific European benchmarks ([8]) submitted by the Commission to the Council for approval, proposed as they are under Articles 149 and 150 of the EC Treaty. However, it would draw attention to an important shortcoming, which is the failure to cover that which was agreed upon (Council meeting on 14 February 2002) with regard to the three strategic objectives and the detailed programme to implement the thirteen objectives associated with these.

3.4.1. The EESC therefore feels it is essential, since the groundwork has been done, to add at least those associated with strategic objective 3 (Opening up education and training systems to the wider world) ([9]) to the European benchmarks submitted for approval.

([1]) OJ C 295, 7.10.1996, point 2.3.
([2]) COM(95) 590 final.
([3]) OJ C 139, 11.5.2001, point 2.4.
([4]) OJ C 311, 7.11.2001, point 3.4.1 — last indent.
([5]) COM(2002) 629 final, point 1.2.
([6]) COM(2002) 629 final, point 1.2 and COM(2001) 501 final, point 4.
([7]) COM(2002) 629 final, point 23.
([8]) Investment, early school leavers, graduates in science and technology, upper secondary education attainment, key competences and lifelong learning.
([9]) The associated objectives are:
— strengthening the links with working life and research, and society at large
— developing the spirit of enterprise
— improving foreign language learning
— increasing mobility and exchange
— strengthening European cooperation (cf. Council conclusions (2002/C 58/01))

3.4.2. The reasons for the above proposal by the EESC are simple and clear: strengthening the links with working life and research, and society at large; developing the spirit of enterprise; improving foreign language learning; increasing mobility and exchange and strengthening European cooperation are also essential requirements for achieving the Lisbon objectives and therefore any delay in promoting such measures will mean taking that much longer to achieve those objectives.

3.4.3. It would be possible, inter alia, to use the corresponding indicators from the employment policy guidelines as key indicators for monitoring progress in the above areas.

3.5. The EESC is particularly interested in the question of lifelong learning and its contribution to achieving the Lisbon objectives. It feels that the process of achieving the EU's strategic goal by 2010 mainly hinges on those who are already in the labour market. In practice, this translates into a need for more ambitious targets for citizens' participation in lifelong learning, more integrated measures and, therefore, more funding for the fastest possible development of the knowledge-based society.

3.5.1. In the context of European benchmarks, one of the measures to ensure the effective functioning of lifelong learning involves making clear how it relates to school education and research [1]. The EESC believes that lifelong learning and school education must be seen as part of the same system. This system must also link lifelong learning to research. This means that they must be developed as a logically uniform, i.e. comprehensive system wherever possible and that they must adopt a coherent and complementary approach.

3.5.2. The EESC therefore feels that the proposed European benchmark for lifelong learning should be modified to make it more ambitious. A target of bringing the country with the lowest performance today up to the level of the highest performer by 2010 is ambitious, but necessary.

3.5.3. It should be pointed out that, in the new circumstances in which citizens operate (globalisation, new technologies, the rapid pace of scientific developments, competitiveness, sustainable and viable development etc), lifelong learning is a necessity for all citizens, irrespective of the skills they already have. Without letting up on efforts to get the low-skilled [2] involved in lifelong learning, similar opportunities must be given to all the other members of society as far as possible, inter alia by certifying skills acquired in informal types of education.

3.6. The EESC thinks there should be a European benchmark for public spending on education as a proportion of GDP. A minimum target for 2010 equivalent to the current EU average (5 %) could generate rates of progress in line with what is required for the Lisbon strategic objective.

3.7. It is also worth pointing out that the data given in the Communication refer to the 15 Member States. After Copenhagen, the EESC wonders if it is feasible to extend the scope of the European education benchmarks to take in the new Member States. In any event, the EESC emphasises the need for procedures by the Commission to ensure the smooth incorporation of the new Member States into the whole system of benchmarks.

3.8. The EESC appreciates the work done on indicators to date by the permanent team set up by the Commission. However, one major minus point is the lack of indicators in such areas as European integration, or familiarity with new information and communications technologies. This has already increased the deficit which has existed for some time in national education systems with regard to a European dimension in education. The EESC therefore feels that there is now the need to create a single scientific framework at European level to take care of all the needs associated with indicators of European interest.

3.9. The Lisbon objectives include some particularly important qualitative goals which are not covered in the Commission proposal. These are:

— to convert schools and training centres into multifunctional learning centres, accessible to all, using the most appropriate methods to encompass a broad spectrum of target groups, and

[1] For further information, see point 4.2 of the opinion on the Memorandum on lifelong learning, OJ C 311, 7.11.2001. See also CES 71/2003, point 3.5.3, which states: 'The EESC calls for cross-border cooperation in the pre-school area between parents, educators/teachers. The process of sensitising children to language learning must begin very early and the foundations of lifelong learning must be laid at the pre-school stage'.

[2] Point 59 in COM(2002) 629 final.

— to set up mutually beneficial learning collaborations between schools, training centres, businesses and research establishments.

3.9.1. The foregoing comment is intended to highlight the need to place particular emphasis on developing qualitative indicators.

3.9.2. The EESC would include among these indicators on the independence of schools and their response to the challenge of decentralisation, as well as on compensatory measures to alleviate regional disparities or disparities associated with special social and individual needs.

4. **Specific comments**

4.1. The EESC welcomes the intention to increase investment in education. However, the picture presented is unclear. It therefore proposes that investment should be examined in terms of amount per pupil, level and area of education, but in conjunction with a breakdown of expenditure into fixed and non-fixed items.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council and the European Parliament — Towards a United Nations legally binding instrument to promote and protect the rights and dignity of persons with disabilities'

(COM(2003) 16 final)

(2003/C 133/11)

On 24 January 2003, the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 March 2003. The rapporteur was Mr Cabra de Luna.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee adopted the following opinion by 98 votes in favour and no votes against with two abstentions.

1. **General Comments**

1.1. The European Economic and Social Committee welcomes the European Commission Communication 'Towards a United Nations legally binding instrument to promote and protect the rights and dignity of persons with disabilities' and would like to stress its explicit support for some of the key points made in this Communication.

1.2. The added value of a UN legally binding instrument is to recognise that people with disabilities are entitled to enjoy the full range of internationally guaranteed rights and freedoms and to do so without being discriminated against on the grounds of disability.

1.3. Thematic conventions, like the Convention on the Rights of the Child (CRC), the Convention against all Forms of Discrimination against Women (CEDAW) and the Convention on the Elimination of All Forms of Racial Discrimination (CERD), have demonstrated added value and complementarity with the existing general human rights instruments, in particular the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

1.4. A new UN legally binding instrument would not, in the main, create new rights but would serve to tailor the application of human rights to people with disabilities. It would make a useful contribution to the perception of disabled people as full citizens with the same rights as all others.

1.5. A UN legally binding instrument would set concrete standards for States to guarantee equal effective enjoyment of human rights by people with disabilities. It would spell out the relevance and application of the general human rights standards to persons with disabilities.

1.6. A key principle in a future legally binding instrument is the non-discrimination principle. Equal access to human rights can be guaranteed by ensuring that people with disabilities are not discriminated against on the grounds of their disability. The legally binding instrument should protect people with disabilities from discrimination in having access to and enjoying human rights. Protection would need to be provided against direct and indirect discrimination, the latter being of extreme relevance for the achievement of a real equal treatment of disabled people.

1.7. The participation throughout the process of representative NGOs of disabled people, as approved by the ad hoc Committee, is a welcome decision.

1.8. However, the EESC believes that it may not be enough to confirm rights unless the objective conditions are created to ensure they stand a good chance of being respected through the different channels that are available.

More specifically, it is an established fact that the right of people with disabilities to be included in mainstream society is often secured through specific initiatives and organisations. Thus, for example, the right to work can be achieved through specific job placement programmes, the right to education through specific back-up activities, and the right to residential autonomy by suitably adapting the disabled person's family home, including with hi-tech equipment.

2. **Specific comments**

2.1. The EESC considers that the protection provided by the existing international human rights instruments is not adequate for people with disabilities. The EESC supports the shift from the old medical approach to a social, human rights based approach, which puts much stronger emphasis on identifying and removing the various barriers to equal opportunities and full participation in all aspects of life for persons with disabilities.

2.2. The EESC supports the statement made by the Danish Presidency on behalf of the EU at the meeting of the Third Committee of the 57th Session of the UN General Assembly ([1]), which recognised that an international legally binding instrument relating to the rights of disabled persons could be a useful tool in the promotion and protection of the rights of persons with disabilities.

2.3. The EESC considers that a twin-track approach should be pursued and also supports fully the reference made in the EU statement ([1]) that 'The EU firmly believes that it is of the utmost importance to further mainstream disability as a human rights issue, into the implementation of the existing core United Nations human rights conventions and into their monitoring mechanisms. The drafting of a new convention should not be seen as an alternative to this process but rather as a necessary complement'. As stated by Quinn and Degener ([2]), 'a disability-specific convention could prove to be the best possible catalyst for the mainstreaming of disability in the existing treaty monitoring machinery' and that 'a convention is necessary and would underpin — and not undermine — the existing instruments in the field of disability'.

2.4. The EESC considers that the legally binding instrument should be a Convention. Other possible options, like an optional protocol to the existing UN Treaties, provide much more limited protection and send a message to society that disabled people deserve a lower level of protection of their human rights than other groups in society.

2.5. The EESC requests that the Convention includes a specific rule stating that human rights are universal thereby including all human beings, among them persons with disabilities and chronic illnesses.

2.6. The EESC would like to highlight the importance of the UN Standard Rules on the Equalisation of Opportunities of People with Disabilities. Although not legally binding, this instrument, which will be supplemented in 2004 with some additional elements, has established standards that need to be supported and strengthened by the UN Convention. This needs to be included in a reference to the UN Standard Rules in recognition of the fact that any breach or action which is not in compliance with the UN Standard Rules is considered a human rights violation.

2.7. The EESC considers that the Convention must be based on the principles and ideas laid down in the United Nations

([1]) The Danish EU Presidency — EU Statement regarding social issues during the 57th Session of the United Nations' General Assembly.

([2]) Prof. Gerard Quinn and Mrs Theresa Degener, 'Human Rights and Disability — the current use and future potential of United Nations human rights instruments in the context of disability' — February 2002 — UN Human Rights Commission, http://www.unhchr.ch/html/menu6/2/disability.doc

Standard Rules on the Equalization of Opportunities for Persons with Disabilities [1] and in the World Programme for Action concerning Disabled Persons [2]. It should at the same time reflect the core principles of the disability movement and transform them into an operational, effective and progressive tool, aiming at promoting and protecting human rights in a disability context.

2.8. The EESC considers that the content of the Convention, while being based on overarching principles and core values like equality, dignity, liberty and solidarity, should refer to and identify the full spread of human rights, including political and civil/fundamental, as well as economic, social and cultural, and should highlight that States should take action to ensure that in reality people with disabilities are in a position to exercise their rights. The EESC would like to highlight the important interlinking of the different areas. A good example is transport. If disabled people are supposed to fully enjoy their rights to education and employment, an accessible transport system is required.

2.9. The EESC considers that the Convention should be all embracing and protect adequately all disabled people and therefore needs to consider their diversity.

2.10. The EESC considers the establishment of a strong monitoring mechanism and the specification of enforcement provisions as crucial success factors, in line with those included in the Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Racial Discrimination and the Convention on the Elimination of Discrimination against Women.

2.11. The EESC considers it of great importance that the EU plays a leading role at the next meeting of the ad hoc Committee and suggests that the EU Presidency seek a common position by all EU Member States and accession countries, and present this joint position formally as a contribution to the ad hoc Committee.

2.12. The EESC, as the representative voice of organised civil society, wishes to be actively involved in the work to be done by the EU on this issue.

2.13. The EESC also considers that the European Union should lead by example in the involvement of representative disability organisations in the process. This should be done through the presence of representatives of national and European disability organisations in the national delegations, as well as in the EC delegation to take part at the next ad hoc Committee meeting.

2.14. The EESC requests that the European Commission play an active role in the negotiations on the UN Convention, in order to ensure adequate consistency between the new Convention and the EU disability strategy, in particular Article 13 and Articles 21 and 26 of the EU Charter of Fundamental Rights. This should also ensure consistency between European internal and international action regarding disabled people.

2.15. The EESC considers it very relevant to follow the recommendation issued at the first ad hoc Committee meeting to organise a regional seminar in Europe prior to the next ad hoc Committee meeting.

2.16. In this respect, the EESC recalls its recommendation included in a previous opinion [3] on the need for a disability specific directive, based on Article 13 of the EC Treaty, combating discrimination in all areas of EC competence.

2.17. The EESC considers that EU work in the areas of human rights and development cooperation should take into account the work to be done on this UN Convention. Therefore, the focus on the human rights of disabled people needs to increase and be given much greater prominence in the annual EU human rights reports prepared by the Council, and EU work on development cooperation needs to be reviewed in light of a human rights approach to disability.

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[1] The Standard Rules on the Equalization of Opportunities for Persons with Disabilities, Adopted by the United Nations General Assembly, forty-eighth session, resolution 48/96, annex, of 20.12.1993.

[2] World Conference on Human Rights — Vienna — 14/25 June 1993 — The Vienna Declaration and Programme of Action.

[3] 'The integration of disabled people in society', OJ C 241, 7.10.2002, p. 89-97.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions — The programming of the Structural Funds 2000-2006: an initial assessment of the Urban Initiative'

(COM(2002) 308 final)

(2003/C 133/12)

On 14 June 2002 the Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

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 6 March 2003. The rapporteur was Mr Di Odoardo.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the Economic and Social Committee unanimously adopted the following opinion.

1. Introduction

1.1. The Communication from the Commission provides a preliminary analysis of Urban II Initiative developments concerning economic and social regeneration of cities and neighbourhoods in crisis in order to promote sustainable urban development. This assessment is in response to the document of 28 April 2000 on the guidelines for the Community programme [1] and provides a snapshot of the situation at the end of the selection phase for new programmes. All the Urban II programmes were in fact adopted at the end of 2001.

1.2. Urban is one of the four Community initiatives under the EU Structural Funds directed to support for urban areas in crisis. The three main axes of spending are: environmental regeneration, social inclusion, and entrepreneurship and employment.

1.3. The communication points out that the Second report on cohesion [2] described the urban question as fundamental to Europe's economic and social cohesion. Similarly, the European Parliament's resolution on Urban II [3] stressed that an integrated approach — a key feature of Urban programmes — looked to be the only way to address problems in urban zones.

1.4. The Urban initiative is therefore one of the strategic instruments for building up a Community urban policy, and can serve as a model for national policies.

2. Key points of the Commission proposal

2.1. 70 programmes have been selected, with an overall ERDF contribution of some EUR 730 million. A population of some 2,2 million is covered. Although the overall allocation is smaller than for the preceding programme, intensity of aid — per inhabitant and per programme — is higher. The relatively small size of the geographical areas covered by the programmes has also produced a high level of funding per km^2.

2.2. One of the main novelties of Urban II is the inclusion of medium and small-sized cities: the Urban I population limit of 100 000 for the city as a whole has been abolished. The only factor linking the areas under the new programmes is the presence of at least 20 000 inhabitants (100 000 in exceptional cases).

2.3. The Commission emphasises that the Member States have been able to select their own areas in accordance with their respective local and national priorities and needs. At the same time, the adoption of explicit and objective identification criteria laid down by the Commission has ensured greater transparency in the selection procedures, and greater consistency between the programmes and EU objectives.

2.4. Broadly speaking, the sites of the 70 programmes have been evenly split between Objective 1 areas (30 %), Objective 2 areas (27 %), and areas outside the mainstream objectives (34 %). Of the total programmes, 31 are located in inner city areas, 27 in peripheral areas, eight cover entire small or medium-sized cities and four concern a mix of central and peripheral areas, in an attempt to improve linkages between the two types of area.

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[1] Communication from the Commission to the Member States of 28.4.2000 laying down guidelines for a Community initiative concerning economic and social regeneration of cities and neighbourhoods in crisis in order to promote sustainable urban development (Urban II), in OJ C 141, 19.5.2000.

[2] Unity, solidarity, diversity for Europe, its people and its territory — Second report on economic and social cohesion — European Commission (2001).

[3] OJ C 339, 29.11.2000, pp. 44-47.

2.5. The Urban II programmes focus on severely deprived areas, marked by levels of unemployment, poverty, crime and immigration which are significantly higher than the EU average.

2.6. Analysis of the spending priorities of the selected programmes reveals that 40 % of planned expenditure is earmarked for environmental and physical regeneration, 21 % for social inclusion, another 21 % for fostering entrepreneurship and employment, 8 % for transport improvements and 4 % for information and telecommunications technology.

2.7. The communication points to a high level of partnership with both local authorities and representatives of civil society within the programmes, and stresses that this aspect is one of the features distinguishing Urban II from the other Structural Funds. In one third of the programmes, local authorities are the management authority; in another third, local authorities play a key role in partnership with central government; and in fully 57 of the 70 programmes, local partners were consulted in the drafting of the programme document.

2.8. Urban II has mobilised overall investment of some EUR 1 600 million, double the ERDF resources. This was possible due to the use of additional funds largely originating from national and local public sources. In contrast, the contribution from the private sector was far smaller.

2.9. The results of the procedural and administrative simplification under Urban II were particularly encouraging. In particular, the Commission considers the decision to finance programmes only through the ERDF, and the creation within the Commission of a dedicated unit for Urban II, to be helpful. These simplifications have made it possible to define programmes much more quickly than the general Structural Funds programmes.

2.10. Of the funds provided under the initiative, 2 % is reserved for exchange of experience between cities benefiting from Urban. For the first time, this exchange is structured as a Community programme.

3. **General comments**

3.1. In general terms, the Commission's choice to continue with the Urban initiative is to be warmly welcomed. The initiative's earlier version, launched in 1994 (the final evaluation of which is expected in 2003), had already achieved impressive results. Both the Urban Pilot Project and Urban I demonstrated their ability as effective tools for implementing policies to boost the quality of the urban environment and citizens' well-being.

3.2. The decision to increase the number of programmes covered by Urban II from the planned 54 to 70 — as requested by the EESC — is also welcomed.

3.3. In contrast, the reduction in the overall resources allocated to Urban, from EUR 950 million for the 1994-1999 period (spread over 118 sites) to the present EUR 743,6 million is disappointing. Convinced of the importance of Urban as an instrument for supporting the Union's urban policy, the Committee considers that efforts need to be stepped up to increase Urban resources in the future.

3.4. The work to simplify administrative procedures, which gave rise to management problems under Urban I, is also greatly appreciated, and the Committee agrees with the Commission's positive assessment of it. It also agrees with the decision both to use a single fund (ERDF), and to set up a specialist unit within the Commission, enabling the specific know-how and experience gained in urban regeneration to be maximised.

3.4.1. In this respect, the EESC would echo the call for work on simplifying administrative procedures to press ahead, made by a number of mayors of European cities at the London conference of 8 and 9 July 2002 on Cities for Cohesion: Lessons from the European Urban programmes ([1]). This is all the more necessary given the growing involvement of medium and small-sized urban centres.

3.5. The creation of a network to promote exchange of best practices tried out under Urban and the intention to expand a culture of urban indicators and statistics are of great importance if Urban II objectives are to be fully met.

3.5.1. The fact that exchange of experience between cities benefiting from Urban has, for the first time, been structured as a Community programme is a significant step forward.

3.6. The decision to channel 40 % of planned expenditure to physical and environmental regeneration is to be welcomed. This confirms that the quality of the built environment, open spaces and the architectural heritage have a decisive role to play in any process of revitalisation and socio-economic development in run-down urban areas. Programmes which, like those in France, attach strategic importance to architectural quality and, more broadly, to the quality of spatial development actions, should be encouraged.

([1]) Conclusions of the conference Cities for Cohesion: Lessons from the European Urban programmes — London, 8 and 9.7.2002.

4. **Specific comments**

4.1. *Local partnership*

4.1.1. Partnership with local authorities and communities is considered to be one of the main challenges and best sources of added value for the Urban programmes: it is recognised that this choice represents the best means of promoting the European model of governance and involvement of civil society.

4.1.2. The London conference referred to earlier emphasised the need for ever-greater direct involvement of cities in planning and managing the programmes which concern them.

4.1.3. While highlighting the progress made, the Committee regrets that a very high percentage of the programmes are still officially managed by national authorities.

4.1.4. The Committee believes that in the future, it must be specifically demanded that local authorities always be the managing authority. Experience to date indicates that this would also contribute to the administrative simplification of the programmes.

4.1.5. Moreover, at least the presence of local authority representatives should be guaranteed on all the monitoring committees under Article 35 of the general Council Regulation on the Structural Funds ([1]).

4.1.6. The EESC has frequently drawn attention to the special importance of directly involving organised social interest groups, specifically in its opinion on the Commission's communication to the Member States on the Urban II guidelines ([2]).

4.1.7. In its opinion, the Committee highlighted the valuable and unique contribution made by the social partners in programmes such as Urban, in which employment and economic issues are to the fore, and recommended broad-based and effective partnerships including economic and social players, NGOs and local groupings.

4.1.8. The present communication summarises the main points of the Urban II programmes, but fails to provide sufficient information to gauge the real involvement of such players, offering only general comments on the participation of local community groups.

4.1.9. The EESC therefore believes that a framework must be devised for analysing how many and which of the 70 programmes have effectively involved civil society representatives in the project design and selection phases and during the implementation stage, and for analysing the practical form taken by such participation.

4.1.10. Definite rules also need to be drawn up to ensure real consultation, so that this does not remain a recommendation, but becomes a prerequisite for the Urban programmes. The purpose would be to put into practice the right of local communities and social representatives to play a part in shaping the programming choices having an impact on the quality of life and prospects for development. This right was enshrined by the UN Habitat II conference in 1995 ([3]).

4.1.11. The EESC also calls for social representation to have a guaranteed presence on the monitoring committees and any management committees.

4.1.12. This would contribute significantly to achieving the objective of bringing Europe closer to its citizens, and would give a higher profile to the Urban programmes.

4.2. *Harnessing private resources*

4.2.1. The Commission's document examines the leverage effect generated by the Urban programmes, describing its ability to mobilise additional investment and financial resources in both the public and private sectors.

4.2.2. The outcome with public sector partners has been a clear success, mobilising resources representing more than double those provided by the ERDF.

4.2.3. However, the results where private resources are concerned are far from satisfactory, concerning only 35 of the 70 Urban programmes, and contributing the equivalent of only 8 % of the programme's funding. The Commission explains this result by the fact that Urban II areas find it difficult to attract private investment on account of their high levels of deprivation, although this explanation may however be judged incomplete.

([1]) Council Regulation (EC) No 1260/1999 of 21.6.1999 laying down general provisions on the Structural Funds, in OJ L 161, 26.6.1999.

([2]) ESC Opinion on the Draft Communication from the Commission to the Member States laying down guidelines for a Community initiative concerning economic and social regeneration of cities and of neighbourhoods in crisis in order to promote sustainable urban development — Urban, in OJ C 51, 23.2.2000, p. 89.

([3]) United Nations General Assembly, Preparatory Committee for the United Nations Conference on human settlements (Habitat II) — draft version of the declaration of principles, commitments and Global Plan of Action — Habitat agenda, 26.10.1995.

4.2.4. The EESC believes that the low level of private investment is also due to the inadequate involvement, especially at the design stage, of local private economic players, particularly SMEs and the craft sector which, especially in medium and smaller cities, represent the main source of job and wealth creation.

4.2.5. A more detailed analysis should therefore be made of the 70 programmes, in order to understand their real capacity to attract resources from the private sector. Provided it is compatible with other Community objectives and, more generally, can reconcile the aims of economic efficiency and competitiveness with those of social justice, this capacity represents a decisive factor in the economic and social regeneration of run-down areas, as well as providing a means of verifying the effectiveness of public action. Moreover, the most advanced research into planning instruments has revealed, over recent years, that integrated, consultation-based spatial planning is an efficient means of generating public-private synergies capable of ensuring that urban regeneration schemes are feasible and achieve real results.

4.3. *Housing policy and Urban programmes*

4.3.1. The ERDF cannot directly fund housing projects. However, issues relating to urban decline are inseparable from the question of housing, seen in terms of both providing new housing and renovating existing stock.

4.3.2. Annex I to the Commission's document on the guidelines for Urban II [1] recognises that if it is essential for action on urban development to address the issue of improving housing stock, then the programmes must provide appropriate additional financial allocations from national and/or local authorities. In this connection, the EESC thinks that the Commission should extend the VAT concessions on housing renovation work to all the EU Member States.

4.3.3. In its opinion on the guidelines, the EESC welcomed this clarification, pointing out that this could prevent the risk of actions proving ineffective because they lack a key ingredient such as housing.

4.3.4. It should be ascertained in which of the 70 Urban II programmes local and national authorities have provided additional funds specifically earmarked for housing.

4.3.5. The question nevertheless remains as to why there is no possibility for the ERDF to intervene in the public housing sector, even in largely experimental Community-sponsored projects.

4.3.6. Such a mechanism would be of particular importance, for example, in terms of integrating immigrants, especially in Urban project areas, where the presence of ethnic minorities, immigrants and refugees is four times higher than for the EU as a whole. Run-down living conditions figure among the difficulties they most frequently mention as facing them.

4.4. *Services as an indicator of urban quality*

4.4.1. The deprivation of many urban environments is clearly linked to the lack of services, particularly concerning social welfare. Achieving a proper level of service is one of the most efficient means of achieving fairer distribution of them. In its opinion on the Commission Communication: Towards an urban agenda in the European Union [2], the EESC emphasised the 'vital role which public services play in urban development, for instance for the production of socially useful products and services and in strengthening social cohesion', and argued that 'deciding on priorities for infrastructure and services is an important aspect of urban and spatial administration'.

4.4.2. This aspect should be explicitly included among the socio-economic indicators for Urban II areas. Qualitative and quantitative analysis of services — especially public ones — and their degree of accessibility is an important parameter for identifying the level and causes of deprivation.

4.4.3. The EESC therefore underlines the need to include specific monitoring of Urban's ability to help enhance the quality and range of services in the relevant areas, especially in the interim assessments.

(1) Communication from the Commission to the Member States of 28.4.2000 laying down guidelines for a Community initiative concerning economic and social regeneration of cities and neighbourhoods in crisis in order to promote sustainable urban development (Urban II), in OJ C 141, 19.5.2000.

(2) ESC opinion of 28.1.1998, in OJ C 95, 30.3.1998, p. 89.

4.5. *Sustainable urban development and an ageing population*

4.5.1. The progressive ageing of the population touches all the countries of the European Union, and presents a key challenge for future development policies, starting with urban policy. Neglected areas (frequently in run-down city centres) often place traditional elderly residents, who are often particularly unwilling to move away from where they have always lived, side-by-side with immigrants, who are concentrated in the most deprived urban areas. The elderly are also among those most seriously affected by poor urban conditions, lack of services and widespread crime.

4.5.2. More generally, the growing number of over-70s in the European population requires a strategic shift in urban policy and action, aimed not only at an immediate improvement in living conditions for the elderly, but also at a fundamental re-think of how to organise our cities for an ageing population.

4.5.3. This issue should figure among the Union's cohesion policy priorities, on the same footing as integration of immigrants, equal opportunities and unemployment.

4.5.4. The Commission's analysis of the Urban II programmes only acknowledges this aspect in general terms, recalling that the age structure in Urban areas reveals a slightly higher percentage of old people than in the cities sampled in the Urban Audit.

4.5.5. A more detailed analysis should be made of the measures planned under the programmes and specifically targeting the older population and, most importantly, the problem should be included among Urban's priority actions and among the criteria for selecting urban areas.

4.6. *Urban sprawl*

4.6.1. The Community's Urban programme is intended for 'neighbourhoods in crisis' and is based on the traditional categories describing urban areas: cities, neighbourhoods, centres, peripheral or suburban areas.

4.6.2. One of the main strategic innovations of Urban II is that it addresses medium and small-sized cities. In its communication, the Commission explains that in addition to population, the small size of the areas covered also helped to increase the intensity of aid per km^2. It is pointed out that territorial concentration of actions has positive effects on local planning and on opportunities for upgrading urban areas.

4.6.3. The most recent research in the area of urban studies has however highlighted that traditional ways of understanding urban situations have, over recent years, started to break down across large areas of Europe. A look at the map of many parts of the Union — or, even more, travel or residence in them — reveals a picture which challenges many of the conventional categories for viewing urban models.

4.6.4. Urban sprawl and the growth of 'dispersed cities' have been accelerated by the huge growth of individual mobility and of transport and communications infrastructure networks, the increasing decentralisation of production and the internationalisation of distribution, and new strategies of industrial and commercial relocation. Increasingly invasive forms of spatial occupation are on the rise, spreading across what had previously been considered as the countryside. This only serves to multiply the characteristic environmental pressures of urban areas.

4.6.5. Urban sprawl is often marked by high levels of deprivation, poverty and low physical and environmental standards, as well as a loss of identity: new challenges thus arise. Many of the Urban programmes' criteria for interpretation and action appear ineffective in this context. The concepts of the city, of neighbourhoods, of centre and suburb are undermined: above all, the parameter of the physical size of the geographical areas covered by Urban becomes meaningless. The intensity of aid in areas of urban sprawl clearly cannot be measured in terms of resources brought to bear per km^2.

4.6.6. The EESC has previously drawn attention to this problem. More specifically, in its opinion on sustainable urban development in the European Union: a framework for action [1], the Committee argued that the growth in the third millennium of bloated, sprawling cities with no real centre represented a further challenge to the EU to come up with an alternative, competitive form of government which is compatible with urban and regional development.

4.6.7. It is important to make sure that in the future the Urban programme effectively addresses in an experimental and innovative way the new forms assumed by the urban question, with action designed to bring urban sprawl under control and to introduce policies for regenerating such areas.

[1] ESC opinion of 20.10.1999, in OJ C 368, 20.12.1999, p. 62.

4.7. *Conclusions*

4.7.1. The communication from the Commission closes with a question concerning the future of the Urban initiative. The EESC recommends that these innovative programmes be continued and be stepped up, and that greater economic resources be brought to bear on them, and also calls for many of the methods and practices created through the Urban programmes to be applied to the more general management of the Structural Funds.

4.7.2. Once the specific nature of urban questions has been highlighted, there will be an increasing need to implement action strategies which can effectively link the necessary sectoral intervention approaches to a culture of integration between economic development, social and economic cohesion, employment, the importance of involving economic and social players, and restoring and protecting the quality of the environment and the built heritage, within a framework of developmental compatibility and consistency.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Council Directive amending Directive 77/388/EEC as regards the rules on the place of supply of electricity and gas'

(COM(2002) 688 final — 2002/0286 (CNS))

(2003/C 133/13)

On 16 December 2002 the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 March 2003. The rapporteur was Mr Pezzini.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the Economic and Social Committee adopted the following opinion by 97 votes to one with four abstentions.

1. **Introduction**

1.1. Following the establishment of the EU internal market, the electricity and gas market in the Member States has been gradually liberalised in order to increase efficiency in this sector. The European Council meeting in Lisbon on 23-24 March 2000 called for 'rapid work' to complete the internal market and asked 'the Commission ... to speed up liberalisation' in areas such as gas and electricity. The Energy Council of 30 May 2000 invited the Commission 'to present timely proposals for further action'.

1.2. The Energy Council of 25 November 2002 gave further impetus to the gas and electricity liberalisation process, laying down the following requirements for Member States:

— liberalisation of non-household markets for energy and gas by 1 July 2004;

— liberalisation of household markets by 1 July 2007;

— compulsory legal separation between network operating companies and energy production companies;

— public service obligations (including provision of energy at reasonable prices);

— rules on pricing of network transmission, and;

— rules for allocation of available interconnection capacities for cross-border exchanges in electricity.

1.2.1. The European Economic and Social Committee is fully aware that while most of the Member States support liberalisation within the deadlines set, the situation is at present far from uniform. Moreover, the variation in the degree of energy market liberalisation in the Member States gives rise to significant discrepancies in the level of single market completion.

1.2.2. The EESC therefore supports all efforts aimed at achieving a market which can operate effectively. Market liberalisation cannot by itself guarantee that the market will function in practice.

1.3. The liberalisation of these markets requires increasing deregulation and is resulting in an increase in cross-border trade between Member States. As a result of new EU and national measures a considerable change in the operation of these markets is taking place.

1.3.1. In the traditional electricity market the major electricity generators, transmission system operators and national and local distribution companies in most Member States were almost completely state-owned. Generally speaking, the electricity market was mainly a national market limited to trade within each country's borders. The same was true of the gas market.

1.4. As a result of liberalisation, energy markets have ceased to be purely national and have started to operate on a European basis. This led to the arrival of new market players such as power exchanges, independent power producers, brokers and traders. The dominant position of the state-owned companies, such as the large generators, is changing through privatisation and mergers. In countries where liberalisation is in full process, changes in methods of doing business and in the market place itself have been seen.

1.5. This increasing liberalisation of the gas and electricity distribution sector has led to an urgent need for a review of the current VAT rules to ensure that they are compatible with the need for correct and simple taxation of such supplies. The new markets also bring new problems, such as the question of the taxation of transmission costs.

2. **Problems encountered under the current rules**

2.1. *Place of supply*

2.1.1. Under VAT the 'place of supply' decides which Member State is entitled to tax a transaction. It therefore also decides the rate of VAT payable and (usually) the Member State in which the supplier must register. It is elaborately defined and is not necessarily the place where, in a physical sense, one might regard the supply as occurring.

2.1.2. Under Article 5(2) of the Sixth VAT Directive [1] electricity and gas are considered tangible property. The supply of them is therefore regarded as a supply of goods, and the place of supply has to be determined in accordance with Article 8 of the Directive. Until the liberalisation of the electricity and gas markets, the question as to whether the supply fell under Article 8(1)(a) or 8(1)(b) — supply with or supply without transport — was not raised, because in almost all EU Member States the generation, distribution and trade of electricity was a national matter and hence cross-border trade did not occur. The occasional cross-border transactions were no cause for problems and where a distributor did make a cross-border supply, he would register in the other Member State.

2.1.3. In the new liberalised market cross-border transactions are frequent. The characteristics of electricity and gas make it almost impossible to trace their physical flows. For example, if a generator in northern Europe sells electricity to a consumer in southern Europe, this does not mean that the electrons produced by the generator will in fact flow from north to south. Similarly one cannot apply the idea of transportation to electricity and gas and it does not make sense to ask someone making a cross-border supply of these commodities to provide documentary evidence that a consignment has departed or arrived.

2.1.4. The physical flows do not coincide with the contractual relationship between the seller and the buyer; this is particularly true if the buyer asks for delivery to go direct to his customer.

2.1.5. The present rules sometimes require a supplier to register for VAT in a Member State other than his own; this causes trouble and expense and can hinder the development of the single market.

2.1.6. There might also be difficulties because of differences in the civil law of the Member States as regards determining the time and place of supply.

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[1] OJ L 145, 13.6.1977, p. 1.

2.2. *Transmission costs*

2.2.1. According to Article 7 of Directive 96/92/EC Member States must designate a system operator to be responsible for operating, ensuring the maintenance of, and, if necessary, developing the transmission system in a given area and its interconnectors with other systems, in order to guarantee security of supply. The system operator is responsible for managing energy flows on the system, taking into account exchanges with other interconnected systems. In case of import of electricity, the system operator allocates the available capacity.

2.2.2. The national system operator carries the cost of the network. This network is used for national and international transport of electricity. Within the overall costs incurred by a Transmission Systems Operator, an allocation is made of costs related to national transmission services and to cross-border exchanges. Market participants who export electricity pay a fee covering the total network costs. This fee is in VAT terms the consideration for a service. If the fee is charged to a trader established in a different Member State from the TSO, the place of supply of these services becomes important. If this fee is considered as the payment for an intra-community transport service, the VAT would be due in the Member State where the trader is registered for VAT. If, on the other hand, it is considered that the fee is charged to provide access to the electricity distribution network, the place of taxation would be determined according to Article 9(1), namely the country where the TSO is established. Uncertainty as to which paragraph of Article 9 is applicable could lead to differences in interpretation, resulting in double or non-taxation.

3. **The proposed solution**

3.1. *General approach*

3.1.1. The current VAT system, in particular the rules on supplies between Member States, gives rise to unnecessary problems when applied to gas and electricity. New rules on the place of supply will take into account the specific nature of these commodities and facilitate the functioning of the internal market for them. A basic principle of the normal VAT system — taxation where the goods are physically located — is abandoned for these supplies since in most cases it is impossible to establish a link between the transaction and any physical flow of goods.

3.2. *The new rules*

3.2.1. The 'rules' set out below are an attempt to state the matter in informal language but with sufficient accuracy.

3.2.2. First rule

3.2.2.1. A supply of electricity or gas to a person in the same Member State as the seller will be taxable in that Member State and the person liable for the tax will be the seller. A sale to a person outside the EU will not be liable to EU VAT. In both respects this is a continuation of the present state of affairs.

3.2.3. Second rule

3.2.3.1. A supply of electricity or gas to a person in a different Member State from the seller will, if the purchaser is engaged in the business of re-selling that commodity, be taxable in the purchaser's Member State. The person liable for the tax will be the purchaser. The seller will not have to register in the purchaser's Member State.

3.2.4. Third rule

3.2.4.1. A supply of electricity or gas to a person in a different Member State from the seller will, if the purchaser is NOT engaged in the business of re-selling that commodity, be taxable in the Member State where the energy is consumed. The person liable for the tax will be the seller, who will have to register in that Member State.

3.2.4.2. However, if the purchaser of the energy is registered for VAT in the Member State where the energy is consumed, the government of that Member State can opt to shift the liability from the seller to the purchaser, in which event the seller would not have to register in that Member State.

3.2.4.3. On a practical point, the place where the energy is consumed is the place where the meter is located.

3.2.5. Fourth rule

3.2.5.1. Purchases of electricity or gas from someone outside the EU are not explicitly dealt with. The position seems to be:

— If the purchaser is engaged in the business of re-selling that commodity, the purchase will be taxable in the purchaser's Member State and the person liable for the tax will be the purchaser.

— If the purchaser is not engaged in the business of re-selling that commodity, the purchase will be taxable in the Member State where the energy is consumed. The person primarily liable for the tax would be the seller, but if he did not register in that Member State, the government could use its right to shift the liability to the purchaser if he is registered there.

3.2.6. Fifth rule

3.2.6.1. The present uncertainty regarding charges for the transmission of electricity will be removed by providing that:

— As now, if the person providing the service and his customer are in the same Member State, the service is taxable in that Member State and the person liable is the person providing the service.

— If the two persons are in different Member States, the customer owes VAT to his Member State.

— If the supplier is outside the EU, the customer owes VAT to his Member State.

4. **Comments**

4.1. *General*

4.1.1. This proposal by the Commission to amend the VAT rules to take account of the liberalisation of the energy market will play a valuable part in liberalising it still further by removing constraints on the industry which were not foreseen when electricity and gas were largely state monopolies that did not operate beyond the state's borders. Such changes have been requested by the industry, which broadly supports the present proposals. At present there are about 200 firms making supplies of electricity or gas into another Member State; the number is expected to increase, perhaps tenfold, over the coming years.

4.1.2. Our welcome for the proposal is, however, subject to two reservations and a suggestion, which are set out in the next three paragraphs.

4.2. *First reservation*

4.2.1. The provisions which we have described above as the 'Third rule' introduce uncertainty into the scheme. A supplier in one Member State may have many customers in another Member State who do not sell energy but use it. The government of the customers' Member State may exercise its option as regards one customer and not another; moreover, as regards any one customer it may change its mind and take the opposite decision for later supplies and even change yet again. The supplier may have customers in other Member States and face the same uncertainties there.

4.2.2. The Commission's paper does not say why it chose this arrangement, which conflicts with the principle that taxation should be certain and above all not be discretionary, especially on such a vital matter as who has to pay.

4.2.3. The Commission has provided two answers to our concerns:

— A supplier with several customers in another Member State would probably be registered there for VAT purposes, in which case no problem would arise.

— A Member State wishing to shift VAT liability should apply it to all suppliers and all supplies.

4.2.3.1. As for the Commission's first answer, the EESC maintains that it is quite possible for suppliers to have more than one customer in a another country without being registered there themselves.

4.2.3.2. As regards the Commission's second answer, the EESC, in line with the provisions of the Directive, maintains the view that a Member State has the option of shifting the liability for some supplies only. It would be desirable if the Commission could assure us, in writing, that all the Member States accept this interpretation.

4.2.4. The provision which appears to take precedence, i.e. which applies if the option is not exercised, requires the supplier to register outside his own Member State, a burden which the new Directive should aim to reduce.

4.2.5. We suggest that the 'Third rule' should be refashioned on the following lines:

4.2.5.1. The Third rule, a suggested new version.

4.2.5.2. A supply of electricity or gas to a person in a different Member State from the seller should, if the purchaser is not engaged in the business of re-selling that commodity, be taxable in the Member State where the energy is consumed.

The person liable for the tax should be the purchaser if he is registered for VAT in that Member State. If he is not registered there the person liable should be the seller, who would have to register there.

4.3. *Second reservation*

4.3.1. The new rules depend on whether or not the purchaser is engaged in the business of re-selling electricity or gas. In response to the EESC's question concerning the case of a municipality, which buys electricity and sells some of it to the people in its area and uses some of it in its own offices and for lighting the streets, the Commission states that it is necessary to know the intention of the purchaser at the time of purchase. If the intention is to re-sell most of the electricity, the purchase will be subject to the second rule, according to which the transaction is taxable in the Member State where the purchaser is located and the purchaser is the person liable to pay the tax. If not, the third rule is applicable.

4.3.2. The EESC considers that 'intention' is a difficult criterion to verify and is not appropriate for taxation purposes; similarly, the word 'most' is too vague. Clarification of this provision would prevent difficulties in applying the proposed Directive.

4.4. *Suggestion*

4.4.1. If, by way of an example, an Italian company buys gas from a French producer and uses it entirely for the generation and sale of electricity, the purchase of gas would at present, according to the Commission's proposed Directive, be subject to the third rule. However, the EESC believes it would be more in keeping with the principles of the Directive to apply the second rule in such cases.

5. **Conclusion**

5.1. The Committee agrees with the aims of the proposal and some of its provisions, but withholds its approval until satisfactory replies are received to the reservations in paragraphs 4.2 and 4.3 above.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on 'The 2003 broad economic policy guidelines'

(2003/C 133/14)

On 10 December 2002, 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 2003 Broad Economic Policy Guidelines'.

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 6 March 2003. The rapporteur was Mr Vever.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the Committee adopted the following opinion by 96 votes, with 8 abstentions.

1. Summary

1.1. The European Economic and Social Committee approves the inclusion from 2003 onwards of the broad economic policy guidelines (BEPGs, implementation report) in the new 'implementation package' presented by the Commission in January, which covers other related EU policies (employment, single market, Lisbon reforms), and in the 'guidelines package' to be presented in March, all set in a three-year time-frame. However, the Committee would emphasise that this must not have the effect of making the priorities more cumbersome or of watering them down, but rather of identifying them with greater precision.

1.2. The Committee stresses that the issues at stake over the next three years are highly complex; they call for economic policy to be tied in more closely with the euro, truly effective support for the new Member States' accession and more effective implementation of the reforms agreed at Lisbon.

1.3. The Committee notes that these objectives are themselves now more difficult to achieve due to the extremely worrying deterioration in the economic climate over the last two years, despite progress with the single market, the euro and political processes for achieving economic convergence between the Member States.

1.4. The Committee emphasises that the priority must now be to give new impetus to growth in Europe — needed to boost employment — by giving the BEPG a sharper focus, implementing them more effectively and providing them with a more structured framework.

1.5. Efforts to give the BEPG a sharper focus should, without marking a break with the guidelines devised in 2002, place more emphasis on the growth component of the Stability Pact, give rise to more closely coordinated economic governance to tie in with the euro and create more propitious conditions for Europe to remain economically and technologically competitive.

1.6. More effective implementation of the BEPG should entail consolidating the Eurogroup's role in effective dialogue with the European Central Bank (ECB), involving representatives of socio-occupational interest groups and the social partners to a greater extent and at an earlier stage in the proceedings and developing indicators on progress in implementing economic guidelines and reforms, especially on progress towards the knowledge-based economy.

1.7. Steps to provide the BEPGs with a more structured framework should speed up completion of the single market in priority areas, securing fresh confidence and growth, reactivating the Lisbon reforms, including simplification of legislation, and consolidating measures for joint economic governance in the future Treaty being hammered out at the Convention.

2. The Commission proposals

2.1. In September 2002 [1] the European Commission made a proposal to introduce, as of 2003, a new integrated annual cycle for presenting and implementing the broad economic policy guidelines (BEPGs), the employment guidelines and recommendations and the strategic objectives for the single market. The aim is to organise and coordinate the various policies more effectively.

2.2. The Spring European summit in March will be of key importance in this new cycle.

2.2.1. In the run-up to the summit, the Commission has been publishing reports as of mid-January on progress in implementing the BEPGs, the employment strategy, the single market strategy and the structural reforms agreed at Lisbon. These Commission reports for the summit also contain

[1] COM(2002) 487 final.

assessments of the Cardiff Process, the situation with state aid, innovation and enterprise policy.

2.2.2. The conclusions of the European spring summit, put together by the Presidency, will then give rise in April to new Commission proposals on BEPGs (for the EU as a whole and by country), the employment guidelines and recommendations and the single market strategy. As of 2003, these proposals will be for the medium term, reviewable every three years (i.e. 2003-2006). During that period (i.e. in 2004 and 2005) only limited adjustments will be made, in response to developments which might warrant them.

2.3. The European summit in June will be called on to approve guidelines based on the Commission proposals after a first reading by the specialised Councils (especially Ecofin, Employment-Social Affairs, Competitiveness). The specialised Councils will then formally adopt the guidelines.

2.4. During the last few months of the year, the Commission will collect reports from the Member States on progress made in implementation and on the measures planned, and examine these with a view to relaunching the cycle in January.

2.5. The Commission also proposes including in the cycle the open method of coordination for social protection issues.

2.6. Based on the above, the Commission submitted its first 'implementation package' on 14 January 2003, consisting of:

2.6.1. an assessment of implementation of the 2002 broad economic policy guidelines ([1]): over and above the differences between the Member States' situations, the overall picture is considered to be rather disappointing mainly because of the slowdown in growth and the worsening budget positions of several Member States, while there are still delays in opening up markets — infrastructure and energy — and in pushing through structural reforms designed a) to improve the functioning of the labour market and b) to restore a financial balance in the various social welfare schemes;

2.6.2. a report looking towards a new employment strategy ([2]): the objective of full employment is complicated by an ageing population, and quality and productivity at work need to be improved while taking account of disparities in labour market access;

2.6.3. a report on the state of progress of the European internal market ([3]): the assessment is cautious, given that the progress achieved, albeit only partial (e.g. financial services, opening up energy markets, public procurement procedures), is tempered by persistent delays (cf. pension funds, fiscal harmonisation, Community patent);

2.6.4. a report on progress with the Lisbon strategy reforms ([4]) (the spring report): the report confirms the findings highlighted in the above-mentioned reports and stresses the need to step up efforts to push through economic and social reforms in line with the objectives on competitiveness agreed by the Member States.

3. **The Committee's comments**

3.1. With regard to the revision of procedures, the Committee approves:

3.1.1. the steps to secure greater consistency between the broad economic policy guidelines, the employment guidelines, measures to complete the single market and the Lisbon strategy reforms, which should bring real progress in view of the close interrelation between these different issues;

3.1.2. in particular, the link thus established between the different 'processes' — Luxembourg, Cardiff and Cologne — and the Lisbon strategy, which itself was updated in Gothenburg and then Barcelona;

3.1.3. the intention to make the political guidelines more constant basing them on a broader perspective, with a time-frame extended to three years;

3.1.4. the simplification of the cycle, with efforts to combine reports, guidelines and 'processes'; these have been proliferating over the last few years, and this has created cumbersome, parallel and sometimes conflicting procedures, hallmarked by a lack of overview.

3.2. However, the Committee would emphasise:

3.2.1. the need to avoid overloading the Commission's synthesis reports and the annual cycle of economic and employment guidelines by adding more analyses and prescriptions instead of incorporating them;

([1]) COM(2003) 4 final.
([2]) COM(2003) 6 final.
([3]) SEC(2003) 43 final.
([4]) COM(2003) 5 final.

3.2.2. in particular, the need to identify genuine economic governance priorities at European level, to base these on a detailed macroeconomic analysis and to provide them with political — and not merely technical — impetus and follow-up, involving the EU institutions and Member States on the basis of sufficiently convergent and consistent guidelines, even though account must also be taken of the diversity of national and regional situations.

3.3. As far as the content of the synthesis report and particularly the assessment of the implementation of the BEPG are concerned, the Committee points out that the Commission analysis and the proposals accompanying it have been submitted at a time when the economic and social situation of the European Union is giving extreme cause for concern:

3.3.1. confidence has plummeted since September 11 2001 amongst the various economic operators (investors, businessmen, consumers, savers and employees), especially in the face of the renewed threat of war in the Middle East and the ensuing international tension on the political, economic and financial scene as well as oil markets, with a sharp fall in financial and stock markets in 2001 and again in 2002, all of which has served to keep the economic cycle in a trough;

3.3.2. growth is weak, with an average EU growth rate which hardly went beyond 1 % in 2001 and 2002 and which will remain well below 2 % in 2003 due to the combined effects of slack internal demand and slower exports caused by the euro's rise in value. These growth rates are well below the 3 % annual growth target set in the Lisbon strategy. In contrast to other regions of the world, the EU does not have a macroeconomic policy robust enough to jack up its growth potential, which would put it in a better position to tackle the economic downturn head-on, boost confidence and underpin internal demand;

3.3.3. after a period in 2002 when it seemed to be holding up in the face of the economic downturn, the employment situation is rapidly deteriorating again; the first few months of 2003 saw a sharp fall in employment affecting both young and old on the labour market;

3.3.4. public sector deficits are particularly high in four Eurozone countries (Germany, France, Italy and Portugal), giving rise to warnings with regard to the 3 % limit fixed by the Stability and Growth Pact; other countries are now also succumbing to this tendency to run up higher deficits;

3.3.5. inflation remains within reasonable limits overall — in some quarters there is anyway more concern about deflationary pressures than about renewed inflation — even if the changeover to euro notes and coins at the start of 2002 was perceived by many consumers as a factor in price increases for some everyday items despite the fact that economic institutes and statistical indicators generally refute this;

3.3.6. in addition to this Europe-wide data, and without economic governance being more coordinated and better integrated than the BEPGs allow at present, the gap between national economies is still considerable, both within the EU and — perhaps more paradoxically — within the euro zone itself;

3.3.7. these gaps will only increase with enlargement from 15 to 25 members, officially scheduled for May 2004; although the acceding Member States are achieving growth rates which are often double the rates in the existing Member States, their level of development remains lower by nearly 50 % and they still have to complete and consolidate their adjustments to the market economy and the Community *acquis*.

3.3.8. Apart from the more visible cyclical downturns, it is worth pointing out the negative indicators on underlying structural data, such as the extremely unfavourable demographic outlook, the fragmentation of tax systems in the internal market, the burden of taxation and statutory labour charges in Europe, which is excessive compared to that of its main competitors, in particular due to a deterioration in taxation structure in Europe (cf Monti report), the improvements needed in the labour markets and the fact that the European economy needs to generate far higher job-creating growth than does, for example, the American economy. Overall, the problem is really Europe's inadequate autonomous potential for growth and its lack of attractiveness and competitiveness in certain areas, which might well jeopardize the very feasibility of the ambitious objective for 2010 set in Lisbon in 2000 in an economic climate which, it is true, was far more promising.

3.4. The indifferent economic and social situation together with these hazards for the Lisbon strategy are especially worrying given that they follow real progress in legal harmonisation, monetary unification and the development of many ancillary political instruments.

3.4.1. Thus, progress in legal harmonisation has continued towards completing the single market (e.g. elimination of checks between the Member States, many new directives, standardisation etc.), even though there are still delays 10 years after the 1992 deadline.

3.4.2. Monetary union has been a reality for four years, with 12 Member States currently belonging to the single currency and with the introduction of euro notes and coins in January 2002.

3.4.3. A number of common guideline instruments have been implemented in the context of the BEPGs: the very objective of the 'implementation package' which the Commission presented in January was to take stock of interactions between the various processes involved. In June 1997 the Amsterdam Treaty provided for the European Council to draw up annual guidelines for the Member States to take account of in their employment policies. The Luxembourg Process launched in November 1997 then specified the content of these guidelines for employment. In June 1998 another process agreed on in Cardiff provided for an annual review of structural reform in the markets for goods, services and capital in order to improve the functioning of the single market. In June 1999 a new process was adopted in Cologne to come up with recommendations for a European employment pact. And finally, at the March 2000 European summit in Lisbon, the 15 agreed on an ambitious multi-annual strategy to give new impetus to the European single market and to carry out economic, social and administrative reform, both at European and at national level, with the aim of making Europe 'the most competitive and dynamic knowledge-based economy in the world' by the year 2010.

3.5. The question which must therefore be asked is: Why is it that progress towards the single market, introduction of the euro, implementation of the BEPGs and the many convergence and reform processes that have accompanied them have not yet restored growth, competitiveness and employment in Europe? There are three possible explanations:

3.5.1. It is fair to say that, despite their merits, the broad economic guidelines can still be criticised for approximation and lack of focus. It is apparent in particular that the countries of the euro zone have received more mediocre scores overall (cf. public finances, labour market, product markets) than the three other EU countries which are still outside the euro zone. Of course, the intention here is not to question the benefits brought by the euro, which the Committee has always been at pains to point out. The point is that the euro has not yet been backed up with a sufficiently coherent and coordinated economic policy which is suited to this single currency. Under these circumstances, applying a single monetary policy and single interest rate to economies and policies which still vary considerably creates problems. The right policy mix to go hand in hand with the euro still has to be devised and applied, four years after the single currency was introduced. Nowadays many parties advocate relaxing the Stability Pact to some extent, pointing out that the countries having difficulty complying with it, first and foremost Germany and France, account for a large part of European GDP and that the austerity of the Pact is hampering their growth potential. It should nevertheless also be pointed out that during years of stronger growth the countries concerned made little effort to prevent this from happening.

3.5.2. It is also fair to say that the broad economic guidelines are badly implemented by the Member States. It is very clear that progress has been somewhat offset by delays, both in completing the single market and in national reforms. As for the single market, the fact is that, ten years after the 1992 deadline, we still have not managed to do away with all cases of double taxation within the Community, to put in place a simple and definitive system of VAT, to open up — and secure free interconnection between — energy networks or to make any really decisive progress towards opening up services. At the same time, there are excessive delays in the transposition of directives into national law. The essential reforms planned in Lisbon to boost research and training, to modernise the labour market through negotiation and to ensure the balance and sustainability of social protection systems have fallen behind schedule in many countries. These shortfalls in implementation go a good way to explaining the poor performance of the European economy.

3.5.3. Lastly, it may also be argued that the broad economic policy guidelines are still inadequate in themselves. Certainly, one improvement from 2003 onwards will be the reform whereby the BEPG guidelines and subsequent objectives, the employment guidelines and measures to promote the single market and to implement the Lisbon structural reforms will be presented in a single package. However, this collation will undoubtedly be inadequate if it is not accompanied by more solidly based priorities. For example, not enough is being done to reduce the fragmentation of the tax system, while optimising European tax structure. The question of how attractive Europe is for international direct investment in the face of economic globalisation is not really addressed, even though it relates directly to the lack of dynamism in the European economy.

4. **The EESC's priorities**

4.1. The Commission has announced that it will be presenting a package of guidelines on the BEPGs in early April 2003, in addition to the employment guidelines.

4.1.1. With this in mind, the Committee would highlight one requirement for 2003: securing the conditions for a significant, long-lasting boost to economic growth, upon which other priorities depend, including social and environmental priorities.

4.1.2. Given that the BEPGs operate in a three-year timeframe, part of this requirement will be to ensure steps are taken to assert a common economic policy linked to the euro and to be attentive to new support and cohesion needs after the 10 new Member States join the EU in 2004. This calls for a firm, active macroeconomic policy based on circular-flow relations in the economy, which shores up confidence amongst investors and other economic operators, thus stimulating growth.

4.1.3. To this end, the Committee proposes three areas for improvement: giving the broad economic guidelines a sharper focus, implementing them more effectively and providing them with a more structured framework.

4.2. *Giving the BEPGs a sharper focus*

4.2.1. The BEPG priorities in 2002 were to:

— ensure growth and stability-oriented macroeconomic policies;

— improve the quality and sustainability of public finances;

— invigorate labour markets;

— re-ignite structural reform in product markets;

— promote the efficiency and integration of the EU financial markets;

— encourage entrepreneurship;

— foster the knowledge-based economy; and

— enhance environmental sustainability.

4.2.2. The Committee believes that these various objectives from 2002 remain valid per se not only for 2003, but also for the 2003 to 2006 period. On the other hand, the Committee would underline that more direct emphasis should now be placed on certain requirements which have a direct impact on economic recovery; this concerns the implementation of the stability pact, fiscal harmonisation and the promotion of innovation.

4.2.3. The Committee notes that the arrangements for implementing the Stability Pact have been at the centre of recent months' debates on economic issues in the Union, particularly because of the March 2002 Barcelona Summit's decision to set 2004 as a deadline for restoring a balance in public finances. This deadline was later deferred to 2006 at the Commission's initiative due to the economic downturn which was causing deficits to widen. In the current climate, the Committee advocates a realistic interpretation of the Stability and Growth Pact, not altering the spirit of the pact — the need to reduce deficits lies at the heart of achieving sustainable development — but reducing the risk of negative economic repercussions in the short term. The Committee thus recommends that:

4.2.3.1. the Commission issue regular reports on developments in the public finances of each Member State, and make public any recommendations from itself or the Council directed at a Member State which is manifestly drifting away from the public finance criteria,

4.2.3.2. more account be taken of the 'growth' component of the Stability Pact, particularly by incorporating criteria which are complementary to the public deficit and public debt criteria; this might concern inflation, employment, sustainable development (retirement, health, investments), taxation and statutory tax and social security contributions, and

4.2.3.3. lastly, if a deterioration of the international situation — in the wake of military conflict in the Middle East — were to warrant it, exemptions be granted from strict application of the Pact on an exceptional, temporary basis, so as to prevent economic problems deteriorating further in the short term.

4.2.4. The Committee also highlights the need to begin coordinating economic governance more closely in order to tie in with the euro. Since the countries of the euro zone have the greater share of economic clout in the European Union, and this will remain so after enlargement, setting up a properly coordinated economic policy between these countries will have highly positive repercussions for the European Union as a whole. One economic policy objective should be to launch greater fiscal harmonisation. Such harmonisation could focus on closer alignment of tax bases and safeguard the freedom to set rates, offsetting excessive competition by using minimal measures and bearing in mind the need to secure an investment-friendly fiscal balance in the European Union and to reduce the present excessively heavy tax burden on labour.

4.2.5. The Committee also stresses the need to do more to strengthen the industrial and technological fabric of businesses in Europe — which cannot be arbitrarily separated from the equally vital, parallel development of services — and, in so doing, to foster the innovation process. As underlined at the Lisbon Summit in March 2000, innovation should provide a vital engine for economic growth in Europe. Greater synergy should of course be created between the European framework programme for research and national programmes. However, steps should also be taken to encourage training, research and innovation in businesses, inter alia by introducing tax incentives. One particular priority for economic growth in Europe is to prevent the best-qualified young people from leaving Europe for other horizons on a long-term basis.

4.3. *More effective implementation of the BEPGs*

4.3.1. It is not enough merely to adopt properly focused economic guidelines, they must also — and above all — be properly applied. This presupposes, amongst other things, an improved structure for the Eurogroup and the Ecofin Council, greater involvement for representatives of economic interest groups and the social partners and additional indicators for assessing implementation.

4.3.2. Better implementation of the BEPGs first of all entails improving the structure of both the Eurogroup and economic cohesion within the euro zone; this affects twelve out of the fifteen Member States. The Eurogroup has to become a genuine economic government in the euro zone, backed up by the Commission and capable of developing permanent, effective dialogue with the European Central Bank, as is the case in the United States with the dialogue between the executive and the Federal Reserve. Early interest rate cuts would also help to give the economy a boost. 2003 will be a good time to secure such a change in the role of the Eurogroup: although the arrival of the ten new Member States in the EU in 2004 will barely alter the economic clout of the Euro zone relative to the enlarged EU, in that their joint GDPs make up less than 10 % of that of the EU as a whole, it will nonetheless tip the balance in the ratio between the number of members and non-members of the euro zone from the current 12:15 to 12:25.

4.3.3. Representatives of economic interest groups and the social partners should also be more involved in the implementation of the new annual cycle of the EU's economic and social guidelines. One key element of progress is that since the 2002 Barcelona summit, tripartite summits have been held between the social partners and the presidents of the European Council and the Commission on the eve of the Spring Summit. This meeting has to constitute the culmination of more permanent dialogue between the economic and social partners on the one hand and the Commission, Ecofin Council and Eurogroup and the Social Council on the other. Moreover, such dialogue must also be developed at national level with a view to the Spring Summit. In particular, employers' and trade union organisations should submit their own observations to their national public authorities every year regarding the stage reached in economic and social reforms, also highlighting their initiatives and their contractual negotiations and agreements.

4.3.4. These national reports from socio-occupational associations should provide a valuable contribution to the development of better indicators on progress in implementing economic guidelines and reforms. Comparative benchmarking should be introduced systematically and should cover those indicators which allow better measurement of steps to foster the knowledge-based economy and its contribution to boosting economic growth. Finally, there should be a debate on both good and less good — or bad — practices: a candid assessment of the initiatives and their results is vital for making progress towards better economic governance.

4.4. *Providing the BEPGs with a more structured framework*

4.4.1. The presentation of a synthesis report situating the economic and social guidelines more clearly among other Community policies should provide an opportunity to improve the way these Community policies are used to back up growth policy. Three issues seem to be of priority importance for providing the BEPGs with a sturdier framework: completion of the single market, improved implementation of the Lisbon reforms and successful reform of economic governance procedures in the wake of the Convention.

4.4.2. As regards completion of the single market, the Committee would underline that over and above the measures needed to ensure its upkeep and secure its final completion, there are five or six crucial measures currently lacking and often blocked, which, if there were the political will to do so, would allow a major leap forward here in the short term, with all that this entailed for increased economic growth and employment. While welcoming the recent compromise reached at the Council at last allowing adoption of the Community patent to go ahead, the Committee would point out that there are other shortcomings which must be remedied, requiring inter alia the abolition of all trans-national double taxation — making it possible to put an end to the current hotchpotch of bilateral agreements — definitive, Europe-wide VAT arrangements simple for everyone to use, and a European company statute open to businesses of all sizes.

4.4.3. The Committee shares the Commission's concerns about delays in implementing the reforms agreed in Lisbon. Everyone is aware of the reforms to be undertaken or furthered, but they are not being implemented quickly enough to meet the Lisbon competitiveness objectives. The Committee therefore stresses the need to speed up these reforms, which will not be possible without considerable involvement of socio-occupational interest groups and the social partners, as underlined by the Committee in this opinion.

4.4.4. In the context of these reforms, the Committee especially underscores the need for simplified and better quality legislation at both national and European level; it has unceasingly stressed the urgency of this over the last few years and has put forward specific proposals in this connection. By freeing up resources and giving a free rein to entrepreneurship, the simplification of regulation would also help give a significant boost to the European economy's growth potential, especially encouraging rapid development of businesses of all sizes. The Committee will continue to monitor this requirement steadfastly through its opinions on the various subjects referred to it, and also because it has itself undertaken to implement its own code of conduct for simplification.

4.4.5. The Committee would lastly highlight the need to give European governance in the EU more structure by consolidating the Treaty's procedures following the work of the Convention. It would be especially valuable to include provisions in the new Treaty to take account of the following points:

4.4.5.1. the European Commission's role in the broad economic policy guidelines should be stepped up for matters coming under the Community's responsibility rather than the open method of coordination; the Commission should thus be allowed to make proposals and not just recommendations, thus requiring unanimity at the Council for them to be amended;

4.4.5.2. the same should apply to Commission intervention in matters relating to the Stability and Growth Pact: the Commission's recommendations, including those on sanctions, should in fact be proposals requiring a unanimous decision by the Council for them to be changed;

4.4.5.3. decisions on economic and monetary policy in the euro zone and on euro-related problems should be taken by euro-zone finance ministers meeting in the Ecofin Council — notwithstanding the expansion of their own internal economic dialogue and their dialogue with the European Central Bank as part of the Eurogroup's activities;

4.4.5.4. external representation of the euro should be unified, mainly through the Commission; and

4.4.5.5. abandoning the unanimity requirement for decisions on fiscal matters directly related to the single market should make it possible to undertake fiscal harmonisation — all the while leaving Member States free to set tax rates.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on:

— **the 'Draft proposal for a Council Directive (Euratom) setting out basic obligations and general principles on the safety of nuclear installations', and**

— **the 'Draft proposal for a Council Directive (Euratom) on the management of spent nuclear fuel and radioactive waste'**

(COM(2003) 32 final — 2003/0021 (CNS) — 2003/0022 (CNS)) [1]

(2003/C 133/15)

On 30 January 2003 the Commission decided to consult the European Economic and Social Committee, under Article 31 of the Euratom Treaty, on the above-mentioned draft proposals.

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 13 March 2003. The rapporteur was Mr Wolf.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March) the European Economic and Social Committee adopted the following opinion by 88 votes to one with one abstention.

1. Introduction

1.1. Nuclear energy currently accounts for about 15 % of primary energy consumption (and 35 % of electricity consumption) in the EU and does not produce any climate-harming gases. But its use is controversial owing to concerns about radioactive contamination resulting from industrial accidents and final disposal, and the Member States have differing views on the matter. The safety of nuclear installations and disposal of radioactive waste are therefore key tasks, also with a view to public health protection. The importance of this issue has already been mentioned in the Commission's Green Paper 'Towards a European strategy for the security of energy supply' [2] and in the Committee's opinion on that Green Paper [3].

1.2. One aim of the Euratom Treaty signed in 1957 (which founded the European Atomic Energy Community) was to provide the (European) Community with an alternative source of domestic energy and to counteract the growing dependence on oil imports from the Middle East [4]. Under the Euratom Treaty, the Community must among other things establish uniform safety standards to protect the health of the general public and workers, and ensure that these are applied (Article 2b and Article 30). The current provisions on protection of health of workers and the general public against the dangers of ionising radiation are set out in Council Directive 96/29/Euratom [5].

1.3. Following on from the above obligation and in the run-up to future EU enlargement, the Commission has presented the current draft proposals for two directives (Euratom) of the Council, one concerning the safety of nuclear installations and the other the management of spent nuclear fuel and radioactive waste.

1.4. The Committee has been asked to give its opinion on these directives under Article 31 of the Euratom Treaty.

2. Objectives and content of the Commission's draft directives

2.1. *Establishment of basic obligations and general principles on the safety of nuclear installations*

The purpose of this directive is to provide for a package of measures that will enable the Community to ensure — by extending and supplementing existing agreements and regulations — that each Member State respects common principles, and regulations based on those principles, and to oversee their monitoring by the Member States. The Member

(1) The Commission documents also contain a Communication from the Commission to the Council and the European Parliament on nuclear safety in the European Union, which because of its importance has also been taken into account in the Committee's opinion.
(2) COM(2000) 769 final.
(3) OJ C 221, 7.8.2001, p. 6.
(4) Green Paper, COM(2000) 769 final, p. 40.
(5) OJ L 159, 29.6.1996, p. 1.

States are still to be free to apply more rigorous rules themselves if required. The package proposed by the Commission also requires that adequate financial resources be made available by the Member States so that measures can be taken to ensure the safety of nuclear installations during their active life and to cover the costs of subsequent decommissioning. Decommissioning is to be financed through decommissioning funds.

2.2. *Management of spent nuclear fuel and radioactive waste*

The aim of this directive is to require Member States to ensure the use of best practice — with respect to protection of the general public — for sustainable disposal of radioactive waste from spent nuclear fuel and other sources. The directive also contains proposals for setting a mandatory timetable, under which all the Member States must provide so-called permanent disposal sites; this does not exclude the possibility of joint measures by several Member States. With current know-how, this means storage in special geological formations, which enclose the radioactive waste with its very long life for the requisite length of time, thereby keeping it away from people and the biosphere, in order to ensure protection of public health. The Commission also emphasises that research and development in this area must be continued and stepped up by the Community and the Member States, and that maximum transparency is called for in identifying solutions in order to build public confidence.

3. **General comments**

3.1. Both (a) energy supply and its integration into the single market, politically endorsed by the Member States, and (b) by the very nature of things, the consequences of any accidents involving nuclear installations and radioactive contamination, are cross-border issues that affect the interests of all the Member States and have even broader implications. It is therefore sensible and logical to treat the two issues as Community responsibilities. The Committee accordingly also fundamentally welcomes the Commission's initiative with respect to safety of nuclear installations and the disposal of radioactive waste, and the objectives of the proposed directives. The Committee attaches particular importance to the safety of nuclear installations in the accession countries and their integration into a European regulatory framework. However, the Committee is very critical of some points of substance of the proposed directive, and feels that certain questions need to be clarified.

3.2. The Committee has on several occasions [1] drawn attention to the energy problem for which no long-term solution has been found, stressing the important role of nuclear energy. Because people have enjoyed a satisfactory energy supply for decades, public awareness of the importance of having a long-term, sustainable energy supply may decline. The risks and effects of a future energy shortage may also be underestimated.

3.3. Even though the safety level of nuclear installations in the current Member States is high, Community rules on the safety of nuclear installations and disposal of nuclear waste and spent fuel are particularly important not least because of the divergent positions of the individual Member States on the use of nuclear energy.

3.4. The Committee therefore recommends that given the importance of this matter and despite possible conflicts, the Commission should show determination and persistence, while remaining sufficiently flexible and allowing sufficient time [2] for discussion among stakeholders in society as well as between the Community institutions and between the Member States. It should also be made clear that the measures proposed by the Commission do not affect the differing basic stances of the individual Member States on nuclear energy — and there mutual respect for those stances.

3.5. There could be disagreement over the legal basis for the measures proposed by the Commission as a Community responsibility, namely the existing treaties and in particular Article 2b [3] and Article 30 of the Euratom Treaty. Although in its ruling of 10 December 2002 [4] the European Court of Justice supports the line taken by the Commission and the Committee also fully endorses it, the Committee recommends that Community responsibility for the safety of nuclear installations and disposal of spent nuclear fuel should also be explicitly laid down at an appropriate point.

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(1) See opinions on the Green Paper (OJ C 221, 7.8.2001, p. 6) and on research needs (OJ C 241, 7.10.2002, p. 3).

(2) The Committee regrets the fact that the Commission has given it an unreasonably tight deadline to produce an opinion on this important matter.

(3) 'In order to perform its task, the Community shall, as provided in this Treaty ... establish uniform safety standards to protect the health of workers and of the general public and ensure that they are applied.'

(4) Case C-29/99.

3.5.1. However, the Committee is not convinced that the Community's responsibility for financial reserves for decommissioning nuclear installations can also be derived therefrom. The Commission's proposal on this matter is simply an administrative and organisational arrangement that sets out the way in which decommissioning is to be financed and therefore does not have implications for the practicalities of health protection.

4. **Specific comments**

Although the Committee, as made clear above, endorses the Commission's basic concerns, it would like to clarify certain points and make some critical comments.

4.1. As far as the safety of nuclear installations is concerned, the Committee recommends that no new, separate definitions and rules be drawn up, but that the definitions and rules of the Vienna-based International Atomic Energy Agency (IAEA) be used as a general reference framework and that the Community should check that these are fully and rigorously applied (in accordance with the Commission's proposed measures) by the Member States. However, the Committee also recommends that the Community be involved in further developing these IAEA guidelines with expertise and commitment. This would also represent a welcome contribution to the global concern about safe and responsible use of nuclear energy. The Committee also welcomes the Commission's intention to take into account the findings of WENRA ([1]) and NRWG ([2]), too.

4.2. The Committee believes that the directives on safety of nuclear installations and their monitoring procedures should make it clear that the current remit of Member States' safety authorities will remain unchanged and that the operators of nuclear installations will also continue to bear sole responsibility for safety. This last requirement is also consistent with the polluter-pays principle, which the Committee considers to be very important.

4.3. Also the checks provided for by the Commission are not to result in the inspections of nuclear installations becoming more onerous, but should focus on checking and establishing whether the Member States and their authorities have carried out their monitoring tasks properly, in line with common safety standards when these come into force. The Commission could, when it deems necessary, carry out prior verifications ([3]). The Committee thus recommends adding the following to Article 12(1) of the draft directive: 'In order to ensure the maintenance of a high level of nuclear safety in the Member States, the Commission shall monitor safety authorities in line with the common safety standards set out in Article 7(1), when these come into force'.

4.4. As regards implementing the procedures provided for in the directive or recommended by the Committee and the timetable for implementation, it is still necessary to clarify and ensure that nuclear installations in the Member States already in operation or planned will not be unfairly restricted, discriminated against or impeded, provided they meet the very high standards currently laid down in the current Member States. A balance must be struck between the principles of maintaining acquired rights and providing planning and legal certainty on the one hand and ensuring maximum safety on the other. The Committee notes that the Commission proposal is not clear or definite on this important point. The Committee recommends that another sentence be added to Article 7(1) of the draft directive, as follows: 'Member States shall require the undertakings responsible for the nuclear installations to operate them in accordance with the common safety standards .... The timetable for introducing common safety standards and implementing provisions shall be set out in future updates of the present Directive.'

4.5. In addition, the resulting technical provisions are to be formulated and monitored in such a way as to stimulate and promote (i) the innovative further development of nuclear installations and their safety concepts and (ii) competition based on the principles of the single market in the search for the best technical solutions and concepts. The objective is both to maintain the safety standards referred to in point 4.3 and to ensure ongoing scientific and technological development of nuclear installations, their safety concepts and disposal procedures, in order to guarantee optimum protection of public health and to minimise risk.

4.5.1. In this connection the Committee thinks that the vague 'adequately protected' used in Article 1(1)(a) should be made more specific by adding 'in accordance with the objectives of Council Directive 96/29/Euratom ([4])'.

([1]) Western European Nuclear Regulators Association.
([2]) Nuclear Regulators' Working Group.
([3]) In line with prevailing safety practice, particularly in the case of the accession countries.

([4]) OJ L 159, 29.6.1996, p. 1.

4.6. The Committee basically endorses the Commission's concern to ensure that the necessary funding is available for decommissioning nuclear installations. However, it feels that most of the Member States already have effective systems for achieving this. Moreover, the decommissioning funds proposed by the Commission may leave operators or the Member States too little flexibility in choosing the most economical way of achieving this goal.

4.6.1. Notwithstanding the uncertain legal basis (cf. 3.5.1) for Community responsibility in respect of this specific matter of funding, the Committee recommends also for the sake of the subject-matter that Member States continue to have sole responsibility. Furthermore, it recommends that operators be allowed to choose the most economical method of obtaining sufficient and secure funding within the Member States in line with Community competition law. In this context, the decommissioning funds proposed by the Commission should be seen as only one option. The Committee also notes that here too, as mentioned in point 4.4, a balance between the principles of maintaining acquired rights and providing planning and legal certainty on the one hand and ensuring maximum safety on the other must be taken into account.

4.6.2. The Committee supports the Commission's proposal with regard to Article 2(10) that 'conventional waste', i.e. non-radioactive waste from decommissioning work, should be treated and disposed of in accordance with relevant existing provisions. The Committee therefore considers the disposal of such waste not to be covered by points 4.6 and 4.6.1.

4.7. The Commission's proposed directives for disposal of nuclear waste envisage definite timetables for authorisation of the various sites; in particular, they stipulate that in Member States where spent fuel has to be disposed of, authorisation for operation of the final storage facility must be granted by 2018 at the latest. The Committee shares the Commission's view that indefinite surface or near-surface storage of (highly radioactive) spent nuclear fuel that is not to be reprocessed cannot be regarded as a suitable or sustainable alternative to underground final storage.

4.8. The Committee nevertheless thinks that, despite the apparently generous time frame (2018), the timetable proposed by the Commission might be too tight for the Member States, including the accession countries, to not just find a solution but also win political acceptance for it. Finding a satisfactory solution quickly will increase the level of safety attainable. Basically, every Member State operating nuclear installations should provide at least one suitable final storage site on its own territory, although there is no reason to exclude the possibility of a voluntary joint undertaking or voluntary establishment of a final storage facility by one or more neighbouring Member States. Such joint undertakings should be included in the programmes for the management of radioactive waste by both or all partner states concerned. In this connection the Committee refers to Council Directive 92/3/Euratom [1], which stipulates that imports of radioactive waste into a Member State are permitted only with the permission of that Member State. While this provision relates to supervision and control of shipments of radioactive waste, the Committee recommends, for the sake of full clarity, that Article 4(1) state explicitly that no Member State shall be obliged to import or export radioactive waste if this is in breach of its national legislation.

4.9. As noted in point 4.1 above, the Committee also feels with respect to the question of disposal that the definitions of the individual Member States should be harmonised, but that if at all possible, the definitions and technical regulations of the IAEA should be resorted to. Before introducing technical definitions or regulations that diverge from the IAEA system, the priority should be to try and close or eliminate any shortcomings of the IAEA system.

4.10. The Committee believes that it is necessary to ensure, by applying minimum procedural standards, that authorisation procedures are transparent and that they adequately involve those potentially concerned. The Committee is pleased to note that this is already set out in Council Directive 97/11/EC [2] (of 27 March 1997) and recommends that the Member States follow this procedure if they are not already doing so [3].

4.11. The Committee explicitly welcomes the fact that the Commission also intends to continue providing support for research on the safety of nuclear installations and disposal of radioactive waste and coordinating research across the Community. It stresses once again [4] that these programmes should be promoted adequately and on a broad basis. It considers that they make an important contribution to achieving optimum protection of public health and therefore also calls upon the Member States to address this issue properly and more thoroughly in their national research programmes.

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[1] OJ L 35, 12.2.1992, p. 24.
[2] OJ L 73, 14.3.1997, p. 5.
[3] The Committee also refers to the Espoo Convention of 25.2.1991, in force since 10.9.1997, a UN convention that is binding under international law.
[4] OJ C 260, 17.9.2001, p. 6 and OJ C 241, 7.10.2002, p. 3.

5. **Conclusions**

The Committee:

— reaffirms the basic obligation of the Member States and the Community to guarantee the safety of nuclear installations and the disposal of radioactive waste;

— fundamentally endorses the Commission's initiative to achieve this, in particular also with a view to harmonising regulatory systems and in anticipation of enlargement;

— does not question the remit of the Community in this area, which at present is implicitly legitimised by its responsibility for protecting the health of the general public and workers, but does question its responsibility for the proposed decommissioning funds;

— recommends that the current remit of the Member States and their safety authorities should remain unchanged, and that operators of nuclear installations should also continue to bear sole responsibility for their safety (polluter-pays principle);

— recommends that no new technical regulations and definitions be introduced, but rather that respect for IAEA guidelines be ensured and that the Community contribute to the further development of those guidelines;

— recommends that rules be interpreted and monitoring of their application prescribed in such a way as to: stimulate and promote innovative development of the various safety and disposal concepts and competition between them;

— agrees with the Commission's view that the highly radioactive waste produced in each Member State should if possible be permanently stored in suitable geological formations, without excluding the possibility of a voluntary sharing of tasks with neighbouring Member States. However, it recommends that the timetable for authorisation of such final storage sites by the Member States should be made more flexible and be adapted to the specific circumstances of the Member States;

— supports the Commission's objective of ensuring that sufficient funding is available from the Member States for decommissioning nuclear facilities, but recommends that the Member States retain sole responsibility for this task;

— recommends clarifying and ensuring, by amending Articles 7(1) and 12(1), that the implementation of the procedures provided for in the directive or recommended by the Committee and the timetable for implementation will not unfairly restrict, discriminate against or impede nuclear installations already in operation or planned insofar as they satisfy the current Member States' high safety standards, and that the principles of maintaining acquired rights and providing planning and legal certainty are therefore also respected on a balanced basis;

— supports the Commission's intention to vigorously promote research relating to safety of nuclear installations and disposal of radioactive waste in the future and to coordinate such research across the Community and considers this to be a very important factor for optimum protection of public health in the future. It also calls on the Member States to address this issue properly and more thoroughly.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on 'For a WTO with a human face: the EESC's proposals'

(2003/C 133/16)

On 17 January 2002 the European Economic and Social Committee, acting under Rule 23(3) of its Rules of Procedure, decided to draw up an opinion entitled 'For a WTO with a human face'.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 March 2003. The rapporteur was Mr Dimitriadis.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee adopted the following opinion, by 89 votes in favour, two against and one abstention.

1. Summary

1.1. A year on since the Doha Ministerial Conference, the WTO has been seeking solutions to the critical problems facing its member states and their peoples as a result of the liberalisation of world trade. With the experience of multiannual rounds of trade negotiations under the General Agreement on Tariffs and Trade (GATT) and the guiding principles based on the decisions taken at the Ministerial Conferences (Singapore, Geneva ([1]), Seattle ([2]), Doha), the WTO is now facing a moment of decision. The decisions needed must take account not only of the new circumstances prevailing in the world economy (problems caused by the liberalisation of trade, environmental problems, agricultural restructuring, etc) but also of the reactions of the world community to critical humanitarian and social problems (social inequalities, the spread of poverty, dangerous epidemics, etc.).

1.2. Since the 4th Ministerial Conference (Doha), which put sustainable development at the centre of trade negotiations, and in anticipation of the 5th Ministerial Conference (Cancun, Mexico), the WTO has been called on to show particular interest in the least developed countries (LDCs) through the transfer of resources and technical know-how as regards its external activities and to do away with gaps in communication (where these exist) and to allow the introduction of parliamentary supervision while also consulting and informing the representatives of organised civil society, following the example of the UN and the Commission, as regards its internal operations.

1.3. The present EESC opinion on the WTO is intended as a supplement to its previous opinions drawn up in the run-up to the various Ministerial Conferences which dealt mainly with the agenda and technical topics included in the various negotiating rounds. Its aim is to make a constructive contribution to the global debate and to the Commission's efforts currently underway to give this international organisation a more human face and to satisfy the justified demands of developing countries and of civil society stakeholders who accuse it of lacking sensitivity, transparency, adaptability and flexibility.

1.4. In order to formalise the above, the EESC proposes:

1.4.1. creating a parliamentary dimension to the WTO, despite the difficulties inherent in such a proposal, in order to widen the democratic debate and to ensure that elected representatives have substantial involvement in its operations.

1.4.2. establishing a formal dialogue between the WTO and the stakeholders of organised civil society as there is a need to endorse and recognise these stakeholders and to establish a concrete and structured code of communication.

1.4.3. establishing a formal dialogue between the WTO and the other international organisations (UN, World Bank, IMF, OECD, ILO, etc.) and with regional transnational organisations so that action can be coordinated to achieve better results and to avoid conflicting programmes and wasted resources.

1.4.4. providing ongoing and unbroken support to the LDCs by transferring resources and technical expertise so that their participation in WTO processes is both substantial and fruitful. The Committee recognises as an important factor the major economic and social disparities which exist among the LDCs such that the circumstances call for the creation of clearly distinguished separate categories.

([1]) European Parliament Resolution of 18 June 1998 on the Second Ministerial Conference of the World Trade Organization — OJ C 210, 6.7.1998.

([2]) European Parliament Resolution of 15 December 1999 on the Third Ministerial Conference of the World Trade Organization in Seattle — OJ C 296, 18.10.2000.

1.4.5. showing particular sensitivity in handling the critical issues facing developing countries in relation to poverty [1], epidemics, the environment and agricultural production where these affect trade policies and are within the remit of the WTO.

1.5. The EESC emphasises the immediate need to draw up an international strategy leading to balanced development and prosperity for all nations with particular consideration for the issues of the environment and working conditions.

1.6. The EESC would also stress the need to trace out an international strategy for consumer protection.

2. International economic situation — economic trends in the developing and least developed countries

2.1. The removal of trade and other barriers at global level has gradually led to the creation of a new order in international trade with major positive and negative implications. The most important consequence of this development is without doubt the increased interdependence of national economies on international commercial exchanges. This interdependence of economies, in conjunction with the use of new technological tools, which have accelerated international trade, intensifies the need for global trade to be controlled by means of functioning statutory international organisations. These organisations must cooperate closely with each other, in order to avoid the implementation of conflicting measures and strategies, especially in regions whose economic development depends on international assistance and programmes set up by international organisations.

2.2. Free market growth and increased trade may bring long-term benefits globally [2], but the presence of international organisations and regulations is necessary to avoid the short-term negative effects of unregulated liberalisation on the countries with the weakest economies and to stave off isolated unilateral, bilateral or multilateral regulations that reinstate boundaries and obstacles to the free movement of goods and services. This need is met by the WTO, which was established following lengthy international negotiations with the voluntary involvement of the overwhelming majority of the world's nations.

2.3. Despite all the good intentions (UN Millennium Summit, UN World Food Summit, UN World Summit on Sustainable Development) and the various initiatives and programmes to be found worldwide, one fifth of humanity [3] lives below the international poverty line (which is set at USD 1 a day) and this demonstrates the enormity of the challenge facing the strong players in the global economy and the inadequacy of the policies developed to date. The desperate living conditions [1] of a large section of the world's population generate chain reactions with uncontrollable consequences.

2.4. The reactions of organised civil society, NGOs and social partners included, to all the deliberations of the international organisations illustrate the enormity of the problem around the world. The message that is starting to be taken seriously by all the international organisations, and above all by the WTO, is the need to trace out an international strategy to promote the balanced development and prosperity of nations and to secure and deepen democracy throughout the world. In reality, the difficult current social and economic circumstances call for international cooperation between the developed and the developing countries, either through existing international organisations or by creating new ones where required.

2.5. The liberalisation of markets and of international trade over the last decade has brought some of the least developed countries (LDC) [4] an opportunity to improve their people's income more rapidly than ever in the last 50 years [5]. A number of typical examples highlight the benefits gained by the developing countries from free trade. The reduction in trade barriers both to developing countries and LDCs will

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[1] European Parliament Resolution on eradicating poverty — P5 TA(2002) 0389.

[2] a) The World Bank estimates that the removal of all trade barriers will increase global income by USD 2,8 trn and will bring 320m people out of poverty by 2015.

b) European Parliament Resolution on the Communication from the Commission to the Council and the European Parliament on the EU's approach to the so-called WTO Millennium Round — A5-0062/1999 — OJ C 189, 7.7.2000.

[3] World Bank — Annual Report 2002 — Chapter 1 — Meeting the Poverty Challenge: the World Bank's Goals and Strategies.

[4] 30 of the 49 least developed UN member states belong to the WTO; they are the following: Angola, Bangladesh, Benin, Burkina Faso, Burundi, Central African Republic, Chad, Djibouti, Gambia, Guinea-Bissau, Guinea-Conakry, Haiti, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Myanmar, Nigeria, Rwanda, Sierra Leone, Senegal, Solomon Islands, Tanzania, Tongo, Uganda, Zaire and Zambia (WT/COMTD/LCD/W/26, 8 May 2002).
Nine even less developed countries are in the process of joining; they are: Bhutan, Cambodia, Cape Verde, Lao People's Democratic Republic, Nepal, Samoa, Sudan, Vanuatu and Yemen (WT/COMTD/LCD/W/26, 8 May 2002).

[5] European Parliament Resolution on openness and democracy in international trade A5 — 0331/2001, OJ C 112, 9.5.2002.

bring annual earnings of USD 250 to USD 620 billion from 2002, of which a third will supplement the incomes of the LDCs ([1]). The cut in farm subsidies will also increase global earnings by USD 128 billion a year, of which USD 30 billion will be transferred to the LDCs.

2.6. A group of 18 developing countries, including Bangladesh, China, India, Ghana, Nepal, Uganda and Vietnam, have increased their export levels as a proportion of GDP very rapidly since 1980. Many experts believe that this has been due to opening up their markets to international competition ([2]), but there are also opposing theories on the subject.

2.7. The increase in the income of the poorest 20 % of developing countries is greater than the corresponding increase in the remaining 80 %. This has been demonstrated in East Asia, a region that accounts for more than a third of the population of the developing world. Over the last 40 years, this region has been transformed from being one of the poorest regions in the world into its current dynamic form.

2.8. Despite the improvement in their economic indicators, these countries still have a long way to go. On the other hand, it is an undeniable fact that the ratio of the GDP of the top 5 % richest countries to that of the bottom 5 % poorest on Earth has risen from 30:1 when the GATT was launched at the end of the 1940s to 78:1 today. This is even clearer in the social sector. Their economic growth has not been matched by social progress or the consolidation and development of democratic institutions and individual rights. There has been little improvement in the Human Development Indicators that measure improvements in living conditions, education and life expectancy.

2.9. The fact that most developing countries' economies continue to be directly dependent on farm products ([3]), coupled with the major problems of exports in processed agricultural products, is a basic problem of the international trade and economic system and has a direct social impact, owing to the variability of world prices and the fall in the prices of these products over the medium to long term ([4]). At least 50 developing countries depend on their primary sector for a third of their export income, and for 40 of them it provides half their income ([5]).

2.10. The EU is making a very real effort to bring the developing countries and LDCs into the global economy ([6]). The Cotonou Agreement (23.6.2000) drawn up between the EU and the African, Caribbean and Pacific countries is a major initiative that combines trade with development, and also includes a set of trade liberalisation measures (the 'Everything But Arms' initiative), which allows tariff-free exports from all the LDCs to the EU, with the exception of arms, within the next few years. Similarly, the review of the European Generalised System of Preferences (2002-2004) put the emphasis on tariff reductions for the LDCs and also introduced a real initiative clause (including penalties) relating to respect for basic labour and environmental standards.

2.11. The EU uses every opportunity in multilateral talks to promote an ongoing course of development for the LDCs. The International Conference on Financing for Development held in Monterrey (Mexico) on 18-22 March 2002 was a further step forward, while the EU and the United States undertook to earmark an additional 30 billion dollars for development from 2004, the greatest ever increase in aid to date. This commitment was also a major challenge and invitation to the World Summit on Sustainable Development held in Johannesburg in August 2002, but it proved impossible for the developed countries to arrive at a clear commitment on specific measures designed to reduce the North-South divide, and to establish rules to contribute to sustainable development.

2.12. The preconditions for global sustainable development are: the alleviation (or even elimination) of Third World debt ([7]), reducing unemployment and applying international labour standards as an objective target, paying particular attention with regard to the earth's ecosystem and the protection of public health.

([1]) a) WTO — Overview of Developments in the International Trading Environment — WT/TPR/OV/8-15.11.2002.
b) IMF and World Bank, Market Access for Developing Country Exports, Selected Issues, 27 Sept. 2002, p. 5.

([2]) David Dollar, Aart Kraay, 'Growth is Good for the Poor', World Bank.

([3]) European Parliament Resolution on the Communication from the Commission to the Council and the European Parliament on the EU's approach to the so-called WTO Millennium Round — A5-0062/1999 — OJ C 189, 7.7.2000.

([4]) WTO — Annual Report 2002, § 17.

([5]) UNCTAD, 2002 — The least-developed Countries Report 2002: Escaping the Poverty Trap, Part II, Chapter 3. Trade Part II, Chapter 3-4, UNCTAD, Geneva.

([6]) Trade Policy Review of the European Union 2002 — p. 20 Rigged Rules and Double Standards-trade globalisation and the fight against poverty — (Comments from the Commission — 17.4.2002).

([7]) A Genuine Development Agenda for the Doha round of WTO negotiations, Joint Statement, 28.1.2002, From: Save the children, (Oafod, Oxfam, Actionaid, Worldvision, Christian Aid, Fairtrade, Traidcraft § 14.

2.13. To achieve the above, the developed countries, which have the greatest responsibility, must: a) open up their markets to LDC products, b) transfer resources and know-how to the developing countries in substantial quantities, and c) help sensitise and improve representativeness in the workings of the administrative structures of international organisations. Meanwhile, the developing countries must: a) adopt the principles of transparency, b) establish effective government, c) adopt the basic principles of democracy, d) eradicate internal corruption, e) establish fully functional markets, f) take on board international labour standards and g) set feasible macro-economic objectives. Trade liberalisation can bring the LDCs ([1]) economic progress, provided, however, that the strong economies take substantive measures that go beyond the meagre economic aid in the traditional sense that they already provide and invest in the necessary structural changes, particularly in basic infrastructure, and that the developing countries develop their capacity to operate in a competitive environment through programmes that support entrepreneurship and the development of small and medium-sized businesses and ensure rules on transparency for the use of international economic aid so as to combat corruption.

2.14. As an international organisation, the WTO has many major advantages in terms of intervention:

— It promotes the liberalisation of trade and is an expression of the desire for international regulation of global commercial activity in the current context of globalisation.

— It is institutionally an intergovernmental-multinational body.

— The decision-making method it has adopted, which is based on a consensus of the members ([2]), or if there is none, recourse to a vote requiring a broad majority of members, gives it a major advantage over other international organisations, such as the IMF or the World Bank, in terms of democracy.

— The high number of member countries (144) with all their major economic and social differences encompass the whole range of the world's diversity.

— With this structure, in addition to promoting trade negotiations and resolving trade disputes, the WTO can and must aim a) to strengthen the developing countries, b) to promote the just and fair distribution of work around the world and c) to introduce standards to protect the environment and food safety and hygiene, always in accordance with its rules and strategic objectives.

2.15. For most of the earth's population, the benefits of the reduction in trade protectionism to date have yet to be seen. For this reason, the protests of civil society organisations directed against international bodies and especially the WTO, the main exponent of trade liberalisation, are growing increasingly loud. The challenge for everyone, and especially for the governments of the developing and least developed countries, is to make trade and international investment a driving force for development and the reduction of poverty.

2.16. The EESC, in its capacity as the main institutional representative at EU level of civil society organisations, plays an active role in global dialogue and has taken all the current messages into account. As a result, it would suggest that the WTO needs to take on a more human face. This necessity arises, on the one hand, from the fact that in today's globalised economy, international trade agreements have implications for work, health and the environment, and on the other, from the fact that any interventions should take place with the approval and input of civil society, through practical participatory procedures.

3. Developments in the world trade dialogue (Doha Development Agenda)

3.1. The Doha Development Agenda from the 4th Ministerial Conference in Doha marked a positive step forward for the future of world trade and gave some hope for the new round of negotiations that started in January 2003 and will last until January 2005, setting as key objectives: a) sustainable development at the centre of trade negotiations ([3]); b) supporting growth in the developing countries and the LDCs and

([1]) a) COM(2002) 513 final, 18.9.2002 — Communication from the Commission to the Council and the European Parliament: Trade and Development: assisting developing countries to benefit from trade.
b) Council of the European Union: Trade and Development Council conclusions, 20.11.2002, No 14514/02.

([2]) Marrakesh Agreement Establishing the World Trade Organisation — Article IX, Paragraph 1.

([3]) If the Doha Development Agenda objectives are achieved, 'Estimates of the welfare gains from eliminating barriers to merchandise trade — in both industrial and developing countries — range from USD 250 billion to USD 620 billion annually, with about one-third to one-half accruing to developing countries' (IMF and World Bank, Market Access for Developing Country Exports — Selected Issues, 27.9.2002, p. 5).

c) tackling the scourge of epidemics in the LDCS. The decision to supply development aid to foster economic and institutional progress in the developing countries was in essence the realisation of preexisting WTO agreements [1]. It was also decided that the TRIPS intellectual property rights agreement should be applied without preventing Member States from taking the necessary measures to protect public health (patents on pharmaceutical products).

3.2. In its opinion of October 2001 [2] on the preparations for the Doha conference, the EESC expressed the wish that the conference do more than Seattle to take into account the aspirations and problems of the developing countries. The Committee pointed out that the dialogue on social issues and the environment comes up against major obstacles owing to the fact that the developing countries focus their interest on other issues, such as implementation, development and access to markets.

3.3. In the statement issued after the meeting between Commissioner P. Lamy and representatives of civil society on 14 December 2001, it was noted that, except for the problem of social questions relating to labour, the Commission's main objectives for Doha had been met and that a major decision had been taken in the context of the Doha Development Agenda on a commitment to supply technical assistance to the developing countries and to promote capacity building. This will be implemented in full cooperation with all the donors such as the World Bank and UNCTAD, and through the Community Development Policy and Development Programmes [3].

3.4. The EESC welcomes the efforts made by the Commission to persuade the WTO's General Council to set up a Global Trust Fund to administer technical assistance to the developing countries so that they participate fully in negotiations.

3.5. The EESC expresses its great concern at the delays occurring in the promotion of the items on the Doha Development Agenda and calls on the developed and developing countries to move immediately towards completion of the necessary negotiations.

4. **The social dimension of trade negotiations**

4.1. *Social rights in the workplace*

4.1.1. The consolidation of social rights in the work place was a subject of discussion for the first time at the Singapore Ministerial Conference [4] and was reaffirmed at the Doha Ministerial Conference [5], despite the objections of many developing countries.

4.1.2. The EESC feels it is necessary to kick-start the global debate on social rights and expresses its disappointment at the lack of interest and negative objections from the developing countries which emerged at the Doha Ministerial Conference.

4.1.3. Key point: the ESC feels that the best forum for addressing labour-related social issues is the ILO, as it also stated in its opinion on 'Human Rights in the Workplace' [6]. The WTO must help to resolve these issues by encouraging positive measures and incorporating into its rules provisions to exclude members that breach international labour standards from the benefits of membership.

4.1.4. The EESC welcomes the Commission Communication published in July 2001 on labour standards and social governance in the context of globalisation.

4.1.5. The EESC firmly supports the work of the ILO and welcomes the creation of a World Commission on the Social Dimension of Globalisation, calling on the WTO to collaborate with it through substantive involvement. The World Commission may help the international community to gain a greater understanding of the complex problems of globalisation in the areas of labour and social development.

4.1.6. Furthermore, the EESC declares its readiness to begin cooperating formally with the WTO, the ILO and the national ESCs on current social issues.

4.1.7. The EESC would stress the need to establish core labour standards and to promote health and safety standards in the workplace, during the new round of trade negotiations. In addition, it emphasises the need for deterrent measures in the developing countries to discourage child labour.

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(1) Overview of Developments in the International Trading Environment — § 97 — WT/TPR/OV/8 — 15.11.2002.
(2) OJ C 36, 8.2.2002.
(3) Communication — April 2000/Council Conclusions — 10.11.2002.
(4) Singapore Ministerial Declaration.
(5) Doha Ministerial Declaration, Article 8 — WT/MIN(01)/DEC/1-20.11.2001.
(6) OJ C 260, 17.9.2001, p. 14.

4.1.8. The EESC will work to set up a permanent consultation procedure between itself and the ILO's World Commission, on the subject of the 'social dimension of globalisation' and calls on the WTO to give the ILO observer status not only at its ministerial conferences but also within its other bodies ([1]).

4.2. *Trade and the environment*

4.2.1. The EESC welcomes international efforts to protect the environment in all its aspects and expresses its strong desire to see negotiations and programmes speeded up and consolidated and objections lifted so as to achieve the optimum result.

4.2.2. The EESC supports the alignment of international trade development with the goal of sustainable development, as viable economic development is one of the three components of sustainable development. Major ecological challenges and important environmental changes at global level oblige the international organisations to focus their attention on succeeding in this aim. This is all the more imperative in view of the relative progress made at the Johannesburg Conference on issues relating to environmental protection.

4.2.3. Key point: the ESC welcomes the fact that the Doha Declaration ([2]) includes an agreement between WTO members to discuss environmental issues affected by trade. The discussion that followed enabled certain initial conclusions to be drawn, which will have to be taken up in future, despite the concerns expressed by various parties.

4.3. *Intellectual property rights and public health*

4.3.1. The major epidemics (HIV/AIDS, malaria) which continue mainly to afflict the populations of the LDCs and in particular the countries of Sub-Saharan Africa, are a major blot on modern culture and divide humanity into those who have access to basic medical treatment and those who for economic reasons do not ([3]).

4.3.2. The EESC:

— believes that the right to health is the most valuable and important human right;

— points out that countries which do not produce medical drugs are at a major disadvantage in comparison to those that do;

— welcomes the special statement in the Doha Ministerial Declaration ([4]) on the right of states to protect their public health;

— welcomes the decisions of the TRIPS Council (27.6.2002) extending protection of intellectual property rights until 2016 for the LDC;

— feels that a flexible global agreement is needed which will fully meet the LDCs' public health needs arising from the spread of epidemics while safeguarding intellectual property rights so that research and technical development is not discontinued;

— emphasises the particular role which the WHO is called on to play as the relevant body with responsibility for monitoring and combating diseases which develop into epidemics threatening large numbers of people;

— believes that there is a direct link between public health and the reduction of poverty, which is an equally major problem across the globe;

— agrees with the European Parliament Resolution of 12 February 2003 on generic medicines (p5 — TA-PROV (2003) 0052/ 12.02.2003);

— believes that new medical discoveries should be more easily accessible for LDCs.

4.3.3. The EESC supports the Commission's determined efforts to secure agreement among WTO members as soon as possible laying down: a) the list of states which have the right to circumvent WTO agreements ([5]) on the protection of intellectual property rights for public health reasons, b) an

([1]) European Parliament Resolution on the Communication from the Commission to the Council and the European Parliament on the EU's approach to the so-called WTO Millennium Round A5 — 0062/1999.

([2]) Doha Ministerial Declaration, Articles 31-33 — WT/MIN(01)/ DEC/1-20.11.2001.

([3]) More than 15m people die each year from infectious diseases and 40m have HIV/AIDS — many of these people cannot afford the medicines that would save or prolong their lives — Oxfam News.

([4]) Declaration on the Agreement to Protect Intellectual Rights and Public Health — WT/MIN(01) DEC/2-20.11.2001.

([5]) WTO TRIPS Agreement — Article 31.

expanded version of Article 31(f) of the WTO's TRIPS Agreement allowing insertion of a derogation clause for pharmaceutical products and c) a definition of the term 'pharmaceutical products' ([1]).

4.3.4. The EESC calls on all members of the WTO, especially the USA, to lose no time in overcoming the obstacles to negotiations on amending Article 31(f) of the WTO TRIPS Agreement and reaching a global agreement.

4.3.5. On the major subject of the protection of public health and intellectual property rights, the EESC proposes: a) in addition to AIDS/ HIV and malaria, extending the suspension of protection for intellectual property rights on drug patents to include other major diseases as proposed by the Commission, b) extending the list of LDCs from the current 49 to 72, with the exception of China, which has the capability to produce primary pharmaceuticals, c) doing away with governmental — political interference with exports of pharmaceuticals when the health of a large proportion of the population is in danger, d) that the LDCs take tough measures to address the illegal resale of medicines sold to combat diseases on international markets at prices that do not reflect intellectual property rights, and e) that there should be flexibility in the whole system and in the ways Agreements are interpreted so that epidemic risks can be addressed effectively.

4.4. *Balance in world food needs*

4.4.1. Key point: the ESC would stress the need to strike a balance between the continuing growth of world food needs and the huge inequality in the distribution of food around the world ([2]) and the need for a broader international consensus on the important issues in agriculture.

4.4.2. Key point: the EESC endorses the position of the Food and Agriculture Organisation (FAO), that improving the effectiveness of water management systems, improving crop productivity (more crops per drop) and developing new sources of water are the key to satisfying the constantly growing demand for food ([3]).

5. **The need to overhaul the WTO's operations**

5.1. *WTO views on its operations*

5.1.1. The WTO has evolved from a forum for technical trade negotiations into an intergovernmental organisation that administers global trade policy through the trade ministers of its Member States. Trade agreements are enforced, on the one hand, by the trade policy review mechanism, (TPRM) and on the other through the WTO's effective dispute settlement mechanism and, if necessary, the imposition of trade sanctions. It is therefore absolutely clear that the WTO must operate at global level in a completely transparent way.

5.1.2. The WTO now maintains that: ([4]) a) it has made adequate progress in the area of transparency since GATT; b) it has a well-organised web site through which the general public has access to its documents and decisions; c) it has developed a serious dialogue with parliamentary representatives, chambers of commerce, workers' unions and organised civil society by means of symposia; d) it has established short- and long-term educational programmes ([5]) and six-monthly 'Geneva Weeks' to which the poorest of the LDCs are invited to be informed on international trade developments and the Doha Development Agenda negotiations, with all their costs covered by the WTO budget; this programme is also designed to develop the trade negotiation capacities of LDC representatives; and e) the WTO works closely with other international organisations to promote additional technical assistance for the LDCs, such as the Integrated Framework (IF), a combined initiative of the IMF, the International Trade Centre, UNCTAD, UNDP, the World Bank, and the Joint Integrated Technical

([1]) a) DG Trade: Contribution to the WTO: Communication from the European Committees and their Member States to the TRIPS Council Relating to Paragraph 6 of the Doha Declaration on the TRIPS Agreement and public health, 18.6.2002.
b) WTO TRIPS Council — 16.12.2002 — Draft compromise decision (Perex Motta text).
c) Letter from Commissioner P. Lamy to the Ministers of the WTO Member States — 7.1.2003 — 5/6.
d) WTO TRIPS Council — 4.3.2002 (IP/C/W/339).
e) WTO Committee on Trade and Development: The WTO Work Programme on Special and Differential Treatment — Communication from the European Committees — TN/CTD/W/26 — 11.12.2002.
f) WTO Committee on Trade and Development: Monitoring Mechanism for Special and Differential (S&D) Treatment Provisions — Joint Communication for the African Group in the WTO — TN/CTD/W/23-11.12.2002

([2]) Doha Ministerial Declaration, Article 13 — WT/MIN(01)/DEC/1-20.11.2001.

([3]) 26th FAO Regional Conference for the Near East, 9-13.3.2002.

([4]) Annual Report 2002.

([5]) a) WT/COMTD/W/89/Rev. 1, 14.1.2002.
b) WTO Training Institute, WTO Trade Policy Courses: A proposal for Expansion.

Assistance Programme (JITAP), set up to help the poorest LDCs take part in world trade negotiations. Despite this, the WTO administration recognises that there is a need for it to become more democratic and to assist the developing countries in becoming fully involved in its work and decision-making.

5.2. *The Commission's views on the WTO's operations*

5.2.1. Before the Doha Ministerial Conference, the Commission, through Commissioner P. Lamy, set up specialist study groups with socio-occupational interest groups and NGOs and formulated specific proposals for the reform of WTO procedures and operations, while repeatedly noting the need for greater technical support to be given to the developing countries in order for them to develop the capacity to take part in the procedures. In the Commission's view, the main issues requiring immediate attention are transparency, greater information and publicity and the essential participation of the developing countries, given that they number 100 of the 144 members. With the start of the new round of negotiations, the Commission's proposals for the WTO's informal operations and mechanisms in future include the following:

a) annual open meetings with parliamentarians of WTO members and the public, as a means of highlighting the policy issues that affect the trade system;

b) the development of better consultation procedures to reach consensus on matters such as transparency and participation, naturally ensuring that the organisation's operations remain effective;

c) the creation of a small consultative group with no decision-making powers, to advise the director-general when required on current recommendations to the General Council.

The EESC agrees in principle with the Commission's views, but as far as the proposal for the creation of an consultative group is concerned, it believes that it will first be necessary to establish the required selection criteria for members, so as to ensure as far as possible that the selection process is totally above board and effective with the greatest possible degree of flexibility, and that the body is then established with clear and distinct responsibilities.

5.3. *The EESC's views on the WTO's operations*

5.3.1. The EESC has contributed a great deal to the Commission's efforts to set up a structured dialogue with civil society not only at European level, but also at world level by promoting dialogue with civil society players in e.g. the Euromed countries, the ACP countries, Latin America, China, India, etc.

The EESC wholeheartedly endorses the Commission's views and congratulates it on the considerable effort it has put into giving the WTO a more human face and for establishing a structured and meaningful dialogue with civil society.

5.3.2. Having repeatedly expressed its views on the issues of transparency and the more active involvement of civil society players in the WTO's procedures, despite strong objections from many LDCs, which have a major 'democratic deficit' ([1]) ([2]), the EESC believes that the time is ripe for the process of reforming the WTO's operations, making for greater transparency and democracy, while maintaining its intergovernmental nature.

5.3.3. One of the most significant issues raised by the socio-occupational groups and NGOs is the level of external and internal transparency in the WTO's procedures and operations. Further progress in the area of transparency could also secure greater efficiency for all WTO members, especially in decision-making.

On this note, the EESC accepts the following points:

5.3.3.1. Access to WTO documentation and records

5.3.3.1.1. One of the most serious criticisms levelled at the WTO, as regards the transparency of its operations, concerns freedom of access to its documents and the way they are distributed and circulated. Following an important decision taken recently by the General Council ([3]), all WTO documents are to be made freely available, with the exception of certain cases where a State may ask for a document's circulation to be restricted for a maximum of 90 days.

5.3.3.1.2. The EESC welcomes this decision and calls on the General Council to continue to review the issue of greater transparency in the WTO's bureaucratic operations.

5.3.3.2. Consultation of civil society — The role of NGOs

5.3.3.2.1. External transparency in WTO matters ([4]) can be achieved primarily at national level. A dialogue between national governments and civil society representatives on

([1]) OJ C 368, 20.12.1999.
([2]) OJ C 36, 8.2.2002.
([3]) WTO — Procedures for the circulation and derestriction of WTO documents (14.5.2002) — WT/L/452 — 16.5.2002.
([4]) G. Marceau and P. Pedersen, Is the WTO open and transparent? A discussion of the relationship of the WTO with non-governamental organisations and civil society's claim for more transparency and public participation, J.W.T. Vol. 33 No 1, pp. 5-49 (1999).

WTO matters would not only help in securing consensus but would also convey more information and knowledge to other stakeholders affected by the WTO's decisions, such as businesses, workers, consumers, stock markets, importers and suppliers. This process of providing information would further promote globalisation and trade liberalisation. At the same time, governments would have the opportunity to obtain significant assistance from the specialised consultative support of the groups and organisations concerned, such as national trade and industry associations. Some of the LDCs undoubtedly have a major 'democratic deficit' problem, a very low level of civil society representation and a virtual absence of consultation between social players and NGOs. The WTO should follow the same procedure at international level, in conjunction with international civil society players, taking as its example the successful cooperation between the Commission and civil society at European level on WTO matters.

5.3.3.2.2. The role of NGOs has been the subject of frequent discussions between WTO members. The WTO has repeatedly stated that the interests of all a country's citizens are only expressed by the official government. However, this restriction does not exclude relations between WTO members and the representatives of NGOs ([1]). The first Ministerial Conference in Singapore in 1996 was attended by representatives from 108 NGOs. At the Doha Conference, the number of NGO representatives registered was over 600.

5.3.3.2.3. The EESC highlights the special role played by NGOs ([2]), which do not include the social partners, i.e. employers and workers, in dealing with particularly sensitive social issues and recognises that the interests of a state's citizens must be represented by some players who are not dependent on the government of that state. However, essential requirements for this representation to be genuine and effective are that the representatives are democratically elected by significant segments of the population and that their financial management is transparent.

5.3.3.2.4. Having in previous opinions ([3]) defined the criteria of representativeness for NGOs at European level, the EESC proposes the following criteria which may also be used in NGO-WTO relations.

— An NGO must: exist permanently at global level, or over a large part of the planet;

— An NGO must: provide direct access to its members' expertise and hence rapid and constructive consultation;

— An NGO must: represent general concerns that tally with the interests of global society;

— An NGO must: comprise bodies that are recognised at national level as representative of particular interests;

— An NGO must: have member organisations in most of the WTO member countries;

— An NGO must: provide for accountability to its members;

— An NGO must: have authority to represent and act at global level;

— An NGO must: be independent and not bound by instructions from outside bodies;

5.3.3.2.5. The only official channels giving civil society access to WTO decisions have so far been the symposia and congresses held in parallel with the Ministerial Conferences where the WTO is represented by the accredited economic diplomats of its member countries. The representatives of civil society feel that this involvement is too low-key because of the very long time lapse between Ministerial Conferences and is still far removed from the day-to-day functioning of the WTO.

5.3.3.2.6. The EESC agrees with the proposal by the Commission and the European Parliament that the WTO should adopt a specific procedure for consultation with the social partners and NGOs, and offers its services to the Commission to help achieve this. To ensure the mutual dialogue has a strong and viable foundation and to create a reliable institutional framework, it also proposes the establishment of a specific ethical code.

5.3.3.2.7. The EESC would recommend that civil society operators have access to the daily running of the WTO by attending General Council meetings as observers.

5.3.3.3. Access for parliaments and civil society to consultation procedures and the trade policy review mechanism (TPRM)

5.3.3.3.1. The aim of the trade policy review mechanism (TPRM) ([4]) ([5]) according to the founding articles of the WTO,

([1]) Relations between the WTO and NGOs are detailed in Article V:2 of the Marrakesh Agreement and the General Council directives of 18 June 1996 (WT/L/162).

([2]) International Centre for Trade and Sustainable Development — ICTSD — Association Schemes and Other Arrangements for Public Participation in International For a.

([3]) OJ C 125, 27.5.2002.

([4]) Agreement establishing the World Trade Organisation, Article III (4).

([5]) Agreement establishing the World Trade Organisation, Article III (3).

is to monitor and contribute to improving members' compliance with the rules, regulations and commitments contained in the multilateral trade agreements, and to examine the repercussions of trade policies and practices for members' economies and for the multilateral trade system at regular intervals. In practice, however, a good many problems have been observed in particular when examining the impact of trade policies on the member states and the reliability of states' reports regarding not so much economic as social and environmental data.

5.3.3.3.2. The EESC proposes mandatory involvement and consultation of national parliaments and civil society organisations in shaping the decisions on commercial, political and national reports submitted under the TPRM before the official texts are published.

5.3.3.4. Process of informing civil society of progress made in negotiations

5.3.3.4.1. Civil society could be informed of the progress made in the new round of negotiations by means of a specific procedure at national or regional level and, of course, through the WTO secretariat, by means of special open seminars, held at fixed intervals as required.

5.3.3.5. The role of Economic and Social Councils

5.3.3.5.1. The WTO ought to set up a group of interlocutors representing a large portion of civil society. Economic and social councils, where they exist, are a very good potential interlocutor for the development of regular cooperation with the WTO.

5.3.3.5.2. The EESC calls for greater involvement of the Economic and Social Councils, in countries where they exist, in the work of the WTO, and the establishment of similar bodies in the developing countries where there is a serious democratic deficit and a lack of social consultation.

5.3.3.5.3. The EESC proposes that it take the initiative of coordinating Economic and Social Councils where these exist worldwide (e.g. African ESCs, Chinese ESC, etc) on WTO matters by drawing up joint opinions to be presented at the Ministerial Conferences as the contribution of civil society.

5.3.3.6. Establishment of a specific code of conduct for communication with civil society

5.3.3.6.1. Most international organisations, such as the United Nations, the World Bank, and the Organisation for Economic Cooperation and Development have, to varying degrees, mechanisms for consultation with civil society organisations and for the mutual exchange of information. The WTO claims that it is different from the other organisations in that its decisions are not simply binding, but are enforced, sometimes with penalties such as trade sanctions; this argument does not hold water as other international organisations have similar procedures such as drafting and monitoring agreements and settling disputes.

5.3.3.6.2. The EESC reaffirms the basic principles of the code of conduct set out in previous opinions [1]. Such a code could also include the following:

— a clear declaration rejecting any form of coercion and promoting mutual dialogue;

— the commitments of the signatory socio-professional organisations and NGOs to conform to certain rules on transparency (mission, members, organisation, funding etc.);

— the commitments of the WTO Secretariat as regards the organisation of these consultations (reporting and access to documents, consultations, information provision, evaluations, Internet forums etc.). Specifically, the Secretariat could make provision for holding an annual public hearing;

— an invitation to the representatives of the information society and NGOs to take part in publicity campaigns, in studies of situations and challenges, taking on responsibilities in the context of the WTO's activities, as well as submitting any useful proposal on matters related to the WTO's activities to the WTO bodies, supporting implementation of the WTO's commitments and programmes, useful participation in groups and helping to identify problems and progress in implementing the plans;

— an invitation to the WTO member countries to implement similar arrangements for consultation with the representatives of civil society and NGOs at European level.

[1] EESC Opinion on the preparation of the 4th WTO Ministerial Conference in Qatar: ESC position, points 3.9, 3.9.1, 3.9.2, 3.9.3, 3.9.4, 3.9.5, OJ C 36, 8.2.2002.

5.3.3.7. Establishment of some kind of parliamentary supervision

5.3.3.7.1. The proposal by the Commission and the European Parliament to establish possible parliamentary supervision of trade policies would help to increase WTO transparency and to supply the Member States with more information but, most of all, would contribute to making the WTO's operations and decision-making procedures more democratic.

5.3.3.7.2. Parliamentary supervision would also contribute to greater understanding of the economic and social implications of trade policies for each individual member state.

5.3.3.7.3. The EESC is in favour of introducing a parliamentary dimension to the WTO, despite the inherent difficulties, as, apart from ministerial conferences, member states are represented by officials rather than elected representatives in the work done by the General Council in the intervening periods. It therefore calls on the EU and the WTO Secretariat to work to achieve this.

5.3.3.8. Civil society access to the dispute settlement system

5.3.3.8.1. Organised civil society has no access to the meetings of the special panels of the Dispute Settlement Body (DSB) or to the proceedings of the second level of arbitration, the Appellate Body. As a rule, these bodies operate in accordance with the rules of international public law and, as far as civil society bodies are concerned, there is no reason why there should not be free access to information on developments and decisions concerning trade negotiation disputes as soon as the parties concerned have been informed.

5.3.3.8.2. Article 13 (1) of the Understanding on rules and procedures governing the settlement of disputes clearly states that each panel has the right to seek information and technical advice from any individual or body which it deems appropriate, and that confidential information that is supplied to the panel must not be revealed without the express authorisation of the individual, organisation or authority that provided it. Furthermore, the panels can request information from any relevant source and consult experts to get their views on certain aspects of the matter. In practice, however, the contribution of organised civil society has been minimal to date.

5.3.3.8.3. The EESC is in favour of civil society involvement in the dispute settlement mechanism, to offer advice on matters that require specialist knowledge such as issues relating to work, the environment and health, for the following reasons: a) the participants in the panels and in the Appellate Body are usually experts on international trade law, etc. and b) often the trade agreements in question have a direct or indirect impact on social developments, for instance on a country's unemployment situation, on the environment, on health, or on economic development, etc.

5.3.3.8.4. The EESC asks the LDCs to put aside their objections to representatives of civil society being involved in the dispute settlement mechanism and supports the Commission's position on this matter, which will increase the WTO's transparency and democratic sensitivity.

5.4. *Developing the capacity of the developing countries and LDCs to take part in the WTO's institutional proceedings*

5.4.1. Most of the developing countries and LDCs have a major or total lack of capacity to take part in the WTO's workings, to understand trade policies and their implications or to be aware of the regulations at regional and national as well as international level. Furthermore, in spite of substantial financial assistance from the Commission, they are often unable to have systematic representation on the WTO's various committees and meetings where major topics are negotiated as, on the one hand, they lack the right people with the appropriate qualifications and, on the other, they cannot cover the expense of permanent representations or delegations. The establishment of the representation office [1] for the African, Caribbean and Pacific (ACP) countries to support these countries in international trade negotiations marks a positive first step.

5.4.2. The Doha Development Agenda includes a special reference to the LDCs' difficulties in participating in international trade negotiations and sets a specific timetable of support measures [2].

5.4.3. The EESC recommends ensuring that the developing countries have the financial and human resources to be able to implement the arrangements adopted.

5.4.4. In the EESC's view, there is a constant need for more WTO appropriations to provide technical support and training for the LDCs in conjunction with the programmes of other international organisations, in order to enable them to take part in the WTO on an equal footing; meanwhile, controls on the funds made available should also be stepped up to ensure that they are not wasted and do not fall prey to corruption.

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[1] This office has been funded by the EU at a cost of USD 1,4 m.

[2] Doha ministerial decision– support measures — WT/MIN(01) / 17-20.11.2001.

5.5. *Reconciling the full involvement of members and the efficiency of the WTO's operations*

5.5.1. The large number of members causes major problems when it comes to the necessary participation rate and presence on formal and informal institutional bodies. As well as institutionalising the reduced Ministerial Conferences, the EESC proposes setting up bodies with the limited participation of a manageable number of members, by choosing a selection and voting model that suits the WTO's purposes without compromising the basic democratic principle of one member — one vote.

5.6. *Establishing institutionalised cooperation with other international organisations*

5.6.1. In the current globalised economic and social context, it is important to be aware that trade does not happen in a vacuum and that trade negotiations are influenced by and influence the decisions and policies of other international organisations. In the context of effective global cooperation, WTO cooperation with the other international organisations is essential.

5.6.2. WTO cooperation with UNCTAD on establishing the International Trade Centre (ITC), which is designed to help the developing countries and transition economies to take part in world trade, and promotion of the JITAR programme are useful international initiatives. WTO cooperation with the World Health Organisation ([1]), the International Monetary Fund, the International Telecommunication Union, the World Bank and the World Intellectual Property Organisation ([2]) is also proving particularly useful.

5.7. *Modifying the dispute settlement system*

5.7.1. On the basis of the experience gained with the Dispute Settlement Understanding over the last six years, the WTO accepts that despite its major contribution to solving trade disputes between the member states, the system needs improving on a number of counts. At the Doha Ministerial Conference, the members undertook to start negotiations on improving and updating the understanding with a view to concluding them by May 2003.

5.7.2. The Commission has made specific proposals for the reform of the understanding, such as the appointment of delegates to take part in the panels on a permanent basis as opposed to the current case by case set-up, and on the subjects of implementation, transparency, faster decisions and rulings from the consultative judicial body, the possibility of submitting observations on an amicus curiae basis, etc.

5.7.3. Although it supports these proposals, the EESC would like to point out that, to be fair and effective, a dispute settlement system should be based on the following principles: first, that every member state is equal before the law; second, the possibility of direct and proper access to the dispute settlement system; and third, compliance with international law. Nevertheless, it is highly doubtful whether the least developed countries are able to make proper use of the WTO system in its current form. Firstly, because the interpretation and application of the WTO's various regulations and agreements is becoming increasingly complicated and difficult. The EESC therefore judges it necessary to further strengthen and broaden the procedures for providing these countries with assistance, both financial and in the form of know-how and education to enable them to analyse, understand and properly apply all the WTO agreements. Secondly, the chances of these countries taking part and defending their interests before a panel or the Appellate Body are at present slim, owing to the complicated nature of the regulations and the fast pace of the proceedings. For this reason, the EESC believes that the start-up in 2001 of the Advisory Centre for WTO Law has filled a major gap. Already, the services provided by this centre are starting to bear real fruit (cf. the result of the dispute between Peru and the EU over the trade description of sardines). In addition to the EU Member States, which have already offered considerable assistance for the establishment of the Centre, the other WTO members should also help in the further development and reinforcement of the Advisory Centre.

5.7.4. Despite major improvements, the WTO's dispute settlement system is not sufficiently supportive and accessible to the developing countries, which are a case apart owing to their fragile economies and are therefore unable to make the most of the mechanism's benefits ([3]). The reasons for the developing countries not accessing or using the mechanism are the following: a) they do not have the domestic mechanisms for foreign trade that would channel the necessary information to governments, or require governments that are in violation of the rules to fall in line, b) there is a lack of awareness at national level of the WTO's regulations, conventions and mechanisms, c) their public administrations do not have the necessary knowledge or expertise, d) the political will is often lacking, e) they cannot afford expert advice.

([1]) WTO Agreements and Public Health — 20.8.2002.
([2]) WT/COMTD/W/102, 16.7.2002.
([3]) Enforcing Multilateral Commitments: Dispute Settlement and Developing Countries — B. Hoeckman — P. Mavroidis, 14.9.1999, The WTO/World Bank Conference on Developing Countries in a Millennium Round.

5.7.5. The EESC is concerned at the lack of clarity in a number of WTO agreements which inevitably leads to appeals to the dispute settlement mechanism and calls on all parties involved to strive for clearer agreements.

5.7.5.1. The EESC is also worried about the immediate and serious effect which some dispute-settlement cases have on private third parties (especially SMEs and consumers). The withdrawal of concessions by a WTO member does not penalise the state instigating the measure that infringes WTO rules or its authorities. Instead it is innocent firms which are penalised, with in some cases their very survival being threatened. Because WTO law is not directly applicable at the moment, these firms are virtually unable to seek legal redress from their state (or community of states) that has been proved to be acting illegally by the WTO dispute settlement procedure. This is not compatible with the legal principles in force in the European Union. In order to gain greater acceptance for the WTO dispute-settlement machinery and give it a stronger legal basis, the Commission — working in liaison with the Council of Ministers in the WTO but also at EU level — should act to rectify this shortcoming forthwith.

5.7.6. The EESC proposes the following on the subject of the dispute settlement system: a) increasing technical and legal assistance for LDCs, b) speeding up the procedures and in particular dispute settlement times distinguishing between cases in terms of their economic importance, where more minor cases (under USD 1 million) would not be subject to all the mechanisms, c) further strengthening the Geneva office of the ACP countries, in order to compensate fully for their weaknesses, and d) increasing the presence of specialised civil society representatives on the panels which carry out the initial investigation of infringements.

Brussels, 26 March 2003.

5.8. *Sanctions*

5.8.1. Sanctions are the WTO's weapon of last resort to enforce the rules and procedures agreed, as described in multilateral and plurilateral trade agreements, and they are applied when all measures foreseen by the dispute settlement understanding have been exhausted, and the infringement continues.

5.8.2. Imposing sanctions on one or more contracting States often affects a large group of States while often damaging trade for third parties or the LDCs.

5.8.3. It is, however, well known that the imposition of sanctions as a means of bringing pressure to bear on countries to comply with the decisions of a panel, the Appelate Body or the Dispute Settlement Body (DSB), is essentially impossible for the developing and less developed countries. All these countries are directly dependent on imports, and the result is that sanctions are not a viable alternative option. For this reason, the EESC supports the Commission's proposal to give these countries the opportunity to request, under certain conditions, the immediate payment of compensation or another form of compensatory trade advantage other than the right to impose trade sanctions.

5.8.4. The EESC is concerned at the increasing use of sanctions and believes that in trade relations it is preferable to find a compromise solution to differences rather than using legal means and sanctions. It calls on the WTO member states to launch a substantive debate on the sanctions applied under WTO statutes and the intermediate pre-sanction procedure proposed by the Commission which will allow a state to offer compensatory measures in cases of infringement. This debate must clarify all aspects of sanctions (when and how sanctions are imposed, and by whom) to secure greater flexibility and transparency.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on the production of annual Community statistics on steel for the reference years 2003-2009'

(COM(2002) 584 final — 2002/0251 (COD))

(2003/C 133/17)

On 20 November 2002 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

The preparatory work was entrusted to the Consultative Commission on Industrial Change (rapporteur: Mr Pezzini, co-rapporteur: Mr Moffat, delegate).

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the European Economic and Social Committee appointed Mr Pezzini as rapporteur-general and unanimously adopted the following opinion.

1. Introduction

1.1. The ECSC Treaty, which expired on 23 July 2002, provided the basis for the organisation of production and distribution regimes for coal and steel in the Community, and for an independent institutional system to manage it. The bodies set up by the Treaty have enabled the Community steel industry to achieve a high degree of excellence, due in part to the procedures and production technologies used, and to the human resources involved.

1.2. Now, following a number of restructuring and streamlining operations which have given an important boost to the modernisation of the sector, Community steel production for the 15 Member States comes to some 160 million tonnes per annum, compared to circa 40 million tonnes for the six Member States of 1953. The sector employs around 277 000 people (EU15), compared to over 400 000 in the six Member States in 1953. Moreover, over the last 20 years, the Community steel industry has achieved a 40 % reduction in the energy required for every tonne produced. It has contributed towards the development of a sustainable environment, using recycled scrap metal for over 40 % of its output, making steel the most recycled material in the world, and has reduced CO_2 emissions by 20 % over the last decade.

1.3. This progress has been achieved by means of the establishment of an open, competitive market that has removed all internal customs duties, clear improvements in the quality and performance of iron and steel products, and major investment for modernisation. As a result, the European steel industry is now one of the most successful in the world.

1.4. The modernisation and streamlining strategies, alongside the sector's high standards of quality and capacity improvements, were made possible by production and distribution regimes based on a statistics system tailored to Community industrial and investment policies, and on dialogue between the social partners, who are particularly interested in training and retraining for human resources, continuous training, equal opportunities and adapting the way work is organised to social change.

1.5. The most important challenge facing the European Union at the beginning of the third millennium is without doubt enlargement towards central and eastern Europe, which will take the number of Member States from 15 to 25 in 2004. The steel industry in the applicant countries has some strong points, such as relatively low labour costs and good quality human resources; but there are also a number of shortcomings in production techniques, quality standards, energy consumption, environmental impact, surplus labour and actual investment potential.

1.6. In order to guarantee the successful modernisation and integration of the applicant countries' steel industries, and high standards of quality, an effective social dialogue must be established. This dialogue must be based on a systematic statistical framework and the pooling of best practice. A close link must also be forged with the elements of organised civil society, in order to secure satisfactory levels of economic and social cohesion and sustainable development.

1.7. As the Committee has stressed in various recent opinions [1], some highly specialised and locally concentrated

[1] ESCE Opinion on 'The impact of the enlargement of the European Union on the single market', OJ C 85, 8.4.2003; ESCE Opinion on the 'Economic and social consequences of enlargement in the candidate countries', OJ C 85, 8.4.2003; EESC Opinion on 'The employment and social situation in the central and eastern European applicant states'OJ C 193, 10.7.2001 p. 87.

heavy industries, particularly in the coal and steel sectors, have shown themselves to be uncompetitive. This is the case, in particular, with the steel industry in Poland, the Czech Republic, Slovakia and Hungary. In many cases the steel industry is concentrated in individual regions; this has had tremendous economic and social consequences in the course of the restructuring process.

1.8. The Committee has also underlined the fact that economic policy measures therefore need to be directed towards the promotion of entrepreneurship, support for SMEs, competition, technologies (especially ICT), an active employment policy, and a targeted macro-economic policy.

2. **The Commission proposal**

2.1. The Commission's proposed regulation is intended to provide more restricted yearly statistics on EU steel production for the period 2003-2009. It also proposes to use four questionnaires to process and analyse the impact of Community policies, and addressing the following:

— yearly statistics on the steel and cast iron scrap balance sheet;

— fuel and energy consumption, broken down by type of plant; and balance sheet for electrical energy in the steel industry;

— investment expenditure in the iron and steel industry;

— capacity.

2.2. Prior to the year 2000, there were 17 monthly questionnaires, a quarterly questionnaire and approximately a dozen yearly questionnaires. These were drastically reduced in 2000. Under the new proposal, production and sales statistics would be absorbed into the Community system of production statistics (Prod-Com); the monthly series on employment would be discontinued; and annual data for employment in the steel industry would continue to be available from Structural Business Statistics.

2.3. Community statistics on investment and capacity [1] should be available in a format that can be incorporated into the OECD world steel capacity monitoring network.

2.4. The proposal provides for exemptions: from the obligation to collect data, for Member States whose steel industry represents less than 1 % of the added value of the Community steel industry; and from the obligation to supply data, for enterprises with less than 50 employees.

2.5. The proposal states that the Commission is to be assisted by a Statistical Programme Committee, instituted by Decision 89/382/EEC/Euratom. Moreover, within five years (Article 9 of the proposal) of the entry into force of the Regulation, the Commission must present an interim report to the European Parliament and the Council, to assess the situation and propose any changes.

3. **Context**

3.1. The expiry of the ECSC Treaty on 23 July 2002 saw the end of the EU steel statistics system, which had been based on a data reporting system established in close cooperation with associations of steel producers, users and suppliers, and designed to meet production and market forecast requirements.

3.2. There is still, however, a need for a steel production statistics system of this kind, based on statistical surveys. This is due in particular to:

3.2.1. the significant output and importance of the European steel industry, which produces one fifth of the world's steel, i.e. approximately 160 million tonnes per year (EU15), with approximately 300 steel companies and almost 280 000 employees;

3.2.2. the need to be able to identify any under- or over-production (in the steel sector in general, and for specific categories of steel products), in order to provide reliable data for investment, modernisation and streamlining in the industry, and to be in a position to make informed decisions in international trade negotiations;

3.2.3. the specific nature of the steel industry, which is subject to considerable cyclical fluctuation and to sudden, rapid fluctuations in demand, combined with a supply-side rigidity that has often led it into crisis;

3.2.4. the need to estimate energy consumption, and the related CO_2 emissions that are characteristic of the different steel production systems;

[1] Capacity meaning maximum possible output.

3.2.5. the need to contribute to and check the world steel capacity monitoring network, managed through an OECD database, and ensure that Community statistics are fully compatible with those of the OECD;

3.2.6. EU enlargement to the 10 applicant countries, particularly those of central and eastern Europe, which are particularly active in this sector, such as Poland, Hungary and the Czech Republic. It is also worth emphasising that the situation varies considerably from country to country, and that it is therefore necessary to frame a restructuring strategy that can provide economically sustainable production levels as a precondition for the survival of the steel industry without state aid;

3.2.7. the need for activity indicators, not just in terms of production, but for consumption volumes and trends, domestic and overseas trade, and the level of stocks;

3.2.8. implementation of the 'Lisbon strategy', the prime objective of which is the modernisation of the European economy, a return to full employment and stronger social cohesion. While training and retraining of human resources are essential to the competitiveness of the steel industry, it is equally important that social dialogue and mutual confidence in joint actions should be based on a consistent framework of reliable and systematic statistical surveys, including on employment, in order to enable the steel industry to address changes and developments on an open, technologically advanced market;

3.2.9. the need to avoid adding onerous requirements for the collection and supply of statistics to the load of already overburdened steel producers, users and suppliers and national and Community authorities, by fully applying the principle of proportionality to statistics requirements.

3.3. In the light of the above it would appear necessary to use dependable statistics systems to provide a single systematic and timely framework for all steel-related statistics, in order to frame and implement a modernisation strategy for the sector in preparation for a 25-member European Union. The aim is to enable the sector to cope properly with international competition, in full compliance with the Lisbon objectives, in terms of the environment, employment and social cohesion.

4. **General comments**

4.1. The Committee endorses the broad thrust of the Commission proposal and its objective of providing key statistics for the steel industry that meet the needs of institutional decision-makers, the industry, the world steel production network, social dialogue and streamlining and modernisation processes, particularly in the applicant countries.

4.2. The Committee would nevertheless suggest assessing the practicalities of the proposed simplified reporting procedure, not least in relation to the accelerating cyclical demand for steel, the ensuing need for up-to-date data, and the requirements of steel companies, in terms of investment and global capacity decisions.

4.3. An adequate transitional period (2003-2009) would thus seem to be required in order to incorporate the different statistics systems (Prod-Com, structural indicators, yearly questionnaires) into a comprehensive, systematic, consistent and timely framework that can serve future policy strategy in the sector.

4.4. The data compiled through the proposed questionnaires — particularly as regards energy consumption and balance sheets — may however prove inadequate to measure efficiency, savings and environmental sustainability. Additional statistics for the sector could in that case be supplied by means of the survey work done by the European Environment Agency. These additional data should be incorporated into a comprehensive framework as described in point 4.3.

4.4.1. Information on consumption of steel by user sectors is essential for both consumers and producers. Increased clarity on the outlook for consumption and production of steel would help to provide early indicators of developments in the sector and facilitate timely decisions by policy makers. Certain activity indicators, broken down by country and product type, should also be made available, as should indicators on sectors downstream and forecast data on factory orders.

4.4.2. Rather than putting the burden on Eurostat, these data could be gathered by means of the statistical and analytical activities of the relevant Commission departments, in particular, the Enterprise DG which, in the Committee's view, should conduct a periodic coordinated analysis of the competitiveness of the European steel industry, particularly in the accession countries. This analysis could also cover employment needs and trends in the sector.

4.5. Explicit provision should also be made for the synchronisation of the various statistical survey and analysis systems, since this is essential to provide a truly effective survey and forecast framework for social dialogue and joint actions by the social partners.

4.6. The proposal makes no mention of the accession countries or the statistics for the future Community policies affecting them. In this respect, more focused measures seem necessary, given that since the early 1990s the statistical corpus of the central and eastern European countries has been seriously affected by the shift from planned to transition economies, and therefore needs to be restored and brought up to date. On this note, the Copenhagen European Council in December 2002 allocated additional resources to bolstering the administrative capacities of the accession countries.

5. **Specific comments**

5.1. The Committee agrees that an interim report should be submitted within five years of the adoption of the regulation, and believes that five years is a long enough period to be meaningful. The report should be checked in advance with the companies, social partners and users concerned, and should be addressed not only to the European Parliament and the Council but also to the European Economic and Social Committee.

5.2. In the Committee's view, it is important to identify and define clear statistical criteria for the questionnaires that the national statistics offices will have to manage and transfer to Eurostat, in order to ensure the data are homogeneous, reliable and up-to-date, particularly in relation to the necessary upgrading of public administration in the accession countries.

5.3. In the Annex entitled 'Yearly statistics on the steel and scrap iron balance sheet', certain language versions refer wrongly (under 1010 and 1070) to the month rather than the year [translator's note: this does not apply to the English version]. This and other inconsistencies should be corrected to bring all the language versions into line (see code 3210 in French and English).

5.4. The production/delivery statistics incorporated within the Prod-Com system, and the statistics on activity indicators for forecasts for sectors using steel, should all be synchronised. These statistics should also be made available to economic and social decision-makers in the sector and to organised civil society.

5.5. As regards the 'Statistics on Employment and the Labour Market in Central European Countries', the 'National time series' should include a specific item for the steel industry under 'Employment by economic activity'. The employment data for the sector must be broken down sufficiently to allow for the requisite training and retraining measures under the Community Structural Funds.

5.6. The Committee therefore calls for the addition of two new recitals, to be worded as follows:

5.6.1. 'Having regard to the need for a comprehensive, systematic and timely framework that can serve future policy strategy in the sector, and also serve social dialogue, including basic statistics applying clearly defined criteria, with a sufficient level of disaggregation, particularly for the accession countries;'

5.6.2. 'Having regard to the need for a periodic coordinated analysis of the competitiveness of the European steel industry, with input from the socio-economic players, to include additional statistics with indicators for activity, forecasts, employment trends and environmental sustainability, in line with the Lisbon strategy; this analysis should be conducted without increasing the burden on Eurostat but rather by drawing on the statistical and analytical activities of Commission departments and agencies, and on the work of the EESC's Consultative Commission on Industrial Change, in a properly coordinated and synchronised manner.'

6. **Importance of statistics in the modernisation process**

6.1. The Committee recognises the wealth of practical experience built up within the context of the ECSC Treaty, and in particular within the ECSC consultative committee, regarding EU coal and steel policies, not least in the statistical field [1].

6.2. It is vital that this wealth of experience be used to the full to promote the modernisation and the competitive and employment capacity of the steel industry of the enlarged 25-member EU. The aim should be an EU production system that is increasingly based on knowledge and environmental sustainability, in a context of competitive economic development, higher and better quality employment and greater social cohesion, as set out in the Lisbon strategy.

([1]) See the ECSC consultative committee's resolution of 10.4.2002 on coal and steel statistics.

6.3. In the Committee's view, in order to move effectively in this direction, there must be a reliable, comprehensive and coherent statistical survey and forecast system, not least to provide for an open social dialogue that can involve the various components of organised civil society and promote effective joint measures in the areas of production and employment, also in the applicant countries.

6.4. The Committee's own Consultative Commission on Industrial Change could play a major role here, using the experience of its own members, and in particular that of the delegates from the sector's employer and union organisations, in order to work with the relevant EU, national and regional authorities to fine-tune and implement a competitive modernisation strategy for the steel industry of the enlarged EU.

6.5. Until now, competitive modernisation of this kind has been successfully accomplished through the joint efforts of the sector's economic and social players and the government authorities, and also by employing the mechanisms available under the ECSC Treaty, which has now expired. The Committee recommends tailoring structural and cohesion policy instruments, together with other instruments that could be used in this area, to further the necessary strategies, drawing on detailed up-to-date statistics. The Committee also calls for a greater level of coordination between Commission policies, instruments and departments in order to make the steel production system of the EU of 25 or more members ever more competitive on the world market, in a context of sustainable development that will generate jobs.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council on Community participation in a research and development programme aimed at developing new clinical interventions to combat HIV/AIDS, malaria and tuberculosis through a long term partnership between Europe and the developing countries, undertaken by a number of Member States and Norway'

(COM(2002) 474 final — 2002/0211 (COD))

(2003/C 133/18)

On 19 September 2002 the Council decided to consult the European Economic and Social Committee, under Article 172(2) of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 March 2003. The rapporteur was Mr Bedossa.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 26 March), the Economic and Social Committee unanimously adopted the following opinion.

1. Introduction

1.1. Speaking on the occasion of the launch of the European Community's sixth research and development framework programme (RDFP) for the four-year period starting on 1 January 2003, the primary purpose of which is to create a genuine European research area, Commissioner Philippe Busquin stated that the 21st century, even more than the one that had just ended, would be the century of knowledge. But Europe would only be able to respond to this challenge if it organised itself effectively.

1.2. He added that the programme was designed to establish a true internal market in knowledge in which researchers, knowledge and technologies circulated freely and a framework in which national and regional governments could coordinate their research policies and integrate their activities.

1.3. Overall, the draft decision presented by the Commission seems to be in line with this definition.

2. Background

2.1. The major endemic diseases (malaria and tuberculosis) and sexually transmitted diseases such as HIV/AIDS have increased considerably in poor countries, particularly in Africa.

2.2. Disease and poverty go hand in hand. Consequently, there is an urgent need on both public health and economic grounds to break this vicious circle.

2.3. The problem is global and at the centre of an international political debate; for several years now there have been repeated calls for action from all the international organisations.

2.4. The approach pursued within this broad policy framework is global, multi-sectoral and multi-factoral. For many years the poor countries have highlighted the excessively high price of key pharmaceuticals and the need for such countries to participate — at a level appropriate to them — in programmes of this kind through the development of effective and affordable medicinal products.

2.5. The Member States and Associated States have jointly agreed to develop clinical research activities targeting three diseases — HIV/AIDS, malaria and tuberculosis (TB) — since existing treatment protocols are cumbersome, too inflexible to respond to needs on the ground and still very expensive.

2.5.1. This situation is largely due to the following factors:

— the fragmentation of European clinical research;

— organisational and economic impediments to conducting clinical trials relevant to developing countries;

— the lack of the necessary skills and facilities in developing countries.

3. The aim of the programme

3.1. Fourteen EU Member States and Norway have agreed to launch a major new initiative, the European and Developing countries Clinical Trials Partnership (EDCTP), a partnership between Europe and the developing countries, particularly those in sub-Saharan Africa, which is designed to promote research and development activities aimed at combating HIV/AIDS, malaria and TB.

3.2. New vaccines, drugs and other products necessary for fighting these diseases are to be developed and, where possible, put on the market as quickly as possible.

3.3. This will be done by:

— strengthening basic knowledge, the development of which is an absolute necessity;

— networking and cooperation between the participating national programmes;

— accelerating the development of new products, including the launch of clinical trials in the developing countries;

— strengthening capacities for research into the treatment of these poverty-related diseases through cooperation between the EU and the developing countries.

3.4. The EDCTP programme will also promote public-private partnerships and the search for effective and affordable drugs and treatments, through support for clinical trials in the developing countries.

3.5. The participation of these countries is important for at least two reasons:

— the aim must be to mobilise them as fully as possible because ultimately it is they who can make the choices that best reflect their needs;

— through representation in the EDCTP's executive structures, they can share in the running of the programme and ensure that its strategic priorities are implemented.

Two-thirds of the approved budget has been allocated for clinical trials. Another substantial part has been allocated for the implementation in Africa of structures supporting this research and necessary training of staff recruited in Africa.

4. **Community funding**

4.1. The development of new vaccines and drugs is very expensive. The European Union envisages a total investment of 200 million EUR in the first five years of the programme. Although this is a large sum, it is necessary to demonstrate the strength of Europe's commitment to the programme.

4.2. The Community contribution of 200 million EUR will have a leverage effect, enabling funding to be obtained from other sources, either the participating states themselves or private donors. As the Commission notes, the funding will act as a catalyst for initiating the first clinical trials, creating the necessary legal structure for the EDTCP and contributing significantly to capacity building in the developing countries.

4.3. Article 169 is used as the legal basis for implementing the programme as it allows:

— the establishment of a common platform for the development of clinical research;

— European research to contribute to the global fight against the three diseases in a coherent context with the organised participation of the developing countries;

— the adoption of a time-scale that provides for the speedy setting up of the necessary machinery and the start of the first clinical trials by the end of 2003.

5. **General comments**

5.1. The EESC endorses the detailed description of the EDTCP programme and the targets set for it, namely:

— networking and coordination of national programmes and activities conducted in the developing countries;

— accelerated development of new products to combat the three diseases;

— visibility and sustainability of the EDTCP programme.

5.2. The EESC notes the general low level of activity which currently prevails in this field, which calls for a major new impetus to be given to research and development efforts. In fact:

— there are very few links between existing national programmes;

— the coherence and coordination of national research activities have not increased as expected, despite the decision of the Lisbon European Council in 2000;

— giving research efforts a new impetus hinges on the joint execution of research programmes or parts of programmes and would not be feasible if it were necessary to wait for the setting-up of integrated projects or networks of excellence requiring a wide range of resources and the — sometimes difficult — coordination of efforts.

5.3. The EESC recognises that the Community decision to intervene to combat the three diseases is necessary and urgent.

5.4. Countries where the three diseases are rife are suffering severely at all levels, including the economy where poverty is becoming even more rampant.

5.4.1. The clinical trails partnership between the EU and the developing countries will make it possible to combat poverty more effectively as the countries affected will be provided with sufficient resources to establish specific facilities and train the necessary personnel, for example by intensifying the transfer of knowledge that medical personnel responsible for conducting clinical research in Africa must acquire.

5.4.2. The aim of this intervention is clear:

— to try to bring an end to the fragmentation of European research;

— to contribute towards strengthening competitiveness in research and development on the global market;

— to implement European development and cooperation policies;

— to make national programmes more relevant by pooling them within the EDTCP.

5.5. The EESC approves the way the programme's funding is structured in line with its objectives:

— networking and coordination of European national programmes;

— support for the strengthening of capacities in the developing countries;

— measures to ensure the visibility and sustainability of the programme adopted.

5.6. The EESC welcomes the fact that the following are expressly provided for in the programme:

— follow-up arrangements;

— regular evaluation of the programme's progress;

— an annual report on the framework programme, presented to the European Parliament and the Council (Article 173);

— a range of anti-fraud measures to be carried out concurrently with the programme.

6. **Specific comments**

The EESC notes that:

6.1. The administrative procedures will be simplified, compared with the previous RDFP (Research and Development Framework Programme); the complexity and red tape were such that they acted as a disincentive to many research teams

6.2. The EDTCP seems to bring with it new and positive ideas: more autonomy and flexibility.

6.3. It will no longer be necessary, as was the case in the past, for each participant in a project to submit an analytical report on their activities. As regards its coordinating role, the programme will become the interface between the Commission and all the partners. It will be responsible for ensuring the scientific credibility of each project or network.

6.4. Evaluation procedures will be more flexible, owing to the Internet. Researchers must consider it an honour rather than a chore to evaluate an initiative like the EDTCP programme.

6.5. The programme is intended to be not only a bridge between researchers/developers and developing countries but also a tool in an ambitious and unifying initiative, guaranteeing, among other things, the transfer of technologies that can be used to develop solutions for the treatment and prevention of endemic diseases (malaria and tuberculosis) and sexually transmitted diseases in the countries concerned.

6.6. The programme will act as a catalyst for action and help to avoid fragmentation and duplication of human and financial resources in Member States' national programmes.

6.7. It would appear that, with this programme, the Commission has decided to put an end to the scattershot approach applied during the previous RDFP; instead there will be greater integration, more decisions on long-term cooperation and therefore fewer ad hoc alliances.

6.8. The EESC notes that the Commission has decided to select only three diseases: HIV/AIDS, malaria and TB. It is true that these are serious endemic diseases which are currently causing great devastation, especially HIV/AIDS.

6.9. However, the public health situation in the sub-Saharan regions of Africa is even more grave. The EESC would point out that there is a need for urgent action to combat other equally serious diseases such as childhood measles, cerebrospinal meningitis, trypanosomiasis, filariasis, kwashiorkor, pernicious anaemia, etc.

6.10. The EESC would stress that the most urgent aspect of the situation in Africa is the fact that it is economically impossible for these countries to obtain effective drugs and medicines that are already available.

6.11. Moreover, the EESC takes the view that, on the basis of these drugs, clinical research must also aim to develop new treatment protocols that are adapted to social and economic conditions in sub-Saharan Africa.

6.12. The EESC believes that policies for the prevention of these three diseases are an integral part of clinical research in the developing countries. These policies, which require substantial resources and skilled personnel, entail radical measures over a very long time scale in countries where the movement of persons is difficult for numerous reasons.

Brussels, 26 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 417/2002 on the accelerated phasing in of double hull or equivalent design requirements for single hull oil tankers and repealing Council Regulation (EC) No 2978/94'

(COM(2002) 780 final — 2002/0310 (COD))

(2003/C 133/19)

On 22 January 2003 the Council decided to consult the European Economic and Social Committee under Article 80(2) of the Treaty establishing the European Community, on the above-mentioned proposal.

The Specialised 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 13 March 2003. The rapporteur was Dr Bredima-Savopoulou.

At its 398th plenary session on 26 and 27 March 2003 (meeting of 27 March) the European Economic and Social Committee adopted the following opinion by 100 votes to 10 with 10 abstentions.

1. Introduction

1.1. The sinking of the tanker 'Prestige' (19.11.2002) and the ensuing ecological disaster off the coasts of Spain and later on spreading to those of France mobilized European public opinion three years after the similar accident of the tanker 'Erika' off the coast of France. The Commission in its Communication on improving safety at sea in response to the accident [1] announced a number of measures to minimise the risk of future accidents involving ships such as 'Erika' and 'Prestige'. The Transport Council on 6 December 2002, called for an acceleration of the calendar for phasing-out of single-hull tankers, for applying the Condition Assessment Scheme (CAS) for single hull tankers that are over 15 years of age, as well as the conclusion of administrative agreements by Member States with a view of refusing single hull oil tankers carrying the heaviest grades of oil into their ports, terminals and anchorage areas. The conclusions of the recent Council meeting in Brussels on 20 and 21 March include a set of measures which the EESC supports very warmly.

2. The Commission proposal

2.1. In order to meet the objectives of the Transport Council, the Commission proposed the following three amendments to Regulation (EC) No 417/2002 [2]:

— A provision that heavy grades of oil shall only be carried by double hull tankers.

— A revision of the EU phasing out scheme to ensure in particular that single hull tankers of category 1 will not operate beyond 23 years and 2005 or 28 years and 2010 for category 2 and 28 years and 2015 for category 3.

— A broader application of the special inspection regime for tankers (the Condition Assessment Scheme), designed to assess the structural soundness of single hull tankers that have passed the age of 15 years.

2.2. The severe oil spill resulting from the 'Prestige' compelled the Commission to reconsider the phasing out scheme under Regulation (EC) No 417/2002. The purpose of the proposed revision of the phasing out scheme is to lower the age limits and cut-off dates to the level as initially proposed in the 'Erika' I package in order to ensure a better protection of the marine environment. The Commission is aware of the considerable economic impact on the tanker industry and intends to present an economic analysis as soon as possible.

2.3. As with the 'Erika' accident heavy fuel oil proved once again to be among the most polluting types of oil, hence, the Commission's proposal to prohibit the transport of heavy grades of oil in single-hulled tankers bound for or leaving EU ports. The Commission asserts that there is today a sufficient capacity of double hull oil tankers to ensure that there will be no disturbance of security of supply.

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[1] COM(2002) 681 final.
[2] OJ L 64, 7.3.2002, p. 1, EESC Opinion OJ C 14, 16.1.2001, p. 22.

3. **General comments**

3.1. The EESC expresses its deep concern for the disaster of the tanker 'Prestige' and the ensuing social, environmental and economic consequences. It is thankful that no loss of life occurred. It is of the utmost urgency that every effort should be exerted so that the occurrence of such incidents is minimised and the victims are fully compensated. There is an obligation for all parties concerned to give priority to urgently reviewing the effectiveness of the current regime for the carriage of oil by sea. Future measures should be adequate and address the real causes of such incidents.

3.1.1. The circumstances and causes of the Prestige incident are still under investigation. Although it is probable that, if the ship had been taken immediately to a place of refuge, the disaster might have been contained, it is possible to point to some of these causes or a combination of causes: structural failures in the ship which was 26 years old; maintenance shortcomings; decisions or lack thereof on dealing with the incident which compounded the problem; inappropriate manœuvres etc.

3.2. Despite the precedent of the tanker 'Erika' (which was also refused a place of refuge) and the repeated and consistent calls for a clear and adequate regime of places of refuge for ships in distress, the regime is still unclear. The EESC recalls its opinion on the proposal for the accelerated phasing-in of double hull tankers (Erika I package) ([1]) and its opinion on the Erika II package ([2]) and reiterates its call to address and resolve this politically unpopular issue. Therefore, it fully supports the proposal for speeding up the preparations of the plans to accommodate vessels in places of refuge. What is required is the designation of places of refuge in the EU waters, the implementation by EU Member States of the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC Convention 1990) as requested in its Opinion on the Erika I package and a clear-cut emergency response plan and procedures for implementation when a ship in distress needs to be taken to such a place. The plan should stipulate the obligations of the master, the coastal state and the salvor. All these actions have to be clarified and co-ordinated by one single authority preferably at EU level by the European Maritime Safety Agency (EMSA).

3.3. The EESC reiterates the concern ([3]) expressed in previous opinions that economic pressure on masters and crews who continue to serve on board substandard ships may have an impact on ship safety. Therefore, crew members must be encouraged to report anomalies on board likely to cause accidents and subsequently must be given proper protection by EU legislation. In the Committee's view the human dimension of safety must be taken into consideration as a matter of urgency if the proposed technical measures are to be applied effectively under favourable conditions. The EESC expresses its concern about the continued attitude of regulators who view shipmasters as having the overriding responsibility of ships. In reality, in present day shipping operations the masters real power and resources have been severely constrained. Since many national authorities still target the master and ships officers through the legal system in preference to searching through the bureaucratic maze of ownership and control of ships, it is necessary to clarify the legal liability of all parties involved in maritime transport. In light of the above considerations, the EESC reiterates its previous calls on the Commission to draw up appropriate proposals, for example in a new 'Erika III' package on the human dimension, thus making for a comprehensive and integrated approach to maritime safety.

3.4. The proposal for a regulation is an immediate response to the Prestige accident. The EESC urges that as soon as the outcome of the investigation is known, whatever supplementary measures it may judge necessary be implemented. However, the EESC points out that the double hull is not in itself sufficient to solve the enormous problem of environmental disasters caused by accidents involving oil tankers, and that other measures are essential.

3.5. The EESC recalls that with its opinion on the Erika I package it expressed the view that the measures taken at international level to improve safety and reduce accidental pollution have brought about considerable drop in the incidence of such pollution. Pollution caused by ships is far from being the only source of maritime pollution, although its importance should not be minimised, bearing in mind that ships account for an estimated 15 % of total pollution. It should be noted that large oil tankers transport huge quantities (the Prestige was carrying 77 000 tonnes of oil), hence concentrating the damage. It also is recognised that discharges from urban areas and land-based economic activities account

([1]) OJ C 14, 16.1.2001, p. 22.
([2]) OJ C 221, 7.8.2001, p. 54.
([3]) OJ C 14, 16.1.2001, p. 22 and OJ C 221, 7.8.2001, p. 54.

for two-thirds of marine pollution along coastlines and in estuaries, and drastic reductions must be made for these discharges. While welcoming measures proposed to reduce maritime pollution caused by ships, the EESC would like to see a similar approach to maritime pollution caused by discharges from urban areas and land based economic activities ([1]).

3.6. The principle of proportionality — enshrined in the jurisprudence of the European Court of Justice and EU law — should be observed in all instances. Proportionality of the proposed measures should refer not only to the consequences but also to the real causes of the incident. The EESC wonders what would be the EU reaction in similar incidents of double hull ships which cannot be excluded in the near future as they develop their commercial life.

3.7. The EESC subscribes to the general view that maritime accidents are the result of ineffective implementation or infringements of the existing legislation rather than its inadequacy. Therefore, the EESC fully supports the earlier application of the measures in the Erika I and Erika II packages and the priority attached to them by the Commission. The measures should be applied rigorously and in parallel.

3.8. The sense of urgency to address highly sensitive economic, social and environmental issues should not disregard the rules of international law. In a string of past opinions since 1993 the EESC has been consistently advocating that regulations relating to maritime safety and pollution prevention affecting international shipping should stem from the competent International Maritime Organization (IMO). Unilateral measures may undermine the IMO status and trigger off unilateralism by third countries that may seriously curtail the important cross trading activities of the EU fleet. There are already indications for such action from the US and some Asian countries. Therefore, it is desirable to ensure that EU rules on maritime safety and protection of the maritime environment take into account the fact that EU waters must remain open without discrimination to all vessels which meet international standards. In light of the above considerations and of the international character of maritime transport, the proposed measures should be referred to IMO for a possible global application.

3.9. The implementation of the Commission proposal creates the urgent need for new vessels which meet the new requirements. For reasons of safety, guarantees and strategy, the Community's shipbuilding policy will have to be analysed and reconsidered so as to facilitate the construction of ships in European yards and draw up a European plan for financing the replacement of scrapped vessels.

4. **Specific comments**

4.1. The EESC believes that the EU should adopt a balanced policy taking into account the environmental, economic and social effects in line with the stipulations of the Göteborg Summit for a sustainable assessment of EU actions.

4.2. The EESC maintains that there is pressing need to implement rapidly and effectively the following:

— a clear-cut regime on places of refuge

— the introduction of contingency plans for accidents

— the intensification of supervisory measures

— the need to clarify the legal liability of all parties involved in maritime transport

— improved vocational skills for crews

— requiring repairs to be carried out at dockyards offering guaranteed quality, thus ensuring safety, more stringent technical standards for the design and construction of vessels

— a stronger enforcement of the port state control Directive

— the more rapid implementation of the Directive requiring greater transparency of classification societies

— the ratification by EU Member States of the Bunkers Convention and the Hazardous and Noxious Substances (HNS) Convention.

4.3. In view of the serious socio-economic implications and of the international character of shipping, the EU Member States, under speedy procedures, should endeavour to introduce through IMO for global application a satisfactory accelerated phasing-out schedule for single-hull tankers which would be aligned with the Oil Pollution Act (OPA) schedule of the

([1]) EESC Opinion to be adopted on Marine Environment (NAT/166).

US. The EU initiative in IMO should be taken without prejudice to the right and obligation to ensure timely and adequate environmental protection at EU level.

4.4. The EESC supports the banning of single-hull tankers for the carriage of the most polluting heavy grades of oil. However, the proposal may create both supply and refining difficulties in the EU exacerbated by the war in Iraq. It should be noted that much of the heavy crude oil imported in the EU is produced in the North Sea and transported in specialized high quality single-hull shuttle tankers. These vessels are unique to the North Sea operation and are of a high standard. In this context, derogations could be envisaged where appropriate.

4.5. The banning of carriage of heavy grades of oil will affect all single-hull oil tankers from 600 dwt and above. However, the majority of those below 5 000 dwt are engaged in short-sea shipping and domestic voyages. Moreover, there are very few double-hull tankers actually to provide these operations. Mindful of the need to safeguard vital bunkering operations in the EU and to maintain supplies to locations that depend on sea transport for their oil (e.g. the servicing of islands), the EESC would propose that for single hull tankers below 5 000 dwt the banning measures are introduced in a progressive manner. The EU should propose to the IMO the designation under the Marpol Convention of highly sensitive environmental areas (e.g. Venice, Bocche di Bonifaccio) as 'areas to be avoided' by tankers carrying heavy fuel oil. Moreover, the EU and the IMO should cooperate to establish, in accordance with the SOLAS Convention, mandatory routing systems along the EU coasts for single-hull tankers carrying higher polluting oils.

4.6. The EESC welcomes the proposal whereby there is a broader CAS inspection regime to assess the structural soundness of single-hull tankers that have passed the age of 15 years. In the case of ageing ships, a thorough inspection of vital parts of the hull is essential to detect possible weaknesses in order to rectify them and reduce the risk of breaking up in heavy seas.

5. **Conclusions**

5.1. Without prejudice to the remarks above, the EESC supports the proposal for a Regulation on the accelerated phasing in of double hull or equivalent design requirements, submitted by the Commission.

5.2. Despite the precedent of the Erika accident and the ensuing mobilization of the EU institutions which resulted in two legislative packages (Erika I and II), the EESC regrets that another ecological disaster has occurred from the sinking of the tanker Prestige.

5.3. The EESC deplores the fact that its repeated calls (in its opinions on the Erika I and II packages) for a number of concrete measures have not materialized. Therefore, it feels compelled to reiterate them hoping that they will be taken into account in order to avoid the occurrence of similar accidents in the future.

5.4. The circumstances of the Prestige incident raise a number of questions which merit attention so that reasonable, practical and proportionate measures, which will address the causes of similar incidents, can be taken. Therefore, an investigation into the causes of the incident and compensation to the victims is of the utmost priority.

5.5. In line with the Göteborg Summit stipulations present action should be subject to a sustainability impact assessment covering its potential economic, social and environmental consequences. A cost/benefit impact study prescribing an overall balanced policy is urgently requested. Hence, trade must go hand in hand with maritime safety and environmental protection.

5.6. The EESC believes that there is a compelling need for the earliest and rigorous application of the Erika I and II packages and the urgent introduction of a regime on places of refuge and contingency planning with a clear line of authority to assist vessels in distress preferably at EU level by EMSA.

5.7. The EESC requests:

— the introduction of contingency plans for accidents;

— the intensification of supervisory measures;

— the need to clarify the legal liability of all parties involved in maritime transport;

— improved vocational skills for crews;

— requiring repairs to be carried out at dockyards offering guaranteed quality, thus ensuring safety, more stringent technical standards for the design and construction of vessels;

— a stronger enforcement of the port state control Directive;

— the more rapid implementation of the Directive requiring greater transparency of classification societies;

— the ratification by EU Member States of the Hazardous and Noxious Substances Convention (HNS) and the Bunkers Convention;

— the implementation by EU Member States of the Oil Pollution Preparedness, Response and Cooperation Convention 1990 (OPRC);

— the adoption of an Erika III package of measures addressing the involvement of the human factor in maritime safety;

— more stringent application of the Convention on training, certification and watchkeeping for seafarers (STCW 78/95);

— an obligation upon shipping companies operating cargo (oil, gas or chemical products) or passenger vessels within the EU to carry out a risk assessment for maritime transport activities in Community waters and ports for each vessel or group of vessels with the same characteristics. For this purpose, the IMO Guidelines for formal safety assessment (FSA Guidelines) should be used as a reference. The risk assessment must be approved by the maritime authority of the country in which the company is located, as should monitoring and any revisions of the assessment.

5.8. In view of the serious socio-economic implications and of the international character of shipping the EU Member States, under speedy procedures, should endeavour to introduce through IMO for global application a satisfactory accelerated phasing-out schedule for single-hull tankers which would be aligned with the Oil Pollution Act (OPA) schedule of the US. The EU initiative in IMO should be taken without prejudice to the right and obligation to ensure timely and adequate environmental protection at EU level.

5.9. The EESC supports the banning of single-hull tankers for the carriage of the most polluting heavy grades of oil. In this context, derogations could be envisaged where appropriate.

5.10. The proposed banning of single-hull tankers from 600-5 000 dwt would seriously affect bunkering operations in the EU and put at risk the supply of islands and other locations that depend on sea transport for their oil. It would also be hampering the promotion of the European short-sea shipping sector. Therefore, for single-hull tankers below 5 000 dwt. the banning measures could be introduced in a progressive manner.

5.11. The EU should propose to the IMO the designation under the Marpol Convention of highly sensitive environmental areas as 'areas to be avoided' by tankers carrying heavy fuel oil. The EU and the IMO should cooperate to establish, in accordance with the Solas Convention, mandatory routing systems along the EU coasts for single-hull tankers carrying higher polluting oils.

5.12. The EESC welcomes the proposal whereby there is a broader CAS inspection regime to assess the structural soundness of single-hull tankers that have passed the age of 15 years.

Brussels, 27 March 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH