ISSN 1725-2423

Official Journal of the European Union

C 88

Volume 49

English edition

Information and Notices

11 April 2006

Notice No | Contents | Page

EN

Price:
18 EUR

(Continued overleaf)

EN

II

(Preparatory Acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

424th PLENARY SESSION HELD ON 14-15 FEBRUARY 2006

Opinion of the European Economic and Social Committee on the Proposal for a Decision of the European Parliament and of the Council establishing a Programme of Community action in the field of health and consumer protection 2007-2013

(COM(2005) 115 final — 2005/0042 (COD))

(2006/C 88/01)

On 2 June 2005 the Council decided to consult the European Economic and Social Committee, under Articles 152 and 153 of the Treaty establishing the European Community, on the abovementioned 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 23 January 2006. The rapporteur was Mr Pegado Liz.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion by 130 votes to two with one abstention.

1. **Summary**

1.1 The Commission has submitted a proposal for a decision on a 'single integrated programme' at Community level in the fields of public health and consumer protection 2007-2013. The proposal is backed up by a strategy paper contained in a Communication and an extended impact study contained in an appended working paper.

1.2 This is the first time that the Commission has defined a joint strategy for public health and consumer protection policies and is doing so for such a long period (seven years). The EESC acknowledges the Commission's efforts to give fresh impetus to these two policies, which are now overseen jointly by a single Directorate-General.

1.3 The Commission seeks to justify this innovation on legal, economic, social and political grounds. The EESC welcomes all of the information provided and the care taken in the impact study to give a detailed explanation of the various options possible.

1.4 An extensive hearing organised by the EESC and various initiatives carried out in the meantime by the Commission and in the European Parliament have given a broad range of accredited representatives of the main stakeholders the opportunity to air their points of view on the wording, content and presentation of and the basis for the proposals from the Commission.

1.5 The Committee has studied the documents submitted and the exhaustive additional information provided by the Commission, and has considered the contributions made by the civil society representatives directly involved in the fields of public health and consumer protection. In the light of these, and taking account of the various written contributions sent to it by a wide range of representative organisations working in these areas, the EESC has formed the broad opinion that the proposed decision establishing a joint programme for Community action on health and consumer protection is not sufficiently justified or elucidated in many respects: the reasons given do not seem convincing enough to make this a valid option.

1.6 In particular, the EESC takes the view that although there are common and complementary points between health and consumer policy, this is not proof of the synergies referred to. These points could be developed and implemented by means of specific cooperation and coordination measures, focusing on the fundamentally horizontal nature of the two policies, as is the case with environmental policy, for example.

1.7 The legal bases of the two policies, which are defined respectively in Articles 152 and 153 of the Treaty, are of a very different nature. It is therefore important to avoid the perverse effect of bringing consumer protection policy into line with the strict complementarity and subsidiarity criteria that underpin public health policy, to the detriment of the EU's own powers in this field. This could also result in an unwanted 'consumerisation' of public health, confusing the concepts of 'user' and 'consumer' and lumping them together as common aspects of 'citizenship'.

1.8 The EESC also considers that consumer policy could lose out in a general budget calculation with a single basis. A separate decision on each EU policy, as has been the case to date, would have advantages for both strands, especially given the current institutional crisis and grave doubts about the financial perspective.

1.9 The EESC considers that the proposed decision not only fails to cover some of the basic aspects of the two policies, not ensuring that it is properly funded, but that it perhaps also sidesteps some genuinely crucial and topical aspects. The proposed arrangements for implementation, monitoring and evaluation should focus more on innovation, commitment and rigour.

1.10 The EESC requests that the powers and responsibilities of the Consumer Institute be better defined, and that it not be considered as a mere 'department' of the Executive Agency for Public Health with no powers of its own. This is the only way to make the decisive contribution that would be desirable to ensure that current legislation is implemented more effectively and to better inform, educate and protect consumers.

2. **Introduction: Gist of the communication and of the Commission's proposal for a decision**

2.1 In a Communication entitled *Healthier, safer, more confident citizens: a health and consumer protection strategy*, the Commission proposes that Parliament and the Council adopt a Decision with a view to establishing a Programme of Community action in the field of Health and Consumer protection 2007-2013.

2.2 The Commission has, for the first time, presented a new strategy and a Community action programme for 2007-2013 which brings together public health policy and consumer protection policy.

2.3 In its communication, the Commission explains the reasons for this new approach, indicating the common objectives of the two policies and the role they play in people's daily lives. The Commission also presents the advantages of the new combined programme in terms of synergies that could lead to both budgetary and administrative savings, resulting in greater efficiency.

2.4 Its chosen strategy is based on the need to create synergies between the two policies, which would help to achieve economies of scale and savings in financial management and would lead to administrative efficiency. This would also ensure greater consistency between measures and give these issues greater visibility on the political agenda.

2.5 According to the Commission, the common aims of this joint policy should be:

— to protect citizens from risks and threats which are beyond the control of individuals;

— to enable them to take better decisions about their health and their interests as consumers;

— to mainstream health and consumer policy objectives across all Community policies.

2.6 Relating to health policy, the objectives would be to:

— protect citizens against health threats;

— promote policies that lead to a healthier way of life;

— contribute to reducing the incidence of major diseases;

— make healthcare systems more efficient and effective;

— provide more and better information on health.

2.7 As regards consumer policy, the objectives would be to:

— ensure an equally high level of protection for all EU consumers;

— empower consumers to defend their own interests;

— broaden the scope of the Executive Agency for Health to accommodate a Consumer Institute.

3. **Assessment of the Commission communication and proposal**

3.1 *The joint programme: an overview*

3.1.1 The legal bases of Community public health and consumer protection policies are of a completely different

nature. Health policy is essentially the responsibility of the Member States, with EU action being allowed only where it complements national policies, as regards the specific aspects set out in Article 152 ([1]). However, consumer policy, as set out in the Treaty, especially following Amsterdam, has largely been subject to a common approach, with a view to promoting consumers' rights and protecting their interests, in particular when this concerns the completion of the internal market ([2]).

3.1.2 There is thus no legal basis for referring to a supposed shared legal 'identity' between Articles 152 and 153 on which to base a strategy and an integrated programme for action in the fields of public health and consumer protection.

3.1.3 Furthermore, in the Member States, the legal and constitutional nature of the right to healthcare is completely distinct from that of consumers' rights, and protection of these rights also takes very different forms.

3.1.4 This does not mean that the EESC fails to acknowledge the crucial importance today of public health-related issues, which are in themselves reason enough for developing a strong European public health policy that could also be seen as an instrument with which to combat poverty and exclusion. It is a matter of regret that the failure to approve the constitutional treaty may have contributed to the lack of real progress in this area.

3.1.5 The EESC must emphasise that the concepts of 'consumer' and 'patient' are not synonymous, and their motivations are not the same. 'Consumers' are not exclusively private individuals and take their decisions in relation to the market, for mainly economic reasons. Patients cannot be considered as mere consumers of medicines and of medical care, because their rights are not purely economic, and are comparable only with the right to justice or the right to education, which states uphold by providing services of general interest.

3.1.6 The Committee acknowledges that while these two policies do have aspects in common, the same is true (possibly even to a greater extent) of other policy areas ([3]). Furthermore, the Commission has not incontrovertibly demonstrated that the common aspects of actions to be carried out under the two policies can only be achieved through a single integrated programme, or even that this is the most appropriate or beneficial way ([4]).

3.1.7 Some consumer organisations believe that this integrated approach entails various problems, and the EESC agrees in some cases, including:

— the possibility that consumer policy will become less visible and will be further eroded as a result of being brought into line with and/or subordinated to health policy and that it would be relegated to merely complementing Member States' policies ([5]);

— greater difficulties in organising dialogue and coordination with the responsible national organisations and bodies which, in the vast majority of cases, do not deal with these two areas jointly;

— potentially greater difficulties for NGOs that work in either sector in accessing funding and negotiating co-financing for actions in their particular fields as a result of limited resources or resources being channelled towards other players.

3.1.8 In contrast, none of the six basic reasons given in the impact assessment (pp. 5-6) provides a cast-iron argument for treating the two policies jointly. Proper policy coordination, as set out in the excellent Commission initiative on administrative cooperation between national authorities ([6]), could be just as effective.

([1]) As pointed out by the Director-General of DG SANCO, Robert Madelin, at the opening of the Open Health Forum 2005 (held in Brussels on 7 and 8 November 2005) and by MEPs Miroslav Mikolasik (EPP) and Dorette Corbey (PES), in their remarks at parallel session 1 of that forum.

([2]) See, for example, the explanation of Vandersenden, Dubois, Latham, Van den Abeele, Capouet, Van Ackere-Pietry, Gérard and Ayral, in Mègret's Commentary on EEC Law, Vol VIII, 2a ed, 1996 pp 16 et seq and 41 et seq; the situation has become even clearer in the draft Constitution (OJ C 169 of 18 July 2003), if one compares the provisions of Article III-132 on consumer protection, incorporated into Chapter III of Title III on 'policies in other areas', on a completely even footing with social policy, agricultural or environmental policy and Article. III-179, on public health, which appears in Chapter V, on areas in which the EU may only 'take coordinating, complementary or supporting action' in relation to the actions of Member States, alongside policies on culture, youth, sport, or civil protection.

([3]) There are overlaps between consumer policy and public health policy and other areas such as the environment, competition, the single market and justice which could in theory also justify a joint approach.

([4]) Simply referring to the content of the 'financial perspective 2007-2013' (COM(2004) 487 final of 14.07.2004, point 3.3, page 24) is not in itself a persuasive argument, given the current deadlock in negotiations – it simply shows that the Commission is being consistent in its proposal. This is not the same as providing justification or proof of the soundness of its decision. It was, as a matter of fact, precisely the opposite view that emerged clearly from the Open Health Forum 2005, which accepted the need to strengthen an independent European-level public health policy.

([5]) As the Commission in fact clearly admits when it states 'The proposed strategy and programme aim to implement articles 152 and 153 of the Treaty .... by complementing national action with value-added measures which cannot be taken at national level' (Legislative Financial Statement, p. 41).

([6]) Regulation 2006/2004 in OJ L 364 of 09.12.2004.

3.1.9 The Commission has also failed to demonstrate the long-term real, fundamental synergies that this harmonisation could create. Nor does it quantify the economies of scale it would generate; on the contrary, its impact assessment gives the impression that this solution is cost-neutral, because simply adding the two policies together would produce exactly the same financial framework ([7]).

3.1.10 Instead, at such a critical time for the EU's financial perspective, keeping the two policies separate could have the advantage of opening up two fronts for negotiation and of making the relevant aspects of each one more visible. This could help to achieve better results for the resources allocated to both policies, according to the representative organisations in these areas.

3.1.11 The EESC is in fact extremely concerned at the idea that the financial perspectives 2007-2013 might suffer swingeing cuts. Whilst not necessarily rendering the programme — which already has such limited resources — completely unviable, such cuts would at the very least result in it having to be completely redrafted and submitted once again, with a new set of priorities and actions. For practical reasons, it would make no sense simply to cut the budget by a certain percentage, in proportion to the overall reduction in the budget as a whole.

3.1.12 Lastly, the various aspects that are rightly highlighted as being common to the two policies can be subject to joint and concerted actions at both Community and national level, just as in other Community policy fields such as the environment, competition, education and culture. The horizontal nature of the two policies means that they must automatically be considered in all other policies, as the Commission itself has at last acknowledged in the set of examples given in Annex 2 to its communication (p. 15).

3.2 *Specific comments*

3.2.1 The study group held a public hearing with the main civil society representatives directly concerned by the Commission programme. The hearing, which brought together around 70 participants, made an invaluable contribution to the analysis of the Commission communication and proposal, although logistical constraints make it very difficult to carry out an in-depth analysis of all the various aspects at stake. However, the aim has been to assess the programme's objectives and targets, its resources and their appropriate use, and the measures to be implemented with these resources to achieve the stated aims.

3.2.2 Consumers

3.2.2.1 The Commission correctly highlights various measures that should be adopted to make consumer protection in the EU more equitable: it does so, however, with a view to providing a minimum level of protection. This confirms the line taken in its recent legislative initiatives, which give priority to total across-the-board harmonisation, offering a low level of protection. Furthermore, the EESC wishes to express its concern at the systematic adherence to the principle of applying the law of the country of origin, and warns against the danger of adopting a narrow approach to consumer protection that consists of merely providing information about goods and services ([8]).

3.2.2.2 The EESC considers that the Commission could have been more innovative ([9]) and that the new proposals could have been better developed ([10]). The EESC drew the Commission's attention to a number of shortcomings, which still exist, when it drew up its opinion on Consumer Policy Strategy 2002-2006 ([11]). More recently, it adopted an own-initiative opinion which explored and expanded on this issue, to the conclusions of which the reader is referred ([12]).

3.2.2.2.1 The EESC therefore proposes to include certain issues in the current programme specifically:

— the issue of household overindebtedness;

— the revision of the arrangements for producer liability, concluding the revision of the directive on unfair terms in consumer contracts and reviving the CLAB;

— revisiting the issue of the liability of providers of faulty services;

— improving security in e-commerce;

— the need to ensure better access to justice and, in particular, collective mechanisms to protect consumer rights;

— promoting synergies between consumer organisations in the 'old' and 'new' Member States;

([7]) Point 4.4 of the Impact assessment (p. 32) indeed states that 'from a purely financial point of view, the advantages of increasing budgetary spending allocated to the two programmes individually or to a single combined programme are practically identical'.

([8]) Typical of this approach is the directive on unfair commercial practices, as was the proposal on consumer credit (although this was duly reworked and replaced by a better proposal) and, to a certain extent, the directive on the sale of consumer goods and associated guarantees.

([9]) As the Commission itself acknowledges, stating 'indeed, there will be no major changes in these objectives compared to the Consumer Policy Strategy 2002-2006' (Legislative Financial Statement, p. 58).

([10]) A reference must be made to two particularly important subjects in this field, one positive: the fact that a new proposal for a directive on consumer credit has finally been published [COM(2005) 483 final of 07.10.2005], and the other negative: the decision to withdraw the proposal for a regulation on sales promotions [COM(2005) 462 final of 27.09.2005].

([11]) OJ C 95 of 23.04.2003.

([12]) OJ C 221 of 08.09.2005.

— taking account of the particular situation of the new Member States and of the countries that will certainly join before the programme ends ([13]);

— setting the entire programme in the context of sustainable consumption and fair trade.

3.2.2.3 As regards the initiatives which are planned (and which the Committee welcomes and supports), there is in many cases a lack of practical information on how and when they are to be implemented. This applies, for example, to:

— developing a Common Frame of Reference for European contract law, set out in 4.2.2;

— creating an early warning system to identify rogue traders, set out in 4.2.3;

— guaranteeing that consumers' voices will be heard and developing their organisational capacities, set out in 4.2.2 and 4.2.4;

— mainstreaming consumer policy into other policies. This is referred to in points 4.1 and 4.2.2, but nothing is said about how it is to be achieved.

3.2.2.4 The EESC notes that, as regards the aims of increasing the participation of civil society and stakeholders in policy-making and of incorporating consumer policy into other Community policies, the indicators put forward for monitoring and assessing the programme's synergies, except for the first one, are inappropriate for consumer policy.

3.2.2.5 The EESC also considers that it would be useful to define other indicators for assessing consumer policy in order to ensure that they are more reliable and tie in more closely with the objectives outlined in the programme's annex 3.

3.2.2.6 Moreover, although 'annual work plans' are to be drawn up for the implementation of the new seven-year programme, it appears that no use will be made of the instrument featured in the 2002-2006 plan, namely the review of the rolling programme of actions ([14]). Such a review is all the more necessary now that the programme has been increased to seven years.

3.2.2.7 The EESC points out that the organisational structure and operational methods of the Consumer Institute within the Executive Health Agency have yet to be defined. It therefore recommends that its independence be guaranteed, with clearly defined responsibilities and powers to stop it simply constituting more red tape.

3.2.2.8 Lastly, the funds set aside for consumer policy represent less than 20 % of the total, and account for no more than seven euro cents per consumer per year for the seven years of the programme. The funding may appear to have doubled since the previous programme, but the programme has almost doubled in length — from four to seven years.

3.2.2.9 It should be added that the simple fact of the forthcoming accession of new Member States should have resulted in a budgetary proposal that reflects more than just the programme's duration. This is already inadequate for the actions to be carried out, with a substantial proportion being taken up by the Institute's running costs.

3.2.3 Public health

3.2.3.1 The EESC wishes to highlight the positive aspects of the Commission programme, specifically the aim of boosting public health policy by viewing it as a priority and giving it greater visibility and more effective instruments, for which there is an urgent need. Without even mentioning the bird-flu pandemic threat, there is a clear need for Community-level cooperation on important aspects of public health — something that the Commission rightly emphasises ([15]).

3.2.3.2 The EESC therefore welcomes the broad guidelines relating to public health, in particular the idea of incorporating concerns in this field into other Community policies, and the commitment to prevention, information analysis, closer cooperation, the exchange of knowledge and better dissemination of information.

3.2.3.3 The EESC also welcomes the priority the Commission attaches to combating inequalities in access to health care, to the need to promote children's health and to the situations created by active ageing in the labour market.

3.2.3.4 The Committee shares the Commission's concerns regarding global health threats and the increasing prevalence of lifestyle-related diseases, and welcomes the proposed strategy for improving action on health determinants.

([13]) This is the subject of an interesting draft EP report, rapporteur: Henrik Dam Kristensen [2004/2157(INI) of 31.05.2005].

([14]) Carried out on 15 September 2003 [SEC(2003) 1387, of 27.11.2003].

([15]) This is clearly demonstrated in the set of decisions that the Commission has adopted and published in this field [Decisions EC(2005) 3704 and 3705 of 6 October, 4068 of 13 October, 3877 and 3920 of 17 October, 4135 and 4163 of 19 October and 4176 of 20 October, 4197 and 4199 of 21 October, in, respectively, OJ L 263 of 8 October, 269 of 14 October, 274 of 20 October, 276 of 21 October and 279 of 22 October].

3.2.3.5 The EESC supports the Commission's commitment to encouraging organisations working in the health sector and to giving them more of a say on consultative bodies. It welcomes the concern for patient mobility, and for supporting cooperation between national health systems with a view to overcoming the challenges they face and to strengthening mechanisms for exchanging information on public health issues.

3.2.3.6 The EESC thus acknowledges that the Commission's treatment of the public health strand has more closely matched the needs of the sector, in terms of defining objectives, of planning actions and of the resources allocated — almost three times the amount scheduled in the previous programme and more than four times the amount set aside for the consumer strand.

3.2.3.7 Nevertheless, even here, the EESC can see no significant innovations ([16]) in relation to the substance of the previous programmes. Its comments on the 2001-2006 programme and on the European Environment and Health Plan 2004-2010 thus remain entirely valid, in particular as regards the persistent lack of practical and objectively assessable targets and of a precise timetable for achieving them ([17]).

3.2.3.8 The EESC would have liked to see the inclusion of specific goals to be achieved in respect of strands of the previous programme which have been left out of the current one, such as action to combat inequality in health, especially gender inequality, the situation facing older people, the most disadvantaged and communities at the margins of society, the confidentiality of personal data, personal and biological factors, the adverse effects of radiation and noise, and resistance to antibiotics.

3.2.3.9 The EESC would also have liked the programme to have addressed, in a consistent manner, some extremely important issues, such as obesity, HIV/Aids, mental health ([18]), child health and childhood diseases and ageing, which, whilst mentioned in the programme's description, are not given equal coverage in the proposed decision itself.

3.2.3.10 The Committee is also surprised that the Commission proposal overlooks some of today's major public health issues, such as dental health, people's sight, palliative care and pain management.

3.2.3.11 On a more general note, the Committee would have liked the Commission to demonstrate greater commitment to aspects such as the quality of information at all levels and in all areas, overall risk prevention, public-private partnerships and cooperation between Member States and at international level.

3.2.3.12 Lastly, the EESC would prefer the programme to have set out practical actions facilitating a comparison of health systems in the EU ([19]), encouraging the protection of patients when they are in another Member State ('EU health insurance'), more energetically promoting the adoption of codes of good practice, and creating and developing centres of excellence and an epidemiology centre.

Brussels, 14 February 2006.

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND

([16]) A comparative analysis of the 2007-2013 and the 2001-2006 programmes shows that the content of points 1.1, 1.2, 1.3, 1.4, 1.6, 3.1, 3.2, 3.3, 3.4, 5.4, 5.6, 5.7 and 6 of the current proposal matches that of the previous programme and is simply numbered differently. Point 1.5 contains a degree of innovation, as does the detail of point 2, although health emergencies already featured in the previous programme; points 3.5, 3.6, and 3.7; all of point 4, which was only vaguely sketched out in the Commission communication supporting the previous programme; points 5.1, 5.2, 5.3, 5.5 and 5.8. In contrast, the reference to actions in the field of cooperation with candidate countries and third countries has disappeared from the current programme and is only mentioned in point 2.2 of the Commission communication supporting the programme.

([17]) OJ C 116 of 20.04.2001 and OJ C 157 of 28.06.2005.

([18]) This is all the more surprising because the Commission has just published an excellent Green Paper on a mental health strategy for the European Union [COM(2005) 484 final of 14 October 2005]. The Green Paper follows on from a range of activities carried out in this field since 1997, which are described in the report drawn up by Professor Ville Lehtinen in December 2004. It shows that the Commission can, on its own initiative, carry out highly relevant actions in important areas of public health that have nothing to do with consumer policy.

([19]) The need for this was clearly demonstrated by the WHO's Dr Yves Charpak at the Open Health Forum 2005.

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1348/2000 of 29 May 2000 on service in the Member States of judicial and extrajudicial documents in civil or commercial matters

(COM(2005) 305 final — 2005/0126 (COD))

(2006/C 88/02)

On 1 September 2005, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned 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 23 January 2006. The rapporteur was Ms Sánchez Miguel.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion by 134 votes with two abstentions

1. **Conclusions**

1.1 The EESC congratulates the Commission on the content of the proposed reform, which clarifies the Regulation — a Regulation that has such a key role in making the area of freedom, security and justice a reality in the EU — and will make it easier to comply with. Some of the new points create a degree of confusion, however, as to how its content should be interpreted, in particular Article 8(3), which establishes an exception for calculating deadlines when the addressee refuses to accept a document on the grounds that he or she does not know the language in which it is drawn up, to protect the applicant in line with national provisions.

1.2 Article 14, where it refers to arrangements *equivalent* to acknowledgement of receipt, should also provide further details of the other arrangements for proof of receipt applying to service or transmission effected by the postal services.

1.3 Both of these issues would need to be clarified and most importantly, the different language versions would need to be checked, because there are a number of discrepancies between them. This problem must be solved before the Regulation is published, given that it will be implemented by each Member State in line with its own language version.

1.4 The EESC wishes to express its concern at the lack of consideration the Commission gives to the Regulation's implementation in the new Member States, despite having adapted the annexes to accommodate this new situation.

1.5 In any event, the EESC wishes to state that the procedure adopted in the reform is the right one, because it takes account of all parties concerned and, above all, because it has used one of the instruments created for this purpose — the European Judicial Network — which enables account to be taken of the shortcomings that have been identified in the implementation of both procedures.

2. **Introduction**

2.1 The European Commission has drawn up this proposal in line with the provisions of Article 24 of Regulation (EC) 1348/2000 [1] establishing that, once the Regulation's application in the indicated period has been evaluated, it will, by no later than 1 June 2004, adapt the content of its regulations to reflect the evolution of notification systems. Nevertheless, the proposed amendment goes beyond a simple revision of the Regulation's form, because it fits into the process of legislative simplification started by the EU, and because it takes account of the large volume of legislation proposed during this period, in order to comply with the Tampere Council resolution, which is to create an area of freedom, security and justice that guarantees the free movement of persons within the EU.

2.2 This Regulation has an extremely important role to play in the proper functioning of the internal market. Cross-border transactions and trade and especially new trading systems, which rely on the new technologies, require a regulation that establishes the procedure for the service and transmission of judicial and extrajudicial documents between Member States. It should be emphasised in this context that the EESC has already stated its view [2] that the legal instrument governing this procedure should be a regulation and not a directive, since the stated aim is to ensure total harmonisation.

3. **Content of the reform**

3.1 As part of the process of simplification that the proposal for reform seeks to achieve, amendments are included improving legal certainty for both the applicant and the addressee, because the aim is to provide a fundamental principle that will uphold confidence in the internal market.

3.2 Firstly, clear rules are established for calculating periods (Article 7(2)), thus replacing earlier provisions with a time limit of one month, starting from receipt of the document and, only in relations between the administrative authorities of each State, will it be the relevant national legislation that applies in each case (Article 9(1) and (2)).

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[1] OJ L 160 of 30.6.2000.

[2] OJ C 368 of 20.12.1999 (point 3.2).

3.3 The regulation clarifies refusal to accept a document if it is in a language not understood by the addressee, and considers the option of having the document translated into in a language which the addressee does know, with the date of the translation being the start date of the period set (Article 8.1)). Nevertheless, the new paragraph 3 provides for an exception to cases in which national legislation lays down specific time limits, in order to preserve the rights of the applicant. In this case the date will be the date of service of the initial document.

3.4 Also important is the amendment proposed on the costs of service or transmission (Article 11(2)), which determines that each Member State will set a fixed fee laid down in advance.

3.5 With regard to service or transmission by postal services (Article 14), Member States are given the option of requiring proof, as constituted by acknowledgement of receipt or 'equivalent', without this affecting the right of persons interested in judicial proceedings to serve or transmit judicial documents through the intermediary of judicial officers, officials or other competent persons in the Member State addressed (Article 15).

4. **Comments on the proposal for amendment**

4.1 The EESC welcomes any proposal for a change to legislation in line with the principle of simplification ([3]) and which at the same time guarantees legal certainty in the area concerned. In this case, it points out that the Commission has fulfilled its duty of drawing up the report provided for in Article 24 of the Regulation itself and that, furthermore, in the meetings of the European Judicial Network ([4]), experiences of the Regulation's application have been studied and discussed and, once the relevant information and studies had been collected, the Commission adopted the report ([5]) that has provided the basis for the proposal now under consideration.

4.2 In this context, it must be acknowledged that bringing the calculation of time limits for the service and transmission of documents into the ambit of Community legislation represents a major step towards simplification. This is because previously, differing national provisions applied, which delayed proceedings. This new approach also gives the parties involved an understanding of the procedures without having to find out about those in force in each Member State. Nevertheless, it is acknowledged that national law applies to relations between States, as set out in the amended Article 9, without this affecting the individuals concerned.

4.3 As regards the proposed new wording for Article 8 ([6]), on the addressee's 'refusal to accept a document' if it is in a language that the addressee does not understand, and the obligation to have the document translated, this appears to be more concerned than the current wording about protecting the interests of the parties involved, in particular because it does not reduce the time limits set and instead the period is deemed to start only from the date of translation. Nevertheless, the wording of the new Article 8(3) poses a serious problem of implementation by Member States with regard to the above, by providing for an exception that would allow the use of national provisions for the calculation of deadlines, which could result in the document's recipient being unable to defend himself or herself.

4.4 The EESC also welcomes the inclusion of a fixed fee laid down in advance by each Member State because there is often distrust between the parties concerned regarding the lack of clarity in the costs. This arrangement will improve the transparency of the procedure.

4.5 In line with the EESC opinion ([7]), the committee considers that there is a need to examine the use of technical innovations and new means of transmission accepted by receiving agencies, such as e-mail or the Internet, for the service and transmission of judicial and extrajudicial documents in civil and commercial matters, provided that legal certainty is guaranteed for the parties concerned.

4.6 Another issue that should be considered is the wording of the forms set out in the annexes, which have been drawn up with the judicial services of the Member States, in other words, the agencies transmitting and receiving the documents, in mind. The EESC considers that consideration should also be given to the interests of the applicant and the addressee, by simplifying the wording and making it comprehensible to the parties concerned in judicial and extrajudicial proceedings.

Brussels, 14 February 2006.

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND

([3]) OJ C 24 of 31.1.2006.

([4]) European Judicial Network in civil and commercial matters. OJ C 139 of 11.5.2001.

([5]) Report on the application of Council Regulation (EC) 1348/2000. 1 October 2004 - COM(2004) 603 final.

([6]) The new proposal for Article 8, concerning refusal to accept a document on the grounds that it is not in an official language of the Member State addressed, is in line with the case-law of the ECJ; see the recent judgment C-443/03 of 8.3.2005.

([7]) OJ C 368 of 20.12.1999.

Opinion of the European Economic and Social Committee on The role of railway stations in the cities and conurbations of an enlarged EU

(2006/C 88/03)

On 10 February 2005, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on: The role of railway stations in the cities and conurbations of an enlarged EU.

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 31 January 2006. The rapporteur was Mr Tóth.

At its 424th plenary session, held on 14-15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion by 139 votes to 2, with 4 abstentions.

1. **Recommendations**

1.1 The European Economic and Social Committee urges that its recommendations should be included in the material being developed in response to the currently ongoing review of the *White Paper on European transport policy for 2010: time to decide* (COM(2001) 370).

1.2 An in-depth examination of the place of international passenger railway stations within the railway infrastructure is needed, particularly given their multiple roles as urban amenities and as part of railway networks and of Europe's architectural heritage.

1.3 There must be broad consultation of the public and of expert opinion on the needs to be met by stations, taking into account 21st century technological and technical developments. Options for regulatory arrangements must be worked out at regional, Member State and EU level, based on actual needs and with due regard to the subsidiarity principle.

1.4 EU legislation must take account of public expectations of international railway stations with regard to general improvements in passenger safety and protection from terrorist attacks.

1.5 Railway station development projects are of particular importance, given the role of such projects in helping to promote social and economic cohesion in the new Member States.

1.6 Options for funding structured development of international railway stations through public-private partnerships and other appropriate channels should be studied, with the involvement of the European Investment Bank (EIB).

1.7 It is important that railway stations should primarily fulfil their basic function as transport interchanges, rather than becoming centres for other activities such as shopping and business.

1.8 Railway station development projects must help to retain existing jobs, while boosting the creation of new jobs. Of course, the indirect effects as well as the direct effects of such projects must be taken into account.

1.9 The maintenance and development, not only of railway stations in large cities and of those serving international traffic, but also of railway stations used by people living in particularly disadvantaged regions, should be made a priority.

2. **Introduction**

2.1 To put it succinctly, stations are a kind of shop window for railway transport.

2.2 The 2001 White Paper on *European transport policy for 2010: time to decide* (COM(2001) 370) left the overall aims of EU transport policy fundamentally unchanged, except in that it placed greater emphasis on developing modes of transport capable of easing the burden on road transport systems and made transport policy more customer-oriented.

2.3 Railway stations play a key role in the free movement of goods, persons and services. They can help to ensure that passenger transport is available to all, and is as fast, efficient and smooth as possible. The smooth functioning of the internal market, the cutting back of red tape and a level playing field for competition are possible requirements for this to happen.

2.4 An EU transport policy is an important means of achieving economic and social cohesion, particularly with regard to ensuring fair competition, improving the safety of transport, and from the point of view of environmental issues.

2.4.1 On the subject of revitalising the railways, the White Paper notes that the railway transport sector is complex in nature. On the one hand, there are high-performance high-speed rail networks serving their passengers from modern stations; on the other, there are antediluvian services, often releasing passengers into dilapidated and unsafe stations, together with a mixture of local lines and crowded long-distance trains, which sometimes arrive late.

2.4.2 The White Paper suggests using investments to encourage integration of the high-speed train network with air transport, particularly with regard to stations handling airport traffic. At several points, the document refers to the role of stations in providing services to facilitate passengers' journeys, particularly with regard to baggage transport.

2.5 Adoption of the EU's first and second railway packages ([1]) has enabled continuous progress in the liberalisation of freight transport and harmonisation of quality standards. The EESC hopes that the third railway package will deliver similar results. The European Union still needs to adopt and implement measures in the field of passenger transport. The recommendations set out in this opinion tie in with the development of standards for international passenger transport and application of such standards within Member States.

3. **The regulatory environment**

3.1 The European Communities have adopted various regulations and directives on railway transport, such as the regulation establishing a European Railway Agency ([2]), and the directives on railway safety ([3]), infrastructure ([4]), allocation of capacity ([5]), interoperability ([6]) and development of the Community's railways ([7]). The above legislation is at best only of incidental relevance to railway stations.

3.2 The Commission is primarily concerned with harmonising technical standards (e.g. standardising the height of platforms to enable persons with reduced mobility to use them — Directive 2001/16/EC). Promoting interoperability involves harmonisation in technical areas such as railway electricity supply networks and safety networks, as well as harmonisation of certification requirements for engine drivers. The current competitive disadvantage of railways has partly to do with the fact that trains are held up at the borders of certain countries due to differing technical standards (e.g. gauge, technical modifications to locomotives, changeover of train crews).

3.3 Directives focussing on the rights and safety of passengers are particularly relevant to the subject of railway stations (e.g. 2001/16/EC). These include the directives in the third railway package, which are aimed at enforcing passengers' rights, partly by ensuring that tickets (which should be refundable, wherever possible) can be purchased conveniently and in good time; when purchasing tickets, passengers must be aware of the conditions applying to a given type of ticket and of other relevant information. The directives also aim to improve passenger safety, both in city stations and in trains, which outside peak hours are often the scene of violent crime. The introduction of higher safety standards and the availability of help by railway staff working in stations and on trains in dealing with unpleasant incidents would certainly encourage more people to use railways.

3.4 The EESC is closely following the Commission's work, and in the field of rail transport it has produced opinions on issues such as social aspects, financing considerations, metropolitan regions and trans-European transport networks ([8]).

4. **Railway stations and intermodality**

4.1 *Railway stations as intermodal interchanges*

4.1.1 The impetus to reverse the gradual sidelining of railways in urban life came from high-speed trains such as TGVs, HSTs and ICEs and also from the Trans-European Networks (TENs), which were conceived in parallel to these, during the same period. Once railway transport became feasible over distances (600-800 km) for which flying had been the only real option until then, there was a change not only in the number of passengers using stations but also in their composition, thus enhancing the value of railway stations for cities.

4.1.2 The second factor which could bring change to railway stations as transport interchanges has less to do with the role of high-speed trains than with changes in the function of suburbs in conurbations, where mono-functional dormitory towns could give way to multi-poled, multifunctional urban areas. All of these, together with an awareness that road building cannot necessarily keep up with suburban commuter car traffic, have focused attention on the need to integrate urban and suburban public transport, for example through

([1]) First railway package: Directive 2001/12/EC – OJ L 75 of 15.03.2001, p. 1 – EESC opinion – OJ C 209 of 22.07.1999, p. 22; Directive 2001/13/EC – OJ L 75 of 15.03.2001, p. 26 – EESC opinion – OJ C 209 of 22.07.1999, p. 22; Directive 2001/14/EC – OJ L 75 of 15.03.2001, p. 29 – EESC opinion – OJ C 209 of 22.07.1999, p. 22.
Second railway package: Directive 2004/51/EC – OJ L 164 of 30.04.2004, p. 164 – EESC opinion – OJ C 61 of 14.03.2003, p. 131; Directive 2004/49/EC – OJ L 164 of 30.04.2004, p. 44 – EESC opinion – OJ C 61 of 14.03.2003, p. 131; Regulation (EC) No 881/2004 – OJ L 164 of 30.04.2004, p. 1 – EESC opinion – OJ C 61 of 14.03.2003, p. 131; Directive 2004/50/EC – OJ L 164 of 30.04.2004, p. 114 – EESC opinion – OJ C 61 of 14.03.2003, p. 131.
Third railway package: COM(2004) 139 final, COM(2004) 142 final, COM(2004) 143 final, COM(2004) 144 final, COM(2004) 140 final and SEC(2004) 236.

([2]) Directive 2004/881/EC – OJ L 164, 30.4.2004, p. 1 – EESC Opinion – OJ C 61, 14.3.2003, p. 131.

([3]) Directive 2004/49/EC – OJ L 164, 30.4.2004, p. 44 – EESC Opinion – OJ C 61, 14.3.2003, p. 131.

([4]) Directive 2004/881/EC – OJ L 164, 30.4.2004, p. 1 – EESC Opinion – OJ C 61, 14.3.2003, p. 131.

([5]) Directive 2001/12/EC – OJ L 75 of 15.3.2004, p. 1 – EESC opinion – OJ C 209 of 22.7.2002, p. 22, and Directive 2004/51/EC – OJ L 164 of 30.4.2004, p. 164 – EESC opinion – OJ C 61 of 14.3.2002, p. 131.

([6]) Directive 2004/50/EC – OJ L 164, 30.4.2004, p. 114 – EESC Opinion – OJ C 61, 14.3.2003, p. 131.

([7]) COM(2004) 139 final, amending Directive 91/440/EEC on the development of the Community's railways.

([8]) CESE 130/2005, CESE 131/2005, CESE 119/2005, CESE 120/2005, CESE 257/2005, CESE 1426/2004, CESE 225/2005, CESE 968/2004.

cooperation between transport companies, coordination of timetables, fares and ticketing, and shared use of passenger transport facilities. At the same time, one of the lessons of the societal unrest experienced in the suburbs of Paris in late 2005 is that many different tools must be used continuously over time in the interests of social cohesion, and that the relevant processes are not yet over.

4.1.3 Suburban railways are an important part — and in some cases even the backbone — of such networks. In view of this, railway stations are ideally suited to playing a key role in systems for providing passengers with information and serving as mobility centres in complex and intersecting transport networks.

4.1.4 Although high-speed trains do not usually stop at railway stations served by suburban trains, a tendency to encourage integration has brought the two processes together, and in newly built or renovated stations modern and high-quality intermodality between international and national lines, and also between the latter and urban transport, is emerging as a basic requirement.

4.2 *Defining trans-European intermodality standards*

4.2.1 The standards and requirements to be met by railway stations are being developed. In the past, railway stations helped to bring nations together and to shape national identity. This common sense of identity was not formed by the physical structure of the railway network, although tracks and rails were an essential part of it, but by stations, by rules, models and standards.

4.2.2 Harmonisation of TEN railway stations is not the goal. Nowadays, European identity should be expressed by setting standards for services, and not by standardising buildings. One of the most important of these standards should concern development of intermodal connections in such a way as to preserve the diversity of local instruments while complying with quality requirements on provision of information to passengers in a multilingual Europe and helping them to complete their journeys. Three areas deserve special mention: the quality of information provided to passengers, standards for intermodal connections, and development of the role of mobility centres.

4.2.3 Although these quality requirements for user-friendly services should be adopted as European recommendations or guidelines for the TEN stations concerned, they should not be seen as a prerogative of the network, and there must be full compliance with the subsidiarity principle. Obviously, it should not be a problem if other stations and interchanges apply the standards thus developed, as, rather than undermining the quality of transport services, this should actually enhance it.

5. **Models for development**

5.1 International comparisons show that practically no two countries are the same in terms of starting points for railway station redevelopment, initiated by various combinations of top-down government action and market developments, and motivated by a range of urban development and transport needs. In Great Britain, where redevelopment of railway stations was entrusted solely to the market, these changes were restricted to: (a) railway sites, (b) central London, (c) the property boom period, and (d) construction of new office buildings.

5.2 In Switzerland an environmentally-aware programme has been launched for the modernisation of the railway network and public transport, including S-Bahn (suburban rail network) systems (in Zürich, Basel, Bern). Although the railway's financial problems meant that commercial use had to be made of property in the vicinity of stations, this was done not by means of selling off properties but through programmes, drawn up jointly in cooperation with the railways and taking into account the interests of developers, municipalities, government and railways.

5.3 In Sweden, development was initiated by the railways (which have been privatised, but not split up) in partnership with local authorities. The aim was to create modern travel centres, with trains, buses, taxis and car parks all under one roof. Both local authorities and various other modes of transport were affected by these arrangements.

5.4 In France, the main impetus has come from the centrally-taken decision to build up the TGV network, representing an opportunity to develop links with Paris. The local level was involved in the process of lobbying for stations.

5.5 In the Netherlands, the railways and environmental and transport authorities announced a programme in 1986 to concentrate activity in the surroundings of railway stations, in keeping with the principle of compact urban development and of support for public transport. Before privatisation of the railways, it was extremely difficult for the railways and local authorities to get other partners on board.

5.6 The above examples show that, from the very start, planning must reflect the role of stations both as interchanges (the transport dimension) and as an embodiment of 'local' values (the urban dimension), rather than a one-sided approach. Similarly, the needs of the market and financing considerations must be balanced by a wider view reflecting the interests of cities and networks, to help prevent situations in which short-term economic interests take the upper hand, or, at the other extreme, visionary plans fail to take financing issues into account. Specialised studies suggest that it is easier to reach consensus when stations are built on new sites (Lille); otherwise, the many interests and counter-interests which already exist are often a barrier to progress.

6. **Development trends in the EU**

6.1 There are good reasons in favour of cross-sectoral cooperation in the European Commission, providing officials with an overview of projects financed by Structural Funds within each specific sector. Such an overview will enable analysis of EU funding by sector, so that the amount of expenditure within each sector/area of activity can be determined.

6.2 It seems important to keep sight of the impact which the contradictory blend of traditional and modern characterising modern rail travel has had on the development of high-speed railways. Indeed, in the process of breaking out of conventional railway networks, high-speed networks have attracted a great deal of attention. Given that development of such networks is extremely costly, it is possible that they may have diverted funding from other projects. For example, in France the condition of some sections of the conventional railway infrastructure has, as a result of TGV projects, deteriorated to such an extent that speed limits have had to be introduced in many parts of the network. As a result, both passenger and freight transport is seriously held up; it is debatable whether this is compensated for by the faster journey times enjoyed by passengers on high-speed trains.

6.3 Developing conventional railway lines and encouraging more people to use them is a much more effective means of supporting the objectives of social cohesion and the integration of backward regions, given that high-speed trains merely rush through such regions, without offering any scope for their integration into transport networks. As well as building high-speed lines, it would sometimes be more useful to upgrade conventional railway transport services and infrastructure. The primary interface between such development or renovation and passengers is the railway station.

7. **Redevelopment of railway stations**

7.1 There is a serious danger that major investments governed by short-term interests — and indeed pure property speculation — could jeopardise the real contribution which railways can offer passengers and cities, for example in the case of operating losses by railways being used to justify the selling-off of valuable city-centre properties, leading to the construction of office buildings and shopping centres on former railway sites. In view of this, the following considerations should be taken into account:

7.2 Direct connections between city centres are vital not only for high-speed trains but for all international routes, including all sections of the trans-European transport network.

7.3 Development of a dense network of public transport links providing smooth connections between railway stations and all parts of the city is particularly called for in city centres.

7.4 Railway stations serve as mobility and information centres for the various forms of transport which make up the transport network.

7.5 Connections should also be developed between city-centre railway stations and the city airport.

7.6 Valuation of railway property should also take account of its role in the urban landscape and its logistical role, in order to ensure maximum long-term gain for cities.

7.7 Experience shows that the distinction between transport functions and those related to the urban landscape is gradually becoming blurred, and that railway stations are emerging as both profitable and attractive public spaces by incorporating a wide range of urban services.

7.8 That said, existing main stations are not necessarily the best locations for future high-speed railway stations. Judging by the most successful instances to date, the best way of combining the energies released by regeneration of the railways and urban development is to establish new urban centres within cities, but as an alternative to traditional city centres (however, it should also be noted that the most frequently cited examples, such as Lille, are all special cases, with circumstances that could hardly be reproduced elsewhere).

7.9 Past experience generally suggests that the State, local authorities and private capital can, in cooperation with the railways, put in place development projects involving modernisation of international railway stations in such a way as to reflect a wide range of interests.

Brussels, 31 January 2006.

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the Proposal for a Council Directive on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals and the Proposal for a Council Decision amending Decision 90/424/EEC on expenditure in the veterinary field

(COM(2005) 362 final — 2005/0153 and 0154 CNS)

(2006/C 88/04)

On 15 September 2005, the Council decided to consult the European Economic and Social Committee, under Article 37 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on this subject, adopted its opinion on 25 January 2006. The rapporteur was **Mr Fakas**.

At its 424th plenary session of 14 and 15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion by 145 votes with one abstention.

1. **Conclusion**

1.1 The EESC considers the proposals put forward to be a move in the right direction and endorses the measures recommended to prevent and control certain diseases in aquatic animals.

2. **Explanatory statement**

2.1 Aquaculture is a very important sector for the Community, especially in rural and coastal regions. In 2004, the EU aquaculture sector was producing fish, molluscs and crustaceans to a value of over EUR 2.5 billion. However, financial losses due to disease (mortalities, reduced growth and reduced quality) are estimated to be 20 % of the production value. The proposal aims to introduce modern and targeted legislation that reduces these costs; if they could be reduced by only 20 %, the result would be an added value of EUR 100 million per year.

2.2 The existing legislation was developed two decades ago when the EU had only 12 Member States. It was primarily designed to protect the main EU aquaculture species at that time, namely salmonid (trout and salmon) and oyster farming. The legislation now needs to be updated to reflect the broader range of aquaculture practises and species that are found in the expanded EU, and to take account of the significant developments within the industry, the experience gained through 15 years of application of the existing legislation, as well as scientific advances in this field. The rules must also be updated to bring EU rules in line with international agreements and standards (like the World Trade Organisation Agreement on Sanitary and Phytosanitary Measures and the World Organisation for Animal Health).

3. **Background**

3.1 This proposal will repeal the existing primary legislation (Council Directives 91/67/EEC, 93/53/EEC and 95/70/EC) and replace those three Directives with one new Directive. The purpose of the new directive is to update, recast and consolidate the animal health rules in relation to the trade in aquaculture products, including disease prevention and control, in order to improve the competitiveness of EU aquaculture producers.

3.2 It contains general requirements directed towards the aquaculture production business and processing establishments, such as authorisations, and provisions related to their operation.

3.3 It provides for animal health rules governing the placing on the market of aquaculture animals and products, as well as health rules on imports into the Community of aquaculture animals from third countries.

3.4 Provisions are proposed for the notification and control of certain diseases, as well provisions for declaring disease-free zones.

3.5 Requirements are also to be introduced for the competent authorities of the Member States and for laboratories, and guidelines are also laid down in annexes.

3.6 The legal basis for the proposal is Treaty Article 37. The principle of proportionality is to apply, and the financial impact on the Community budget is expected to be limited.

3.7 The budget implications of the proposal mainly concern two areas:

a) economic compensation in relation to disease control, and

b) implementation of primary legislation and adoption and management of secondary legislation.

3.8 The second proposal for a Council decision envisages the necessary amendments of the current procedures governing the Community's financial contribution towards veterinary measures in aquaculture animals, laid down in Council Decision 90/424/EEC, in order to take into account the proposals for a new aquatic animal health Directive and the European Fisheries Fund.

3.9 Under the second proposal Member States are allowed to use the budget set up under Operational Programmes according to Title III of the European Fisheries Fund for the combating and eradication of certain diseases in aquaculture animals.

3.10 The procedures for financial support must be in line with the current procedures applicable to financial contribution for control and eradication of terrestrial animal diseases.

3.11 The principle of proportionality also applies for the second proposal, and likewise the legal basis is Treaty Article 37.

3.12 Under the second proposal future financial contributions for aquatic animal disease eradication from the Community should be eligible through the European Fisheries Fund (Article 32 of COM(2004) 497). It is therefore difficult to estimate the impact of the proposal on the European Fisheries Fund, as this will depend on the size of the farm(s) affected, the value of the animals in farm(s), etc.

4. **General comments**

4.1 Existing Community legislation only covers the farming of salmon, trout and oysters. Since that legislation was adopted, the aquaculture industry (farming of crustaceans, mussels, clams, etc.) has developed significantly. The EESC therefore believes it is advisable and necessary to amend the legislation so as to cover the other aquatic animals cultivated by aquaculture producers.

4.2 The EESC welcomes these proposals because they represent an important effort to prevent and control diseases in aquatic animals.

4.3 The EESC believes that in order to ensure the rational development of the aquaculture sector and to increase productivity, aquatic animal health rules should be laid down at Community level. These rules are necessary in order to contribute to the completion of the internal market and to avoid the spread of infectious diseases. Legislation should be flexible and take into account developments in and the diversity of the sector.

4.4 The EESC thinks that measures at Community level should be accompanied by efforts to increase the awareness and preparedness of the competent authorities in the Member States with respect to the prevention, control and eradication of aquatic animal diseases.

4.5 The current EU system for granting authorisations is particularly strict, laying down requirements that are more rigorous than those of the EU's competitors. This has implications for the viability of the sector. The EESC believes that the requirements are covered by the proposed register of businesses, which contains details of each business's processing system, the aquaculture business operator and the existing aquaculture authorisation.

4.6 It is considered necessary to ensure that aquatic animal diseases at Community level do not spread. It is therefore essential for harmonised health provisions to be established for the placing on the market of aquaculture products, and for a list of diseases and susceptible species to be drawn up.

4.7 The EESC believes that in order to ensure early detection of any possible outbreak of aquatic animal disease, it is necessary to oblige those in contact with aquatic animals of susceptible species to notify any suspect case to the competent authorities.

4.8 Routine, non-routine and emergency inspections should be carried out in the Member States in order to ensure that aquaculture production business operators are familiar with, and apply, the general rules on disease control.

4.9 There is a continuous development in knowledge with respect to hitherto unknown diseases in aquatic animals. The EESC therefore believes it is essential for all the Member States and the Commission to be informed if an emerging disease is present or suspected, and to be notified of any control measures taken.

4.10 In order to safeguard the aquatic animal health situation in the Community, it is considered necessary to ensure that consignments of live aquaculture animals transiting through the Community comply with the relevant health requirements. It is also necessary to ensure that aquaculture animals and products imported from third countries are free of any infectious diseases.

5. **Specific comments**

5.1 The EESC accepts the view that special provisions should not be laid down applicable to the placing on the market of ornamental and other aquatic animals, which are kept under controlled conditions (aquariums or ponds). However, where such aquatic animals are kept outside closed systems or aquariums, or come into contact with the natural waters of the Community, the EESC considers that the general health provisions of the present directive should apply. This is particularly the case for carp populations (Cyprinidae), as popular ornamental fish such as koi-carp are susceptible to certain diseases.

5.2 The Member States must lay down rules on penalties applicable for infringements of the provisions of the directive. The EESC considers that those penalties must be effective.

5.3 Article 5 (2) states that before a Member State decides to refuse to authorise an aquaculture production business as defined in Article 4, consideration should be given to risk mitigation strategies, including possible alternative siting of the activity in question. However, the EESC is aware that alternative siting is often not feasible in the case of tanks containing zoonotic agents among wild fish stocks. The EESC believes that the risk of such diseases can be mitigated by sound management practices, keeping such stocks in closed and controlled systems, maintaining good hygiene practices, and applying the animal health monitoring system and all the other measures proposed in the present Council directive.

Brussels, 14 February 2006.

The president

of the European Economic and Social Committee

Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the

Proposal for a Decision of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008-2013 as part of the General programme 'Solidarity and management of migration flows'

Proposal for a Decision of the European Parliament and of the Council establishing the External Borders Fund for the period 2007-2013 as part of the General programme 'Solidarity and management of migration flows'

Proposal for a Council Decision establishing the European Fund for the Integration of Third-country Nationals for the period 2007-2013 as part of the General programme 'Solidarity and management of migration flows'

Proposal for a Decision of the European Parliament and of the Council establishing the European Return Fund for the period 2008-2013 as part of the General programme 'Solidarity and management of migration flows'

(COM(2005) 123 final — 2005/0046 (COD) — 2005/0047 (COD) — 2005/0048 (CNS) — 2005/0049 (COD))

(2006/C 88/05)

On 20 July 2005 the Council, under Article 262 of the Treaty establishing the European Community, decided to consult the European Economic and Social Committee on the abovementioned proposals.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 24 January 2006. The rapporteur was Ms Le Nouail-Marlière.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion by 125 votes to 2 with 11 abstentions.

1. **The Commission proposals and the objectives of the Communication**

1.1 The Communication establishing a Framework programme on 'Solidarity and Management of Migration Flows' is part of a package of proposals ([1]) providing for the setting-up of a programme for implementing the Financial Perspective for the period 2007-2013 ([2]) and the measures set out in the Communication on the policy challenges and budgetary means of the enlarged Union 2007-2013 ([3]) (see EESC opinion; rapporteur: Mr Dassis ([4])), which proposed the granting of commitment appropriations totalling EUR 1,381 million for the European area of freedom, security and justice in 2006 (Heading 3: Citizenship, freedom, security and justice), rising progressively to EUR 3 620 million in 2013.

1.2 Overall, the aim should be to further the three objectives of freedom, security and justice to the same degree of intensity, as part of a balanced approach based on the principles of democracy and respect for fundamental rights and freedoms.

1.3 Of the total amount (EUR 9,500 million) initially proposed, the overall amount foreseen for the framework programme *Solidarity and Management of Migration Flows* was EUR 5 866 million for the period 2007-2013, of which EUR 1 184 million was earmarked for asylum; EUR 759 million for the Return Fund; EUR 1 771 million for integration of third-country nationals; and finally EUR 2 152 million for external borders management. The amounts allocated to the Member States and direct Community action (NGOs and projects) will not be transferable from one Fund to another.

1.4 The framework programme on solidarity does not include the agencies and other Community instruments falling within the sphere of freedom, security and justice, viz.: the European Agency for the Management of Operational Cooperation at the External Borders, which will operate in the area covered by the proposed framework programme and the new financial perspective; the EURODAC system (for the comparison of digital fingerprints); the Visa Information System; and the Schengen Information System (SIS II). These information systems are long-term commitments, and the legislative acts establishing them do not contain provisions limiting their duration.

1.5 The present framework programme aims, inter alia, to provide for the necessary coherence between relevant interventions in each policy area by clearly linking political objectives and the resources available to support them. The Commission intends to simplify and rationalise existing financial support. The framework programme also seeks to improve transparency and increase flexibility in the setting of priorities.

1.6 According to the Commission document, the financial solidarity of the European Union should thus be able to enhance and support the four pillars of a comprehensive and balanced approach to migration flows by:

— establishing a common integrated border management system under the framework of the Schengen Convention for the Member States which are parties to the Convention: External Borders Fund for the period 2007-2013;

([1]) COM(2005) 122, COM(2005) 124.
([2]) COM(2004) 487 of 14.7.2004 (not adopted by the Council).
([3]) COM(2004) 101 of 10.2.2004.
([4]) EESC opinion of 15.9.2004 on the *Communication from the Commission to the Council and the European Parliament. Building our common future – policy challenges and budgetary means of the enlarged Union 2007-2013 (COM(2004) 101 final)* (OJ C 74/2005).

— adopting the European Return Action Programme, approved in 2002 ([5]): European Return Fund for the period 2008-2013;

— providing a 'credible response' to the multidimensional issue of 'integration' of third-country nationals: European Fund for the Integration of Third-country Nationals for the period 2007-2013;

— balancing efforts between the Member States with regard to receiving refugees and displaced persons: European Refugee Fund for the period 2008-2013.

1.7 The Commission proposal was the subject of an extended impact assessment ([6]), which is appended to the proposal.

2. **General comments**

2.1 Although the programme builds on the coherence provided by the Tampere Summit and the Hague Programme and on Articles 62 and 63 of the Treaty, the programme framework rests on only a small body of harmonised legislation despite the Council's efforts to adopt some common measures under the Tampere Programme ([7]). Thus, the European Council of 4 and 5 November 2005 adopted the second multiannual programme for the creation of a common area of freedom, security and justice, known as the Hague Programme.

2.2 The Committee notes that, despite the 'Hague Programme', a really satisfactory common political approach does not exist as of yet. In its opinion on the *Communication from the Commission to the Council and the European Parliament: The Hague Programme: Ten priorities for the next five years — The Partnership for European renewal in the Field of Freedom, Security and Justice* ([8]), the Committee set out in detail its views on the Commission action plan relating to the Hague Programme. Member States apply very different practices depending upon their geographical location. As a result there are differences between Member States in terms of policy and responsibilities towards Community citizens or third-country nationals, resulting in the juxtaposition of sometimes conflicting and antagonistic policies within the Community, according to whether or not they are parties (in full or in part) to the Schengen I and II conventions, the Dublin I and II conventions ([9]) or, for example, Community programmes for lasting solutions to the resettlement of refugees ([10]). Experience shows that in order to pursue policies to improve practices, on the one hand, or bring about a balancing and dovetailing of responsibilities towards a common objective, on the other, the setting-up of new Funds and financial instruments is not enough.

2.3 In the field of political and humanitarian asylum, the drawing up of a list of 'safe' third countries remains a contentious issue, particularly among recognised NGOs in the sphere of human rights which are active in humanitarian aid. The Committee does not think that it is appropriate to treat asylum and immigration within the same framework when there are marked differences in terms of constraints and scope for action.

2.4 Although the Committee is aware of the overarching and holistic objective of the programme, it has reservations about the way in which border protection and integration of migrants are treated under the same initiative. It nevertheless feels that it is necessary to manage the funds in a coordinated and coherent fashion, for the following reasons:

— first, the objectives inherent to the two programmes are not the same. Furthermore, the parties responsible for their implementation (public authorities, public services and immigrant aid associations, etc.), i.e. the beneficiaries of the funds, are different. Unless the Member States intend to entrust the surveillance of external borders to private agencies by way of delegation of public service, which would imply appropriate public debate, they should not therefore be treated in the same way;

— secondly, the integration of migrants not only covers aspects involving states in their capacity as a public authority but also civil aspects, where the implementing bodies are organised civil society players (associations) and, ultimately, citizens themselves. These different levels of intervention and of beneficiaries of the funds set up by the framework programme call for differentiated procedures, treatment and guarantees.

Moreover, still mindful of the overall objective of the programme, the Committee stresses the need for the two programmes to be sufficiently distinct from each other so as to prevent any confusion that could arise.

3. **Specific comments**

3.1 The Committee would point out that the content of the Commission document cannot be the same regardless of whether or not the Constitutional Treaty is ratified or the Charter of Fundamental Rights is **incorporated** in the Treaty.

3.2 The Committee endorses the setting-up of solidarity funds but urges the Commission to adapt this process to the Hague Programme, taking on board the EESC opinion on this subject ([11]).

([5]) Approved by the Council on 28 November 2002.

([6]) SEC(2005) 435 of 6.4.2005.

([7]) Presidency Conclusions, Tampere European Council, 15-16 October 1999.

([8]) EESC opinion of 15.12.2005 on the *Communication from the Commission to the Council and the European Parliament: The Hague Programme: Ten priorities for the next five years – The Partnership for European renewal in the Field of Freedom, Security and Justice* (CESE 1504/2005) (rapporteur: Mr Pariza Castaños).

([9]) EESC opinion of 20.3.2002 on the *Proposal for a Council Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national* (rapporteur: Mr Sharma) (OJ C 125 of 27.5.2002).

([10]) EESC opinion of 15.12.2004 on the *Communication from the Commission to the Council and the European Parliament on themanaged entry in the EU of persons in need of international protection and the enhancement of the protection capacity of theregions of origin – Improving access to durable solutions* (rapporteur: Ms Le Nouail-Marlière) (OJ C 157 of 28.6.2005).

([11]) See footnote 8.

4. **Coherence of the proposal**

As regards the proposed objectives set out in the Communication, the Committee questions the coherence between the obligations for Member States that derive from the international rule of law, the degree of harmonisation of European legislation and the proposed framework programme.

The Communication and the framework programme contain a number of confusing elements that undermine the credibility of the proposal.

4.1 *The Communication*

4.1.1 Asylum, immigration, integration, multidimensional aspect, credible response, lasting solution — these are some of the stated objectives. However, to complement the economic approach adopted by the Commission in the Green Paper on an EU approach to managing economic migration ([12]), the Communication should pay more attention to aspects of individual and universal rights in the field of migration by establishing links with the General programme *Fundamental Rights and Justice* and draw on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ([13]).

The Committee also urges the Commission to pay more heed to the evaluation report drawn up every four years by an independent committee of legal experts and submitted to the Intergovernmental Committee in the context of the institutional monitoring of compliance with the Council of Europe's Revised European Social Charter and to take this into account in its additional proposals.

The Committee notes that it is intended that the management of these structural funds would for the most part be delegated to the Member States as part of their responsibilities, in compliance with subsidiarity principles. As regards the principle of proportionality and already pointed out in its opinion assessing the Hague Programme and the related action plan, the Committee feels that 'the Hague Programme makes setting up arrangements for the assessment of existing policies a clear priority. Before adopting these initiatives it is necessary to carry out a detailed and independent study of their effectiveness, added value, proportionality and legitimacy (compliance with human rights and civil liberties)' ([14]).

The Committee is also concerned about the follow-up to be given to the hearing of NGOs and associations representing civil society and the social partners that was held on the abovementioned Green Paper on 14 June 2005, where a large number of organisations spoke out against the primacy of the economic approach over human rights and on the need to understand all aspects of the human, cultural, social and legal implications for all refugees and host countries.

4.1.2 Finally, the Committee would have liked to see the inclusion in the Commission initiative of the proposals it put forward in its previous opinions on these matters.

4.1.3 The Committee would stress that questions related to the migration of persons should not be treated as a problem a priori. Today's immigration, which comes on top of older immigration, is creating a new political, economic and social situation that society as a whole must address, taking into account the right of people to choose their destiny within the international, European and national legal framework adopted by the Member States and through which they are linked ([15]).

4.1.4 The returns identified as a 'solution' by the Commission must not mean that a contrast is drawn between the rights of 'legally' and 'illegally' staying third-country nationals. An irregularity is not a permanent situation which has been deliberately chosen so as to allegedly benefit from a hypothetical status. There are many different kinds of irregularity; the Committee has issued several opinions in which it has tried to make the European institutions more aware of what is at stake economically and of the reality of the victims' situation ([16]). Return policy must always respect human rights and fundamental liberties.

4.1.5 The 'management' of borders and visas should not take precedence over humanitarian, social, political or legal aspects.

Deep-seated persistent causes such as drought in sub-Saharan Africa call for resources for development, cooperation and combating global warming, going well beyond the EUR 759 million allocated to forced returns and the EUR 2.15 billion allocated to management of external borders in

([12]) EESC opinion of 9.6.2005 on the *Green Paper on an EU approach to managing economic migration (COM(2004) 811 final)* (rapporteur: Mr Pariza Castaños, OJ C 286 of 17.11.2005).

([13]) EESC own-initiative opinion of 30.6.2004 on the *International Convention on Migrants* (rapporteur: Mr Pariza Castaños) (OJ C 302 of 7.12.2004).

([14]) Point 3.2.20 of the EESC opinion of 15.12.2005 on the *Communication from the Commission to the Council and the European Parliament: The Hague Programme: Ten priorities for the next five years – The Partnership for European renewal in the Field of Freedom, Security and Justice* (CESE 1504/2005) (rapporteur: Mr Pariza Castaños).

([15]) The legal framework includes, in particular, Articles 13 and 14 of the International Charter of Human Rights (the Universal Declaration of Rights), the International Covenants on Political and Civil Rights and their regional protocols of 1966 and on Economic, Social and Cultural rights, also of 1966, which are the translation into secondary law of the Universal Declaration of Human Rights, Articles 6(1) and 6(2) of the Treaty on European Union Article 6(1) (Article 6(1) of the of the consolidated Nice version of the Treaty on European Union: 'The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, which are common values to the Member States'), Article 13 of the Cotonou Agreement and the provisions of the 1951 Geneva Convention relating to the right of asylum.

([16]) EESC opinion of 18 September 2002 on the *Green Paper on the Community return policy* (rapporteur: Mr Pariza Castaños) (OJ C 61 of 14.3.2003) and the EESC opinion of 11 December 2002 on the *Communication on the Community return policy* (rapporteur: Mr Pariza Castaños) (OJ C 85 of 8.4.2003).

the consular field. They require a political assessment and a firm commitment to long-term action. Given that the fight against hunger and drought is unfortunately not even included in the millennium objectives, the Committee calls upon the Commission and the Council to take an active interest in this question and:

1) to adopt a policy of correcting the effects (aid for local rural development) especially in the appropriate framework of the Cotonou Agreement and of the development and cooperation policy;

2) to formulate any new proposals and support existing proposals in the international cooperation framework, combining improvement of a damaged environment with sustainable development.

The Committee does not regard transferring the responsibility for repatriation to the transit countries as an appropriate or acceptable solution. There is a need to improve coordination between the EU institutions and the authorities in the third countries from which immigrants come. Moreover, the question of immigration should be made an integral part of the Union's external relations.

4.1.6 The free movement of persons cannot be 'managed', to borrow the term used in the Communication, in the same way that financial flows or services can.

4.1.7 The four financial instruments proposed by the Commission to support action taken by the Member States in the area of immigration should be applied in such a way as to enable policy to be conducted in a coordinated manner in this field, which, besides appropriate management of migratory flows, includes the integration of third-county nationals residing legally in Member States under the same conditions as nationals.

The Committee would take this opportunity to denounce the social dumping that may arise from the provision of cross-border services, which is the primary channel of legal immigration. This problem also concerns workers from the new Member States as a result of the temporary rules applied to them.

The work of the social partners and organised civil society plays a key role in this regard and must be supported and acknowledged.

'Irregular secondary movements': on account of very strict rules and — as the Committee would like to point out — the non-adoption by the Council in 2002 of the Admission Directive (despite the support of the Committee and the European Parliament), 'regular' secondary movements refer in law and in fact to persons who have been resident in a Member State for more than five years and who apply for residence in a second Member State and to persons who have been residents for less than five years who apply for a stay of short duration in a second Member State. Therefore the Committee assumes that by '**irregular** secondary movements', the Commission means movements of illegal residents and asylum seekers whose applications have been rejected in the first host country. Such persons are not only entitled to lodge an application — which they are not always permitted to do in all Member States — but they are also entitled to an individual assessment and a suspensive right of appeal. In some Member States such appeals are non-existent, rendered impossible or are non-suspensive. The Committee understands that it must be possible to use a financial instrument to promote the implementation of the Dublin I and Dublin II conventions (on which the Committee has issued an opinion). But while the Commission must ensure that funds are distributed equitably, it should pay particular attention to the Member States which are most affected by migratory pressure, taking into account not only their position as border states but also their size (e.g. Cyprus, Malta, etc.), their general reception capacities (asylum, resettlement, immigration) and best practices in terms of compliance with their obligations. The Communication does not establish sufficiently precise guidelines for an equitable sharing of the responsibilities. Financial assistance should not be granted to Member States which close their reception centres or reduce their capacity.

4.1.8 'Integrated return management' procedures: the Committee, in its strictly consultative role as the assembly representing organised civil society, would point out that this is about human beings and individuals. It would be more appropriate to develop lasting cooperation that respects peaceful objectives and determine which criteria should be applied to gauge the degree of voluntary return.

4.1.9 The Committee is surprised to read in the proposed text that the specific objectives defined for the European Return Fund include action 'ensuring the provision of specific assistance to vulnerable groups, such as children, … and those who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence'. It should, however, be remembered that the Geneva Convention lays down provisions on the procedures, individual assessments and appeals to which such persons are entitled. With the adoption of the Qualification and Status Directive ([17]) and in view of the fact that the Member Sates are parties to the European Convention on Safeguarding Human Rights and Fundamental Freedoms, the Committee finds it hard to believe that persons in such a situation could come under the scope of 'voluntary returns'.

([17]) The Geneva Convention is clear in this regard ('For the purposes of this Convention, the term "refugee" shall mean any person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.'), as is Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection.

4.1.10 The Commission should reflect on the criteria to be used to measure the success of a voluntary return programme. The Committee understands that what is at issue here is not cooperation or the development of personal plans for individuals but rather repatriation after a judicial or administrative decision and a decision on return and removal. The Committee defends the necessity of respecting and upholding the European Convention on Human Rights and the Charter of Fundamental Rights and complying with the applicable principles: no one should be forced to return if this would put their life in danger. In this regard, emphasis should be given to means of access to justice. Appeals should always be suspensive. Finally, returns should take place only on an exceptional basis in accordance with the approach laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe. This is not the impression conveyed by certain terms in the proposal (see, for example, section 5.1.3 of the Financial Statement).

The Commission should put forward more detailed implementing provisions which guarantee advice, material assistance and other appropriate forms of support in connection with returns. It should also put forward provisions on, for example, independent and credible monitoring and control arrangements with regard to the safety, protection and well-being of repatriated persons.

Brussels, 14 February 2006.

5. **Conclusion**

A genuinely democratic European project in the hands of the people, in accordance with the budgetary procedures of the institutions and of the European Union and based on rights:

The Committee:

— supports the proposal to set up a European Fund for the Integration of Third-country Nationals for the period 2007-2013, a European Refugee Fund following on from the existing fund, and an External Borders Fund;

— asks the Council to examine and adopt together the draft Communication defining the framework of the general programme 'Solidarity and management of migration flows' and the decisions setting up specific funds for implementing the general programme;

— calls upon the Commission to take account of the EESC's recommendations in its action plan linked with the Hague Programme;

— recommends that the Council and the Commission ensure the transparency of operation of these new structural funds by making an explicit connection between the Hague Programme and the Communication under consideration;

— calls for practical provisions to be included in the decisions setting up these various funds to ensure that non-state operators are associated at as early a stage as possible in the annual and multi-annual framework of guidelines drawn up by the Member States and by the Commission itself.

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the Proposal for a Recommendation of the European Parliament and of the Council on Transnational mobility for education and training purposes: European Quality Charter for Mobility

(COM(2005) 450 final — 2005/0179 (COD))

(2006/C 88/06)

On 10 October 2005 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned 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 24 January 2006. The rapporteur was Mr Czajkowski.

At its 424th plenary session on 14-15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion by 144 votes to none, with three abstentions:

1. **Recommendations**

1.1 The EESC proposes that special attention should be paid to the following areas:

— information on the programmes provided by Member States at local and national levels;

— information about equal opportunities for candidates;

— information for programme participants on insurance, international insurance agreements and the scope of insurance cover in the host country;

— clear, transparent and precise procedures for participants;

— a survey for participants, providing clear feedback and assessment by participants after taking part in the programme. This will help to ensure further improvements in quality and a rapid response by the Commission and national organisations in charge of the programme;

— special emphasis on linguistic preparation of participants, so that they can make full use of the learning plan provided to them;

— the role of mentors in assisting and looking after foreigners, in order to help them acclimatise and get used to a new situation;

— a clear definition of the range of tasks to be carried out by those in charge of the programme, in order to avoid future complaints or misunderstandings, for example between host and sender organisations;

— further coordination of mobility policy at European level (rather than at the level of individual Member States) enabling the objectives set by the Commission and the Lisbon strategy to be achieved.

2. **General comments**

2.1 The EESC welcomes the Commission's proposal for a Recommendation of the European Parliament and of the Council on Transnational mobility for education and training purposes: European Quality Charter for Mobility ([1]). The mobility of people living in the European Union and the proposal to remove all obstacles to mobility between Member States will help to enhance the competitiveness of the EU, in line with the objectives of the Lisbon strategy.

2.2 It is encouraging that the Member States, the European Parliament, the Council of the European Union and the European Commission are working on dismantling barriers to mobility in the fields of education and training ([2]).

2.3 There has been mobility for the purposes of training within the EU for several decades, and this has enabled participants in various programmes to gain new experience while breaking down cultural and linguistic barriers in Europe.

2.4 The EESC notes that since 2000 the number of individuals migrating for educational purposes has tripled, thanks to educational and international exchange programmes offered to the Member States by the Commission.

2.5 The EESC also sees these programmes as an opportunity to build a European society of tolerance open to other religions, ethnic groups, sexual orientations, etc.

2.6 The EESC firmly approves of the new generation of programmes and training proposed by the Commission in 2004. Strong interest in participating in these programmes suggests that young people are indirectly contributing to the goals of the Lisbon strategy.

([1]) COM(2005) 450 final, 23.9.2005.

([2]) European Parliament report on *Education as the cornerstone of the Lisbon process* (2004/2272(INI)), rapporteur: Guy Bono, 19.07.2005. Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council of 14 December 2000 concerning an action plan for mobility, Nice European Council 7, 8 and 9 December 2000.

3. **Specific comments**

3.1 The EESC feels that the Member States should endeavour to ensure that individual programmes are coordinated at both national and local levels.

3.2 Institutions, organisations, universities, schools and mobility programme coordinators should endeavour to ensure the transparency of all procedures used to select participants. It has been observed that those in charge of selecting programme participants view international exchange programmes as a reward for achieving certain goals.

3.3 Wide-ranging information campaigns would also help by enabling access to the largest possible number of participants. Efforts should be made to ensure that as many young Europeans as possible are informed about the objectives of programmes and the opportunities which they present.

3.4 The EESC feels that Member States should guarantee to participants that the experience and qualifications which they acquire during programmes will be recognised.

3.5 Support for mobility, both for the purposes of vocational training and of volunteer programmes, is also very positive. There is no doubt that these programmes contribute to professional development and facilitate the process of employees adapting to work in an international environment.

3.6 Some of the Member States which will soon have completed implementation of the various phases of the Bologna process have already put the recommendations on education and training of the European Quality Charter for Mobility into practice. The objectives of the Charter and the actions which it envisages should be seen in a positive light in that they aim to ensure more effective use of the Commission's proposed programmes.

3.7 It should be noted that the Commission's proposal only includes elements which could have a positive impact at European level.

3.8 A positive aspect of the Commission's proposals discussed in this document is the fact that coordination does not impose any additional financial burden, so that there are no obstacles to implementation.

3.9 Given the voluntary basis for adoption of a European Quality Charter for Mobility, there is a danger that Member States might negotiate individual conditions, which could impact on progress towards the goals of the Charter and hold up implementation at national level.

3.10 The EESC also notes that it has received feedback from civil society organisations suggesting that in some cases organisations in charge of inviting and hosting participants are not adequately prepared for implementation of the programme, which has a negative impact on participants' final assessment of the programme.

3.11 The EESC considers that the Commission should suggest a date for the Charter to enter into force, as an impetus for action by the Member States.

Brussels, 14 February 2006.

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation, results and overall assessment of the European Year of People with Disabilities 2003

(COM(2005) 486 final)

(2006/C 88/07)

On 27 October 2005 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned 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 24 January 2006. The rapporteur was Mrs Anca.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion by 147 votes to one with two abstentions.

1. **Conclusions and recommendations**

1.1 The EESC welcomes the Communication as an opportunity to take stock of successes and shortcomings of the EYPD 2003, to draw lessons for the preparation of other European Years, and to follow up on initiatives undertaken during EYDP 2003.

1.2 The EESC agrees that the success of the EYPD 2003, compared to previous European Years, stems from the fact that it has been called for by disabled people's organisations themselves as well as from their involvement in the planning and implementation of the Year. The EESC invites the European Commission and European institutions to favour a bottom-up approach in the preparations of such initiatives in the future.

1.3 The EESC regrets the lack of information in the Communication on action undertaken at national and regional level, and believes that in the future a framework should be put in place to ensure the proper flow of information, as well as collection and sharing of information regarding best practices.

1.4 Steps taken to increase general awareness and visibility in the media have been assessed in terms of quantity, but not quality. The EESC therefore invites the European Commission to address this issue in future initiatives.

1.5 The EESC believes that the success of the EYPD 2003 should have been translated into policies and legislation, and that the policy response is disappointing given the expectations raised by the Year.

1.6 The EESC invites the European Commission to assess in its future biennial report on the situation of disabled people the follow-up to political commitments made during the European Year, and in particular the follow-up to the Council resolutions on employment, education, eAccessibility, and culture, and to provide recommendations for the integration of disability concerns in the open method of coordination within the Lisbon Strategy.

1.7 The EESC also regrets the limited information on measures taken by Member States to mainstream disability, and calls on the European Commission to develop a tool for the collection and assessment of information about Member States' policies.

1.8 The EYPD 2003 spurred the Committee to undertake a number of initiatives: the creation of a disability task force in the committee; mainstreaming disability in its work; adoption of own-initiative opinions concerning people with disabilities; accommodation of accessibility requirements in the renovation of its new headquarters and making changes in the Staff Regulations regarding employment of disabled people.

1.9 The EESC also calls for the mainstreaming of disability issues to be put into practice in all EU policies, and the development of a structured dialogue with disabled people's organisations, in particular as regards the drafting of legislation on the internal market.

2. **Introduction**

2.1 The EESC has received with great interest the Communication of the European Commission on the implementation, results and overall assessment of the European Year of People with Disabilities 2003.

2.2 The European Year of People with Disabilities was officially endorsed by the EU Council on 3 December 2001 [1]. The campaign lasted in fact almost a year and a half with preparatory work starting in mid-2002, and had a limited EU budget of around EUR 12 million.

2.3 The main objectives of the Year were to raise awareness of the rights of people with disabilities and to encourage reflection and discussion on the measures needed to promote equal opportunities and to fight the many forms of discrimination confronting people with disabilities in Europe. The aim was

[1] Council Decision 2001/903/EC.

also to promote and reinforce the exchange of good practices and strategies devised at local, national, and European levels, as well as to improve communication regarding disability, and to promote a positive image of people with disabilities.

2.4 The European Commission emphasises that the Year was the result of a partnership process between the EU, Member States, and disabled people's organisations, especially the European Disability Forum, together with other civil society stakeholders.

2.5 At European level, the European Commission developed a number of activities such as an awareness campaign with the slogan 'get on board' and a bus travelling around Europe. Funding was allocated to programmes in the area of youth, education, and culture, as well as to initiatives in the area of research, and the information society. In addition, several EU institutions, such as the European Parliament, the Committee of the Regions, and the European Economic and Social Committee, undertook specific initiatives within the framework of the EYPD 2003.

2.6 Initiatives at national and regional level focussed mainly on raising awareness of rights, accessibility of the built environment, the information society, transport, development of new national legislation, reporting, and support to families. The Commission also highlights that the Year has contributed to putting disability on the political agenda.

3. Comments and suggestions on the Commission Communication

3.1 The EESC regrets that the Communication evaluating the EYPD 2003 was adopted almost two years after the conclusion of the Year. However, the EESC welcomes the opportunity to take stock of the results of the Year, and to highlight some follow-up actions.

3.2 The EESC supports the positive analysis of the outcomes of the EYPD 2003, which has probably been the most successful European Year in terms of visibility and public involvement, as well as in terms of creating a momentum for the development of measures and legislation across Europe.

3.3 The Communication provides a good summary and analysis of action taken at European level. However there is little information on initiatives at national and regional level. It would have been useful to highlight significant projects or activities funded through the EYPD in order to foster exchange of good practices, but also to determine which initiatives could be continued, at both national and European level.

3.4 It is interesting to note that the external evaluation stresses that the pilot project launched by the European Parliament to follow up the EYPD 2003 was out of sync with the activities of the Year. The EESC believes that better use could have been made of that funding if an analysis of interesting activities and partnerships had been undertaken during the Year.

3.5 The EYPD 2003 decision foresaw the participation of EFTA/EEA countries, the associated countries of Central and Eastern Europe, Cyprus, Malta, and Turkey, most of them either having become members of the EU, or being candidates for accession. However, the Communication gives no information on the activities organised in those countries, regardless of whether or not a specific agreement has been signed with the European Commission.

3.6 The Communication also indicates that media reports about disabled people increased by 600 % in 2003. It would be interesting to compare such results with media output in 2004 and 2005 to find out what the medium or even long-term impact of these awareness campaigns has been.

3.7 In addition, the quality of information has not been analysed. One of the objectives of the Year was to promote a positive image of people with different kinds of disabilities. There is little in the report to suggest whether or not this has actually happened, and whether innovative images of disabled people were developed.

3.8 The decentralised method led national authorities and committees to adopt a variety of approaches. Some countries preferred to focus on a limited number of bigger projects, while others preferred to support a large number of small local initiatives. It would have been interesting to know how effective each approach was in terms of visibility of the campaign, but also sustainability of initiatives undertaken.

3.9 The EESC notes also that the level of political involvement in the EYPD 2003 at national level varied greatly across countries. However, it regrets that there is no analysis of whether or not this contributed to further political initiatives in any particular country.

3.10 At European level, a number of political commitments were made, in particular the Council resolutions on employment and training, access to cultural activities, education, and eAccessibility ([2]), as well as initiatives by the EU institutions on accessibility ([3]) and employment, for instance.

([2]) Council Resolution of 15 July 2003 on promoting the employment and social integration of people with disabilities (2003/C 175/01).
Council Resolution on 6 May 2003 on accessibility of cultural infrastructure and cultural activities for people with disabilities (2003/C 134/05).
Council Resolution of 5 May 2003 on equal opportunities for pupils and students with disabilities in education and training (2003/C 134/04).
Council Resolution on 6 February 2003 'eAccessibility' – improving the access of people with disabilities to the knowledge based society (2003/C 39/03).

([3]) 2010 – A Europe accessible for All, Group of Independent Experts on accessibility
http://europa.eu.int/comm/employment_social/index/7002_en.html

3.11 The European Commission should review their implementation in its next biennial report on the situation of disabled people, as foreseen in the framework of its action plan on equal opportunities for people with disabilities.

3.12 The Year was a great opportunity to raise awareness about the crucial role that businesses can play in the social integration of people with disabilities as well as their integration into the employment market. As a result of the Year, an increasing number of companies are recruiting people with disabilities and designing their products and services with consideration for universal accessibility requirements. A particularly positive initiative was the European Year Corporate Partnership promoted by the European Commission, which has led to the creation of the Business and Disability Network; one of the long-term outcomes of the Year.

3.13 Social economy enterprises were also particularly active during the Year, conducting hundreds of initiatives at local, regional, national and European level. Of special interest was the publication of a guide by the CEP-CMAF (European Standing Conference of Cooperatives, Mutual Societies, Associations and Foundations) in collaboration with the EESC on how social economy organisations can contribute to the social integration of people with disabilities and their integration into the employment market.

3.14 2003 also saw increased trade union action in defence of the labour rights of people with disabilities.

3.15 The Year helped the organisations to either gain or improve access to the decision-making process, and may have given people with disabilities better opportunities to advocate their rights.

3.16 The exchange of good practices and review of policy initiatives must be organised by the High Level Group on people with disabilities, which must develop a clear mandate and work programme.

3.17 Furthermore, it is crucial that equal opportunities for people with disabilities are mainstreamed throughout the different EU processes that use the open method of coordination. This is even more crucial as disability policy remains by and large an area of national competence. Since the end of the Year we have unfortunately seen a decline in references to and targets for disabled people, which have now vanished from the Lisbon agenda.

4. **Lessons to be drawn for future European Years**

4.1 The success of the EYPD 2003 was to a large extent due to its bottom-up approach. The Communication underlines that the Year was initiated and promoted by the European movement of disabled people, which was also very much involved in its preparation and development. It is disappointing to see that this approach has not been applied to decisions on following years, with obvious consequences in terms of mobilisation and interest of both target groups and the general public.

4.2 The close involvement of disability organisations in the development of the EYPD European awareness campaign must be continued and even strengthened in the European Year for Equal Opportunities 2007, given the variety of stakeholders involved. It is crucial that target groups feel that the tools and framework meet their needs, and that they are given ownership of the events in order to ensure their success. It is also important that there is sufficient time for preparation between the decision on the Year, and it official start.

4.3 The external evaluators stressed that compliance with financial regulations put too heavy a burden on both Member States and contractors, but also on the European Commission, which could have invested more time in further initiatives. The European Commission should take this into account in the current reviews of financial regulations and rules on implementation.

4.4 In addition, the development of indicators and a monitoring system would allow Member States to register data concerning their activities, leading to effective monitoring and collection of information on good practices.

4.5 European Years must not just be an opportunity to raise awareness or to celebrate, but the stepping-stone for further initiatives. The EYPD 2003 has raised many expectations at both national and European level. It is important that the awareness-raising campaigns are translated into permanent practices, and that there is an adequate policy and a legislative framework to respond to the challenges that emerge during the Year. The availability of resources is also of key importance in terms of continuing partnerships and innovative projects developed during the Year.

5. **Review of EESC activities for EYPD 2003**

5.1 The EESC committed itself to a number of initiatives during the EYPD 2003. This report gives the opportunity to review such commitments, and to suggest some measures for the future.

5.2 The EESC created a disability task force formed by a group of Committee members and officials with the aim of preparing and implementing EESC activities for the European Year.

5.3 The EESC endorsed the principles of the Madrid Declaration and committed itself to its dissemination ([4]). The EESC adopted several opinions and responses in preparation for and in follow-up to the EYPD 2003 ([5]), which were widely distributed to the European institutions and relevant organisations. In addition, the EESC organised two seminars on the employment of disabled people and on the evaluation of the EYPD 2003.

5.4 The EESC has committed itself to mainstreaming disability throughout its work, and to considering the interests, rights and duties of disabled people in all its opinions. Although there is still considerable room for improvement, the EESC is moving in the right direction and an increasing number of the Committee's opinions incorporate the disability angle, thus drawing the attention of other institutions to the rights of people with disabilities.

5.5 The EESC adopted opinions concerning people with disabilities on its own initiative and in response to communications or legislative proposals ([6]). In particular, the EESC prepared an opinion giving guidance on mainstreaming and on consultation of disability organisations ([7]). Numerous opinions of the Committee include disability issues in the context of employment, social inclusion and industry ([8]). The EESC also committed itself to a regular evaluation, which will be carried out by a Committee working group in 2006.

5.6 In addition, the EESC accommodated accessibility requirements in the renovation of its new headquarters, which were inaugurated in May 2004. The new headquarters have enabled the EESC to provide almost equal access for members and civil servants with disabilities. Furthermore, seminars involving disabled people's organisations have been held in the EESC building as a result of this. This sets an example for other EU institutions and bodies.

5.7 The EESC takes note of the revision of the EC Staff Regulations drawn up in 2003, and its provisions, which facilitate the employment of people with disabilities. However, the EESC notes that a more proactive approach is also needed to ensure that more disabled people are recruited.

5.8 The EESC calls on the European Commission to carry out an assessment of the changes in the Staff Regulations regarding employment of disabled people, as part of the European Year of Equal Opportunities 2007.

5.9 The EESC also calls for the establishment of a traineeship scheme for disabled people. The European Year of Equal Opportunities 2007 could be the right time to undertake such a review.

6. **Follow-up of the European Year of People with Disabilities at EU level**

6.1 The EESC has always stressed in its opinions that the success of the Year of People with Disabilities should be measured by the concrete outcomes it produces.

([4]) EESC opinion of 17.10.2001 on the Proposal for a Council Decision on the European Year of People with Disabilities 2003 (COM(2001) 271 final – 2001/0116 (CNS)) (rapporteur Mr Cabra de Luna, OJ C 36 of 8.2.2002).

([5]) EESC opinion of 26.3.2003 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) (rapporteur Cabra de Luna, OJ C 133 of 6.6.2003).
EESC opinion of 17.10.2001 on the Proposal for a Council Decision on the European Year of People with Disabilities 2003 (COM(2001) 271 final – 2001/0116 (CNS)) (rapporteur Mr Cabra de Luna, OJ C 36 of 8.2.2002).
EESC opinion of 25.2.2004 on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Equal opportunities for people with disabilities: A European Action Plan (COM(2003) 650 final) (rapporteur Mr Cabra de Luna, OJ C 110 of 30.4.2004).

([6]) See footnote 5 and: EESC own-initiative opinion of 17.7.2002 on the Integration of disabled people in society (rapporteur Mr Cabra de Luna) (OJ C 241 of 7.10.2002).
EESC opinion of 28.9.2005 on the Proposal for a Regulation of the European Parliament and of the Council concerning the rights of persons with reduced mobility when travelling by air (COM(2005) 47 final – 07/2005 (COD)) (rapporteur Mr Cabra de Luna) (OJ C 24 of 31.1.2006).
Joint Working Document on the situation of people with disabilities in Turkey 19th meeting of the EU-Turkey Joint Consultative Committee, rapporteurs: Mr Daniel Le Scornet, member of the EESC Mr Süleyman Çelebi, Co-Chairman of the EU-Turkey JCC (REX/194).

([7]) EESC own-initiative opinion of 17.7.2002 on the Integration of disabled people in society (rapporteur Mr Cabra de Luna) (OJ C 241 of 7.10.2002).

([8]) EESC opinion of 28.9.2005 on the Proposal for a Regulation of the European Parliament and of the Council concerning the rights of persons with reduced mobility when travelling by air (COM(2005) 47 final – 07/2005 (COD)) (rapporteur Mr Cabra de Luna) (OJ C 24 of 31.1.2006).
Joint Working Document on the situation of people with disabilities in Turkey 19th meeting of the EU-Turkey Joint Consultative Committee, rapporteurs: Mr Daniel Le Scornet, member of the EESC Mr Süleyman Çelebi, Co-Chairman of the EU-Turkey JCC (REX/194).
EESC opinion of 1.7.2004 on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Modernising social protection for more and better jobs – a comprehensive approach contributing to making work pay (COM(2003) 842 final) (rapporteur Ms St Hill, OJ C 302 of 7.12.2004).
EESC opinion of 29.10.2003 on Socially sustainable tourism for everyone (rapporteur Mr Mendoza Castro, OJ C 32 of 5.2.2004).
EESC opinion of 26.3.2003 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) (rapporteur Mr Koryfidis, OJ C 133 of 6.6.2003).
EESC opinion of 18.7.2002 on the Draft Commission Regulation on the application of Articles 87 and 88 of the Treaty to State aid for employment (OJ C 88/2, 12.4.2002) (rapporteur Mr Zöhrer, OJ C 241 of 7.10.2002).

6.2 The EESC regrets that the EYPD 2003 has not led to the adoption of comprehensive legislation on non-discrimination of disabled people in all areas of EU policy.

6.3 The 2003 European Action Plan on equal opportunities was welcomed by the EESC in its opinion adopted in February 2004. The EESC also highlighted in the opinion that the action plan lacked ambition and suggested further action to be considered by the European Commission ([9]).

6.4 The EESC notes that the first biennial report on the situation of disabled people has just been published, as well as the new priorities for the next phase of the European Action Plan ([10]).

6.5 Recommendations should be drawn up on the impact of the European strategies for social protection, employment, and lifelong learning on people with disabilities. This is particularly relevant as people with disabilities are not mentioned in the new streamlined Lisbon strategy and national reforms programmes presented in 2005. In this context, the EESC welcomes the working paper on mainstreaming disability in the employment strategy ([11]), and calls on the European Commission to carry out an assessment of the implementation of that document.

6.6 The EESC also welcomes the proposal of the UK Presidency for an annual ministerial conference on disability in order to promote a high-level political discussion, with the participation of disabled people's organisations.

6.7 The EESC believes that the European Commission should develop a disability impact assessment tool for EU legislation, in cooperation with disabled people's organisations, and develop training courses for officials in the various Directorate Generals on how it should be used.

6.8 Under the Amsterdam Treaty, the EC committed itself to taking into account people with disabilities when formulating measures relating to the internal market. Declaration 22 has regrettably not been implemented, with the result that there are increasing barriers to goods and services.

6.9 The EESC calls on the European Commission to come up with an initiative that would bring together officials dealing with internal market issues and experts from organisations of disabled people in order to develop a strategic plan.

6.10 The EESC welcomes the speedy adoption of the regulation on air passengers with reduced mobility, which will help to tackle discrimination faced by people with disabilities when travelling by air, as well as a number of other legislative initiatives in the field of transport also promoting the rights of disabled people.

6.11 The EESC calls for the inclusion of accessibility requirements in all grants promoted by the EU and in their own procurement policies.

6.12 The EESC also closely follows the negotiations regarding an International Convention on the Human Rights of Disabled People, and welcomes the EU proposal for the European Communities to be party to the Convention, also providing protection for people with disabilities living in the EU, also as to the acts of the EU institutions and bodies.

6.13 The EESC believes that there is a need for further legislation to tackle discrimination in all areas of EU competence and is looking forward to the results of the feasibility study on further legislative initiatives on non-discrimination. Moreover, it is confident that a proposal for a disability-specific directive will be launched next year.

Brussels, 14 February 2006.

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND

([9]) EESC opinion of 25.2.2004 on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Equal opportunities for people with disabilities: A European Action Plan (COM(2003) 650 final) (rapporteur Mr Cabra de Luna, OJ C 110 of 30.4.2004).

([10]) Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the situation of disabled people in the enlarged EU: the European Action Plan 2006–2007 (COM(2005) 604 of 28.11.2005).

([11]) Disability Mainstreaming in the European Employment Strategy by the European Employment Committee. EMCO/11/290605.

Opinion of the European Economic and Social Committee on the Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee on Launching a debate on a Community approach towards eco-labelling schemes for fisheries products

(COM(2005) 275 final)

(2006/C 88/08)

On 29 June 2005, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned 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 25 January 2006 (rapporteur: **Mr Sarró Iparraguirre)**.

At its 424th plenary session held on 14 and 15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion by 100 votes to one with three abstentions.

1. **Conclusions and recommendations**

The European Economic and Social Committee:

1.1 Welcomes the launch of a debate on a Community approach to eco-labelling schemes for fisheries products.

1.2 Expresses its wish to participate actively in the work.

1.3 Recommends to the Commission that, in addition to the necessary coordination between its departments with responsibility for eco-labelling, it maintain close cooperation with the competent international organisations in this field, such as the FAO, the WTO, the OECD, the UNCTAD, the ISEAL (International Social and Environmental Accreditation and Labelling Alliance) and the ISO (International Standards Organisation).

1.4 Suggests that the Commission maintain ongoing contact with the environmental and social stakeholders, particularly in the sectors concerned (fisheries, processing and marketing), as well as with consumers.

1.5 Considers that, given the complexity of the matter, it is at present preferable to choose the third of the options set out in the Commission communication, establishing minimum requirements for voluntary eco-labelling schemes.

1.6 Points out, however, that these minimum requirements must be sufficiently rigorous and be backed up by rules preventing, and laying down sanctions for, infringement.

1.7 Draws attention to the fact that the eco-labels already adopted by regional fisheries organisations, in line with regulations adopted by the European Union (e.g. the Dolphin safe label of the AIDCP — Agreement on the International Dolphin Conservation Program ([1])), must be complied with by operators, with the necessary development rules being applied.

1.8 Calls on the Commission to pay special attention to the problems caused by the costs of eco-labelling for fisheries products, and to ensuring that these are fairly distributed across the value chain between producers, processors, distributors and consumers.

2. **Reason**

2.1 In February 2004 the Council of the European Union placed on its agenda the launch of a debate on eco-labelling for fisheries products. In its communication the Council announced that it would be proposing conditions for identifying methods of capture, as well as the continuous traceability of the product from boat to final consumer, which would guarantee compliance with responsible fishing and marketing practices.

2.1.1 The Council also stated that the Community should lead the debate which was taking place in various international forums.

2.1.2 In the communication under review the Commission has finally launched a debate on the Community approach to eco-labelling schemes for fisheries products, calling on the other European Union institutions to express their views, with the ultimate aim of proposing legislative initiatives and further recommendations.

2.1.3 It is therefore up to the European Economic and Social Committee to express its views and take a position on the initiative.

2.1.4 The references in this opinion to 'fisheries products' should be understood to include aquaculture products, without prejudice to the environmental specificities of the two activities.

([1]) See COM(2004) 764 final of 29.11.2004 containing the Commission's proposal to the Council and the amendment adopted by the European Parliament which states that: '(9a) By virtue of the provisional application referred to in the previous recital, the "Dolphin Safe" certification provided for under the AIDCP has been the only one recognised by the Community up to now.' (A6/0157/2005 of 26 May 2005).

2.2 **Background**

2.2.1 The Commission communication is the result of considerable work to summarise a situation which is complex in both legal and practical terms, and the European Economic and Social Committee would first like to congratulate the department responsible. It should be borne in mind that the Committee commented in general terms on some of the questions now raised specifically by the eco-labelling of fisheries products in its *Opinion on Ethical Trade and Consumer Assurance Schemes* ([2]).

2.2.2 In order to place the debate in its proper context, it should be pointed out that the competent committee of the FAO, the United Nations agency with responsibility for fisheries, recently (11 and 13 March 2005) adopted its own ***Guidelines on eco-labelling for fish and fisheries products from marine fisheries***, which had been submitted for expert consultation and drafted in October 2004 ([3]). The debate in the FAO began as long ago as 1998.

2.2.3 This opinion cannot deal in depth with the guidelines referred to in the previous point, but it should be pointed out that they contain the minimum substantive requirements and criteria to determine whether an eco-label can be awarded to a particular fishery, it being understood that the fishery is the unit of certification. The requirements can be summarised as follows: a set of rules, an administrative control framework, hard scientific data on existing stocks and the effects of fishing on the relevant ecosystem. On the other hand, the FAO has drawn up guidelines for the drawing up of rules on sustainable fishing and, above all, valid accreditation and certification mechanisms. It should in particular be stressed that the FAO guidelines list as essential requirements for the operation of a system of eco-labelling: transparency, fair participation by all interested parties, notification provisions, keeping of records, review and revision of standards and of standard-setting procedures, the availability of sufficient human and financial resources, the submission of accounts and the accessibility of information and systems for the maintenance, suspension and withdrawal of accreditation, and corresponding rights to lodge complaints.

2.2.4 At the same time, it should be borne in mind that eco-labelling is a relatively recent activity, used mainly in the OECD countries ([4]) and that work is currently underway at the World Trade Organisation (WTO). At the same time, the International Organisation for Standardisation (ISO) has drawn up its own methodological and conceptual criteria for the management of environmental quality in the form of the ISO 14000 series of standards. The Commission should make strenuous efforts to ensure that the rules adopted are consistent with the existing international rules and guidelines.

2.2.5 Various Member States and, in accordance with their respective constitutional models, a number of regional authorities have powers in this field, which in some cases have been developed and in others are to be developed. Thus, very diverse forms of eco-labelling — public and private, supranational, national and regional — coexist in the European Union, and this may be a source of confusion for consumers and operators in the various markets.

2.2.6 Consequently, a multidisciplinary, harmonising approach is needed as a result of the plethora of rules and eco-labels currently existing in the various markets ([5]).

2.2.7 The European Union established a harmonised system of eco-labelling for the first time in 1992, through Council Regulation 880/92 of 23 March ([6]). The revision of this regulation five years ago by the regulation currently in force ([7]) established a system of eco-labelling for various categories of product which do not include fisheries products. The Commission should therefore look in detail at the possibility of extending the existing eco-label to fisheries and aquaculture products.

2.2.8 It should not be forgotten that the debate on eco-labelling schemes for fisheries products is taking place in the context of current European Union policies. We would refer specifically to the Sixth Community Environment Action Programme adopted by Decision No 1600/2002/EC of the European Parliament and of the Council ([8]), and the Community Action Plan integrating environmental protection requirements into the Common Fisheries Policy ([9]) in which the examination of eco-labels for fisheries products is considered as a complementary measure.

2.2.9 Although the situation is rather different, the Committee would like to draw the attention of the Commission and the other institutions and interested parties in the Union to the existence of a scheme for the harmonised, unified application of a label which can certainly be regarded as ecological, as it ensures compliance with the directives on the recycling of packaging ([10]). We are referring to the Green Point awarded to most recyclable packaging in the EU countries. This label was a registered trademark belonging to German company which in 1996 moved its head office to Brussels and licensed the use of the label in a form of cooperation with most Member States

([2]) OJ C 28, 3 February 2006.
([3]) See FAO TC:EMF/2004/3, August 2004.
([4]) See, for example, COM/ENV/TD(2003)30/FINAL of 25 February 2004 on access for developing countries to the markets of developed countries in selected eco-labelling programmes. Available from www.oecd.org.
([5]) For purely illustrative purposes, the list of logos can be consulted on the EU's own eco-labelling web pages (http://europa.eu.int/comm/environment/eco-label/other/int_ecolabel_en.htm).
([6]) OJ L 99, 11.4.1992, p. 1.
([7]) Regulation 1980/2000 of the European Parliament and of the Council of 17 July 2000. OJ L 237 21.9.2000, p. 1.
([8]) OJ L 242, 19.9.2002, p. 1.
([9]) COM(2002) 186 final of 28.5.2002.
([10]) Directives 94/62/EC and 2004/12/EC.

and third countries, as well as with economic operators involved in the correct management of the recycling of packaging. Today the legal basis is defined by the Community directives and the national development rules, which might in practice make it appropriate to have a single logo with a clear message involving a private entity (*Packaging Recovery Organisation Europe s.p.r.l*) which monitors the harmonisation of criteria, and with development by various national bodies in the majority of Member States ([11]).

2.2.10 In view of the above, the Committee considers that the eco-labelling of fisheries and aquaculture products is being debated in the European Union at an opportune time; there should therefore be no delays and the essential deadlines for dealing with this complex issue should not be unduly exceeded. The debate should be based on the FAO guidelines, without however abandoning the EU's own criteria and improving these where possible, with a multidisciplinary approach and a criterion for harmonisation, the main objectives being to protect the environment and resources and serve the consumer.

3. **General comments**

3.1 *Various approaches*

3.1.1 The FAO, being an organisation with fisheries competence and thus a reference for the various regional fisheries organisations connected with the current Law of the Sea based on the UN Convention, has adopted an approach to the labelling of fisheries products aimed at protecting fisheries, and referring only indirectly to the other phases of the marketing of the product.

3.1.2 On the other hand, other international organisations, such as the WTO ([12]) and UNCTAD, focus, within the general framework of the Agreement on Technical Barriers to Trade, on ensuring that eco-labelling systems neither constitute illegal barriers to international trade nor place developing countries at a disadvantage ([13]). These organisations are attempting to make complementary sustainable fisheries measures, such as eco-labelling, compatible with the international rules prohibiting the establishment of technical barriers to international trade or measures of similar effect, also taking account of the need for cooperation so that countries without the technical and financial resources needed for the establishment of eco-labels can receive the necessary support. In this sense the Committee considers that the eco-labelling of fisheries products does not in itself constitute a barrier to international trade, as long as its rules make provision for the necessary transparency and equal access mechanisms.

3.1.3 The work of the ISO and other organisations on standardisation, on the other hand, focuses more on methodology and good practice in environmental management and related eco-labelling; no documents exist dealing specifically with fisheries products.

3.1.4 Only the work of the FAO refers explicitly to the eco-labelling of fisheries products, but we share the Commission's view that any decision taken must be based not only on compliance with the decisions of the international organisations but also on harmonisation of the different approaches arising from the specific characteristics and tasks of these bodies.

3.1.5 For all the reasons outlined above, the EESC considers that both international work and the legislative proposal eventually adopted by the Commission will need to take account of the substantial Community *acquis* and of the experience underlying the European Union's current system of eco-labelling (as well as parallel experience of the Green Point), with the departments responsible for fisheries coordinating their activities with the departments responsible for the environment and harmonisation of markets, so that undesirable dysfunctions or a proliferation of eco-labels can be prevented, which, far from fulfilling their function vis-à-vis market operators and the final consumer, would only be a source of greater confusion. Despite the difficulties inherent in all this, the Commission should establish a timetable to ensure that its legislative proposal is not delayed beyond the first half of 2006.

3.2 **Different situations with regard to the eco-labelling of fisheries products**

3.2.1 As there is no basic regulation laying down sufficiently rigorous conditions for harmonisation, as the Commission's document clearly explains, different situations have arisen, some of which may serve as a model to be copied and others as a model of practices to be eliminated.

3.2.2 A study of the available literature ([14]) and of current international rules highlights the way in which a multiplicity of different situations does not always meet the requirements of transparency and fairness which are essential to any system of eco-labelling.

([11]) http://www.pro-e.org.

([12]) Exhaustive information on the WTO's position on trade and the environment can be found at http://www.wto.org/english/tratop_e/envir_e/envir_e.htm.

([13]) See TD/B/COM.1/EM.15/2. Although it deals basically with agriculture, it is relevant to all extractive industries, such as fisheries. (http://www.unctad.org/en/docs/c1em15d2.en.pdf).

([14]) See for example the report by Deere and Carolyn for the FAO and the IUCN, *Eco-labelling and sustainable fisheries*, p. 9 and the EVER report (http://europa.eu.int/comm/environment/emas/pdf/everinterimreport_en.pdf).

3.2.3 In certain cases we encounter voluntary mechanisms which have arisen from cooperation between market operators and civil society organisations. The organisations in question have accreditation and certification standards and conditions for the use of its eco-label which are clear, fair and publicly available and which apply to various small fisheries around the world. Such organisations have advisory committees and suitable control mechanisms.

3.2.4 In other cases quoted by the Commission in its communication, however, we come across mere private logos, with rules which are either non-existent or not made public, the application of which falls far short of complying with codes of good practice for eco-labelling. One of these cases may serve as an example illustrating the damaging effects of an eco-label applicable to fisheries products, which contravenes international law, creates undesirable barriers to international trade and is based on methods which are completely at odds with any recommendations on eco-labelling, creating, according to one senior European official, an effective monopoly.

3.2.5 Examples such as these demonstrate that the current situation, in which it is possible to create eco-labels without any solid legal basis, even where they contravene existing international and Community rules, cannot continue for much longer, as they are harmful to producers, consumers and other stakeholders.

3.2.6 In the case of tuna from the eastern Pacific, the competent regional fisheries organisation, the Inter-American Tropical Tuna Commission, backed the adoption of an Agreement on the International Dolphin Conservation Program (AIDCP) ([15]) to which the European Union acceded voluntarily by means of Council Decision 1999/337/EC of 26 April 1999 ([16]). This agreement regulates an eco-label which is also supported by the European Community and is currently being debated by the European Parliament ([17]).

3.2.7 Account should be taken of this specific situation as background to the study of, and proposals for, regulation in this area, as in cases where a regional fisheries organisation competent for a specific area promotes its own eco-label in line with FAO principles, the European Union should 1) participate in the work to ensure that the certification and issue procedures meet the necessary requirements and 2) consider the use of such labels in its own rules and the prohibition of labels which contravene the rules.

3.2.8 The Committee considers that any private eco-label for fisheries and aquaculture products should be subject to rigorous accreditation criteria and independent certification, and that the legislative proposal to be drawn up by the Commission should contemplate the establishment of a public register open to all interested parties and to fisheries and aquaculture market players containing details of labels in use which meet the legally established requirements.

4. **Specific comments**

4.1 *Implementation, certification, issue, supervision and sanctions*

4.1.1 Eco-labels should be clearly differentiated from general rules on the labelling of food products. The use of an eco-label does not in itself guarantee compliance with rules, the application of which can be required in any case, also for non-eco-labelled products, but rather compliance with higher environmental protection standards, which in our case include responsible fishing practices, conservation of stocks of the product covered by the label and minimisation of damage to biodiversity and the marine environment in general.

4.1.2 The label for fisheries products, like any other extractive or aquaculture product, may be awarded in respect of non-processed products (whole fish, either fresh or frozen) or processed fish products, whether frozen, salted, canned, precooked or prepared. In the first case, the eco-label must guarantee that the fishing methods used comply not only with fishery control standards but also with the FAO's Code of Conduct for Responsible Fisheries. In the second case, the fishery products eco-label must guarantee that the correct application of traceability rules for food products really means that the processed and marketed product which reaches the consumer is the product of fishing which deserves the eco-label.

4.1.3 For the correct implementation of an eco-label applicable to fisheries products, it is not sufficient to have a general framework of rules; rather, a clear mechanism has to be established for the accreditation of certification bodies, the award of eco-labels, the settlement of disputes, supervision and sanctions in the event of abuse and non-compliance, differentiating the labelled product from other fisheries products.

([15]) The provisions of the agreement can be consulted at http://www.iattc.org/PICDDocumentsSPN.htm.

([16]) See also the Proposal for a Council Decision on the conclusion by the European Community of the Agreement on the International Dolphin Conservation Programme (COM(2004)764 final).

([17]) PE 357.789v01-00 of 2.5.2005, rapporteur Mr Duarte Freitas: Draft Report on the Proposal for a Council Decision on the conclusion by the European Community of the Agreement on the International Dolphin Conservation Programme.

4.1.4 The EESC considers that this clear mechanism should be the register referred to in point 3.2.8 above. The rules and the register must ensure that the system is based on transparency; this, together with consumer information, must instil the necessary confidence so as to reduce the existing gap between the number of consumers interested in the environmental aspects of a product (currently around 44 %) and those who act on this interest when buying (currently around 10 %).

4.1.5 Both the data contained in the EVER report referred to above and the position adopted by EUROPECHE/COGECA ([18]) in its memo on the subject of this opinion give rise to a certain pessimism with regard to the likelihood that eco-labelling in general, and that of fisheries products in particular, will generate added value for producers and transparent and accurate information for consumers. However, conservation of the environment in its broadest sense is becoming, alongside the fight against world hunger, one of the two main challenges facing the human race. It is therefore essential that the European Union seek to play a leading role in processes allowing responsible consumers to distinguish between, and opt for, products, the extraction, processing and marketing of which has complied with environmental protection standards.

4.1.6 The Committee has been informed of the position formally adopted by the WWF and is glad that this, despite possible differences of approach in specific areas, largely coincides with the views expressed in this opinion, particularly with regard to the necessary stringency of the rules on the eco-labelling of fisheries products.

4.1.7 The Committee believes that the rules which the Commission will in due course propose should take particular account of the possible validity of eco-labelling for the fisheries industry, with the costs being passed along the commercial value chain without detriment to consumers. In this sense, the eco-labelling of fisheries products could be a mechanism for focusing the attention of fishermen and firms on the need to practise sustainable fishing and aquaculture in order to conserve fish stocks which are the mainstay of fishing activity and all the downstream activities.

4.1.8 The Committee would point out to the Commission that the eco-labelling of fisheries and aquaculture products has a financial cost which will have to be absorbed by the production chain before the product reaches the final consumer. SMEs and developing-country operators may in certain circumstances have difficulty in gaining access to eco-labels. The rules adopted should therefore include intervention mechanisms involving producer organisations, fishermen's associations and partnership agreements. At all events, if an eco-label is to be fully effective, a major educational and publicity effort is needed. The EESC therefore considers that public-sector institutions should finance information and awareness-raising campaigns for operators and consumers.

4.1.9 For this reason, any action by the European Union in this area should be seen as the first step on a journey. This first step should, however, be sufficiently ambitious to establish:

i. clear and binding rules on the accreditation, certification and use of the eco-label(s) applicable to fisheries products;

ii. systems for monitoring the effectiveness, transparency and fairness of such rules for all operators;

iii. systems of sanctions (based on the subsidiarity principle) for infringement of the existing rules;

iv. programmes of information for consumers and market operators on the exact meaning of the fisheries eco-label;

v. a corresponding investment programme, with particular consideration for the economic impact of the eco-labelling of fisheries products;

vi. the necessary mechanisms for continuous dialogue with stakeholders on continuing improvements to the system.

Brussels, 14 February 2006.

The president
of the European Economic and Social Committee
Anne-Marie SIGMUND

([18]) EP(05)115-CP(05)86S1, 24 August 2005.

Opinion of the European Economic and Social Committee on the Representation of women in the decision-making bodies of economic and social interest groups in the European Union

(2006/C 88/09)

On 11 March 2003 the European Parliament decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Economic Community, on the *Representation of women in the decision-making bodies of economic and social interest groups in the European Union*.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 24 January 2006. The rapporteur was Mr Etty.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 14 February) the European Economic and Social Committee adopted the following opinion by 88 votes to 13 with 11 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC agrees with the European Parliament that the issue of stronger representation of women in the decision-making bodies of social and economic interest groups in the EU is an important one. It supports the appeal of Parliament to the national organisations concerned and to their European federations, as well as to the European Commission, to pay closer and more systematic attention to it. The Parliament called on the Commission to make a start on the compilation of data and the establishment of a database on the representation of women in the decision-making bodies of the economic and social interest groups in the EU. The Committee notes that the Commission has in the meantime begun this. It thinks that the European Gender Institute and the European Foundation for the Improvement of Living and Working Conditions have a major contribution to make. As far as the indicators are concerned, it notes that the Commission is currently working with the nine criteria listed by the Italian presidency in 2003.

1.2 Parliament has concentrated its analysis mainly on employers' organisations and trade unions. It seems that more positive developments have occurred on the trade union side than would appear from the resolution and report. On the other hand, it would seem that to properly assess the situation and developments on the employers' side, as well as in other economic and social interest groups, a clear awareness is needed that the organisations concerned function in a different way to organisations with a membership of natural persons.

1.2.1 All economic and social interest groups represented in the EESC have their own characteristics. Policies which have a positive effect in one type of organisations will not necessarily have similar effects in others.

1.2.2 With this in mind, the Committee notes with interest the 'framework of actions on gender equality' advocated by the ETUC, UNICE/UEAPME and CEEP, and in particular the priority these organisations give to 'women in decision-making'. It keenly awaits the announced annual national and European progress reports.

1.3 The EESC, like Parliament, subscribes to existing EU policies on the balanced participation of men and women in the decision-making process. The EESC agrees with Parliament that real political will must be shown in order to implement changes and achieve balanced representation. In many organisations, including those outside the circle of employers and workers, such political will is indeed being shown. The EESC recommends that all represented organisations make the results of their efforts available to the Commission on a regular basis and that the Commission, in close collaboration with the European federations, expands the above-mentioned databank and, following on from the Italian presidency's 2003 initiative, establishes appropriate indicators for strengthening the influence of women in social and economic decision-making bodies.

1.4 The key level meriting special attention in organisations which send representatives to national and international fora and, where appropriate, to the social dialogue, is quite clearly the executive level. However, it is also important for organisations which wish to help strengthen the representation of women to target the policy preparation level, from which many organisations now also recruit their delegates.

1.5 Separate and auxiliary structures as well as networks of female staff and members have contributed significantly to positive change in some organisations. While such instruments will not necessarily be a panacea at all times and in all cases, the EESC thinks it worthwhile to promote them further and more widely, including with an eye to the external representation of the organisation.

1.6 Training/education and work/care arrangements appear to be the most adequate policies to enhance women's careers in the organisations concerned. The promotion of such policies by the relevant Commission departments, which have been developing measures for combating discrimination and strengthening and mainstreaming gender policy, remains a top priority. Employers organisations and trade unions have an important role to play here.

1.7 Quotas are recommended by many experts. Quota arrangements, which, in some countries, have proven to be effective both in politics and in social organisations, should be explored thoroughly with regard to their effectiveness and success by the organisations concerned and the Commission.

1.8 The Committee would be pleased to see a target of 30 % for the under-represented sex in the nominations to the EESC made by Member States (proposed by the economic and social interest groups) for the 2006-2010 EESC mandate, with the view to raising this target to 40 % for the following mandate.

1.9 The EESC will revisit the findings of the present survey in 2006/2007 after the renewal of its four-yearly mandate. That will also be an opportunity to see whether or not the policies and practices of organisations in the new Member States differ greatly from those in the old Member States. The Committee suggests that Parliament then also review the situation against the background of its 2002 resolution and report.

2. **Comments**

2.1 *Background*

2.1.1 In January 2003, the European Parliament requested the European Economic and Social Committee (EESC) to give an opinion on the representation of women in the decision-making bodies of the 'social partners' ([1]). The intention was for the EESC to supplement the statistical data available to Parliament when it prepared its resolution and report on 'Representation of women among the social partners of the European Union' (2002/2026 INI), and to give recommendations about the strategy to follow to raise the representation of women in the different bodies of these 'social partners'.

2.1.2 In its own resolution, Parliament had observed that 'women are underrepresented in the organs and structures in which the social partners consult each other about social policy'. It states that programmes and strategies are required if a more balanced representation is to be achieved. Parliament calls upon the European Commission and on the social partners to systematically compile relevant data and to take appropriate action in order to increase the influence of women in social and economic decision-making bodies, not only by better representation in these bodies, but also by incorporating the gender dimension into their policies.

2.1.2.1 Parliament stated in this context that non-binding declarations of interest are inadequate and that real political will is required inside the organisations where the social partners meet in order to implement changes and to achieve balanced representation.

2.1.3 In its resolution and report, Parliament did not address the EESC.

2.1.4 The EESC is the most representative assembly of representatives of social and economic interest groups ('organised civil society') in the EU. Whereas its task is not to advise the represented organisations on their policies regarding women representation in decision-making bodies or on their gender policies, its composition can certainly be seen as a partial reflection of these policies. It is one of the organisations mentioned by Parliament where social and economic interest groups meet and one of those organs and structures in which they consult each other about social policy. Its members can therefore be expected to be good sources for the type of information and advice requested by Parliament.

2.2 *General comments*

2.2.1 The EESC agrees with Parliament that the representation of women in the decision-making structures of the EU's social and economic interest groups is an important issue. It also shares the view that a better statistical basis and more information on the policies of these organisations are important preconditions for the implementation of EU policies on the balanced representation of men and women in the decision-making process.

2.2.1.1 It notes that the European Commission has begun to collect relevant data, and has since made a start on setting up the database called for by Parliament and establishing the indicators for increasing the influence of women in social and economic decision-making bodies in the EU. The Commission asserts, however, that it is difficult to obtain data on the relevant interest groups. It is to be hoped that the European Gender Institute will be able to help with this in future, as the European Foundation for the Improvement of Living and Working Conditions is already doing.

2.2.1.2 In addition to this, the Commission should continue to develop general policies to widen the scope for greater participation of women in decision-making, such as policies to combat continuing discrimination at the workplace and to improve the work/life balance in the EU Member States, as well as policies to promote equal treatment and equal opportunities at work.

2.2.2 The EESC broadly supports the requests and demands made by Parliament to employers, workers and organised civil society as a whole in the EU. It has addressed most of them in a survey, based on a questionnaire, which in 2003 was sent to all of the (then) 222 members ([2]). This questionnaire was completed by 107 members, which brings the response rate to approximately 50 % ([3]).

([1]) In subsequent contacts, the concept of 'social partners' was clarified as to include not only employers' organisations and trade unions, but also other social and economic interest groups as represented in the EESC.

([2]) See 'Report on balanced decision-making in the EESC' (J. Oldersma, N. Lepeshko, A. Woodward), VUB Bruxelles/Leiden University, September 2004, available (in English only) on the webpage of the EESC's Section for Employment, Social Affairs and Citizenship: http://www.esc.eu.int/sections/soc/docs/balanced_decisionmaking_eesc.pdf.

([3]) When two or more persons representing the same organisation completed the questionnaire, these responses have been treated as one.

2.2.2.1 The response was fairly evenly distributed over the three groups in the EESC: 34 % for Group I (Employers), 31 % for Group II (Employees) and 34 % for Group III (Various Interests).

2.2.2.2 The percentage of female representation in the EESC at the time of the survey was 23 % ([4]).

2.2.2.3 Organisations with a high percentage of female representatives among their members are probably slightly over-represented among the respondents. This may have led to a somewhat biased, 'woman-friendly', overall picture.

2.2.3 The questionnaire focused in turn on the type and character of the organisation represented, its leadership structures, representation in national and international organisations and fora, the presence of women in the organisation, and gender policies.

2.2.4 Furthermore, existing data were studied, provided by a hearing on the situation and experiences in Belgium, Spain and the Scandinavian countries, and by members of the EESC. This data concentrated predominately on the trade unions. As in Parliament's resolution and report, the factual basis for assessments with respect to employers was weak, and hardly any information on other organisations was available ([5]).

2.2.5 The survey and the additional material taken into account reinforced the initial impression made by Parliament's resolution: a) that the statistical basis is, indeed, very narrow; the only exception being the trade unions, but in this case the data fail to fairly reflect positive developments which have taken place in the recent past ([6]), and b) that it is not easy, if not problematic, to compare findings on different organisations, e.g. organisations with a membership of natural persons (such as trade unions) and organisations which themselves have organisations (such as enterprises) as members. Different organisational characteristics (e.g. in farmers' or SME organisations) may require different ways of assessing whether there is a balance in the representation of men and women. It must be observed, too, that a low representation of women in decision-making bodies is not necessarily proof of the absence of gender policies in an organisation.

2.2.6 One point of criticism of the EP resolution was that it focused on quantitative aspects of representation only, ignoring the qualitative aspects of policy-making in organisations where women sometimes play a bigger role than their formal representation would suggest. While these aspects are certainly important, the EESC has decided not to address them in depth. It has, however, included the representation of women in policy-preparation bodies. The qualitative aspects of policy-making in this sense merit more attention from the social and economic interest groups and their European federations, but also from Parliament and the European Commission.

2.2.7 In looking at the relevant policies and practices of social and economic interest groups in the EU, the EESC has chosen to analyse representation policies in an integrated way (national and European level — including the social dialogue — and international level).

2.2.7.1 European works councils were not included in the survey. That would have required a major separate research effort, for which others are better equipped that the EESC ([7]).

2.2.8 The Committee would refer to the framework of actions on gender equality of 1 March 2005 drawn up by the ETUC, UNICE/UEAPME and CEEP, in which the promotion of women in decision-making is one of the four priorities.

2.3 *Specific comments (based on the results of the survey)*

2.3.1 Almost half of the two basic types of organisations represented in the EESC (umbrella organisations of different types on the one hand, and organisations based on individual membership on the other) have a high ratio of female membership (40 % or more). Only 10-15 % fall in the low female membership category (0-19 %). Overall, the represented organisations have a 36 % ratio of female membership. (N.B.: as stated above, the percentage of female membership of the EESC was 23 % at the time of the survey).

2.3.2 The women in these organisations are most likely to be found in the policy-making staff, less frequently as delegates to the organisation's congress or in the management team, and least of all on the executive board.

2.3.3 This is probably one major explanation for the relatively low percentage of female membership of the EESC, as many female members are from executive boards.

([4]) After enlargement (in May 2004) this percentage has gone up slightly to 26 %.

([5]) Though on two occasions in 2002, UNICE provided Parliament with more data than were finally included in this document.

([6]) E.g., between the early 1990s and the early 2000s, the share of female participants in ETUC Congresses rose from 10/12 % to 30 %, in the Executive Board it is now 25 %, in the Steering Committee 32 %. Affiliated organisations can show positive change as well; most have, for instance, women's departments nowadays.

([7]) The European Foundation for the Improvement of Living and Working Conditions has carried out a study of European works councils ('European Works Councils in Practice', 2004). This comprises a number of case studies. The enquiry showed that, with a few small exceptions, the representation of women was not an accurate reflection of the composition of the workforce. This is probably due to the composition of works councils in the companies concerned at national level.

2.3.4 Those organisations scoring high on sending female representatives to the EESC draw them from their policy-making staff, or they have other types of arrangements (e.g. a mixed one), rather than draw representatives exclusively from the highest internal decision-making level.

2.3.5 As regards representation in national or international fora, organisations prefer a mixed arrangement. Here, representation by executive board members ranks second.

2.3.6 Many of the organisations represented in the EESC do not participate in the Social Dialogue Committee (about one quarter). Of those who do belong to this Committee, about one third use a mixed form of representation or send representatives from management.

2.3.7 One of the policies for obtaining a more balanced representation of women in decision-making bodies, as identified by Parliament, is the setting-up of structures for women within the organisation. At the same time, Parliament comments that these structures often remain limited to a symbolic gesture or an isolated discussion forum. Therefore, according to Parliament, such structures 'must not isolate women from the decision-making process but, on the contrary, integrate them in that process and enable them to progress'. The Committee endorses this view.

2.3.7.1 Parliament also makes the point that *mentoring* and networking within organisations by women is highly important in preparing them for leadership positions.

2.3.8 Only a minority of the organisations in the EESC (33 %) whose representatives completed the questionnaire have a separate or an auxiliary organisation for female members. In almost all cases, these structures are represented on the executive of the organisations, and about half of them have other channels for influence in the organisations. In 15 % of cases female policy-making staff and members have formed a network; 4 % have both (i.e. separate/auxiliary organisations and networks).

2.3.8.1 Separate organisations and networks can be found mainly in organisations belonging to Group II (i.e. trade unions): between about 50–75 %. In Group III, the range is between 19-39 %, and in Group I this phenomenon is significantly less common, 6-19 %. Auxiliary organisations are not uncommon in farmers' organisations (33 %) and are found in about 10 % of consumers' and health organisations.

2.3.9 As regards policies to enhance the career of women, in particular to prepare them for leading positions, 46 % of the respondents reported that their organisations had such policies. Most popular policies were training (26 %), facilitating work/care arrangements (22 %) and monitoring/benchmarking (19 %). However, only one quarter of organisations have these forms of career enhancement.

2.3.10 Special attention to female workers and staff is also evidenced by the collection of statistics on the presence of women in the organisation. Nearly half of the organisations represented (48 %) reported that they kept statistics, and most of them say that they update them annually (67 %).

2.3.10.1 Group II organisations are clearly most active in this area (well over 50 %), followed by Group III organisations (approximately one third). Percentages are low in Group I. Here, we see a remarkable discrepancy between the very low level of reported statistics collection (1 %) and reported policies for career enhancement (11 %).

2.3.11 Success was reported by respondents in 75 % of the 61 cases where policies to enhance women's careers are in place. 40 organisations have a department or an official in charge of gender policies, and in half of these cases staffing is in the order of one full time equivalent.

2.3.11.1 Success in terms of more female employees in senior positions was reported in 49 % of cases; in 46 % a result in terms of more women in policy-making positions was reported.

2.3.12 Gender policies are common in trade unions (Group II) (68 %); Group III organisations score 25 %; and Group I, 5 %.

2.3.13 A number of organisations (33 members) stated that the questions on policies to enhance women's careers and gender mainstreaming were not relevant to them.

2.3.14 The male/female ratio in representation of organisations in the EESC appears to be strongly related to the ratio found for representation at the international level, much less to that for the social dialogue, and not at all to the male/female ratio for representatives in national fora.

2.3.15 Taking into account the fact that Group I respondents put the male/female ratio for their organisations at 70/30 %, their male/female ratio in the EESC is relatively high (35 %), and significantly higher than the corresponding figures for Group II (25 %, with a male/female ratio in the organisations' membership of 60/40 %) and Group III (27 %, 65/35 % respectively).

2.3.16 The survey shows that the male/female ratio of leadership in organisations largely determines the male/female representatives to the EESC (cf. points 2.3.2 and 2.3.3 above). Parliament has called on the social partners (the social and economic interest groups) 'to review their representation mechanisms and selection procedures, to give centre stage to a balanced representation of women and men and to inscribe it in their constitutions' ([8]).

([8]) PE 315.516, A5-0279/2002.

2.3.16.1 In the survey, the EESC has addressed the type of recruitment procedures for management with a view to the male/female ratio on executive boards. Co-option came out as the most disadvantageous for women, followed by nomination by affiliated organisations. Procedures with more positive effects as perceived by respondents were mentioned by too few of them to provide a firm basis for conclusions.

2.3.17 Relating the average ratio of male/female representation in decision-making bodies to various policies to enhance women's careers resulted in the finding that only target figures seem to result in the strong representation of women. Dual candidacy and quotas (which figure strongly in the policy discussions of political parties in the EU) were rarely mentioned by respondents.

Brussels, 14 February 2006.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

APPENDIX

to the opinion of the European Economic and Social Committee

The following text from the section's opinion was deleted when the Plenary Assembly adopted the proposed amendment, but received more than a quarter of the votes cast:

Point 1.8

'Quotas are recommended by many experts. This does not mean, however, that they are recommended for economic and social organisations. Nevertheless, it is recommended that this instrument, which has proven to be politically effective in some countries, should be further explored by the organisations concerned and the Commission.'

Voting

For: 42

Against: 55

Abstentions: 8.

Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation establishing a European Union Agency for Fundamental Rights — Proposal for a Council Decision empowering the European Union Agency for Fundamental Rights to pursue its activities in areas referred to in Title VI of the Treaty on European Union

(COM(2005) 280 final — 2005/0124-0125 (CNS))

(2006/C 88/10)

On 22 September 2005 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned 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 24 January 2006. The rapporteur was Mr Sharma and the co-rapporteur was Ms Nouail Marlière.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion by 94 votes in favour, no votes against and four abstentions.

1. **Gist of the Commission document**

1.1 The objective of the proposal is to extend the mandate of the European Monitoring Centre on Racism and Xenophobia (EUMC) and to establish a European Union Agency for Fundamental Rights, as decided by the European Council on 13 December 2003.

1.2 The main difference between the existing legislation and the present proposals is that the latter extend the scope from racism and xenophobia, besides the regulatory systems recognised by the UN, ILO and the Council of Europe, to cover all areas of fundamental rights referred to in the Charter, without prejudice to those areas which are already covered by other Community agencies.

1.3 The Agency will deal with fundamental rights as regards implementation of Union law, both in the Member States and in those candidate countries and potential candidate countries which participate in the Agency. In addition, the Commission may ask the Agency to submit information and analysis on third countries with which the Community has concluded association agreements or agreements containing provisions on respect of human rights, or has opened or is planning to open negotiations for such agreements.

1.4 The objective of the Agency is to provide the relevant institutions, bodies, offices and agencies of the Community and its Member States with assistance and expertise relating to fundamental rights when implementing Community law in order to help them to fully respect these rights when they take measures or formulate a course of action within their respective spheres of competence.

1.5 Within thematic areas, the Agency will, in complete independence, collect and assess data on the practical impact of Union measures on fundamental rights and on good practices in respecting and promoting these rights; express opinions on fundamental rights policy developments; raise public awareness of all the texts and regulatory instruments to which EU refers and promote dialogue with civil society; and coordinate and network with various actors in the field of fundamental rights. The Agency will not have any complaint resolution mechanisms.

1.6 The proposal empowers the Agency to pursue its activities in areas referred to in Title VI of the Treaty on European Union.

2. **General comments**

2.1 The Committee welcomes the decision of the European Council to establish a European Union Agency for Fundamental Rights ('the Agency' thereafter) to enhance the Union principles and practices enshrined under Article 6 of TEU. It will create a mechanism for the monitoring of fundamental rights in the Union that could serve to improve the coordination of the fundamental rights policies pursued by the Member States. There is much in this Commission proposal that the Committee would welcome, in particular:

— the use of The Charter of Fundamental Rights as the point of reference for the Agency's mandate; making for the first time, social and cultural rights indissociable and of equal value. In this connection the Agency has a specific early warning capacity with regard to the implementation of social rights, including in EU relations with third countries;

— the extension of the scope of the Agency to include matters relating to police and judicial cooperation in criminal matters through Council Decision;

— the use of the Agency as the technical expert in the context of proceedings commenced under Article 7 of the Treaty on European Union;

— proposed measures to promote the independence and public interests within the Management Board, the Director and the Forum;

— participation of candidate or potential candidate countries.

2.2 The Committee welcomes paragraph 2 of the Preamble of the proposed Regulation, which recognises the scope of the existing rights to protect citizens and non-citizens within the Union. The Preamble states that *'The Charter of Fundamental Rights of the European Union reaffirms the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the Treaty on European Union, the Community Treaties, the European Convention for the Protection of Human Rights and Fundamental Freedom, the social charters adopted by the Community and by the Council of Europe and the case law of the Court of Justice of the European Communities and of the European Court of Human Rights.'*

The Committee recognises the need to strike the right balance between security, in particular anti-terrorist measures, and the protection and promotion of human rights and fundamental freedom within the Union. In the aftermath of September 11 and the more recent Madrid and London bombings, human rights and fundamental freedoms may be compromised by some of the new anti terrorist measures adopted by Member States. However one of the biggest weaknesses of the European cooperation in the field of security is the fact that these policies remain outside the Community framework and are drawn up mainly according to the intergovernmental method (the third pillar of EU). The role of the European Union is therefore very limited. This lacks transparency in the decision making process by the exclusion of the European Parliament and the European Court of Justice. Extending the remit of the new Agency to include the third pillar of the EU (Title VI of the TEU) would be a key element in maintaining a proper balance between freedom, security and justice in the policies developed by the Union ([1]).

2.3 The Committee recognises the expertise and the existing monitoring mechanism within the Council of Europe in the field of human rights and fundamental freedoms, including the enforceable social rights of the Revised European Social Charter. We also recognise the competence of the Council of Europe and its European Court of Human Rights to deal with human rights violation in accordance with various Conventions and international law in which the Agency does not have such competence. Therefore a more robust coordination and cooperation between the Agency and the Council of Europe is paramount.

The Agency must, like the Court of Justice of the European Communities in its opinions and judgements, refer to the international texts as to the interpretation and application of primary and secondary EU law.

The Committee reiterates its request for the EU to be a member of the European Convention on Human Rights and the Council of Europe's Revised European Social Charter when the necessary competence has been acquired by the EU.

2.4 The Committee has a major concern that the proposal does not promote or support wider representation from organised civil society in the Management Board and the Fundamental Rights Forum (thereafter 'the Forum') of the new Agency. This is contrary to the European Governance White Paper which states that *Civil society plays an important role in giving voice to the concerns of citizens and delivering services that meet people's needs…..Civil society increasingly sees Europe as offering a good platform to change policy orientations and society. This offers a real potential to broaden the debate on Europe's role. It is a chance to get citizens more actively involved in achieving the Union's objectives and to offer them a structured channel for feedback, criticism and protest* ([2]).

2.5 The Management Board and the Forum should not just be comprised of lawyers and academics; it should have a wider diverse background of people, in particular NGOs, social partners, cultural, religious and humanist organisations that advocate and defend the fundamental rights of socially excluded and disadvantaged groups in our society.

3. **Specific comments**

3.1 *Legal basis to establish the EU Fundamental Rights Agency*

3.1.1 It can be argued that using Article 308 TEC together with a Council decision under Title VI, may not be sufficient to ensure that the Agency has competence in the areas covered by Union law. Article 308 TEC gives the Community (not the Union) the power to act unanimously to take appropriate measures to achieve an objective of the Community, in situations where that power has not been provided for by the TEC. It is a general objective of the Community to ensure that its own action fully respects and protects fundamental human rights but there are no specific powers provided for in the Treaty to that end.

3.1.2 The proposed Council decision is to then empower the Agency to pursue its activities in areas referred to in Title VI of the Treaty of the European Union.

3.1.3 The Committee emphasises that the protection and promotion of human rights are the common values and objectives of the Union as expressed in Article 6(4) of TEU, which states that *'The Union shall provide itself with the means necessary to attain its objectives and carry through its policies'*. Therefore the Committee requests the Council to anchor the Agency in the strongest legal basis of competence in accordance with Article 6(4) in order to ensure that the Agency has the necessary powers to fulfil its functions.

([1]) EESC opinion on 'The Hague Programme –Freedom, Security and Justice' (rapporteur Mr. Pariza Castaños) – OJ C 65, 17.3.2006.

([2]) COM(2001) 428 final, pages 14-15.

3.2 *Tasks of the Agency (Article 4)*

3.2.1 The Committee recommends inserting a section in Article 2 of the object clause, that one of the objectives of the Agency is to formulate recommendations, which the institutions, bodies, offices and agencies of the Community and its Member States can use to take measures and formulate courses of action on fundamental rights and to provide information on the possibilities for legal action by the national human rights agencies to protect the rights of those individuals or groups discriminated against by legislation or by state practices which do not respect the principle of the rule of law.

The Agency should draw up an annual report on the implementation of fundamental rights in the EU and periodic reports regarding its relations with international institutions, particularly in the area of trade and development aid, and regarding the association agreements and the Cotonou Convention

3.2.2 The Committee also recommends that the Agency may be requested by the European Parliament, the Council or the Commission to do assessments on the compatibility between the Charter of Fundamental Rights and any proposed new EU legislation and policy (including external policies such as trade with developing countries), notwithstanding the right to self initiate an assessment on any subject on European proposed legislation, in agreement or on proposal of its boards..

3.3 *Areas of activity (Article 5)*

3.3.1 Feedback from the consultation showed that 90 % of consultees wanted to ensure that the focus for the fight against racism and xenophobia would not get lost within the Agency. We therefore welcome the Commission's proposal under Article 5(1)(b) that the Agency should always include racism and xenophobia in the thematic areas of its activities within the Multiannual Framework.

3.3.2 However, the Committee is of the view that in order to mainstream the fight against racism and xenophobia in the new Agency within the remit of Article 5(1)(b), a special Committee on Racism and Xenophobia should be set up within the Management Board to give direction, and to allocate the necessary resources.

3.4 *Management Board (Article 11)*

3.4.1 Composition

The Committee favours an inclusive Agency uniting all stakeholders and holds the view that this should be reflected in the composition of the Management Board ([3]). However, the Committee is concerned that the proposed Regulation does not promote or support wider representation from organised civil society on the Management Board.

The European Governance White Paper states that, 'The Economic and Social Committee must play a role in developing a new relationship of mutual responsibility between the institutions and civil society, in line with the changes to Article 257 of the EC Treaty agreed at Nice' ([4]). In accordance with this statement we recommend that a nominee appointed by the European Economic and Social Committee should serve as a member of the Management Board.

3.4.2 Governance arrangements

The Committee has concerns about the Agency's independence, not only with respect to the EU institutions but also to the Member States. The previous experiences of EUMC show that, 'Member States disturbed by the Centre's work, sought to increase their influence over the Management of the Centre' ([5]). Given that in many cases it is Member States acting individually or collectively in the Council, which are likely to infringe fundamental human rights when implementing EU law, the new Agency should be protected from political intervention by Member States. Safeguards should include the appointment of independent Management Board members.

Governance of the Agency must be able to stand up to public scrutiny. The 'European Governance' White Paper develops five principles of good governance; these are: openness, participation, accountability, effectiveness and coherence. The Committee recommends that the Management Board is appointed through an open and transparent process. The Commission should provide job profiles for the members of the Management Board to the Member States. The recruitment process should be made more transparent by disseminating the recruitment information through public advertisements in the Member States, and also through existing national and European networks.

The Commission is also required to approve the budget (Article 19(3)) and the work plan (Article 5(1)) of the new Agency. In order to ensure the independence of the Agency mechanisms need to be put in place to ensure as far as practicable that the UN Paris Principle on the national institution of Human Rights is complied with.

([3]) EESC opinion on the 'European Monitoring Centre on Racism and Xenophobia' (rapporteur Mr. Sharma) CESE 1615/2003, para. 3.3.3 (OJ C80, 30.3.2004).

([4]) EC Treaty of Nice, Art. 257, p. 15.

([5]) EESC opinion on the 'European Monitoring Centre on Racism and Xenophobia' (rapporteur Mr. Sharma) CESE 1615/2003, para. 3.3.4 (OJ C80, 30.3.2004).

3.4.3 Number of meetings of the Management Board

The Committee recommends that the Management Board of the Agency should meet more than once per year to ensure greater accountability and participation of the Board members.

3.5 *Executive Board (Article 12)*

The proposed Executive Board will be comprised of a Chair, a Vice Chair and two representatives from the Commission. In our view this is a high proportion of members from the Commission and could be seen to compromise the independence of the Agency. We therefore recommend that the number of members of the Management Board is increased from two to five.

The Committee reiterates a more robust coordination and cooperation between the Agency and the Council of Europe is desirable as we highlighted in paragraph 2.3 and create a culture of human rights within the European Union as our prime objective. The Committee therefore recommends that one of the members of the Management Board in the Executive Board should come from the Council of Europe. This arrangement will ensure the synergy of the Agency and a complimentary role between the Agency and the Council of Europe.

3.6 *Fundamental Rights Forum (Article 14)*

3.6.1 The Committee is concerned that the proposal does not promote and support wider representation from organised civil society on the Forum. The Forum should have the widest representation from its stakeholders who are NGOs, social partners, cultural, religious and humanist organisations who have an interest in defending human rights. The Committee recommends that at least 1/3 of the members of the Forum should represent organised civil society.

3.6.2 The Regulation proposes that the forum should be chaired by the Director of the Agency. The Forum should be a sounding board for the Management Board as a whole and not just for the Director. Accordingly the Forum should be chaired by the Chairperson of the Management Board in order to ensure there is a close link between the two.

3.6.3 The expertise of the existing network of independent experts on Fundamental Human Rights should not be lost. The Committee recommends that the Network of Independent Experts should be represented on the Forum.

3.7 *Independence and public interests (Article 15)*

3.7.1 In order to ensure the independence of the Agency mechanisms need to be put in place to ensure as far as practicable that the UN Paris Principles on the National Institution of Human Rights is complied with. The Committee, therefore, recommends the following clause to replace Article 15 (1) which states that *'The Agency shall fulfil its tasks in complete independence.'*:

> 'The Agency shall fulfil its tasks in complete independence in keeping with the UN Paris Principles on the National Institution of Human Rights.'

3.8 *Financial Provisions (Chapter 5), Article 19 (Drawing up of the budget)*

The Committee reiterates the Paris Principles on adequate funding to resource the Agency to carry out its functions and activities. The purpose of this funding should be to enable it to have sufficient staff, premises and programme funding. Without adequate funding safeguards the Agency would be vulnerable to political influence by the EU institutions and Members States.

3.8.1 Therefore the Committee recommends the following clause be inserted before Article 19(1):

> '(1A) The Agency shall have adequate funding from the Union to carry out its functions through the annual budget cycle. The Agency may exceptionally apply for additional resources to carry out special or additional tasks not foreseen in the annual budget'.

Brussels, 14 February 2006.

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on The representativeness of European civil society organisations in civil dialogue

(2006/C 88/11)

On 25 September 2003, The European Economic and Social Committee, acting under Rule 29 of its Rules of Procedure, decided to draw up an opinion on *The representativeness of European civil society organisations in civil dialogue*

and, under Rule 19, paragraph 1, of its Rules of Procedure, the Committee decided to establish a subcommittee to prepare its work on the matter.

The subcommittee adopted its draft opinion on 12 January 2006. The rapporteur was Mr Jan Olsson.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion by 103 votes to one with six abstentions.

1. **Preamble**

1.1 Over the last ten to fifteen years, the interest of the European institutions in holding a dialogue with civil society, in particular organised civil society at European level, has continued to grow. They have recognised in fact that there cannot be any good policies unless there are at least three things: an effort to listen to the public, participation and the approval of the people concerned by EU decisions.

1.2 The experience and expertise of civil society players, the dialogue between them and with public authorities and institutions, at all levels, combined with negotiation and the quest for that convergence or even consensus, enable proposals to be made in the general interest. This enhances the quality and credibility of political decision-making, which becomes easier for the public to grasp and accept.

1.2.1 By giving citizens the chance to engage individually and collectively in managing public affairs via a specific contribution from organised civil society, participatory democracy enhances representative democracy, thus strengthening the democratic legitimacy of the European Union.

1.3 By virtue of its membership and the role and mandate entrusted to it by the Treaties, the European Economic and Social Committee (EESC) has been fully involved in European participatory democracy from the outset, and is its oldest component.

1.4 The 'right to participate', which has been claimed by civil society and organisations active at European level for a long time, but is now of particular relevance. The issues and challenges facing the European Union are such that they require the mobilisation of all those on the ground and their representatives.

1.5 This need was recognised by the European Council, among others, at its meeting in Lisbon on 23 and 24 March 2000 in connection with the implementation of the Lisbon Strategy ([1]) and was highlighted by it once again at its meeting on 22 and 23 March 2005, in connection with the re-launch of this Strategy ([2]).

1.6 In its White Paper of July 2001 on European governance ([3]), the Commission makes the participation of civil society in the development and implementation of EU policies one of the basic principles of good governance and one of the priority areas for action to renovate the Community method and make the institutions operate in a more democratic manner.

1.7 The principle of participatory democracy is also enshrined in Article I-47 of the Treaty establishing a Constitution for Europe ([4]). In this respect and despite the peregrinations of the ratification process, the EU institutions must follow this reasoning and establish a genuine participative democracy. If the latter is to satisfy the demands of modern European governance, however, there remains a need to set up the instruments which will allow the citizens of Europe, and particularly the organisations in which they are active, to discuss, to be consulted and actually to influence the development of the Union and its policies within the framework of a genuine structured civil dialogue with organised civil society.

([1]) In point 38 of its conclusions (doc. SN 100/00), the European Council declares that:
'The Union, the Member States, the regional and local levels, as well as the social partners and civil society, will be actively involved, using variable forms of partnership'.

([2]) In point 6 of its conclusions (doc. 7619/05), the European Council stresses that:
'Alongside the governments, all the other players concerned – parliaments, regional and local bodies, social partners and civil society – should be stakeholders in the Strategy and take an active part in attaining its objectives'.

([3]) COM(2001) 428 final of 25 July 2001 - OJ C 287 of 12 October 2001.

([4]) Article I-47(2) of the Constitutional Treaty states that 'the institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society', while paragraph 1 asks the institutions, by appropriate means, to give 'representative associations' in particular the opportunity to make known and publicly exchange their views on all areas of Union action.

1.8 For its part, the EESC is working actively to develop participatory democracy, in partnership with the other EU institutions and civil society organisations.

1.8.1 In October 1999, the EESC held the first Convention on The role and contribution of civil society organisations in the building of Europe. Since then, it has issued a number of opinions with a view to further developing and structuring the dialogue between civil society organisations and the European institutions ([5]) ([6]).

2. **The players in the civil dialogue at European level** ([7])

2.1 The players in the civil dialogue at European level are organisations which represent the specific and/or general interests of citizens. European social partner organisations are therefore by their very nature a party to civil dialogue. Social dialogue is, in this context, an excellent example of the practical implementation of participatory democracy. However, a fundamental distinction must be made between social dialogue and civil dialogue. European social dialogue is clearly defined both in terms of its participants and its purpose and procedures, and the European social partners have quasi-legislative powers ([8]). What characterises it are the special powers and responsibilities of its participants, who act independently.

2.2 At European level, these organisations have many different forms and appellations: associations, federations, foundations, forums and networks are some of the most common titles ([9]). There are also foundations with a European scope. Often, these different types of organisation are grouped under the heading 'non-governmental organisations' (NGOs), which is in fact used to cover all types of autonomous non-profit-making structures. Many of these European organisations operate on an international scale.

2.3 These European organisations coordinate the activities of their members and associates in the various Member States and often beyond them. In addition, and more and more frequently, they are grouped together in European networks, as is the case in the fields of social and environmental affairs, human rights, consumer affairs, development or the social economy.

2.4 In order to illustrate the breadth acquired by the European civil society organisations and the way in which they fit together, an appendix to this opinion gives an outline of the most significant organisations, federations and networks in the various sectors of civil society organised at European level, apart from socio-professional organisations. About twenty specific sectors are identified in this document.

2.4.1 This survey shows that European organised civil society is becoming increasingly structured and that there is diversity in the very structuring of the organisations concerned: they can be composed simply of national organisations (or even regional and local organisations, in some cases) representing a given sector: their members can be European organisations and national organisations, and legal and natural persons at all levels. Grouping into a network generally follows one of two patterns: either the network is made up of European organisations in a given sector or it associates national and European organisations.

2.5 Obviously, a number of European civil society organisations, not to mention certain national organisations or networks, generally have an experience and expertise that enables them to claim a right to take part in the consultative processes within the framework for formulating EU policies. However, it is equally clear that, in the absence of objective assessment criteria, the representativeness of European civil society organisations, other than the organisations of the social partners, is often called into question. The voluntary field is seen as being too fragmented, as it is often split into a multitude of organisations and often representing the individual interests of their members rather than the general interest, and lacking transparency; it is also seen by many as being incapable of exerting a real influence on the process of formulating policies and preparing decisions.

3. **The requirement of representativeness**

3.1 The EESC has already emphasised on several occasions that only clearly established representativeness can give civil society players the right to participate effectively in the process of shaping policies and preparing Community decisions.

([5]) See the documentation concerning the 'First Convention of civil society organised at European level' of 15 and 16 October 1999 (CES-2000-012-EN), and the relevant opinions: 'The role and contribution of civil society organisations in the building of Europe', 23 September 1999 (CES 851/1999 - OJ C 329 of 17 November 1999), 'The Commission and non-governmental organisations: building a stronger partnership', 13 July 2000 (CES 811/2000 - OJ C 268 of 19 September 2000), 'Organised civil society and European governance – the Committee's contribution to the drafting of the White Paper', 26 April 2001 (CES 535/2001 - OJ C 193 of 10 July 2001), 'European Governance – a White Paper', 21 March 2002 (CES 357/2002 – OJ C 125 of 27 May 2002).

([6]) The EESC has organised two other conferences on the topic, the first on 'The role of organised civil society in European governance', on 8 and 9 November 2001, and the second on Participatory democracy: current situation and opportunities provided by the European Constitution, on 8 and 9 March 2004.

([7]) For the European Economic and Social Committee, civil dialogue takes three forms:
firstly, dialogue between European civil society organisations on the EU's development, future and policies;
secondly, structured, regular dialogue between these organisation and the EU;
thirdly, daily sectoral dialogue between civil society organisations and their contacts within the legislative and executive authorities.

([8]) See Articles 137 and 138 of the Treaty.

([9]) The directory of non-profit-making civil society organisations organised at European level, drawn up on a voluntary basis by the Commission (CONECCS database), lists more than 800 organisations, some of which can be placed in the socio-occupational category.

3.1.1 In addition to being a fundamental democratic principle, the need for civil society organisations to be representative is consistent with the aim of giving them greater visibility and influence at European level.

3.1.2 With this in mind, the Committee has worked out representativeness criteria, which it set out most recently in its opinion of 20 March 2002 on the White Paper on European governance ([10]). In order to be considered representative, a European organisation must meet nine criteria. It should:

— exist permanently at Community level;

— provide direct access to expertise;

— represent general concerns that tally with the interests of European society;

— comprise bodies that are recognised at Member State level as representative of particular interests;

— have member organisations in most of the EU Member States;

— provide for accountability of its members;

— have authority to represent and act at European level;

— be independent, not bound by instructions from outside bodies;

— be transparent, especially financially and in its decision-making structures.

3.1.3 In this opinion, the EESC proposed, however, *'to discuss these criteria with the institutions and civil society organisations as a basis for future cooperation'*.

3.2 In order to avoid any misunderstandings over the scope of the representativeness criteria established in this opinion, there seems to be a need to draw a clear distinction between 'consultation', open in theory to all the organisations having expertise in a given field, and 'participation', which is an opportunity for an organisation to intervene formally and actively in the collective decision-making process, in the general interest of the Union and its citizens. This process, which is underpinned by democratic principles, enables civil society organisations to be part and parcel of policy framing and preparing decisions on the development and future of the Union and its policies ([11]).

3.2.1 Even if this distinction may seem to be of a largely academic nature, it is relevant: representativeness is a precondition for participation as it confers legitimacy. In a process of consultation, the aim is to hear points of view and collect the expertise of civil society players, without imposing prior conditions. Consultation nevertheless remains a very important component of civil dialogue.

3.3 In its White Paper on European governance, referred to above, the Commission proposed establishing partnership arrangements going beyond the minimum consultation standards applied to all its departments in some areas where consultations are already well established. The Commission made the conclusion of these agreements subject to the civil society organisations providing guarantees with regard to their openness and representativeness, but it did not deal with the criteria to be applied.

3.4 The Communication of 11 December 2002 ([12]) establishing the general principles and minimum standards for consultation of interested parties by the Commission distinguishes between open consultations, within the framework of a global and non-exclusive approach, and focused consultations, where relevant interested parties (target groups) are defined on the basis of clear and transparent selection criteria. However, it does not identify these criteria either.

3.4.1 In this same communication, the Commission also highlights the importance it attaches to the contributions of European representative organisations but refers to the work already carried out by the EESC on the matter of the criteria for the selection of representative organisations to take part in the civil dialogue.

3.5 The Nice Treaty consolidated the EESC in its role of privileged intermediary between organised civil society and the EU's decision-makers and gave it increased responsibility for:

— organising discussions between representatives of civil society with different motivations and defending divergent interests; and

— facilitating a structured and continuous dialogue between the European organisations and networks of organised civil society and the EU institutions.

3.6 However, it should be stressed that the present opinion does not apply to:

— the daily dialogue at sector level between civil society organisations and between such bodies and their interlocutors within the EU's legislature and executive, particularly the Commission ([13]); or

([10]) See footnote on page 5. Point 4.2.5 in the opinion (CES 357/2002).

([11]) See in particular the EESC opinion of 26 April 2001 on Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper (CES 535/2001 - OJ C 193 of 10 July 2001 – point 3.4.).

([12]) COM(2002) 704 final.

([13]) The issue of representativeness remains, in this context, crucial to giving civil society organisations a genuine right, not just to be consulted but to participate in framing EU sectoral policies and preparing related decisions, in addition to their implementation and follow-up. It does however raise some issues which in many ways are of a different nature and scope to those addressed in this opinion. They therefore warrant a specific discussion, when the time comes.

— the European social dialogue and European social partner organisations, whose representativeness is established clearly on the basis of criteria specific to these organisations. The same is true of the socio-professional organisations involved in social dialogue at sector level. However, these organisations are qualified to be fully-fledged players in the civil dialogue.

3.7 The drawing-up of this opinion thus takes place, first and foremost, in the context of clarification and rationalisation of the EESC's own relations with European organisations and networks. This opinion thus aims to give the dialogue with organised civil society greater credibility by enhancing the legitimacy of these organisations and networks.

3.7.1 This itself is part of the drive to implement reinforced, structured dialogue with European organised civil society:

— on a general level, i.e. for all topics of common interest linked particularly to the development and future of the European Union;

— within the context of the EESC's consultative role as regards the definition and implementation of EU policies.

3.8 This opinion could also:

— form a point of reference and material for consideration by the other institutions, especially with a view to consolidating democratic participation at European level and the establishment of a genuine European civil dialogue;

— open up a field of inter-institutional cooperation, including the exchange of good practice, particularly with the Commission and the European Parliament, without there being any question of interfering with their way of organising the dialogue with European organised civil society.

3.9 For its part, the EESC stresses, here, that there are pros and cons to the establishment of a system for accrediting civil society organisations to the European institutions. However, the EESC does not consider this opinion to be an appropriate platform for discussing the merits of such a system. Nonetheless, it believes that this issue is closely linked to representativeness and that the two should therefore be discussed together as part of a wide-ranging debate involving all stakeholders, the European institutions and civil society organisations.

4. **The EESC and European civil society organisations: a pragmatic and open approach**

4.1 The EESC is aware that it only partially reflects the diversity and developments covered by the term 'organised civil society', and so it has taken initiatives and implemented reforms to ensure as broad a representation as possible of organised civil society.

4.2 European organisations and networks of civil society which are not yet represented on the EESC — or not directly — are thus associated with the EESC's structures and its work in various ways, but that association is not based on representativeness criteria.

4.2.1 Thus each of the EESC's three **Groups** ([14]) recognises European organisations by giving them the status of approved organisation. In principle, EESC members have direct or indirect links with these organisations, but that is not essential.

4.2.2 At **section** ([15]) level, the European organisations which have an effective contribution to make when an opinion is drawn up are often involved in the work. They are informed of the work in progress, send their comments, can be represented by experts and can participate in hearings or conferences which are organised.

4.2.3 The **EESC** organises events (conferences, seminars, hearings, etc.) on cross-sectoral subjects, such as the Lisbon Strategy, sustainable development and the financial outlook for 2007-2013; also worthy of mention are the meetings to follow up the work of the European Convention ([16]).

4.2.3.1 The participants from organised civil society are chosen in a pragmatic way on the basis of proposals from the groups, EESC members, sections or the secretariat. These events are generally open to representatives of organised civil society who have freely expressed an interest in taking part.

([14]) The EESC is divided into three Groups, representing employers (Group I), employees (Group II), and the other economic and social sectors of organised civil society (Group III).

([15]) The EESC comprises six sections that deal with all the areas of EU activity in which it plays an advisory role.

([16]) In accordance with the declaration of the Laeken European Council of 15 December 2001, the European Convention had a mandate to engage in dialogue with civil society. This task was undertaken by Jean-Luc Dehaene, vice-president of the Convention, with whom the EESC organised eight information and dialogue meetings with European civil society organisations and networks; among those taking part in these meetings were members of the Convention and, more particularly, its Presidium. The success of these meetings was confirmed by the fruitful cooperation between the European Parliament and the EESC during the preparation and running of the hearings of these organisations and networks that preceded the adoption by the EP's constitutional affairs committee of its parliamentary report on the Constitutional Treaty in November 2004. Initially, the EESC had organised a hearing of all the organisations concerned, in the presence of the first vice-chairman of the constitutional affairs committee and the two EP rapporteurs. Later, the spokesmen for the representative networks were invited to address the parliamentary committee directly.

4.3 A **Liaison Group** between the EESC and the representatives of the main sectors of European organised civil society has also been recently set up by the Committee. At present, in addition to the ten EESC representatives (the EESC president, the three Group presidents and six section presidents), it has 14 members from the main organisations and networks active in the sectors represented within the Liaison Group. The organisations concerned may or may not already have the status of an approved organisation.

4.3.1 The job of this Liaison Group is to ensure that the EESC adopts a coordinated approach towards European civil society networks and organisations and that initiatives decided on together are followed through.

4.4 The above survey shows the pragmatic approach adopted so far by the EESC, which in general means an open, non-exclusive approach, while gradually structuring its relations with European organised civil society. However, as regards the granting of approved organisation status or the sectoral consultations carried out by the sections, the approach is more targeted.

4.5 In this respect, the final report of the ad hoc group on structured cooperation with European civil society organisations and networks, dated 10 February 2004, stresses that *'the question of representativeness obviously requires serious consideration'* but that *'this issue must not, however, prevent any headway at all being made'* and recommends an approach that *'obviously includes a degree of prudence, but also requires openness and pragmatism'*.

5. **A three dimensional procedure to assess representativeness**

5.1 The criteria defined by the EESC in its opinion on the White paper on European governance are, clearly, worded to different degrees of precision. Therefore, the meaning and scope of these criteria should be more precisely defined and thereby made measurable and applicable.

5.2 Against this background, the EESC considers that it is more important to establish a clear, uniform and simple procedure to assess the representativeness of European civil society organisations, and thereby avoid complex, controversial issues.

5.3 The procedure must provide for a criteria review that is tailored to the European organisations' existing structure and operating methods. It must also be based on the principle that the organisations are part of the assessment process. The EESC has no designs on their autonomy.

5.4 The procedure should therefore be based on the following principles:

— openness;

— objectivity;

— non-discrimination;

— verifiability;

— participation (by European organisations).

5.5 The Committee suggests the procedure should cover three assessment criteria, viz.:

— the provisions in the organisation's statute and their implementation;

— the organisation's support base in the Member States;

— qualitative criteria.

5.5.1 The two first assessment criteria are clear and relate to each organisation's individual structure. They thus provide a good basis for a relatively objective assessment of the organisation's representativeness, whilst preserving the dynamics of civil society. The third dimension is more complex.

5.6 The EESC considers that the suggested procedure does not involve any particular burden or constraint on the organisations concerned, but that it does require openness in terms of the organisations' structure and procedures. Openness is a basic democratic principle of general interest, that can enable different public interests and individual citizens, as well as public authorities, to gain an insight into the organisations' structure and activities in order to make their own assessment.

5.7 Based on the principles and assessment criteria, the EESC should be able to develop a procedure enabling it to gauge the representativeness of European civil society organisations. This procedure could be implemented by setting up a special evaluation instrument, initially with the Liaison Group for European Civil Society Organisations and Networks.

6. **The statute and its implementation**

6.1 The EESC believes that there is a clear, direct link between the criteria already proposed and the statutes of European civil society organisations.

6.2 In principle, all organisations — whether de jure or de facto — active at European level should have statutory regulations ([17]).

6.3 Given the criteria already defined by the EESC ([18]), and with a view to making these fully operational, the Statute for a European Organisation should contain the following provisions:

— on the association's areas of activity and purpose;

— on membership criteria;

— on the operating procedures, which must be democratic, transparent, and include the accountability of the Board vis-à-vis its member organisations;

— the financial obligations of the member organisations;

— that an economic audit and an activity report must be submitted annually and be available to the public.

6.4 In the absence of European legislation, each organisation independently adopts its statute under the relevant national legislation ([19]).

6.4.1 In this context, it should be remembered that in 1991 ([20]) the European Commission had already proposed legislation to enable the creation of 'European Associations'. The aim was to create a form of association for associations with members in several Member States, along the lines of the existing one for limited companies and cooperatives. The material provisions of the proposal are consistent with the above proposals on the content of the statute.

6.4.2 The proposal, for which the EESC expressed its support ([21]), was blocked because of opposition from a number of Member States and has now even been withdrawn by the Commission. The EESC still firmly believes that such a statute is an essential instrument in order to consolidate the right of association as a fundamental freedom, enshrined in the EU's Charter of Fundamental Rights, and an expression of European citizenship. The principles contained in Article I-47 of the Constitutional Treaty should, in the Committee's view, provide an incentive to re-examine the issue.

6.4.3 Consequently, the EESC reiterates its call to set up a European statute of transnational associations, by analogy with the statute of European political parties that came into force in November 2003 ([22]). This is consistent with the proposals made in this opinion.

6.5 Nonetheless, member organisations should be responsible for ensuring, through appropriate mechanisms and procedures, that the statute is monitored and implemented as part of the organisation's internal democratic decision-making process

6.6 In order to ensure proper openness in the way European civil society organisations operate, the statute, the annual economic and activity reports, and information about member organisations' financial obligations and funding sources should be made public, possibly by also publishing them on the websites of the organisations in question.

7. **The organisations' support base in the Member States**

7.1 The criteria proposed by the EESC suggest that a European organisation must have member organisations in the vast majority of Member States and that they should be recognised as being representative of the interests they represent.

7.2 In order to apply this criterion the EESC considers that, if a European organisation is to be considered representative, it must be represented in more than half of EU Member States. This requirement should stand even though the recent EU enlargement has made the situation more complex.

7.3 In order to allow for the appraisal of this support base, every European organisation should systematically make public its list of member organisations, whether they are organisations (legal persons) that are independent of outside interests representing civil society in the Member States and/or European associations of such organisations.

7.4 Assessing the degree to which a European organisation or its national member organisations can be seen as established and representative is always difficult. Such an assessment should take into account the following points.

7.5 The guiding principle should be that, whether it be national or transnational, an organisation's membership of a European organisation should not only meet the membership criteria provided for in that European organisation's statute, but should also meet the criteria stipulated in the member organisation's statute.

7.6 Consequently, a national member organisation should adopt the same practice as the European organisation to which it belongs, making public its statute and activity report, which mirrors the organisation's structure and operating methods. It would also be desirable, as required by the Council of Europe, to know the number of individual members who are directly and indirectly connected with the organisation.

([17]) It appears that some of the larger networks mentioned earlier have statutes (e.g. the Social Platform and Concord) while others are informal associations comprising a number of European organisations without a statute. This applies at least to Green 9, a group of environmental NGOs, and the Human Rights Network that incorporates NGOs active in the human rights field.

([18]) See point 3.1.2. above.

([19]) For example, Belgian law allows for the statute of non-profit-making international association (AISBL).

([20]) COM(91) 273/1 and 2.

([21]) Opinion CES 642/92 of 26 May 1992 – OJ C 223, 31 August 1992.

([22]) OJ L 297, 15 November 2003.

8. **Qualitative criteria**

8.1 By their very nature, the above criteria can be assessed fairly simply and objectively. However, qualitative criteria are trickier to apply and assess, although the statute of an organisation, particularly its purpose and means of action, along with its geographical coverage, do provide some basis for assessment. Although they may prove insufficient when it comes to assessing the representativeness of an organisation, qualitative criteria do provide a means of appraising the organisations' ability to contribute.

8.2 In this context, it should be reiterated, that this opinion is not referring to organisations that have the expertise needed to take part in open consultation procedures (see above), but rather those which are required to participate effectively and formally in the policy framing procedure. This therefore justifies a more in-depth analysis.

8.3 Qualitative criteria thus refer to an organisation's experience and ability to represent citizens' interests in its dealings with the European institutions, and the confidence and reputation it enjoys with these institutions on the one hand, and with other sections of European organised civil society on the other.

8.4 Consequently, a European organisation's ability to contribute must be assessed, based on its qualitative representativeness, in light of the extent to which the organisation can demonstrate, through its activity, its level of involvement in consultative processes implemented by the European institutions.

8.5 It is essential, here, that the European organisations concerned should openly present their activity reports and other relevant information. 'Benchmarks' could also be used, as is the case in the academic and research fields; these would need to be defined in cooperation with European civil society organisations.

8.6 In all events, the EESC intends to act on this matter in a transparent, objective, pragmatic way, as part of an open, dynamic process.

Brussels, 14 February 2006.

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the Creation of a common consolidated corporate tax base in the EU

(2006/C 88/12)

On 13 May 2005, Mr László Kovács, member of the European Commission, requested the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to draw up an opinion on the *Creation of a common consolidated corporate taxation base in the EU*.

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 27 January 2006. The rapporteur was Mr Nyberg.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion by 94 votes to 6 with 4 abstentions.

Conclusions and recommendations

The 1992 Ruding report already established that common rules were needed to establish the tax base. It also called for the proposal for minimum/maximum tax rates to be extended.

The EESC sees the fact that a working group chaired by the Commission is to develop proposals for a common consolidated corporate tax base as a step — at last — in that direction. The fact that the work will take three years is understandable, given the complexity of the issue. The group's approach is one of considerable transparency. All the documents are available on the Internet so that those who wish to follow the discussions may do so. Reluctance to change in entrenched national systems must not be allowed to delay the introduction of the common tax base. The Member States must show that EU membership is worthwhile, since a common consolidated corporate tax base can only be created by the EU. Similarly, the question of the tax rate must be put to one side for the moment, in order to reduce the difficulties in coming to an agreement on the tax base.

Politicians must be the chief architects of tax systems. The Council of Ministers and the European Parliament need to develop common rules for company taxation otherwise this area will end up being regulated by the EC Court of Justice's legal decisions. Similarly, it is important that the discussions take place in cooperation with the social partners and civil society generally.

The common corporate tax base is a question of 'nothing is settled until everything is settled'. Where there is a big risk of delays, however, it should always be considered whether the parts on which there is agreement can be introduced gradually, through daughter directives.

The deliberations that are needed are partly legal, partly tax technical, and partly economic. The Committee would urge the Commission and the Member States — despite the large number of technical details and the big differences between countries — to nevertheless be guided by the economic advantages that can be secured through a common consolidated corporate tax base.

Our discussions to date can be summarised by the principles for a common consolidated corporate tax base which we set out in the final section. At the same time, the Committee calls on the Commission to follow at all times the principles we set out as a beacon for working out the technical details. We have chosen to focus on reasons of principle as we believe that once these principles are accepted, it is easier to choose between different technical solutions.

1. Background

1.1 On 13 May 2005 Commissioner Laszlo Kovacs asked the EESC for an exploratory opinion on a common consolidated corporate tax base. The Commissioner pointed out that such a tax base would remove many of the problems that firms operating in several EU countries come up against. There is wide support for the proposal within business and from many governments.

1.2 Since 2001 the Commission has produced several communications and reports on corporate tax, including a major report on company taxation in October 2001.

1.2.1 Following a July 2004 'non-paper' on a common consolidated corporate tax base and a Council of Ministers discussion, a special group was set up comprising experts from the Member States. Until 2007 the group will look in detail at all the practical aspects of introducing a common tax base. As with this opinion, the discussions only deal with the basis for calculating corporate tax, and not with corporate tax rates. Neither is the issue of 'home-state taxation' addressed. This could perhaps be a temporary pilot project, whereas the common tax base is an overarching project.

1.3 The debate does not focus exclusively on creating a common tax base system, but also on the fact that it must be a consolidated one. This specifically concerns companies that are active in several Member States. For a common tax base to work best, such companies need to be able to pool their tax base and calculate profits for the group as a whole. The calculations would be consolidated. This will therefore require systems for sharing profits between the different parts of the company.

1.4 The debate only deals with corporate tax, not with all types of company taxation. There are many types of company, e.g. voluntary organisations and associations, and these differ between Member States. If a common tax base is introduced for limited companies, the relationships between these companies and other types of companies and activities change as regards taxation of profits. There could therefore be a case for national corrections in the area of taxation of profits for other types of companies and activities. The above-mentioned group involving the Commission and the Member States does not address this issue, and neither does this opinion.

2. **Previous EESC opinions on a corporate tax base**

2.1 A number of EESC opinions have addressed the problems caused by the existence of different tax bases for corporate taxation in the EU countries. The EESC is working to create free and fair competition that encourages cross-border activity without undermining the national base for company taxation ([1]). The EESC would prefer to start by trying to find solutions for a common tax base for corporate tax, and only then to discuss tax rates ([2]).

2.2 A common corporate tax base could reduce or even eliminate most of the existing obstacles to cross-border activity for companies in the European Union. The problems include:

— double taxation

— internal pricing for cross-border transactions

— different approaches to marketing when companies in different countries merge

— allocation of capital gains or losses when companies reorganise across borders

— compensation for losses within a company operating in several countries, and

— different rules on taxation of investments.

2.2.1 Although corporate taxation is important to creating a favourable climate, it should be remembered that there can also be many other crucial factors, both in terms of cross-border trade and where the activity is carried out ([3]).

2.3 The EESC has also pointed out that the problem is not just tax base differences. There are also a number of practical regulatory differences relating to, for example, tax collection, accountancy arrangements and procedures for settling disputes. Some of these problems could be reduced by implementing the practical rules that must accompany a common tax base ([4]).

2.3.1 For companies the biggest practical advantage of a common tax base would perhaps be that they would only need to be familiar with a single set of rules and how to implement them. Instead of keeping separate accounts for the different sections of the company, combined accounting can be used. In addition to creating a more level playing field, a common tax base could provide efficiency gains not just for companies but also for the tax authorities ([5]).

2.4 The EESC has also called for the common tax base debate to be extended from the core issue to encompass cross-border problems. When a common tax base is created it must not only facilitate matters for companies that operate across borders, but also for those that are only active in the home market. The main objective — to create fair competition for companies that operate in several countries — must not be allowed to produce new differences between these companies and companies with only domestic activity.

2.4.1 The aim here is also to facilitate matters for small businesses, almost all of which are active in the home market only. Attempts to create simple, clear tax rules are of crucial importance in this context, too ([6]).

([1]) *Tax policy in the European Union - Priorities for the years ahead*. EESC opinion – OJ C 48/19 of 21.2.2002, p. 73.

([2]) *Taxation in the European Union: common principles, convergence of tax laws and the possibility of qualified majority voting*. EESC opinion – OJ C 80/33 of 30.3.2004, p. 139.

([3]) *Fiscal competition and its impact on company competitiveness*. EESC opinion OJ C 149/16 of 21.6.2002, p. 73.

([4]) *Direct company taxation*. EESC opinion OJ C 241/14 of 7.10.2002, p. 75.

([5]) *Direct company taxation*. EESC opinion OJ C 241/14 of 7.10.2002, p. 75.

([6]) *Direct company taxation*. EESC opinion OJ C 241/14 of 7.10.2002, p. 75.

2.5 The EESC has previously stated that a common tax base cannot be voluntary, i.e. offer the option to choose between remaining with a national tax system or opt for a special system for companies with cross-border activity. The EESC therefore considers that when a common tax base is created for corporate taxation, it must be mandatory ([7]).

2.6 The EESC has consistently championed the case for dovetailing — insofar as possible — the rules for the common tax base with International Accounting Standards. The Committee is aware that the IFRS for international accounting only can be used as a starting point for the common tax base rules.

2.7 An unwelcome effect of the Council of Ministers' and the European Parliament's inability to reach a decision on a common corporate tax base is that the positions that have to be adopted anyway end up in the EC Court of Justice. As long as differences exist there will be a need for legal decisions relating to the different tax systems. Member States tax systems are then affected by the Court's decisions relating to the internal market, despite the fact that no political decisions have been taken ([8]). ([9])The 'Marks and Spencer' case that was recently decided at the EC Court of Justice provides a clear illustration of this.

2.8 The EESC's wish to consider corporate taxation in a broader political perspective means that tax neutrality must be considered not just in relation to company tax, but also to the two production factors — labour and capital. However, this position of principle is largely contingent on the tax rate chosen ([10]).

2.9 Integration and increased competition go hand in hand and can enhance efficiency and increase growth. However, this means that those unable to cope with increased competition cannot compensate for poor productivity by lowering corporate taxation. If the positive effects of integration are to be achieved, those aspects of corporate taxation that can distort competition must be eliminated ([11]).

2.10 A common — and hopefully mandatory — tax base would provide greater scope to monitor tax payments as the authorities only need to be familiar with a single system and can communicate with each other more easily. It would also make it easier to deal with tax evasion to some degree. A non-binding common tax base — where one can choose between the latter and a residual national tax base calculation that applies to domestic companies — would, moreover, create a situation in which the Member States, rather than companies, would have to deal with several tax systems.

3. **Some facts about corporate tax**

3.1 Tax receipts from companies vary according to which country the tax is collected in. The most important reason for this is different tax rates (between 12.5 % and 40 %) but as the tax base varies it is not always clear how much the situation actually depends on differences in tax rates ([12]).

3.2 The Commission has compiled information on what is known as the 'implicit tax rate', which is meant to explain the proportion of corporate profits actually paid in tax, whereas the debate usually focuses on comparisons of tax rates alone. The latter can be misleading; for example, a high tax rate can give small tax receipts if there is wide scope to make deductions. Tax receipts can also vary depending on how effective collection is and the control measures in place. The extent of corporate resources devoted to corporate tax payment also depends on whether taxation arrangements are efficient or bureaucratic ([13]).

3.3 In 1990 the OECD noted that 60 % of world trade takes place within corporate groups. Differences between national tax systems are therefore a problem for companies, as they apply to these corporations.

3.4 It is difficult to calculate the economic impact of a common corporate tax base. A recent study puts it at between 0.2 % and 0.3 % of GNP. The calculations only cover the common rules for the tax base; consolidation and administrative savings are not taken into account. This should also be seen in light of the fact that corporate taxation as a whole accounts for approximately 3 % of GNP ([14]).

3.5 Nowadays major companies account for the majority of cross-border activity. Differences in corporate taxation are therefore a problem for them. Those that operate in several countries have, however, acquired the necessary expertise and managed to cover the additional costs. However, it is probably differences in tax systems that impact most on those small and medium-sized firms that have considered but thought twice

([7]) *Direct company taxation*. EESC opinion OJ C 241/14 of 7.10.2002, p. 75.

([8]) An internal market without company tax obstacles – achievements, ongoing initiatives and remaining challenges. EESC opinion OJ C 117/10 of 30.4.2004, p. 41.

([9]) In 2003 and 2004 the ECJ ruled on 25 cases relating to direct taxation.

([10]) *Direct company taxation*. EESC opinion OJ C 241/14 of 7.10.2002, p. 75.

([11]) *Taxation in the European Union: common principles, convergence of tax laws and the possibility of qualified majority voting*. EESC opinion OJ C 80/33 of 30.3.2004, p. 139.

([12]) *Direct company taxation*. EESC opinion OJ C 241/14 of 7.10.2002.

([13]) *Taxation in the European Union: common principles, convergence of tax laws and the possibility of qualified majority voting*. EESC opinion OJ C 80/33 of 30.3.2004, p. 139.

([14]) Economic effects of tax cooperation in an enlarged European Union, Copenhagen Economics 2004 (Copenhagen Economics (2005) p. 36).

about setting up outside their national borders. Common rules would lower the bar considerably for firms wishing to start up in several countries. There is considerable scope here for greater integration and increased competition, which could be one of the biggest gains from a common system for calculating the corporate tax base.

4. **Common decisions taken thus far on corporate tax**

4.1 Only three directives have so far been adopted in the field of corporate taxation. The Parent companies/subsidiaries Directive (90/435) establishes that the dividend from a subsidiary in one country will be tax free in the Member State of the parent company. Tax-free status can, however, be replaced by a rule allowing tax paid in the subsidiary company country to be deducted from the tax due in the parent company country.

4.2 The Mergers Directive (90/434) regulates taxation when companies re-organise. Although there is no civil law covering cross-border mergers and split-offs, they are still not covered by the directive, which chiefly regulates sell-offs.

4.3 A third, recently adopted directive deals with taxation of interest and royalty payments between associated companies (2003/49). The directive eliminates withholding tax in such cross-border transfers.

4.4 Since 1997 there has been a code of conduct for company taxation, according to which the Member States shall not attract investment through harmful measures in the tax area. The code requires the countries to undertake not to introduce new harmful taxes and to review their existing provisions. The code has been supplemented with a list of 66 tax measures that are deemed to be harmful. These are currently being eliminated.

5. **Discussion of the technical details**

5.1 The rules governing deductions that may be made from the tax base before tax is calculated are the tax base calculation area where differences between countries are greatest, and this is therefore an important issue for Member State discussions. In this connection, the Committee would stress in particular the need to aim for a broad base for corporate taxation. It must be remembered, however, that a broader basis may require a review of the tax rate.

Unfortunately, the discussion needs to start with the basics. Expenditure can already be treated differently if it is to be classed as ordinary expenditure and therefore be included in the calculation of the tax base, or if it can be deducted from profits because the tax base is fixed. Tax experts still have a lot of work ahead of them before they can produce a common proposal.

5.2 The tax base system must be competitive so as to create a favourable climate for investment in the EU. The tax system must not, however, generally influence the type of investment or the choice of Member State in which it will be located. Profitability is the crux of the matter, not how funding can be found for an investment. Clearly there must be potential to encourage environmentally-friendly investment or steer it towards neglected regions, but this can be done more appropriately using resources other than the corporate tax base.

5.2.1 Similarly it is important to maintain a clear line of demarcation with income tax. Distribution of stockholder dividends is a matter for income tax and must not be drawn into discussions about taxation of corporate gains. Moreover, this is not an issue that affects decisions on the corporations' location.

5.3 Even if it is possible to agree on a common tax base, it must include different rules for certain sectors. For example, special rules on reserves might be required for certain sectors, such as the banking and financial sector, particularly the life insurance industry, where reserves are often particularly important. Another example is the forestry industry, where in extreme cases revenue can come in at up to hundred-year intervals.

5.4 Another aspect concerns whether the firm is mainly funded through loans or through own capital. If interest payments on the loans are tax-deductible, then only a small part of the firm's income is taxed in the form profits on the few shares. If there are no loans and everything is funded through in-house shares then everything is taxed as profit. Corporate tax should, as far as possible, not be allowed to influence choice of funding.

5.5 When it has been established what deductions can be allowed, it only remains to decide when and how this can be done. The biggest difference between Member States is whether each type of investment can be written off individually or whether all investments can be pooled together. Firms find pooling easier to handle, as there is no need to make calculations for individual machines or equipment.

5.6 In order to introduce a consolidated tax base where profit is calculated for an entire group of undertakings, a definition is needed for the latter. The alternatives for such a definition are: a percentage of ownership in each part of the business; or for activity in each part of the business to need to be connected with the parent company's activity. It would seem necessary to choose a combination of these, since there is no reason to create a consolidated tax base for commonly-owned companies, where these exist, within separate sectors.

5.7 Once there is agreement on the tax base for calculating corporate taxation, the problem of consolidation remains: how are profits for companies active in several countries to be distributed between the various countries? A common tax base is not enough to avoid tax systems being used to move profits; there must also be a simple, logical system for distributing profits between the Member States (and consequently between countries with different tax rates). When profits are amalgamated in this way between different parts of a company in different countries, tax authority cooperation also needs to move up a gear.

5.7.1 In light of these requirements, we might usefully look at the system used in Canada (half of the profit is distributed according to the proportion of the workforce and half according to the proportion of the sale).

5.8 If profits distribution is to be a simple matter in practice, more rules than just those governing calculation of the tax base need to be uniform. For example, calculations should be made on a half-yearly basis and tax payments made at the same time in all countries. Standardised electronic transfers should be another requirement.

5.9 One of the most important consequences of a common tax base is that the system would be transparent. For the layman, this is currently only the case with tax rates. To demonstrate how misleading this can be it is useful to compare corporate tax rates and corporate taxation as a share of GDP. The lowest share of GDP (0.8 %, 2003 figures) is in Germany, with a tax rate of 39.5 %. This is probably partly a reflection of the problems in defining what constitutes the tax base. In the 'new' Member States, the figure is on average 2.7 % of GDP, with tax rates that vary from 35 % to 15 %. Most of the 'old' Member States have a figure of circa 3 % of GDP, but with tax rates that vary from 38 % to 12.5 % ([15]). It is important that such unexpected variations should be visible, not just for companies but for the sake of electoral democracy.

6. **Principles for a common consolidated corporate tax base** ([16])

6.1 *Broad bases*

The objective of taxation is to finance public welfare. The tax levy base should therefore be as broad as possible. Broad bases also keep distortion of the economy to a minimum, since they make it possible to keep tax rates down.

6.2 *Neutrality*

A common corporate tax base must be neutral with regard to different investment alternatives and not distort competition between sectors. Genuine economic considerations must decide where companies choose to locate and where the technical tax base will be. A neutral tax base helps to create free and fair competition between companies.

6.3 *Simplicity*

Simplicity, clarity and transparency must be the hallmark of any common rules. For the sake of simplicity, and where appropriate from a taxation stand, there must be a tie-in with international accounting standards, which are already used by many companies. Simpler systems are also created when the same rules apply to when and how payment is to take place.

6.4 *Efficiency*

Tax must be levied efficiently, including in the sense that it must be easy to monitor so that tax errors can be prevented and tax fraud combated.

6.5 *Stability*

It is important that tax systems should be stable. Company investment has to be motivated by a long-term perspective and since tax systems are a factor in investment decisions they cannot be subject to a barrage of changes.

6.6 *Legitimacy*

The design of the tax system must be accepted by those directly affected, i.e. by the social partners and by the public as a whole, as it is used to fund the public sector.

6.7 *Fairness*

Distributing the profits calculated under a common corporate tax base between the Member States provides the basis for a fair system. Fair distribution enhances Member States' freedom to determine their own tax rate levels.

6.8 *International competition*

When establishing the tax base, its relationship to non-EU company tax systems must also be considered.

([15]) Structures of the taxation systems in the European Union, Copenhagen Economics (2005 edition).

([16]) The order in which the principles are presented does not imply any ranking of these principles.

6.9 *Mandatory*

In order to avoid new differences in tax treatment being created within the Member States, in an optimum system the tax base rules must be mandatory both for companies with cross-border activity and for those operating in one country only. If a common system follows general principles and is sufficiently simple and competitive for firms, then the argument for a mandatory or for a voluntary system will be largely academic. The design of the system will determine whether or not a mandatory system is called into question

6.10 *Interim/transitional rules*

However, allowing companies the freedom to choose could be an acceptable interim system. A major change such as that introduced by a common corporate tax base might also require transitional rules. An interim system or transitional rules option would make for a more flexible implementation of a common system.

6.11 *Smooth decision-making procedures*

Despite the need for a long-term, stable taxation system for companies, there must also be potential for change in order to be able to respond to changes in the world around us or to plug 'gaps' in the system. This could be a matter of whether the system creates any unintentional effects, for example. Any decision on a common system therefore needs to include rules to enable adjustments to be made smoothly.

Brussels, 14 February 2006

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on Energy Efficiency

(2006/C 88/13)

In a letter dated 7 June 2005, the European Commission asked the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to draw up an opinion on *Energy Efficiency*.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 31 January 2006. The rapporteur was **Mr Buffetaut**.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion by 78 votes to 2 with 1 abstention.

1. **Conclusion: Promoting Energy Efficiency**

1.1 The search for energy efficiency has become a necessity for enterprises; accordingly, in most cases, voluntary agreements should be able to cope with the major challenges of increased energy costs.

1.2 The European Union could play a particularly useful role by systemising information on best practices and innovations in this field. DG Energy could become an information hub for energy efficiency.

1.3 Public awareness campaigns can also play a useful role. To be successful, these campaigns must take place as close as possible to end consumers and to the professional sectors concerned. It is, therefore, up to the national and local authorities to take responsibility for such action.

1.4 Lastly, recourse to regulation should be the exception rather than the rule given that several legal instruments have already been adopted whose implementation must still be assessed.

1.5 Energy efficiency isn't simply a slogan, a luxury or a gadget. From an international perspective, where the demand for energy will continue to grow, particularly due to the rapid development of emerging economies such as China, India or Brazil, it is in the best interests of the public, businesses and the EU Member States. The International Energy Agency forecasts that world energy demand will increase by 60 % by the year 2030, whilst the European Union — which is 80 % dependent on fossil fuels — will see its energy imports rise from 50 to 70 % over the same period. However, compared with energy-producing countries and other large energy consumers, the European Union is not a united player on the world energy market. It is for this reason that during the informal Hampton Court summit last October, Tony Blair, as president of the Council, advocated the creation of a common energy policy.

1.6 It is important not to ignore the fact that the rapid rise in demand and increase in energy costs can have a heavy impact on the economic growth of the European Union, encourage certain high energy consuming sectors to relocate and, consequently, damage the social situation of Member States whose social security systems are already overstrained as a result of ageing populations and a declining birth rate. In this respect, energy efficiency measures are very worthwhile because in the final analysis they contribute to a reduction in costs and thereby to increased competitiveness.

1.7 In the same way, competition over energy resources could lead to heightened political tensions and even threaten the peace and stability of certain regions, a threat which could spread easily through international terrorism.

1.8 Lastly, the reasonable, efficient and economic use of energy resources is a vital stabilising factor for our planet and for future generations.

1.9 The EESC believes that the Green Paper on Energy Efficiency: *Doing More with Less* raises a number of relevant questions and proposes realistic courses of action. It fully supports the plan to reduce energy consumption by 20 % and feels that it is vital not only to quickly reach the objective of a 1 % annual reduction in energy consumption but to also set an effective reduction target of 2 % as part of a second phase.

1.10 It believes that voluntary agreements with the large economic sectors undoubtedly represent an effective solution, and one which is preferable, where possible, to restrictive regulatory measures.

As the two sectors with the largest energy consumption, the transport and construction industries must be the focus of intense efforts and the search for innovation.

The continued and gradual introduction of efficient innovations in the field of energy efficiency responds to the needs of both consumers and industry. The European Union and the Member States must become strongly involved in convergent policies aimed at promoting energy efficiency, the exchange of best practices, the distribution of the best technologies as well as information and incentive campaigns for households and consumers.

2. **Introduction**

In 2000, the Commission had stressed that there was an urgent need to promote energy efficiency more actively, both at EU level and in the individual Member States. This need was affirmed in the light of the aims adopted under the Kyoto agreements, as well as in view of the need to provide a more viable energy policy for a continent that has a high resource dependency, and to work to ensure the safety of its supply.

Accordingly, an action plan was published which aimed to strengthen energy efficiency within the European Community, with the following objectives:

— to draw attention to energy efficiency,

— to put forward joint measures and action within the framework of the Kyoto agreements,

— to clarify the respective roles of the Community and the Member States,

— to realise the potential for improving energy efficiency, the objective being to achieve a reduction of 1 % per annum in energy intensity, a cumulative objective considered to be feasible,

— to promote new technologies.

2.1 *The situation five years after*

The one percent objective remains an objective to be reached but a number of legal instruments have been put into place; agreements on objectives have been signed with various economic sectors; a wider discussion has been initiated by the Commission or at the Council's request. The Kyoto agreements have come into effect; objectives have been outlined for the development of renewable energy. The objective to reduce the energy intensity will probably not be realised straight away, but will rather take place sector by sector, on a gradual basis.

2.1.1 Legal instruments

Certain instruments have been adopted, others are in the process of being adopted; some are specific, whilst others have a broader scope: *Regulation on a Community energy efficiency labelling programme for office equipment* ([1]), *Directive on the energy performance of buildings* ([2]), *Directive on the promotion of cogeneration* ([3]), *Proposal for a Directive on energy end-use efficiency and energy services* ([4]).

Furthermore, the agreements negotiated with certain economic sectors establish norms for minimum efficiency; these voluntary agreements represent an alternative to drawing up new legislation.

We must ensure, however, that this does not produce a tangled web of overlapping legislation with a further increase in unclear bureaucratic rules, which would act as an economic hindrance and be detrimental to the objective of improved efficiency in the energy sector.

([1]) Regulation (EC) No 2422/2001, OJ L 332, 15.12.2001.
([2]) Directive 2002/91/EC, OJ L 001, 4.1.2004.
([3]) Directive 2004/8/EC, OJ L 52, 21.2.2004.
([4]) COM(2003) 739.

2.1.2 A broader discussion

At the same time, the European Union has launched a broader discussion, notably through a number of strategies, such as the sustainable development strategy adopted by the Gothenburg European Council in 2001, which was to be renewed by the end of 2005; unfortunately this has not yet happened. Other strategies worthy of mention include the strategies on recycling, the sustainable use of natural resources and urban development, which include energy-based aspects.

2.1.3 Kyoto

The Kyoto Protocol became effective after ratification by the Russian Federation but without the backing of the United States, which, for all that, is investing considerable amounts of money into researching methods of reducing CO_2 emissions.

In this context, the Commission published a communication entitled *Winning the battle against global climate change* and the Spring European Council affirmed its intent to give new impetus to international negotiations.

2.1.4 The development of renewable energy

Policies and objectives have been outlined for the development of renewable energy, particularly in the area of wind energy, as well as beyond, in all fields of eco-technology.

The demand for energy continues to grow and the EU's energy dependency remains high, which could have a heavy impact on its already unsatisfactory economic performance given the very rapid growth in global demand, particularly due to the expansion of emerging economies such as China, India and Brazil.

Wider discussion and the implementation of a European energy efficiency policy is therefore not simply a luxury, but a necessity, for three reasons:

— need for sustainable development,

— economic necessity,

— need for political independence.

The EESC's discussion will therefore cover the issue of 'energy efficiency, the need for sustainable development, competitiveness and economic independence' which reflects the concerns outlined in the Green Paper.

3. **The Green Paper on Energy Efficiency**

3.1 On 22 June 2005, the Commission published a 'Green Paper entitled Green Paper on energy efficiency or Doing more with less'. This document appeared after both the publication of the Proposal for a Directive on Energy End-Use Efficiency and Energy Services and the parliamentary debates on this proposal, and followed on from the request made to the EESC for an exploratory opinion on energy efficiency. Given that Green Papers usually precede texts of a legal nature, this order of events may seem to be rather disconcerting; however, the scope of this Green Paper is actually broader than that of the proposed Directive. The EESC's exploratory opinion may be considered to be a contribution to the consultative work undertaken by the Commission.

3.2 The Commission starts by noting that the demand for energy is continuing to grow in spite of the fine words about more rational use of energy, and believes that it is advisable 'to make a strong push towards a re-invigorated programme promoting energy efficiency at all levels of European society'. It considers that the EU could cut down on its current energy usage by at least 20 %. The EESC is pleased with the stated ambition of the Commission and the European Parliament to diversify supply and set objectives. It believes that a worthwhile initiative is being set up, one which should, moreover, lead to job creation through the development of new technology. Nonetheless, in the face of heightening global competition, it is vital to ensure that the energy policies implemented do not lead to any increase in energy costs, which would push up production costs. Accordingly, CO_2 emission certificates could constitute a significant cost for high energy consuming sectors (e.g. the cement industry) and encourage relocation. The socio-economic repercussions of the measures outlined or implemented must not be disregarded.

3.3 As is common practice with Green Papers, the Commission raises 25 questions on the options outlined in order to structure the public consultation process. It sets out action to be taken at EU, national, regional and local level, and, finally, action through international cooperation, by referring to policies to be implemented and sectors concerned, all illustrated with examples.

3.4 Surprisingly, certain issues have not been discussed in spite of their significance. For example, the question of urban and public lighting in general has not been mentioned; neither have the issues of production using recycled products which, in certain cases, is more energy efficient (metals, aluminium etc.), or harnessing bio gas from landfills.

3.5 The aim of the Green Paper is to identify the bottlenecks (e.g. lack of appropriate incentives, lack of information, lack of training and lack of available financing mechanisms) that currently prevent the most cost-effective improvements from being put into effect. The measures to be promoted are those which can provide a net saving after taking account of the necessary investment. Answers are expected to these questions in the form of suggestions or examples that will help meet the proposed objective. Following the Green Paper, an action plan should be drawn up in 2006.

3.6 The Commission appears to be relatively optimistic as it believes that the thorough implementation of all of the measures taken after 2001 (*Directive on the energy performance of buildings; Directive on the promotion of cogeneration*), taken together with the new measures, could lead to energy savings of approximately 1.5 % of annual consumption, thus resulting in 1990 levels of consumption.

4. **Energy efficiency: a need for sustainable development, competitiveness and economic independence**

4.1 An energy chain exists which encompasses the producer, transporter, distributor and consumer. It is therefore important to be active at all stages of the chain, from supply to demand. Action could prove to be most effective at the two ends of the chain: production and consumption.

4.2 As far as production is concerned, efficiency gains are being regularly introduced into production methods.

4.2.1 Accordingly, the cogeneration of heat and electricity seeks to recover energy that would otherwise have been wasted; new technologies are also applied, allowing sources of alternative energy to be used. In this way, the capture and exploitation of mine gas can supply power for cogeneration installations (e.g. at Freyming Merlebach in Lorraine). The heat of blast furnaces can also be recovered and harnessed (technique used at Brescia, Italy).

In the Nordic countries, some heating and electricity cogeneration units have been converted to wood power, and are behind the development of a local wood industry.

Moreover, research into how to resolve problems such as the clogging-up of installations and cases of abnormal combustion should lead to an improvement in the performance of such installations.

4.2.2 The recovery of biogas at landfill sites enables the use of a source of energy that had previously been lost, whilst combating the greenhouse effect at the same time. Such innovation and recovery encourages the setting-up of installations close to the consumer and helps reduce or avoid transport-related energy losses.

4.2.3 In the case of electricity production, tangible efficiency gains have been made in several sectors, such as the solar and wind power sectors; similar gains are expected of all types of new generation large conventional nuclear power stations.

4.3 With regard to consumption, energy-saving technology is constantly being introduced in the various energy-consuming sectors. The increase in the cost of electricity to the end user is forcing the industry to adopt innovative techniques.

4.3.1 In the vehicle and transport sectors, innovation and progress are having an effect on engine specifications, fuel quality and efficiency, and on tyre development. Vehicle energy consumption has been improving for the last ten years, but it must be acknowledged that this has been offset by an increase in the number of vehicles. The increased use of bio-fuels is encouraged by tax incentives e.g. by taxing bio-fuels at a different rate to oil-based products ([5]).

The automobile industry has signed up to a voluntary agreement with the EU to attain average CO_2 emission levels of 140g/km f by 2008. The Parliament and the Council of the European Union would like the ACEA to commit to an objective of 120g/km by 2010. At all events, if the agreement is respected, private cars entering the market in 2008/2009 will be consuming 25 % less fuel than in 1998.

4.3.2 In the case of transport, local authorities across Europe are conducting urban transport policies designed to improve the quality of public transport and reduce the use of private vehicles. In France, for example, every municipality must prepare an urban mobility plan and present it for approval. In other cases, more coercive measures are being adopted, such as urban tolls (e.g. in London).

4.3.3 One should promote the use of modes of transport that are losing momentum, e.g. rail — whose share of the freight market has continued to fall (-7 %) — and navigable waterways. Nonetheless, it must be recognised that, in spite of all the talk, there has hardly been any development in these two key energy efficiency sectors, mainly because of the lack of infrastructure and the high cost of installation or modernisation (e.g. the Rhine/Rhone canal or the transalpine road-rail link). To compound matters further, the construction of this type of infrastructure often, rightly or wrongly, meets resistance from environmental pressure groups as well.

4.3.4 Urban lighting management is also an area that is seeing energy saving innovations. Network teleprocessing systems enable monitoring of network operations in real time as well as the regulation of electric current and the adjustment of the volumes required in line with actual needs, leading to energy savings for the local community.

Public lighting that uses less modern technology (mercury vapour, for example) is often being replaced by high-pressure sodium lights which are less powerful and less expensive. White diodes, which do not use much energy, are also being developed, as is solar energy. As for home lighting, low energy consumption lamps are gradually gaining a place on the market and are leading to a reduction in consumption. Certain electricity providers offer customers discount vouchers for the purchase of low-energy light bulbs (Italy).

([5]) Council Directive 2003/96/EC OJ L283 of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity.

4.3.5 In the case of buildings, the application of the directive on energy performance should soon start showing results. In any case, insulation norms have led to considerable progress being made in all new construction work; the same is true in the glazing sector.

4.3.6 Several large industrial sectors such as the automobile industry have also signed up to voluntary commitments to improve the energy efficiency of their products which are, moreover, subject to European product labelling standards. The use of cogeneration units in industry is slowly developing. It is worth noting that certain high-energy consumption sectors such as the aluminium sector are also making not inconsiderable energy savings thanks to their use of recycled products.

4.4 Based on the above examples, it would appear that energy efficiency has become a natural and worthwhile procedure for economic players, particularly given the sustained increase in the cost of energy. This leads to the conclusion that voluntary action can be as effective as regulations over the medium or long term.

5. **Questions in the Green Paper**

5.1 *Question 1: How can one better stimulate European investment in energy efficiency technologies?*

The EESC believes that tax incentives can be effective in stimulating investments but that, in addition, energy efficiency services used on a continual basis can increase the energy efficiency of installations.

Nonetheless, it feels that there are other voluntary and non-tax measures which could also prove to be effective e.g. energy saving awards, the sharing of 'best available technology,' the organisation of internal campaigns to encourage businesses to develop simple, daily routines (automatic switching-off of lights, monitoring of electric and electronic installations etc.) as well as campaigns aimed at the general public. By the same token, energy providers could encourage consumers and customers to adopt a responsible approach to consumption, e.g. by promoting the use of low-energy light bulbs. This is also a question of personal and group responsibility. An old Indian proverb rightly states that, 'we live in a world which we should leave as an inheritance to our children.' It would be thus morally unthinkable to take an irresponsible attitude towards future generations.

As far as using funds for research is concerned, this could certainly have a multiplier effect as part of the partnership between public and private research centres.

5.2 *Question 2: Relevance of the emissions quota mechanisms for energy efficiency*

This policy could possibly be used to set up domestic projects in the housing and transport firm sectors which, as we know, consume vast amounts of energy. Certain countries have in fact already introduced energy saving certificates laying down obligations for energy producers in the field of CO_2 emissions and energy saving. If no concrete action is taken, such producers are taxed (in France at a rate of two centimes per KwH), prompting them to launch customer initiatives to ensure that energy saving takes place.

It is important to ensure that potential increases in energy costs do not bring about any adverse socio-economic effects (relocation); that being said, such increases must always be viewed in the light of the risk of a major future energy crisis. What is a cost today could ensure a gain in the future. In the same manner, the various mechanisms such as emissions certificates or energy saving programmes must be assessed based on the extent to which they encourage investment in clean and energy saving technologies.

With regard to the plan to allocate CO_2 emission certificates, it is unfortunate that those installations that have already invested in cleaner technologies which consume lower amounts of energy are not treated any more favourably than those facilities that have yet to make such efforts.

Furthermore, the allocation plans should take more account of cogeneration, a process that the European Union is keen to encourage.

5.3 *Question 3: Usefulness of annual energy efficiency programmes at individual Member State level, and comparison of these plans*

If such plans have been implemented, they should be consistent with the investment cycles. In practice, investments are not amortised over the course of one year, it is important, therefore, that plans take account of the necessary timings for implementation and amortisation.

These plans will only be capable of outlining objectives; nonetheless, their comparison could be useful as an instrument for spreading effective, best-performing practices.

5.4 *Question 4: Usefulness of developing tax instruments*

Tax instruments can be effective provided that they are well chosen and targeted. Nonetheless, the implementation of tax instruments is clearly a sensitive issue, and is primarily a matter for national administrations, and one must respect the principles of subsidiarity and the administrative freedom of local authorities. The modification of VAT rates, in turn, requires a unanimous decision at Council level.

The systematic use of eco labels is simpler and could turn out to be effective.

5.5 *Question 5: Develop more environmentally friendly state aid rules by encouraging eco- innovation and productivity improvements*

To achieve this, the sectors that consume the most energy — housing and transport — should be targeted. Nonetheless, it is important to ensure that state aid does not unfairly distort competition.

5.6 *Question 6: Public authorities as an example*

The EESC believes that the inclusion of energy efficiency criteria in public calls for tender should be encouraged, as should the performance of energy efficiency reviews in public buildings. Perhaps the concept of 'best energy bidder' should be developed?

In any case, an assessment of the work carried out on public buildings would be necessary to determine the relation between cost and effectiveness.

5.7 *Question 7: Relevance of energy efficiency funds*

Energy efficiency funds could be important instruments for more efficient energy use and for greater energy savings. With the help of such funds, private investment could be made easier and energy companies could provide their customers with options for lower energy use, thus speeding up development of energy efficiency services, and providing a stimulus for R&D and for timely market placement of energy efficient products. They are thus a useful accompaniment to the introduction of emissions trading.

On the other hand, more consistent consideration should be given to taking account of energy efficiency in the cohesion and regional development funds.

There is no doubt of the urgent need to increase loans for research and development, following the example of the USA, which has invested considerable public funds in energy technology.

5.8 *Question 8: Energy efficiency of buildings*

Whilst it is true that the sector is strategic, with potentially considerable energy efficiency gains, one must ensure that property owners and tenants are not faced with charges beyond their means, or an administrative burden that is too unwieldy or complex. One must therefore make sure that the Member States do not produce texts whose application is difficult to monitor due to their complexity and which will only be applied by certain businesses, thereby unfairly distorting competition. In the case of buildings, energy performance is a global issue but state organisations intervene on an individual basis. Accordingly, a structured approach is needed. In practice, it will be the architect, accompanied by a consultancy agency that will be responsible for the implementation of energy norms, which is why there is a need for clear and simple texts to ensure their effective implementation.

Any extension in the directive's scope of application may only be considered following an assessment of the application of the 2001 directive and, in particular, a lowering of energy thresholds, currently set at 1 000 m^2. It is also worth stressing that the revision of thermal regulations every five years does not allow much time for implementation by a sector whose businesses are often small in size. A period of 7 years would certainly be more realistic so as to give businesses the time to implement these regulations without being forced to apply new regulations even though the old ones are barely effective.

It would be useful to assess the measures taken by Member States and to exchange best practices.

5.9 *Question 9: What incentives could be given to property owners to improve energy efficiency?*

There is no doubt that an incentive-based tax policy is preferable, e.g. a reduction in property tax for property owners based on their investments in energy efficiency. In any event, such intervention should remain at national level.

It would in any case be very useful to see the development of a market for energy services as already exists in certain EU countries, particularly in Scandinavia and France.

5.10 *Question 10: Improving the performance of energy-consuming products for household use*

Feedback should be used as part of the integrated policy for products.

— This aim should be linked to the implementation of the directive on the eco-design of energy consuming products.

— The establishment of voluntary commitments across the industry should be assessed.

The Energy Label is compulsory for certain domestic appliances (refrigerators, freezers, washing machines, dishwashers, electrical bulbs). It could be extended to cover more appliances (e.g. domestic electric ovens and microwave ovens). It could also cover equipment in other areas that use a lot of energy, such as in heating and airconditioning (e.g. domestic gas boilers, circulator pumps and airconditioning split-units).

5.11 *Question 11: Improving the energy efficiency of vehicles*

One should await the outcome of the ACEA's voluntary commitment to the Commission.

In any case, the automotive industry is making constant progress in introducing innovations in vehicle energy efficiency, engine specifications and reduced consumption.

The question remains of the number of ageing cars on the road, which often has a social aspect. Nonetheless, it would be useful to encourage the purchase of new cars, for reasons of both safety and energy efficiency. Specific measures could perhaps be introduced in the form of loans to ensure that low-income households do not lose out.

Lastly, as stressed by the EESC in its report on sustainable transport, the taxation of various modes of transport remains highly unequal and penalizes certain forms of transport.

5.12 *Question 12: Public information campaigns*

To be successful, national campaigns should be favoured over European ones, particularly those specifically aimed at households. Awareness-raising campaigns for children would be useful for ensuring they acquire good energy-saving habits at an early age (e.g. the simple act of switching off the light when leaving the room). Accurate information for consumer would also be very useful to enable them to choose the energy consuming appliances that are best suited to their needs.

As a number of national campaigns have already been held, an exchange of experiences could be organised.

5.13 *Question 13: Efficiency of electricity transmission and distribution, promotion of cogeneration*

Electricity production suffers losses at the transformation stage (approximately 30 %) and during transport (approximately 10 %). Transport-related losses could be reduced by cutting transport time.

Savings could also be made by improving how demand is managed, particularly for large energy users. It would be useful to develop agreements between users and producers to manage demand more effectively.

The deregulation of the market should enable improved efficiency thanks to emulation between distributors; nonetheless, it is too early to assess this process.

In the case of cogeneration, one should carefully define the status of cogeneration-derived electricity; moreover, the parameters of the cogeneration directive appear to be hard to reach, all the more so given that they are interpreted in various ways across the Member States.

5.14 *Questions 14 and 15: Role of electricity and gas providers in offering an energy service and introduction of white (energy efficiency) certificates*

It is questionable whether it is indeed in the interest of the energy provider to promote methods of reducing consumption. For this reason, a number of Member States have introduced energy efficiency certificates.

All those involved in the energy chain must be taken into account if reductions in energy consumption are to be achieved. A voluntary code of good conduct would be useful.

Naturally, a more accurate definition is needed of what is understood by the concepts of an energy efficiency service and an energy performance contract.

In the case of white energy certificates, it would be useful to assess how they are used in those Member States where they have been introduced before they are applied across the whole of the EU.

5.15 *Question 16: Stimulating industry in technologies that generate cost-effective energy efficiencies*

How effective are existing measures (carbon, voluntary commitments)?

Voluntary commitments should be favoured over coercive measures. In any case, measures have already been taken in many European countries, in cases where they are economically and financially viable. Any action should, therefore, focus on measures that need incentives or aid; if this is not done, a windfall effect will be produced.

5.16 *Question 17: A balance between modes of transport and increasing transport by rail and inland waterway*

The rail sector often lacks flexibility and the waterways network is not yet fully developed and has too many bottlenecks. More investment is needed in the interoperability of the various modes of transport; the external costs must be integrated; and the emphasis must be shifted to those modes with more scope for energy efficiency. Allowing for regulated rather than pure and simple competition would more accurately reflect the needs of the sector and could make it more dynamic.

5.17 *Question 18: Financing infrastructure in the trans-European transport network* ([6])

A number of large trans-European networks have been slow in coming. The public finance crisis across Europe has often delayed their implementation. Public-private partnerships must also be encouraged. The EESC recommends, as a priority, investing EU money in the expansion of forms of transport which have proved to be especially energy efficient.

It is also to be hoped that encouragement will be given to public-private partnerships.

([6]) OJ C 108, 30.4.2004.

5.18 *Question 19: Transport regulatory measures or standards*

Priority should be given to technological innovations and to establishing standards that have been defined jointly by industry and public authorities.

5.19 *Question 20: Should public authorities be obliged to purchase energy efficient vehicles?*

The idea of imposing such obligations goes against the grain of the principles of subsidiarity and the administrative freedom of local authorities. That being said, numerous public authorities are already making these kinds of purchases. The standards governing calls for tenders could help encourage this practice.

That being said, the proposal for a directive on the promotion of clean road transport vehicles [COM(2005) 634] intends to extend this practice by introducing clean vehicle quotas into the calls for tender of public authorities.

5.20 *Question 21: Infrastructure charging for transport and external costs (pollution, accidents etc.)*

The EESC has on several occasions expressed itself in favour of taking account of external costs and has called on the Commission to submit an appropriate plan. It is therefore advisable that an assessment be made of the measures adopted up to now in the various countries in order to be able to measure precisely how effective they are.

5.21 *Question 22: Energy efficiency project financing schemes managed by energy efficiency companies*

Whilst such initiatives have proved successful, it is important to try and make them more widespread and to provide support for them throughout the EU.

5.22 *Question 23: Energy efficiency issues in the Union's relationships with third countries*

The cost of energy will make energy efficiency a much more higher profile issue than it has been in the past. International finance institutions should integrate this concern into their technical and financial assistance.

5.23 *Question 24: Use of European know-how in developing countries*

Existing measures should be simplified and made more effective (CDM,JI) ([7]).

5.24 *Question 25: Possible negotiation of tariff or non tariff advantages within the WTO for energy efficient products*

It is not very probable that the European Union will be able to make such measures acceptable within the WTO as such moves could be seen as being likely to discriminate against developing countries.

Brussels, 14 February 2006.

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND

([7]) (CDM=Clean Development Mechanism, JI=Joint Implementation).

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council establishing a European Small Claims Procedure

(COM(2005) 87 final — 2005/0020 (COD))

(2006/C 88/14)

On 4 April 2005 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned 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 23 January 2006. The rapporteur was Mr Pegado Liz.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 14 February), the European Economic and Social Committee adopted the following opinion unanimously.

1. **Gist of the proposal, conclusions and recommendations**

1.1 With its Proposal for a Regulation establishing a European Small Claims Procedure ([1]), the Commission is pursuing a number of initiatives gradually creating and developing an area of freedom, security and justice, removing barriers and helping to make it easier to conduct civil proceedings at European level, as specifically laid down in its Action Plan adopted by the Justice and Home Affairs Council of 3 December 1998 ([2]).

1.2 In line with its previous positions on all Commission and Council initiatives seeking to consolidate a genuine European area of justice, the EESC welcomes and supports the proposal. The proposed legal basis is sound, enabling the procedure to be applied not only to cross-border disputes but also to domestic ones (where its application is optional), with the aim of ensuring that parties have equal rights to fair, expeditious, accessible dispute-settlement proceedings in all the Member States.

1.3 The EESC congratulates the Commission on the technically and legally sound nature of the proposal, which is clear from its article-by-article comments ([3]). It welcomes the balance struck between the different interests concerned, and the additional provision of a well-structured, well-thought out and clearly-presented impact assessment ([4]).

1.4 The sole purpose of the EESC's general and specific comments is to enhance the proposal and to fine-tune some of its mechanisms, so as to maximise its effectiveness and provide the highest possible guarantees of respect for the rights of the parties involved.

1.5 The EESC thus urges the Commission to adopt the recommendations set out below and calls upon the Member States to endorse the Commission's proposal with its current scope and content.

2. **Introduction. Aim of the proposal**

2.1 This proposal fulfils one of the key goals of the Green Paper of 20 December 2002 ([5]); the other goal of creating a European order for payment procedure was addressed a year ago ([6]) by a Commission proposal for a regulation, on which the EESC issued an opinion ([7]).

2.2 With a view to establishing a European small claims procedure, the Commission has taken into account the comments and recommendations made by the European Parliament and the EESC respectively regarding the aforementioned Green Paper, and is now presenting a proposal for a regulation seeking to establish a single small claims procedure that can be applied throughout the European Union. The procedure will be optional, and can be used both for cross-border disputes and for internal cases within the Member States.

2.3 The Commission's initiative is prompted by the fact that Member States' civil procedural law systems differ, and that the high costs and the delays entailed in cross-border small claims litigation, in particular, are disproportionate to the sums involved.

2.4 The Commission has decided to extend the scope of the proposed procedure to national disputes, in order to ensure equal treatment for all and to prevent distortion of competition between economic operators. This is in line with the EESC's opinion on the Green Paper, whilst at the same time ensuring that the procedure is compatible with the principles of proportionality and subsidiarity.

2.5 The text makes it quite clear that the proposed procedure is optional, as the creditor can always opt for a different procedure provided for by domestic law. This, too, is in line with the EESC's opinion.

([1]) COM(2005) 87 final of 15.3.2005.
([2]) OJ C 19 of 23.1.1999.
([3]) See Annex SEC(2005) 352 of 15 March 2005.
([4]) See Annex SEC(2005) 351 of 15 March 2005.
([5]) COM(2002) 746 final of 20.12.2002 – EESC rapporteur: Frank von Fürstenwerth – Opinion in OJ C 220 of 16.9.2003.
([6]) COM(2004) 173 final of 19.3.2005.
([7]) EESC Opinion in OJ C 221 of 8.9.2005.

2.6 The Commission observed the following fundamental principles when defining the procedure:

a) the procedure should be as simple as possible and based on the use of standard forms;

b) short time frames making the procedure very rapid;

c) as a general rule, written procedure without an oral hearing; if the court deems it necessary, a hearing may be conducted via an audio, video or email link;

d) sufficient guarantees of an adversarial process and of the presentation of evidence;

e) wide degree of discretion for judges regarding the assessment and taking of evidence;

f) a judgment should be enforceable, notwithstanding appeal, in accordance with national law; it should be guaranteed that the judgment will be enforced and recognised in any Member State, without the need for an exequatur and without any possibility of its recognition being opposed;

g) representation by a lawyer not to be compulsory.

3. **Precedents and parallel initiatives**

3.1 For a long time, the Community institutions, including the European Parliament ([8]) and the EESC ([9]), have been producing documents expressing their desire to see the standardisation and simplification of civil procedures, in order to ensure faster, more effective implementation of justice.

3.2 Echoing these concerns, which have mainly been expressed by economic operators, professionals and consumers, the Commission, too, has long been reflecting on the best way to proceed; the progress made in the pioneering field of consumer law has been particularly significant ([10]).

3.3 However, with the publication of the Green Paper on a European order for payment procedure and on measures to simplify and speed up small claims litigation it was clear that the issue was being addressed with a view to a potential legislative initiative. The Green Paper accurately pinpointed the key questions to be tackled by any future regulations in this area ([11]).

3.4 This initiative is part of a series of extremely important measures which have been taken in the field of judicial cooperation in civil matters over recent years ([12]).

([8]) Cf. EP Resolutions A2-152/86 of 13.3.1987, A3-0212/94 of 22.4.1994 and A-0355/96 of 14.11.1996.

([9]) Opinions on the Green Paper on access of consumers to justice (rapporteur: Mr Ataíde Ferreira, OJ C 295 of 22.10.1994) and on the Single Market and consumer protection: opportunities and obstacles (rapporteur: Mr Ceballo Herrero, OJ C 39 of 12.2.1996).

([10]) In this connection, cf. the following documents:
- Commission memorandum on consumer redress and the Supplementary Communication on the same subject of 12.12.1984 (COM(84) 692) and 7.5.1987 (COM(87) 210) respectively
- Commission Communication on A new impetus for consumer protection policy (C0M(85) 314 final of 23.7.1985, OJ C 160 of 1.7.1985)
- Commission Action Plan of 14 February 1996 (COM(96) 13 final)
- Commission Communication on Towards greater efficiency in obtaining and enforcing judgments in the European Union (COM(97) 609 final of 22.12.1997, OJ C 33 of 31.1.1998)
- Green Paper on access of consumers to justice and the settlement of consumer disputes in the single market (COM(93) 576)
- Green Paper on alternative dispute resolution in civil and commercial law (COM(2002) 196 final of 19.4.2002).

([11]) It posed ten questions, concerning: a threshold or ceiling value for claims; the type of claims; whether the procedure should be optional or obligatory; use of a standard form; representation of, and assistance to, litigants; alternative dispute resolution; taking of evidence; the content of the judgment and the time frame for its delivery; costs; and the possibility of appeal.

([12]) These include:
- Commission Recommendation of 12 May 1995 on payment periods in commercial transactions and the related Commission Communication (OJ L 127 of 10.6.1995 and OJ C 144 of 10.6.1995 respectively)
- Directive 98/27/EC of 19 May 1998 on injunctions for the protection of consumers' interests (OJ L 166/51 of 11.6.1998)
- Directive 2000/35/EC of 29 June 2000 on combating late payment in commercial transactions (OJ L 200 of 8.8.2000)
- Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I) (OJ L 12 of 16.1.2001). EESC rapporteur: Mr Malosse – Opinion in OJ C 117 of 26.4.2000
- Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (OJ L 143 of 30.4.2004. EESC rapporteur: Mr Ravoet – Opinion in OJ C 85 of 8.4.2003
- Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (OJ L 174 of 27.6.2001). EESC rapporteur: Mr H. Bataller – Opinion in OJ C 139 of 11.5.2001
- Programme of measures to implement the principle of mutual recognition of decisions in civil and commercial matters (OJ C 12 of 15.1.2001)
- Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ L 160 of 30.06.2000). EESC rapporteur: Mr Ravoet - Opinion in OJ C 75 of 15.3.2000
- Council Regulation (EC) No 1347/2000 of 29 May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses; idem. EESC rapporteur: Mr Braghin – Opinion in OJ C 368 of 20.12.1999
- Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; idem. EESC rapporteur: Mr H. Bataller – Opinion in OJ C 368 of 20.12.1999
- Council Decision of 28 May 2001 establishing a European Judicial Network in civil and commercial matters (OJ L 174 of 27.6.2001). EESC rapporteur: Mr Retureau – Opinion in OJ C 139 of 11.5.2001
- Communication from the Commission concerning a New Legal Framework for Payments in the Internal Market (COM(2003) 718 final of 2.12.2003). EESC rapporteur: Mr Ravoet – Opinion in OJ C 302 of 7.12.2004.

3.5 Regulation (EC) No 805/2004 of 21 April 2004 creating a European Enforcement Order for uncontested claims ([13]) and the aforementioned Commission proposal on an order for payment procedure deserve special mention. They are particularly relevant when considering the current Commission proposal, in that the two texts address two aspects of the same situation — the need for simpler, more effective civil law enforcement in a single area of justice.

4. **Legal instrument and basis**

4.1 In line with most of the initiatives adopted in this field, the Commission has opted to propose the adoption of a regulation, taking Articles 61(c) and 65 of the Treaty as a basis.

4.2 The EESC fully supports the proposal. In its earlier opinions on the Green Paper and on the order for payment procedure, it firmly endorsed the adoption of a regulation.

4.3 It also fully endorses the Commission's choice of legal basis, which goes beyond a merely formal interpretation of the relevant legal concepts. This is the only way to fulfil the objective of creating a single EU judicial area. The Commission should be particularly congratulated on producing a solid, technically and legally sound justification for action at Community level, with due regard for the subsidiarity and proportionality principles.

4.4 The EESC also reiterates its view that an initiative of this type and scope, involving considerable investment, is only justified if it also applies (albeit optionally) to internal disputes in the Member States. It thinks that limiting it to cross-border disputes could cast doubt on its relevance, or even on the need for it at all ([14]).

5. **General comments**

5.1 The EESC welcomes the draft regulation, which has incorporated most of its comments regarding the Green Paper on a European order for payment procedure and on measures to simplify and speed up small claims litigation (COM(2002) 746 final).

5.2 In its opinion on the Green Paper, the EESC stated: 'When formulating a European small claims procedure, the key aim will be to define suitable measures for speeding up such litigation without, at the same time, jeopardising the guarantees afforded to the parties in question under the rule of law'.

5.3 The EESC believes that, although the proposal requires minor improvements, it does represent a balanced response to the requirements of settling claims rapidly, accessibility in terms of cost and guaranteeing the rights of the parties concerned.

5.4 However, if the new system is to succeed fully in providing fair, rapid, inexpensive dispute settlement, it is essential — and the EESC points this out in particular — that the public, and not just the legal profession, are made aware of it by means of an information campaign which stresses the benefits of using it but also its limitations compared to ordinary, conventional systems (costs, provision of evidence, appeals, assistance from lawyers, representation by third parties, time limits etc.).

5.5 In addition, if the system is to be successfully implemented in cross-border disputes an effective solution must be found to the issue of linguistic diversity, and those involved — courts, professionals, parties in disputes — must be able to understand the terms used in the procedure accurately: to this end, a major effort is needed to make the forms used comprehensible.

5.6 In keeping with its views repeatedly expressed on the matter, the EESC reaffirms its commitment to the development and strengthening of mechanisms for alternative dispute resolution (ADR), which should set out strict, clearly defined principles and rules and be harmonised at Community level. A reference to these procedures could be included in the proposal's Explanatory Memorandum.

6. **Specific comments**

6.1 *Article 2 — Scope*

6.1.1 The EESC believes that the proposed ceiling of EUR 2 000 is clearly insufficient to cover a substantial number of situations, given the current value of goods and services. Furthermore, it believes that, where appeal is provided for (Articles 13, 15 and 16), the figure should be at least EUR 5 000. From a purely economic viewpoint, and in the light of the cost estimates contained in the extended impact assessment, raising the ceiling would contribute to a more-than-proportional reduction in costs.

6.1.2 It is not clear what is meant by the statement that the regulation shall not apply, 'in particular', to revenue, customs or administrative matters. As this refers to parties who are being excluded from the scope of the regulation, the list should — from the legal point of view — be limitative and not indicative. This exclusion should therefore be deleted from paragraph 1 (last sentence) and included in the list in paragraph 2.

([13]) COM(2002) 159 final (OJ C 203 of 27.8.2002). EESC rapporteur: Mr Ravoet – Opinion in OJ C 85 of 8.4.2003.

([14]) Since, as the impact assessment clearly showed, the number of purely cross-border small claims disputes will always be relatively small, even in the foreseeable future.

6.1.3 Nor is it clear why arbitration has been listed in Article 2(2)(e), as it is in no way related to the subjects listed in the other subparagraphs. Arbitration is an alternative form of dispute resolution which, by its very nature, is clearly excluded and does not need to be mentioned here. The EESC suggests that the Commission delete this subparagraph.

6.1.4 The EESC regrets Denmark's decision — for well-known general reasons regarding matters of this nature ([15]) — to completely opt out of implementing the regulation. However, it hopes that, in future, the constraints hindering full creation of a single European area will be overcome ([16]) and it is pleased to learn that the United Kingdom and Ireland are looking into the possibility of joining the scheme, as they have done in the case of similar initiatives in the past.

6.2 *Article 3 — Commencement of the procedure*

6.2.1 The EESC considers that the question of the interruption of periods of prescription should be left to the legislation of the Member States. If it is not, Article 3(4) should take account of the various possible ways of submitting the claim, and should stipulate that the period of prescription is interrupted from the date on which the claim form is sent (proof of dispatch would be required, as delays en route may be considerable, particularly in cross-border disputes) ([17]).

6.2.2 The EESC welcomes the provision in Article 3(6) giving the claimant the opportunity to rectify or complete the form. The EESC made a similar suggestion when it discussed the Proposal for a Regulation creating a European order for payment procedure, and it is therefore very pleased to see that the opportunity has been included in this regulation. However, it thinks that a reasonably short deadline should be set for such corrections.

6.2.3 The EESC is concerned about the provision laid down in the last part of Article 3(7). Who will actually provide the 'practical assistance'? Will they be properly qualified to do so? The EESC would not necessarily limit this role to lawyers and solicitors, but would point out that the 'practical aspects' mentioned may include matters which require legal training. Moreover, the people concerned must be prepared to perform this duty without payment, and it may be difficult to find unpaid volunteers for this in many Member States' courts. Legal professionals might also view it as non-permitted procuration that would infringe their ethics codes.

([15]) Under Article 1 of the Protocol on the position of Denmark, appended to the Treaty of Amsterdam, Denmark does not take part in the adoption by the Council of measures proposed under Title IV of the Treaty in the field of justice and home affairs.

([16]) As has already happened with the recognition and enforcement of judgments in civil and commercial matters (Council Decision of 20.9.05, OJ L 299 of 16.11.05).

([17]) As is already happening with the Commission proposal amending the regulation on the service of judicial documents.

6.3 *Article 4 — Conduct of the procedure*

6.3.1 While it understands the reasons for opting for a written procedure as a general rule, the EESC points out the benefits of hearings, not least in order to facilitate attempts at settlement and as a way of safeguarding the fundamental principles enshrined in Article 6 of the European Convention on Human Rights and Article 47 of the Charter of Fundamental Rights of the European Union.

6.3.2 Article 4(5) and 4(6) allow the submission of a counterclaim, even if it concerns a different case.

6.3.2.1 In procedures like this which are intended to be swift and extremely informal, the EESC has serious misgivings about allowing the submission of a counterclaim without this automatically turning the procedure into an ordinary one.

6.3.2.2 The EESC thinks that if the counterclaim does not arise from the same legal relationship as the claim, it should not be admissible in any circumstances.

6.3.2.3 At all events, the EESC thinks that if a counterclaim is allowed it should not exceed the ceiling set for the procedure, as this would subvert the objectives of the procedure.

6.3.3 Article 4(7) states that if a document is submitted in a language other than those provided for in Regulation No 1348/2000, the party is to be 'advised' to provide a translation. If the party fails to do this, what will be the consequences for the claim and for the procedure? This point needs clarification: we are dealing with a regulation, so the Member States cannot be expected to remedy any shortcomings in it, unless the matter is already covered by the application of the general principle laid down in Article 17.

6.4 *Article 5 — Conclusion of the procedure*

6.4.1 Article 5(1)(c) of the Portuguese version contains the words '*citar as partes*'. In legal terms, however, there is a difference between a *citação* and a *notificação;* strictly speaking, the present case involves a *notificação*, not a *citação*. The EESC therefore proposes that the Commission amend the Portuguese version of this subparagraph, replacing the word '*citar*' with the word '*notificar*' (*).

6.4.2 A maximum time limit for convening the hearing must be set.

6.5 *Article 6 — Hearing*

6.5.1 The EESC welcomes the adoption of rules allowing new technologies to be used for hearings, when appropriate.

(*) Translator's note: The author is making the distinction between the concepts of service of notice and service of a summons, saying that the concept which applies here is service of a summons. The English version uses the phrase 'summon the parties'.

6.5.2 However, the EESC draws the Commission's attention to the fact that, since the exact field of application of each of these new technologies is not defined, their use in certain situations could jeopardise defence guarantees and fundamental procedural principles such as security, certainty, an adversarial process and immediacy. This could occur, for instance, if email were used to question a witness or take the evidence of an expert.

6.5.3 The EESC points out that it is necessary to use means such as electronic signatures to secure authentic statements. The necessary precautions must be taken to ensure that local courts or tribunals have the technical infrastructure to send a legally valid statement to another court, including foreign courts (sending the statement by secure email, using audio, video or email conferences to take evidence).

6.5.4 The EESC therefore urges the Commission to change the text of Article 6(1) so as to give a more precise definition of its scope, stating in which actions and situations audiovisual media or email may be used.

6.5.5 At the same time the EESC fails to see why, if both parties agree that the technical means available are reliable, either party should be allowed to refuse to use them. It therefore proposes that this provision be redrafted so as to restrict the parties' right of refusal to cases in which the technical means do not provide the necessary guarantees of reliability and equal treatment.

6.6 *Article 7 — Taking of evidence*

6.6.1 The EESC is concerned about the possibility of taking evidence by telephone. The only way of preserving the integrity of statements given over the telephone is to record and subsequently transcribe them. The EESC therefore urges the Commission to exclude the use of the telephone as a valid means of taking evidence where it is not possible to record and transcribe the statements made.

6.6.2 The EESC recommends that the phrase 'in exceptional circumstances' be deleted from Article 7(2) because it conveys a subjective approach and because, in any case, the decision of whether to take evidence from 'expert witnesses' is the judge's alone.

6.7 *Article 8 — Representation of parties*

6.7.1 As the proposal states that the parties may be represented by persons who are not necessarily lawyers, the EESC believes that explicit provision should be made for consumer associations to represent consumers in consumer disputes, and for professional associations to represent their members. Representation of this kind is usual in alternative dispute resolution, for example, but is not generally provided for in Member States' procedural laws.

6.8 *Article 9 — Remit of the court or tribunal*

6.8.1 Although, at first glance, the text may seem to suggest otherwise, the Commission has confirmed that the approach taken by the proposal is not that disputes are to be settled, as well as on the basis of strict legality, on the basis of considerations of equity ('ex aequo et bono') where appropriate. This is particularly important in cases of a non-pecuniary nature. This oversight is to be regretted: the possibility should be provided for, with the proviso that its full implications must be clearly explained to the parties in advance.

6.8.2 The comments made in point 6.2.3 also apply to Article 9(3).

6.8.3 As regards Article 9(4), the EESC thinks that the court or tribunal should always seek to reach a 'settlement'. The words 'whenever appropriate' should therefore be deleted.

6.9 *Article 10 — Judgment*

6.9.1 Article 10(2) should specify that if the parties cannot be present, they should be duly represented, as provided for in Article 6(2).

6.10 *Article 11 — Service of documents*

6.10.1 Article 11(2) states that where 'the address of the addressee is known with certainty', simpler means of serving documents on the parties may be used, such as simple letter, fax or email.

6.10.2 The EESC draws the Commission's attention to the fact that the clause 'the address of the addressee is known with certainty' is too vague and could create situations of substantial legal uncertainty with serious consequences for the parties.

6.10.3 Some Member States have the system of an address for service: under this system, if the documents are served to the address for service by a contractual party, they are assumed to have been received, and there is therefore no need for proof of receipt. However, the EESC considers that the establishment of an address for service would not be sufficient to fulfil the requirement of knowing an address with certainty.

6.10.4 The EESC therefore proposes, as stressed in its opinion on the aforementioned Green Paper and its opinion on an order for payment procedure, that the use of methods of service by the parties for which there is no proof of receipt or for which proof cannot be obtained — e.g. an ordinary letter — should not be admissible.

6.11 *Article 12 — Time limits*

6.11.1 The EESC believes that, in a procedure of this kind, the court or tribunal should not be able to extend time frames indefinitely. The EESC suggests that the Commission set a limit for the extension of a time frame, and allow time frames to be extended only once.

6.11.2 The EESC deems the provision in Article 12(2) to be equally inadmissible. Indeed, in view of the way that courts and tribunals work, with penalties for failure to comply with time limits rarely in place, a provision of this kind virtually guarantees that the procedure will fail. The EESC urges the Commission to delete Article 12(2).

6.12 *Article 13 — Enforceability of the judgment*

6.12.1 The EESC queries whether it is necessary to provide for appeal in a procedure of this kind. Indeed, either the ceiling for the procedure should be substantially higher than that proposed by the Commission — e.g. EUR 5 000 — in which case the possibility of appeal would be justified by the value of the claim, or, if the value is lower (e.g. up to EUR 3 500) no appeal should be possible ([18]).

6.12.2 It should also be made clear that the reference to the possibility of appeal refers only to 'ordinary' appeals, and not to cases in which domestic law invariably provides for appeals if the judgment is defective in some way, irrespective of the value of the claim.

6.12.3 The EESC therefore again urges the Commission to raise the ceiling for claims covered by this procedure to at least EUR 5 000. However, if the Commission opts for a figure equal to or less than EUR 3 500 it should not provide for appeal. Should a ceiling higher than EUR 3 500 be set, provision for appeal would be admissible in disputes where the claim is higher than this ceiling.

6.12.4 The EESC draws the Commission's attention to the fact that, if appeal is provided for, the law will also have to permit the court or tribunal to suspend implementation of the judgment in appeal cases in which immediate implementation could have serious, unnecessary harmful consequences for the appellant or would make the appeal itself pointless. In these cases, for instance, lodging of security could be required as a condition for suspending implementation.

6.12.5 Lastly, if appeal is allowed, it should be made clear that, by way of exception to the provisions of Article 8 (which state that the party does not have to be represented by a lawyer), the procedural arrangements of the Member States requiring representation by a lawyer in appeal cases will apply.

6.13 *Article 14 — Costs*

6.13.1 The provisions about costs are generally sound. However, it should be pointed out that the use of vague, subjective expressions such as 'unfair or unreasonable' does not tie in well with the harmonisation directive. The costs of the procedure are a crucial factor, and imprecise terms could lead to disparities.

6.13.2 The EESC would also repeat a suggestion made by it regarding the order for payment procedure, namely that it should be specified that Member States' national legislation transposing Directive 2003/8/EC of 27 January 2003 on access to justice in cross-border disputes is applicable in such cases ([19]).

6.13.3 The EESC therefore believes, in this connection, that it is essential to lay down a requirement for the parties to be informed in advance of the system of costs and reimbursement (where this exists) of lawyers' fees, and of how it compares with other judicial procedures which may be applicable, so that the parties are given a genuine choice.

6.14 *Article 16 — Review of the judgment*

6.14.1 The EESC points out that no time frame has been laid down for exercising this right and that a vague phrase such as 'act promptly' is not admissible. It therefore believes that, if the intention is truly to safeguard the practical means of defence open to the defendant (where the form has been incorrectly served or the defendant has been unable to defend himself for reasons of force majeure without any fault on his part), a precise time limit within which the defendant can ask for a judgment to be reviewed must be specified, without lengthening the procedure unduly, in order to avoid actions obstructing service or delaying tactics.

6.15 *Annexes: Forms*

6.15.1 The proposed system rests on the use of the forms reproduced in annexes I, II and III. The procedures will only run smoothly if the forms serve the purpose for which they are intended.

6.15.2 The EESC has well-founded doubts about the effectiveness and practicality of the forms used in cross-border disputes.

([18]) This is the case in a number of Member States; in Portugal, for instance, as a general rule, appeal is not possible if the value of a claim is less than EUR 3,750.

([19]) OJ L 26/41 of 31.1.2003.

6.15.3 For example: if an Italian company which is owed money by a Polish consumer submits a claim in an Italian court, will the Polish consumer receive the notification and the copy of the claim form in Italian or Polish? If it is in Italian, what guarantee is there that the consumer will understand it and be able to decide whether to make a statement of defence? If it is in Polish, who will be responsible for translating it? And who will bear the cost of all this?

6.15.4 The claimant does not merely have to tick boxes in the form; he also has to add written information. Who will be responsible for translating this? And who will certify that the translation is accurate?

6.15.5 Regulation No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters does not allay these concerns, given the rather informal and unhurried nature of the procedure under examination.

6.15.6 Indeed, even if the aforementioned hypothetical Polish consumer were to receive the notification in his mother tongue, in which language would he reply? Who would provide a translation from Polish into Italian? Which language will he use for the counterclaim? How will it be translated? In any such situation, barriers would be created that would adversely affect the swiftness and cost of the procedure.

6.15.7 The EESC therefore asks the Commission to consider the most effective way of ensuring that the use of these forms in cross-border disputes does not jeopardise the swiftness and cost of the procedure, or the parties' right of defence.

6.15.8 The EESC also thinks that all the forms are too complicated to be filled in by people without legal training.

6.15.9 A number of terms (statutory interest rate; % above the base rate of the ECB; cancellation of sale; honouring of commitments; default judgment; counterclaim) could be unclear to the layman. As the Commission proposes to make legal representation non-mandatory, action is needed to ensure that the users of the forms understand them and can fill them in correctly.

6.15.10 Lastly, since the possibility of the parties being represented by a lawyer or a third party is not excluded, it should be explicitly provided for in the forms.

Brussels, 14 February 2006.

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on Strengthening economic governance — The reform of the Stability and Growth Pact

(2006/C 88/15)

On 10 February 2005 the European Economic and Social Committee decided to draw up an opinion, under Rule 29(2) of its Rules of Procedure, on *Strengthening economic governance — The reform of the Stability and Growth Pact*.

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 27 January 2006. The rapporteur was **Ms Florio** and the co-rapporteur was **Mr Burani**.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 15 February), the European Economic and Social Committee adopted the following opinion by 88 votes to seven with five abstentions.

1. Summary

1.1 The EESC is greatly concerned at the current lack of momentum in European economic governance. It therefore believes that it would be appropriate to reflect once again on all the economic policy instruments that the European Union has adopted in recent years and to open another evaluation of the Stability and Growth Pact reform process.

1.2 This document aims to:

— outline the various viewpoints which have driven the political and economic debate over the six years in which the Stability and Growth Pact has been in existence

— provide an assessment of the process of reforming the Stability and Growth Pact which has got underway in recent months

— outline guidelines on strengthening European economic governance.

1.3 Since its inception, the Stability and Growth Pact has played a key role in ensuring continued European economic growth within a common framework of monetary stability.

1.4 Regrettably, along the way, there has been a lack of coordination of European economic governance and this at a time when international tensions have been — and are still — running high, both on the economic front and politically.

1.5 There has been repeated pressure on the Pact during its six years of existence from a number of Member States calling for its reform.

1.6 The reform process must be considered unfinished since it has not provided a guarantee that the process of coordinating European economic policy will genuinely be stepped up — a process which would enable us to make the most of the opportunities provided by Economic and Monetary Union for economic growth and job creation.

1.7 The changes proposed by members of the European Economic and Social Committee are focused on that very need to strengthen European economic governance. Their aim is the coordination of economic and fiscal policies, with due respect for Member States' budgetary consolidation and with a view to boosting investment pursuant to the Lisbon Strategy objectives.

2. From the Maastricht Treaty to the Stability and Growth Pact

2.1 The Stability and Growth Pact, adopted in 1997, was intended to secure ongoing *budgetary discipline* within Economic and Monetary Union as launched by the Maastricht Treaty [1]. According to this principle, the concept of *safeguarding sound government finances* has represented — in the eyes of those who drafted it — the means to strengthening the conditions for price *stability* and for strong and sustainable *growth* conducive to employment creation.

2.2 Under this approach, '*Adherence to the objective of sound budgetary positions close to balance or in surplus will allow all Member States to deal with normal cyclical fluctuations while keeping the government deficit within the reference value of 3 % of GDP*' [2].

2.3 The Stability and Growth Pact is made up of the following basic elements:

— *a political commitment by the parties involved in the Pact* (Commission, Member States, European Council) to the timely strengthening of the surveillance of budget positions and coordination of Member States' economic policies;

— *preventive surveillance action* aimed at preventing budget deficits going above the reference value of 3 % of GDP. To this end, *Council Regulation 1466/97* reinforces the process of multilateral surveillance of budget positions and the coordination of economic policies. It provides for the submission by all Member States of *stability and convergence programmes*, which are examined by the European Council;

[1] The Stability and Growth Pact was formally adopted in 1997 (with the aim of strengthening budgetary discipline within Economic and Monetary Union as provided for by Articles 99 and 104 of the Treaty establishing the European Community) and came into real effect with the launch of the euro on 1 January 1999.

[2] Resolution of the European Council on the Stability and Growth Pact, Amsterdam, 17 June 1997.

— *dissuasive action:* an *early warning* is triggered for those countries which may be in danger of excessive deficit, inducing the country in question to adopt suitable correction measures;

— for countries with actual excessive deficits an *'excessive deficit procedure'* ([3]) is triggered, at the end of which, if the country does not take effective action to correct the excessive deficit, a sanction of up to 0.5 % of GDP may be applied.

3. **Review of the first six years of the Pact**

3.1 Before reviewing the first six years of the euro, it should be acknowledged that the implementation of European Economic and Monetary Union has been one of the most important, most surprising events in European history. The mere fact that some 300 million people in 12 European countries are now sharing the same currency — and have been since January 2002 — is an indication of how important this historic event is for Europe.

3.2 The successes and failures of the first six years of this experience can essentially be described in terms of the two words which typify the Pact: it has been an unequivocal success as regards monetary *stability* but just as clear a disappointment when it comes to the EU's economic *growth*, which has been inadequate. Over the past six years, inflation has been significantly contained in the euro area, at around 2 %. Persistent European Central Bank action controlling interest rates has successfully preserved monetary stability.

3.3 A second positive factor linked to the introduction of Economic and Monetary Union is the integration of European markets (particularly the financial markets), with the elimination of transaction costs and exchange risks. Combined with monetary stability, this integration has steadily brought down interest rates in the euro area.

3.4 The combined effect of price stability and lower interest rates meant that, after some initial uncertainty (1999-2001), confidence gradually increased in the European currency, as can be seen from figure 3, which shows how the euro rose in value.

3.5 Despite these clearly positive factors linked to the introduction of the euro, there are others — in the area of economic growth — which are cause for serious concern. It should be noted that the second half of the 1990s saw substantial GDP growth rates in the countries which had joined the European single currency. This raised considerable expectations in the run-up to EMU that the single currency would further boost economic growth. In actual fact, the expected increase in economic growth in the euro area did not materialise. Contrary to forecasts, it was those countries which had not joined the euro that benefited from an increase in economic growth, recording GDP growth rates which actually outstripped those recorded in the euro area.

3.6 Another unexpected effect of the introduction of EMU was asymmetric shocks within the euro area. Indeed, growth performance varied widely between the EMU States, with much greater disparities than might have been expected: some countries were in recession while others were enjoying periods of economic growth.

3.7 The expectations nurtured in the euro-area Member States included the hope that a single currency would lead to greater price transparency and that greater competition in the consumer goods market would result in lower prices and clear benefits for consumers (thanks to an increase in their real income); unfortunately, this did not always prove to be the case. Failure — on the part of some Member States — to carry out controls, particularly in the changeover phase, led to unjustified price increases. This was the case as regards the prices of some foodstuffs in Italy, in particular, but also in Germany and Greece. Because of the distortions (in transfer pricing mechanisms) in these countries, the euro was not seen by the public as being able to increase the prosperity of consumers in general.

3.8 There is no doubt that these initial six years of EMU have been a success mainly in monetary and financial terms. The euro has become more widely-used by financial markets and banks. In just six years, it has become the second most widely-held currency in the world ([4]). This was facilitated by a rigorous monetary policy whose principal goal was to encourage price stability, in line with the primary objective of the European Central Bank, and thereby to increase confidence in the new currency on the financial markets ([5]).

4. **EMU: stability versus growth**

4.1 Sadly, the success achieved in monetary and financial terms was not matched by similar success in the real economy, in terms of increasing production or employment. Hence, despite the fact that it is a development of considerable importance, the euro is not yet perceived — by a large part of the public in the euro area — to be the success story that it is.

([3]) The excessive deficit procedure is not applied in the following exceptional cases: i) where the deficit is the result of an unusual event outside the control of the Member State concerned; ii) if the country is in economic recession (if there is a fall in real GDP of at least 2 %). It should be pointed out that the excessive deficit procedure has been applied at least 26 times to date and that, on at least 10 of these occasions, it concerned euro-area countries. The countries in question were: Germany and Portugal (2002); France (2003); Greece, Hungary, Czech Republic, Cyprus, Malta, Poland, Slovakia, the Netherlands, France, Germany and the United Kingdom (2004); Hungary, Greece, the Netherlands and Italy (2005).

([4]) The internationalisation of a currency is essentially driven by market forces and, therefore, by the degree of confidence that economic operators have in that currency's stability.

([5]) *'The primary objective of the ESCB (European System of Central Banks) shall be to maintain price stability'*. And: *'without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the Community with a view to contributing to the achievement of the objectives of the Community as laid down in Article 2'* (Treaty Article 105(1)). The objectives of the Union (Article 2 of the Treaty on European Union) are a high level of employment and sustainable and non-inflationary growth.

4.2 There are a number of interpretations regarding the causes of this 'stalling' of Economic and Monetary Union, with two main schools of thought: those (whom we can call *structuralists*) who feel that the economic growth shortfall is due essentially to structural rigidities which have nothing to do with the rules laid down by EMU, and those (*macroeconomists*) who hold the diametrically opposed view that first the Maastricht Treaty and then the Stability and Growth Pact introduced rules which generated an ineffective macroeconomic policy which 'blocked' the potential for European economic growth.

4.3 The existence of substantial structural disparities between the EMU Member States is indisputable, although this interpretation alone does not suffice to explain the sluggish growth of the euro-area economy from 2001 onwards. The European countries which were not part of the euro area came out of a situation of stagnation more definitively and quickly than the euro-area countries. As of 2001, the difference in economic growth rates between euro-area and non-euro-area countries averaged at 1.1 %, with the latter in the lead. A comparison of economic trends in the euro-area countries and the United States reveals that although the downturn was less intense in the euro area, it lasted longer than in the United States.

4.4 These disparities cannot be wholly explained by structural factors. There are additional contributing factors and, as will become clear, the second interpretation — which deems the current European macroeconomic policy inadequate in both monetary and fiscal terms — supports this theory.

4.5 As far as monetary policy is concerned, the European Central Bank, in line with its sole objective of 'guaranteeing monetary stability' in the euro area, adopted a particularly rigid monetary policy, setting a target inflation rate of 2 %, which was seen as excessively constraining during the period of stagnation in 2001-2002. It should, however, be pointed out that the widely differing situations within the euro area did not encourage the ECB to react quickly to the difficult economic situation by cutting interest rates more drastically.

4.6 In the area of fiscal policy, too, the behaviour of the euro-area countries was not such as to enable them to find a timely way out of the difficult economic situation in 2001. During the period of stagnation, these countries' debt ratio remained almost unchanged (between 2001 and 2003 it rose from 69.6 % to 70.8 %), while the United States reacted more quickly during that period (its debt ratio rose from 57.9 % to 62.5 %), pursuing a Keynesian policy of using deficit spending to bring the economy out of a period of stagnation.

4.7 The inability of the euro-area countries to adopt anticyclical fiscal policies is in part a legacy of the past (due to the public debts of national governments and the failure to get them down during the upturn of 1996 to 2000) and in part the result of the constraints imposed by the Stability and Growth Pact. Both in the case of countries which have a government debt/GDP ratio under the 60 % limit (Spain 48.9 %, Ireland 29.9 %, Netherlands 55.7 %, Finland 45.1 %) and of those which give no cause for serious concern, because they are slightly above the limit set (Germany 66 %, France 65.6 %, Austria 65.2 %, and Portugal 61.9 %), the pact lays down budgetary constraints which many see as unjustified ([6]). One of the main criticisms of the Pact focused essentially on the 3 % government deficit rule, which was viewed as completely arbitrary and ineffective in both downturns and upturns. During downturns, it did not allow individual governments to employ an expansionary fiscal policy to bring their economies out of the downturn within a reasonable period of time. During upturns, it did not guarantee that they would behave appropriately and strengthen budgetary discipline. The Pact was thus accused of being one of the main causes of EU institutional inertia in the area of macroeconomics. Focusing solely on intermediate goals (budget equilibrium and financial stability), the Pact neglected or even hampered achievement of the final objectives of economic growth and full employment, i.e. macroeconomic stability ([7]).

4.8 Many proposals for reform involve concentrating not so much on the deficit/GDP ratio, but rather on that of government debt/GDP. Seen in these terms, the Pact should address the *debt sustainability* of euro-area countries and introduce greater flexibility for those countries whose debt level is below or around 60 %.

4.9 In September 2003, the economist Paul De Grauwe put forward an interesting proposal for reform under which every euro-area government should define its own objective regarding debt/GDP (based on its own economic and financial circumstances) and take a series of economic policy measures over time to achieve it. Although De Grauwe's proposal allowed any country to deviate briefly from this objective (when justified by cyclical factors), it did guarantee that the target debt/GDP ratio would be met in the medium to long term.

4.10 Another proposed reform to the Pact was to introduce a *'golden rule of public finances'*, under which investment expenditure supporting the Lisbon Strategy goals (introduction and dissemination of technological innovation, R&D and education expenditure, etc.) would not be counted as expenditure affecting the government deficit.

4.11 The *'golden rule'* gives further ammunition to criticism that the definition of public investment is too vague and could end up covering all forms of expenditure. To confound such criticism, there are those who propose — among them, the French economist J.P. Fitoussi — that the European Council, after consulting the European Parliament, should settle on what public investments the *'golden rule'* covers. This would use the

([6]) Paul de Grauwe, 2003.
([7]) J.P Fitoussi, 2004.

vague definition of public investment as an opportunity to develop a coordination policy by first establishing a system of incentives to encourage individual countries to invest in particular areas of common interest ([8]). Commission President Barroso's recent proposal to set up a Community fund for investments of European interest, which are necessary for growth and economic development, is therefore interesting and should be further developed.

4.12 By this time, there was widespread discussion on the measures needed to implement the Pact properly. The debate centred on two opposing viewpoints: one which advocated retaining a fixed regulatory framework, and one which asserted that the Pact should be open to political decisions — taken by governments — underpinned by economic principles. Thus emerged the need to reform the Pact on the basis of a system of rules capable of underlining its technical, economic and political legitimacy ([9]).

5. **Reform of the Pact: from the European Commission proposal ([10]) to that of the European Council ([11])**

5.1 Criticism of the Pact was compounded when repeated pressure on it in the difficult downturn of 2002-2003 showed it was in need of reform. We all remember Germany and France's refusal to submit to the 3 % rule and the diatribe that ensued between the Commission and the European Council. By any measure, this was a real institutional sea-change, moving from a Community method of open coordination set by the rules of the Pact to a method of intergovernmental control that was entirely self-referential. Many of the proposals for reform required attention to be focused not so much on the deficit/GDP ratio, but on that of debt/GDP.

5.2 The institutional conflict within the European Union mirrored that between the two pillars of the Union's fiscal and economic policy: ensuring economic growth and at the same time fiscal discipline on the part of the Member States. There was thus a need for urgent reform of the Pact which would strengthen it by making the two pillars more compatible. In autumn 2004, the Commission drafted a reform proposal for the European Council which set out five guidelines:

5.2.1 The important thing in surveillance of budgetary positions is to concentrate on debt and sustaining equilibrium, while continuing to monitor the deficit.

5.2.2 Medium-term budgetary objectives would be set for each Member State, so as to allow for specific circumstances. This would on the one hand prevent infringements of the 3 % deficit/GDP rule if there is a downturn, and on the other reduce the debt/GDP ratio, not least to stave off the impact that population ageing would otherwise have on the budgets of some countries.

5.2.3 It is proposed that excessive deficit procedures (EDP) take greater account of economic circumstances. The Pact's definition of 'exceptional circumstances', which allows a country to escape the excessive deficit procedure, could be changed to cover longer periods of recession. The path for deficit correction could be reviewed to take into account both cyclical conditions and risks to sustainability. This would make the adjustment procedure more responsive to the particular circumstances of the country in question, guaranteeing more time to correct the deficit than the year following that in which the excessive deficit was identified.

5.2.4 Preventive actions to correct budget deficits should be made more effective. Prompt preventive action would guarantee that budgets were re-balanced during upturns.

5.2.5 Implementation of surveillance rules should be improved. The proposal gives the Commission ex ante powers without any prior approval by the Council. Both the Commission's surveillance powers and that of the national monitoring authorities would be strengthened.

5.3 The Commission saw the proposal to reform the Pact not as a revolution, but as an evolution that would allow the Pact to deal with those critical situations which could lead, as in the past, to institutional deadlock. By bringing the Pact into line with reality, moreover, the Commission sought to improve its credibility and encourage the Member States to take greater ownership of its rules.

([8]) Fitoussi, 2004.

([9]) It is worth quoting the conclusions of a recent article by Jean Pisani-Ferry to stress the importance of the debate that began in 2004 on reform of the Pact: *'The significance of the debate that will take place in the coming months should not be underestimated. The key issue that clearly emerges is whether economic governance in the Eurozone should be based on legally binding fixed rules or on collective decisions underpinned by economic principles. The first model has been tried – until politics reclaimed its rights. The second has not yet been tried – but the evidence is that it cannot be made successful in the absence of technical, economic and political legitimacy. If no agreement is reached, or if the second model fails, the Eurozone is likely to adopt some kind of revamped version of Sinatra doctrine – which is certainly not the best way to manage a currency union. The Sinatra doctrine, named after the Frank Sinatra song "My Way", was the name that Mikhail Gorbachev used to describe the policy of allowing neighbouring Warsaw Pact nations to determine their own internal affairs. What followed is know.'* Pisani-Ferry, J. (2005).

([10]) COM(2004) 581 final.

([11]) COM(2005) 154 and 155 final.

5.4 The response issued by the European Council in the spring of 2005 was not quite what the Commission was expecting. At its spring meeting (22-23 March 2005), the European Council adopted 'Improving the implementation of the Stability and Growth Pact', a document submitted by the ECOFIN Council and putting forward significant changes to the Pact. These are aimed at *speeding up and clarifying the implementation of the excessive deficit procedure* (Council Regulation (EC) No. 1056/2005 of 27 June 2005) and the *strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies* (Council Regulation (EC) No 1055/2005 of 27 June 2005). These changes introduced greater flexibility in providing specific forms of relief for countries which had excessive deficits and in extending the time allowed for their correction. It is worth focusing on the principal changes made to the Pact by the European Council.

5.4.1 One major change concerns the definition of *medium-term objectives (MTOs)*. In the previous version of the Pact, these were defined as positions close to balance or in surplus. Deficits up to 0.5 % of GDP were accepted in special cases where measurement of some budget headings was unreliable. There was no provision for deviation from MTOs.

5.4.1.1 The measures introduced by the Council embrace EMU and ERM II Member States with a government deficit ranging anywhere from parity or surplus (for countries with high debt and low growth potential) to a deficit of 1.0 % of GDP (for countries with low debt and high growth potential). Failure to meet the medium-term objective is accepted where the government of the country concerned has carried out structural reforms.

5.4.2 *Adjustment path to the medium-term budgetary objective*. In the previous version, this was not set by the Pact, but by decisions of the European Council.

5.4.2.1 The new version allows a country to deviate from the medium-term objective, and provides for this deviation to be corrected by **an annual adjustment of 0.5 %**. The adjustment path can be *'modest'* in downturns and *'vigorous'* in upturns, so that the *'windfalls'* of the latter can be used to reduce deficit and debt levels. Deviations are permissible in the case of structural reforms, and there are no sanctions for failure to meet the annual adjustment of 0.5 %.

5.4.3 *Factors justifying breach of the 3 % GDP reference value*. The previous Pact took account of the following temporary and one-off factors: natural disasters, a 2.0 % fall in GDP and, at the discretion of the Council, a fall in GDP of between 0.75 % and 2.0 %. No other factors were taken into account.

5.4.3.1 The reform of the Pact identifies, but does not quantify, the following **exceptional factors**: a negative annual GDP growth rate; a cumulative fall in *output* together with GDP growth rates below potential growth. These justifications are accompanied by **other important factors** which the Commission should take into due account 'in order to comprehensively assess in qualitative terms the excess over the reference value'.

i) potential growth,

ii) prevailing economic downturn conditions,

iii) implementing the Lisbon Strategy,

iv) expenditure on research, development and innovation,

v) fiscal consolidation efforts in 'good times',

vi) debt sustainability,

vii) public investment,

viii) overall quality of public finances,

ix) size of financial contribution to support international solidarity,

x) size of financial contribution incurred in meeting European policy goals in the unification process ([12]),

xi) pension reform.

5.4.4 *Deficit-correction deadline*. In the previous Pact, this coincided with the year following identification of the deficit, unless special circumstances emerged. These circumstances were not specified, however, and the Council was therefore free to set a new deadline.

5.4.4.1 Generally speaking, the new Pact retains the deadline of the year after the deficit is identified, but, in view of the 'special circumstances' included in the *other factors* referred to above, it can end up being two years after the identification of the deficit. There is a whole series of EDP deadlines stretching over a period of time.

5.5 The reform undertaken by the European Council follows a very different course from the Commission proposal, and can hardly be seen as a compromise between that proposal and the Council's demands. By distorting the distribution of competences between EU bodies, the reform introduces a number of elements which weaken the Pact. Thus there is an imbalance in competences between the Commission (as guardian of the Treaty), which emerges considerably weakened, the Council, which comes out unduly powerful and the European Parliament, which is completely ignored in the process.

([12]) This factor was inserted at the insistence of the German government to take account of German re-unification costs. It is possible, however, that the exception may also be claimed in future by governments of countries that call for greater indulgence for their budget deficit as they are net contributors to the EU budget (Bouzaon and Durand, 2005).

6. **Initial evaluations of the Stability and Growth Pact reform process**

6.1 The reform chosen by the European Council substantially weakens the principle of fiscal discipline introduced by the Maastricht Treaty (1991) and subsequently affirmed by the Pact at the Amsterdam summit in 1997. As Bouzon and Durand (2005) have pointed out, the schizophrenia of the reform process adopted by the Council was already discernible in the ECOFIN Council document of 12 March, which said that: '[I]t is essential to secure ***a proper balance*** *between* ***the higher degree of economic judgment and policy discretion*** *in the surveillance and coordination of budgetary policies and* ***the need for keeping the rules-based framework simple, transparent and enforceable***.' This amounts to real conflict between the need to achieve political and economic discretion and the maintenance of a regulatory framework that is simple, transparent and reinforced: the economic and political elements appear to have prevailed in the current reform process at the expense of the simple and transparent regulatory framework.

6.2 The reform substantially weakens the Pact in two ways: firstly, by extending the deadlines, and secondly, by introducing a system of exemptions and exceptions whose criteria are so open to interpretation that they could cover everything. The combination of these two elements tends to make budget surveillance weaker and less transparent. This makes the goal of balanced public finances — as pointed out by the Deutsche Bundesbank — *'a moving target'* ([13]). With a Pact now less well equipped to guarantee the fiscal discipline of the Member States, this could lead the European Central Bank to take on the role of sole guardian of the Pact and the sole guarantor of the European Union's monetary stability. This will then create, in macroeconomic terms, a typical *zero-sum game* situation in which the *'gains'* from relaxing fiscal policy would be offset by the *'losses'* of a more rigid monetary policy ([14]).

6.3 Leaving aside what has emerged as a clear — and rather successful — attempt by national governments to claw back an economic policy instrument which the Pact had wholly or partially taken from them, it is worth making a few general observations.

6.4 It is absolutely clear that the way to increase the debt/GDP ratio is to achieve a steady rise in the deficit/GDP ratio. But it is equally true that when it comes to sustainability of public finances, deficit is a mid-term goal and debt a final goal ([15]).

6.4.1 One of EMU's key problems relates to the long-term sustainability of Member States' public finances. The adoption of Community instruments which can bring consolidation of public finances for countries with high levels of government debt would be useful because, in addition to ensuring monetary stability, sustainable public finances are a sound basis for a development and growth process.

6.4.2 Sustainable public finances are not to be achieved by automatically reducing social expenditure but by optimising it and making it more efficient and effective, in line with the principle repeatedly upheld by the European Commission: *'Social protection is seen as having the potential to play an important role as a productive factor, ensuring that efficient, dynamic, modern economies are built on solid foundations and on social justice'* ([16]).

6.5 Another feature of the ECOFIN Council's proposal document and the ensuing reform of the Pact itself, by means of Regulations 1055/2005 and 1056/2005, is its focus on pension reform. It devotes far greater space to the need to reform Europe's pension systems (favouring the introduction of a *multi-pillar* public and private system) than to the role the public debt level should play in assessing Member States' fiscal sustainability. One consequence of this is that countries which have carried out such reforms are allowed to deviate from the MTO or to overshoot the 3 % deficit threshold.

6.5.1 The document introduces the concept of *'implicit liabilities'* or liabilities incurred by the increased spending that awaits the various countries in the near future because of their ageing populations. This concept thus becomes part of the system of criteria used by the Commission and the Council to assess the sustainability of Member States' public finances. The problem with this kind of approach is — as highlighted by Bouzon and Durand — that there is no consensus on how these are defined or what the definition could include ([17]).

7. **The EESC's proposals for re-establishing European economic governance**

7.1 Regrettably, in the course of the reform process launched by the Commission in the autumn of 2004 and concluding with the reform of the Pact decreed by the European Council in the spring of 2005, the courage was lacking to

([13]) Deutsche Bundesbank's monthly report, April 2005.

([14]) In a press release, the European Central Bank said it was 'seriously concerned about the proposed changes to the SGP […] it is essential that all parties concerned fulfil their respective responsibilities', ECB, 2005.

([15]) As was quite rightly suggested in Paul de Grauwe's 2003 proposal, quoted earlier.

([16]) Commission of the European Communities: 1995, 1997, 2003.

([17]) 'Potentially, the boundaries of these liabilities could extend far beyond the simple pensions. According to an OECD document, in some member countries, only the liabilities associated with the pension system of public employees (for which there is a contractual relation), are included in the definition of public debt. This seems to be the approach supported by the Ecofin report.' (Bouzon and Durand, 2005).

review and redefine the theory and ideology underpinning the Pact. This timidity ruled out from the start any chance of radically transforming and of implementing the Pact ([18]). Such a transformation is necessary in order to try to resolve *once and for all* the sovereignty paradox that pervades the Pact (though which also features in many other fields of European policy).

7.2 The paradox consists in having, on one side, nation states and the European Parliament (representative bodies which have democratic legitimacy but no adequate economic policy powers) and, on the other, bodies such as the Commission and the European Central Bank, which, though not having direct legitimacy, nevertheless have sufficient economic policy powers. Legitimacy without power is thus set against power without legitimacy: a power which rests its legitimacy not on a clear democratic process, but on a *'doctrinal system'* on the basis of which the role of governments is rendered ineffective. Overcoming the sovereignty paradox involves moving away from the stark division between legitimacy without power, on the one hand, and power without legitimacy, on the other.

7.2.1 The criteria to be adopted for assessing sound economic performance by the Member States are derived from this doctrinal system and include a balanced budget, flexibility of markets, structural reforms, and so on. These are the principal goals of sustainable public finance which, unfortunately, gain ascendancy over the final objectives of macroeconomic stability, growth and full employment (as per the Lisbon Strategy) ([19]).

7.3 In this particular respect, the reform of the Pact has sought to resolve the sovereignty paradox. The European Council has in essence annulled the Commission's power of surveillance and given it to a Council composed of the potential subjects of that surveillance. If one poses the question *'who supervises the supervisors?'*, the rather embarrassed answer would have to be *'the supervised!'* The reform of the Stability and Growth Pact seems not to have eliminated the democratic deficit in the original Pact, but has compounded this shortcoming with another: lack of transparency and simplicity. It is well worth asking here, what role the European Parliament could play to strengthen the Pact's democratic legitimacy. Also, along the same lines, we must consider what steps could be taken to enhance the powers of and redress the balance between the European Commission, Council and Parliament.

7.4 The reform of the Pact has been followed by a string of events which have seriously undermined the EU integration process, namely the *'no'* votes in the French and Dutch referendums on the European Constitution, the decision to suspend the referendum process in the other countries, and the embarrassing failure to agree on the EU budget for 2007-2013. It is as if the slow but inexorable process of putting together the European jigsaw has been interrupted because each of the Member States has decided to reshape the pieces to fit its own national interests. Now the pieces will no longer fit together and can only be placed side by side or even on top of one another, leaving the picture largely incomplete and liable to be destroyed the first time it is accidentally — or perhaps not so accidentally — nudged by one of the parties to its con(de)struction.

7.5 It is at delicate moments such as that currently being experienced by the EU, that choices need to be taken which can move the debate on. For this reason, we should consider whether it would be worth following the advice of Habermas, as set out in his recent article ([20]). The German philosopher shows how the EU today finds itself *paralysed by the unresolved conflict between diverse and irreconcilable conceptions of its objectives* and how *the European institutions must both internalise this conflict and bring it into the open, in order to find productive solutions*. The EESC welcomes the proposal to launch a political reflection involving the EU's Member States on a voluntary and not necessarily unanimous basis. This reflection should help overcome the current stalled situation resulting from the need to reach unanimous inter-governmental agreements in a European Union of 25 Member States.

7.6 This reflection should be carried out using the instrument of *enhanced cooperation* — as laid down in Articles 43 and 44 of the Nice Treaty — involving at least eight Member States. While such cooperation allows joint decisions to be reached by means of less restrictive procedures, it also remains *open* since Member States may join the group at any time, in accordance with Article 43b of the Nice Treaty.

7.6.1 One initial area where enhanced cooperation could be applied is indeed Economic and Monetary Union. What necessitates recourse to enhanced cooperation in the context of EMU is the fact that the countries which are currently involved in the single currency have an undoubted need to bring their own economic policies into line with each other, unlike other countries which are not currently involved. Moreover, fiscal policy is an integral part of economic policy, and so, as has already been stated in other EESC opinions ([21]), measures adopted on these issues in the euro area could facilitate greater economic and social cohesion for the entire EU system.

([18]) Ibid.
([19]) J.P Fitoussi, 2004.
([20]) Habermas, J., 2005, *Only a dream can save Europe, la Repubblica* 9/06/2005.
([21]) 'Taxation in the European Union: common principles, convergence of tax laws and the possibility of qualified majority voting' (OJ C 80 of 30.03.2004, page 139).

7.6.2 EMU countries could appoint a coordinator or spokesperson for EU Member States' economic policy who would be tasked with coordinating European economic policies and who would be given real power to do so. The coordinator would work in collaboration with both the president of the European Central Bank and the European Commission president.

7.6.3 Furthermore, members of the enhanced cooperation group could decide to set up periodic hearings involving the coordinator of the EMU enhanced cooperation group, the Commission, the Council, the European Parliament and the European Central Bank. In this way, we could attempt to redress the balance of power, which is currently weighted too heavily towards the European Council.

7.6.4 The coordination of EMU Member States' economic policies must involve establishing a set of economic policy priorities as well as instruments for achieving those objectives. Provision should also be made for real-time monitoring to enable necessary adjustments to be made along the way. In this context, strengthening European economic governance must involve support for the macroeconomic dialogue and due regard for the European social dialogue.

7.7 In addition to the solution provided by enhanced cooperation, it would be worth taking the advice given by Jacques Delors in his 1993 White Paper ([22]), i.e., setting up a European fund for furthering economic growth and increasing competitiveness, by issuing long-term EU bonds, linked to strategic tangible and intangible infrastructure schemes. Moreover, the development fund proposed by President Barroso seems to be along these lines.

7.8 The process of strengthening European economic governance requires the involvement of all Member States, given that it represents an opportunity for EU growth.

7.9 The debate arising from the reform of the Stability and Growth Pact has brought to light contradictions at the heart of the EU's institutional framework.

7.10 Implementation of the Stability and Growth Pact must involve efforts to clarify how we see the future institutional framework of the EU. Only in this way can the Pact become an instrument for ensuring economic growth — and therefore job creation — preventing, at the same time, economic instability in its various manifestations.

7.11 The difficult situation facing Europe today calls for courageous decisions which would allow new impetus to be given to the European idea espoused by the EU's founding fathers and which today is entrusted to us.

7.12 For the Stability and Growth Pact to be applied successfully and achieve its original objectives, there needs to be broad consensus and support among the public, and not just among EU institutions and national governments. To this end, the EESC intends to organise a conference over the coming months, bringing together for a substantial and wide-ranging discussion all those involved in this process, including official decision-makers, civil society actors and the social partners.

Brussels, 15 February 2006.

The President
of the Economic and Social Committee
Anne-Marie SIGMUND

([22]) Commission of the European Communities, 1993, White Paper on growth, competitiveness, and employment: The challenges and ways forward into the 21st century, COM(93) 700 final, Brussels, 5 December 1993.

Opinion of the European Economic and Social Committee on the Broad Economic Policy Guidelines 2005-2008

(2006/C 88/16)

On 10 February 2005, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on the: *Broad Economic Policy Guidelines (2005-2008)*

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 27 January 2006. The rapporteur was **Mr Metzler**.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 15 February), the European Economic and Social Committee adopted the following opinion by 79 votes to 18 with nine abstentions.

Conclusions and recommendations

The EESC took the initiative to draft an opinion in anticipation of the 2006 spring summit so as to provide those involved in formulating EU economic policy with proposals for the way forward based on consensus among the various interests that make up civil society.

In the context of continuing weak economic growth in the euro area and indeed in the EU as a whole, and of the challenges of globalisation and demographic change, the Committee expresses the view in its own-initiative opinion on The Broad Economic Policy Guidelines (2005-2008) that — as an integral part of the Lisbon Strategy — a coordinated macropolicy that actively promotes growth and employment is needed to overcome the current economic and employment problems in the EU. The crisis of confidence that prevails in the large euro area economies can similarly only be overcome by adhering to the fundamental principles of sustainability in finance and social policy. The Committee therefore agrees with the Commission that a fiscal policy in the countries of the EU that complies with the respective commitments that have been made is indispensable.

The Committee supports the Commission's call for social security systems to be modernised so as to ensure their sustainability. In order to reduce unemployment, the flexibility of the labour markets must also be increased. What is important here is to ensure that social security, on which many people quite rightly rely, is maintained. At the same time, it is important to mobilise the potential of available workers. In this area, the social partners and Member State governments have a role to play in creating an innovation-friendly balance between flexibility and security.

The Committee believes that, as well as an appropriate macroeconomic policy to stimulate growth and employment, microeconomic reforms are needed to strengthen the potential for growth. This means measures to strengthen competition and cut red tape, and further development of the EU internal market. However, the Committee takes the view that it would be a mistake to believe that the maximum level of market integration is always the best level.

The Committee also believes that correct decisions in the areas of lifelong learning, equality of opportunity, support for families, education, research and innovation are key to the knowledge-based society. The framework and the incentives for creating an innovation-friendly environment must therefore be improved further. In general terms, the Committee also emphasises that promoting enterprise deserves particular attention.

1. Preliminary remarks

1.1 This own-initiative opinion on the Broad Economic Policy Guidelines (2005-2008) of the Integrated Guidelines for Growth and Jobs (2005-2008) should be taken as complementary to the opinion on the Employment Guidelines — 2005-2008 [1]. Again, the Committee is critical of the arrangements for the consultation procedure, which, in the light of the subject matter, are not conducive to the coherence of the two opinions. Dealing with the broad guidelines and the employment guidelines together would better reflect the many ways in which the two areas are interrelated.

1.1.1 To improve the implementation of the Lisbon Strategy, the European Council decided at its spring summit to integrate the economic policy and employment guidelines and to include them in the Lisbon process.

1.1.2 In its opinion on the *Broad Economic Policy Guidelines 2003-2005* [2], the Committee warned of the need to better focus the policy mix on growth and full employment. This recommendation is just as pertinent today.

1.2 Under its Treaty obligations, the ECB must, alongside price stability, also take account of the real needs of the economy in terms of growth and employment. In line with the coordination of individual areas of macroeconomic policy under the Cologne process, it must do this in constructive dialogue with those who make decisions on fiscal and wages policy.

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[1] See the EESC opinion on the *Proposal for a Council Decision on guidelines for the employment policies of the Member States, in accordance with Article 128 of the EC Treaty* – OJ C 286, 17.11.2005, p. 38.

[2] See also the EESC opinion on the *Broad Economic Policy Guidelines 2003-2005* (OJ C 80, 30.3.2004, p. 120) from which the present opinion follows on.

1.3 The integrated guidelines are to be considered as recommendations for the economic policies of the Member States. However, under the subsidiarity principle, implementing them responsibly is a matter for the Member States. *'In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.'* (Article 5 EC Treaty). Notwithstanding the above, economic policy remains a matter of common concern (Article 99(1) EC Treaty).

1.4 This opinion gives an overview of the European economy as a whole without ignoring the particular characteristics of the individual national economies of the Member States.

2. **The issue at hand**

Starting point: Current economic development

2.1 After four years of disappointing economic growth in the EU, in 2005 it again reached only 1.5 % (EU25) and 1.3 % (euro area). Nonetheless, there were significant differences between the Member States. Despite the economic growth, the European economy did not benefit fully from the upturn in the global economy. Europe has fallen even further behind other industrialised countries and regions.

2.1.1 Due to the fall in the value of the euro, external trade has recently had a significant impact on economic activity. European consumer confidence, however, has improved only haltingly since 2003, and for several months in 2005 actually got worse, which has led to a commensurately limited increase in consumer demand. Domestic demand is still not capable of boosting the economy. The ongoing uncertainty among European consumers is also expressed in the savings ratio, which is high by international standards.

2.1.2 Capital investment, which had fallen almost continuously since the beginning of the downturn in 2001, picked up again last year. Affordable finance resulting from low interest rates and growing company profits means that the environment remains favourable to investment, but more to high-growth financial investment in stocks than to capital investment. However, the Committee is concerned about the flow of capital to the USA, which is symptomatic of weak investment in Europe. Making Europe a more attractive place to do business therefore remains one of the key priorities if a sustained increase in investment is to be achieved. One of the main reasons for the low level of investments is the current weak consumer demand. At the same time, despite persistently high energy prices, the inflation rate remains at an acceptable level. This is especially true of underlying inflation (which disregards energy and unprocessed foodstuffs), which remains well below the headline rate of inflation. However, geopolitical risks and capacity bottlenecks in crude oil production could potentially cause inflationary pressures in the future. The challenges posed by the developments in the price of crude oil will be discussed in more detail later on.

2.1.3 The Committee is surprised that, despite the favourable finances and good level of returns, the booming profits of the large enterprises in 2003 and 2004 have not resulted in research and productive investments that would allow the EU to alleviate the competition it has to cope with. Instead, the liquidities piled up are channelled to give extra returns to the shareholders, to buy back the companies' own shares, in order to stimulate them on the stock exchange, or to set up merger and acquisitions that trigger off restructurations. The Committee is particularly concerned by the 'short-termism' which hampers the necessary long-term business investments.

2.1.4 One of the European economy's main problems, as well as current weak demand and lower growth than elsewhere in the world, is high structural unemployment. Thus, the recent economic upturn has only had a very limited positive impact on the labour market. At around 9 %, unemployment remains too high. As a result, the European economy is not realising its full potential for wealth creation. In addition, the current weakness in investment further limits the potential for future growth.

2.1.5 This trend towards a 'jobless recovery' has similarly been observed in the labour markets of other comparable industrialised countries and regions. However, the labour market situation there is in most cases much more favourable. According to Commission estimates [3], growth in 2005 and 2006 will result in the creation of over three million new jobs in the EU. The effect on the unemployment rate will, however, be limited, as an increase in the participation rate due to people being encouraged back into the labour market by the improved economic situation is to be expected.

2.1.6 Thus, bringing the untapped labour force into employment remains one of the biggest challenges the EU must address. Specific programs should be implemented to facilitate the access of women and young people in the labour market and others to reintegrate older workers.

Further challenges: Globalisation and demographic change

2.2 Alongside the current economic and finance policy problem areas such as the unsatisfactory situation of the labour market and of unemployment in particular and increasing public budget deficits, further challenges await the EU. These are already recognised, but their full effects will only be felt in the future.

[3] Commission Autumn forecast 2005.

2.2.1 Firstly, the EU must face up to tougher economic competition. The fast-growing economies of China and India have brought new competitors onto the scene who, ten years ago, did not play a significant role in the world economy. The global labour force has doubled, and relations between capital and labour have changed on a worldwide scale. Because of their economic development, the populous countries of India and China have far less capital per employee at their disposal than the traditionally industrialised countries.

2.2.2 Everything possible must be done so that the consequences so far of globalisation and the increased international division of labour may be seen also as an opportunity for the future of Europe. Following the opening up of China's economy and those of other south-east Asian countries, it is true that there is increased competition for investment. At the same time, however, huge markets have opened up to European exporters. Rising prosperity in that part of the world means that these markets offer significant potential. Economic policy must provide appropriate support for the associated structural change. This includes the development of the global framework for the protection of minimum environmental and social standards and of property rights.

2.2.3 The EU must also face up to globalisation and the dramatic rise in oil prices also associated with the increase in worldwide demand for oil. Thanks to lower consumption and an increased use of other energy sources, the EU in particular has significantly reduced its dependence on oil. It is precisely competing industrialised countries, such as China, that are more heavily affected. Furthermore, the EU could well benefit disproportionately from oil-exporting countries using their income to buy imports.

2.2.4 The second big challenge for Europe's economies will be demographic change and the resulting ageing of the population. However, the scope for the EU to influence this is limited, since — as the Commission has correctly pointed out elsewhere — many issues relating to demographic change fall within the remit of the Member States or the social partners. Moreover, demographic change is a social phenomenon on which economic policy measures can have only a limited impact. It is therefore all the more important to create the conditions in which the necessary adjustments can be made in a timely fashion.

2.2.5 The main causes of demographic change are the continuing rise in life expectancy, the expansion of the over-60s age group and the persistently low birth rate. The change in age structure affects all the markets of an economy: the labour market will, from 2020, increasingly face a shortage of young workers, the product markets will have to adapt to a different customer base, and the capital markets will see changes in savings patterns and the demand for investment funds. It is also to be expected that the general intensification of competition resulting from globalisation will have an effect on the labour market and will need a different organisation of work in the framework of social dialogue. The concept of life-long learning comes into its own in this context ([4]). Dealing with demographic change will also be a challenge for social dialogue and civil society.

2.2.6 If the aim of creating a competitive, knowledge-based economy is to be achieved, business must be in a position to promote and develop technological and organisational change, productivity and innovation. This can only be achieved through constant adaptation of workers' qualifications to changing demand and through dynamic business strategies. To do this, firms must incorporate training into their strategy as a medium and long-term investment, not as something requiring a rapid, if not immediate, return on investment. Vocational training and lifelong education and further training must not be looked at in isolation, but should be fundamental elements of workers' career planning. There must be sufficient motivation in all age groups to take part in training. This should be achieved by placing value on skills and making career paths more dynamic. From this perspective, skill audits and validation of professional achievements are tools which should be developed through individual career plans linked to corporate objectives ([5]).

Lisbon strategy

2.3 The growth of the world economy in the last five years underpins the ambitious goals of the Lisbon strategy, which are to sustainably increase competitiveness and secure jobs. The principles of the Lisbon agenda should be fully assimilated. Only if it has confidence in its own strengths and the courage to change can the EU fulfil its goal of becoming the world's leading knowledge-based economy with secure and better jobs. The reports of this Committee ([6]) and of the High Level Group ([7]) (Kok Report) for the European Council, assessing the results so far in relation to the Lisbon strategy, state however that there is still a long way to go before the aims can be reached. Straitjacketed by a monetary policy which does not give it the option of reviving demand through expenditure, economic growth in the EU is noticeably lagging behind that of the United States. The average growth rate for the EU for the years 2001-2004 was a mere 1.5 %. No progress was made in reducing the gap with other comparable industrialised countries and regions in terms of EU per capita GDP and productivity growth.

([4]) See EESC opinion on *Economic Growth, Taxation and Sustainability of Pension Rights in the EU* (OJ C 48, 21.2.2002, p. 89).

([5]) See EESC opinion on *European business competitiveness* (OJ C 120, 20.5.2005, p. 89) points 5.4.6.3 and 5.4.6.4, and EESC opinion on *Increasing the employment of older workers and delaying the exit from the labour market* (OJ C 157, 28.6.2005, p. 120), point 4.3.5.4.

([6]) See EESC opinion on *Improving the implementation of the Lisbon strategy* (OJ C 120, 20.5.2005, p. 79).

([7]) *Facing the Challenge, the Lisbon Strategy for Growth and Employment*, report from the High Level Group chaired by Wim Kok November 2004.

2.3.1 At the same time, the Lisbon agenda offers a broad basis for strengthening the domestic economic dynamics of the EU and its Member States ([8]).

2.3.2 Most Member States have the potential to increase growth by increasing the employment rate.

2.4 Some of the causes of Europe's weak growth and the hitherto disappointing trend in the labour market also lie in as yet unsolved structural problems that are common to all the large economies in the euro zone. Furthermore, there is consensus across all Member State governments that both fiscal consolidation of public budgets and improved economic growth are necessary.

2.4.1 The EU must itself be an engine for growth if it is not to continue losing ground to other economies and if it is to achieve the ambitious Lisbon goals.

2.4.2 The Committee believes that the social partners and other representative civil society organisations have a significant role to play in this discussion. In addition, the Committee refers once again to its opinion on improving the implementation of the Lisbon strategy ([9]), which this opinion complements and updates.

Overcoming the crisis of confidence

2.5 In some Member States, the uncertain employment situation has led consumers to postpone or shelve decisions to purchase. This leads to a wait-and-see policy, which weakens domestic demand. Transactions which would have a beneficial impact in the long term are postponed and economic growth is adversely affected. It is worrying that in certain Member States, where there was a drop in consumption linked to the economic downturn of 2001-2003, consumption has not risen significantly despite the subsequent upturn in the economy. Much the same applies to business investment decisions. There is a risk that self-fulfilling expectations will become entrenched and that stubborn economic imbalances will persist. This risk must be addressed with appropriate measures.

2.5.1 The crisis of confidence among employees and consumers is made worse in many countries of the European Union by revelations about mistakes and impropriety on the part of managers and entire management structures. The Committee considers it important that European countries, supported by the European Union, should pay more attention to and do more to correct the shortcomings in qualifications and integrity among managers. In addition, consideration should be given to how, through greater transparency and, where appropriate, tougher rules on liability, people with executive responsibility might be encouraged to concentrate firmly on their tasks and to act in a socially responsible manner.

2.5.2 Overcoming the crisis of confidence in the large economies of the euro zone is one of the key tasks. Only a strategy of sustainable financial and social policies will maintain and strengthen public confidence in national governments and the EU institutions ([10]).

2.5.3 Unburdening public budgets and strengthening social security systems will only be possible if there is a sustained improvement in the labour market. Labour market reforms that are appropriate both to the increasing pace of economic change and to social security must be placed at the centre of a sustainable economic policy. In line with the Lisbon Strategy, the state can perform a guiding role in supporting the appropriate investment and the creation of jobs in new areas as a positive response to globalisation.

2.5.4 It is therefore of the utmost importance that, through improved coordination in the areas of trade, competition, industry, innovation, education and training, and employment, attention is focused on these new areas and the opportunities they offer. Civil society as a whole should act in accordance with its responsibility.

2.5.5 It is essential that monetary and fiscal policy also stimulate growth and employment ([11]). What the Member States really need is coordination of economic policy. However, care must be taken to ensure that economic policy measures to stimulate demand do not undermine confidence in stability.

3. **Macroeconomic policy for growth and jobs**

Budgetary policy

3.1 Structural reforms without sufficient demand have negative effects on employment. The high long-term pressure on expenditure resulting from the ageing population must be taken into account now. In such circumstances, fiscal policy could, as part of a balanced macroeconomic policy, also help stimulate effective demand ([12]).

([8]) Council of the European Union, Presidency Conclusions (19255/2005, 18.6.2005), in particular points 9-11, and the Communication from the Commission to the Council and the European Parliament on *Common Actions for Growth and Employment: The Community Lisbon Programme* (COM(330) 330 final, 20.7.2005).

([9]) See EESC opinion on *Improving the implementation of the Lisbon strategy* (OJ C 120, 20.5.2005, p. 79).

([10]) See also the opinion of the EESC's Section for Economic and Monetary Union and Economic and Social Cohesion on *Strengthening economic governance – The reform of the Stability and Growth Pact* – Rapporteur: Ms Florio (ECO/160 – CESE 780/2005 fin., 31.1.2006).

([11]) The EESC has repeatedly advocated this, recently inter alia in its opinion *on Employment policy: the role of the EESC following the enlargement of the EU and from the point of view of the Lisbon Process* (OJ C 221, 8.9.2005, p. 94).

([12]) See also the opinion of the European Economic and Social Committee on the *Broad Economic Policy Guidelines 2003-2005* (OJ C 80, 30.3.2004, p. 120, point 1.4).

3.1.1 To do this, the Member States need to make their budget planning more realistic and more transparent. A critical look at what government does, and more disciplined expenditure, would demonstrate the quality of public expenditure and contribute to higher growth. This also applies to all levels of the EU. Stricter implementing mechanisms are needed within individual countries in order to address the underlying causes of the deficit risks. The Commission's 2005 autumn forecast of the level of government deficits underscores the need for consolidation. Despite the continuing (albeit weak) economic recovery, the Commission estimates that the deficit of the EU25 for 2005 and 2006 will be around 2.7 % each year, which is only just below the reference value of 3 %.

3.1.2 Fiscal discipline is an important precondition for the European System of Central Banks to be able to ensure price stability over the longer term whilst maintaining relatively low interest rates. The ECB should continue to keep a watchful eye on inflationary pressures such as those connected with the worldwide liquidity surplus or secondary effects of the rise in the price of energy. The Committee thus supports the Commission's conclusion that maintaining price stability should continue to be the ECB's top priority.

Sustainability of social systems

3.2 The strong pressure to adapt social security systems does not come first and foremost from globalisation, but above all from high structural unemployment and the significant demographic change caused by the fall in the birth rate and the increase in life expectancy, which may lead to the length of time over which people draw their pensions getting longer and longer. The Committee supports the Commission in all its efforts to boost employment and in its call for sustained modernisation of social security systems, as a high degree of social security is indispensable so that the balance between competitiveness, demand and social cohesion is assured ([13]). What is important here is to ensure that social security, on which many people quite rightly rely, is maintained.

3.2.1 Any reform of social security systems must go hand in hand with specific plans to facilitate women's access to the labour market; for that reason child-care services, schools, etc. should also be guaranteed. Measures that make it easier to reconcile work and family life, such as improved all-day child care, are to be supported ([14]). In countries with inadequate childcare provision, the employment rate among women is relatively low. Conversely, countries with high rates of female employment have good access to childcare facilities. Statistics show that there is a significant discrepancy between the desirable (2.3) and actual (1.5) number of children per woman in the EU. A birth rate of 2.1 would be sufficient to halt the expected decline in the European population. Putting in place appropriate infrastructure, and organising work in a way which enables commitments to employees to be honoured while making part-time working more attractive for employees and employers, and making it easier — without actually offering incentives — to take career breaks, along with flexible working hours, ought to make it much more attractive, at least in some Member States, to return to work after a period of child-rearing.In addition, sustained reform of the labour market leading to increased demand for labour will strengthen the position of employees and thus make employers more willing to help make it easier to reconcile work and family life.

3.2.2 Governments and the social partners also have a duty to support, through collective agreements, new employment opportunities and a primarily innovation-friendly balance between flexibility and security. With this in mind, and with regard to older workers, the Committee has supported the recommendations and the analysis made by the Commission in its Communication (COM (2004) 146 final): *'…social partners should broaden and intensify their efforts both at national and EU level to establish a new culture on ageing and management of change. Far too often, employers continue to give priority to early retirement schemes.'* Increasing the employment rate is key. On this issue, the EESC believes that increasing the overall employment rate, or in particular that of the 55-64 age range, also means increasing the employment rate among categories of potential employees who are under-represented there. From this perspective, significant measures should be taken to mobilise all the reserves of labour that exist in the EU, whether young people who are often stuck in demoralising unemployment, which is worrying for the future overall employment rate, or women or people with disabilities ([15]).

Reducing unemployment, mobilising workers

3.3 The Committee underscores the necessity stated by the Commission to continually increase employment rates particularly in the large economies and to continually increase the supply of workers. In order to ensure the long-term sustainability of the European economy, combating mass unemployment must be given top priority.

3.3.1 High structural unemployment and the expansion of world trade place additional pressure on labour markets to adapt efficiently and dynamically. Export markets in particular, but also the service sector, open up numerous new opportunities as a result of rapidly expanding world trade. This raises entirely new challenges for the ability of the labour markets to adapt. A stable framework is needed if those challenges are to be met.

([13]) See the opinion of the European Economic and Social Committee on the *Broad Economic Policy Guidelines 2003-2005* (OJ C 80, 30.3.2004, p. 120, point 1.5.3).

([14]) See the EESC opinion on the *Proposal for a Council Decision on guidelines for the employment policies of the Member States, in accordance with Article 128 of the EC Treaty* – OJ C 286, 17.11.2005, p. 38). This states, inter alia (point 3.2.3): 'The EESC continues to urge the Member States to support efforts to make the world of work compatible with family life. This is a task for society as a whole'.

([15]) See opinion EESC opinion on *Increasing the employment of older workers and delaying the exit from the labour market* (OJ C 157, 28.6.2005, p. 120), points 6.3.2 and 4.4.4.

3.3.2 The European labour markets need to be able to respond better and more dynamically to such trends as outsourcing and offshoring. Unemployment insurance and social security systems and employment services should operate in such a way that they not only provide for transition from unemployment into employment, but also facilitate movement between different employment situations, such as work, training, career breaks or self-employment. Since the EU has only a limited mandate in this area, it is up to the Member States to manage their labour market institutions accordingly.

3.3.3 In addition, there remain temporary obstacles to the cross-border mobility of workers within the EU. The Committee calls on the Member States to look seriously at whether the transition periods could be ended. This requires appropriate involvement and consultation of the social partners at all relevant levels ([16]). If the transition periods are to be maintained, this needs to be justified with weighty and objective arguments.

3.3.4 Since unemployment among people with no or little vocational training is far higher than average, promoting training and career development is one of the most important instruments of employment policy. Education and training are investments in human capital. They improve the job opportunities of the individuals concerned and increase the production capacity of businesses. Training is an important factor in improving productivity and international competitiveness. Social partners as part of collective agreements and any other contract that affects them should agree that employees and workers maintain and increase their human capital through training and career development.

3.3.5 Among young people in particular, vocational training is rightly seen as a necessary condition for future employment, although it is not in itself a guarantee of a perfect match between skills and available work. Older people, who, like young people, are more likely than average to be unemployed, also need to gain new knowledge through training and qualification measures. The productivity potential of older workers is not lowered by age but by obsolete skills. This can be corrected through training. In view of this, it should be pointed out that a policy aimed at those in their forties, fifties or above is not sufficient ([17]).

3.4 The Committee considers the high tax and social security burden on labour to be a serious problem area.

([16]) *The Social Dimension of Globalisation - the EU's policy contribution on extending the benefits to all* – COM (2004) 383 final, 18.5.2004.

([17]) See the OECD's International Adult Literacy Survey – IALS and the EESC opinion on *Older workers* (OJ C 14, 16.1.2001) and *Increasing the employment of older workers and delaying the exit from the labour market* (OJ C 157, 28.6.2005, p. 120), point 4.3.5.)

4. **Microeconomic reform to strengthen the potential for growth**

The EU internal market

4.1 The Committee agrees with the Commission that a larger and deeper internal market is an essential part of an economic policy aimed at employment and growth. However, the Committee does not consider that the problems in implementing the Lisbon Strategy lie primarily in an insufficiently integrated internal market.

4.1.1 The integration of the market in services, which has not yet been completed, can hardly be seen as *the* cause of the poor performance of the labour markets and of economic growth. A significant proportion of the unemployed are people with few skills, who would reap only limited benefits from an integrated European market in services. Whilst it is true that removing tax obstacles would improve the conditions for investment and that overcoming the obstacles to mobility can make life easier for some employers and employees, this would not have a significant effect on improving national labour markets. Nonetheless, further development of the internal market with the aim of creating a truly level playing field in the internal market in services could make a significant contribution.

4.1.2 The Committee takes the view that it would be a mistake to believe that the maximum level of market integration is always the best level. Particularly in markets that are typically regional or local, in which many service providers operate, the volume of cross-border services will always be limited. This is precisely the kind of area where forcing further harmonisation could give the impression that EU policy does not take sufficient account of specific regional circumstances and thus lead to a hardening of existing reservations. For this reason, the obstacles that currently exist must at least be clearly listed and weighed against regulations that need to remain in place due to the specifics of the Member States and to which market participants must adapt. Priority should be given to careful consideration of each market and each sector.

4.1.3 The Committee also supports the Commission's recommendation that state aids that hinder competition should be phased out, or that those aids should be directed to areas of research, innovation and training linked to the Lisbon Strategy. In the light of the aim of greater competitiveness, this would also reduce the burden on public finances and increase future-oriented public investment.

4.1.4 Integrating the European capital markets is significant to revitalising growth in the EU. Over the last few years, there have been considerable efforts towards creating a regulatory framework for an integrated market in capital and financial services. In this context, the Committee is sympathetic to complaints about an excessively rapid and costly round of harmonisation.

4.1.5 Further proposals for harmonisation and regulation need to be subject to a careful assessment of their necessity and urgency. In the short term, proposals for directives that are not urgently needed should be shelved. For the time being, it would seem far more appropriate to concentrate on market-oriented, cost-efficient implementation and consolidation of very recent legislative proposals that have not yet been fully completed. The Committee also supports the positions set out in the Commission's White Paper on Financial Services Policy (2005-2010).

Competition and cutting red tape

4.2 The Committee welcomes the goals set by the Commission for freeing up trade. A slimmed-down, modern administration focused on core tasks has the potential to make savings, but, in the absence of tools for intervention in crisis situations, could render Member States unable to act. Member States should seek to focus on the core functions of the state, such as education, public infrastructure, internal and external security and social security, as well as high standards of public health, more seriously as a guiding principle. In this context, the Committee gives its full support to the Commission's statements in support of the economic significance of better lawmaking. Increased consultation of the stakeholders during the legislative process will facilitate more transparent decision-making, which is in the interests of legislators and market participants.

4.2.1 Increased competition will also be a driving force for promoting innovation. The policy framework for innovation and more generally for research should be improved. The Committee wishes to stress at this point that it has put forward proposals in numerous opinions that are still valid ([18]).

4.2.2 The EESC points out that the guidelines do not pay enough attention to the issue of cutting red tape. Thus, the significance of the EU plans for better lawmaking is once again highlighted, but the Committee regrets the absence of a clear call in the guidelines for Member States to take measures to reduce red tape, for example by simplifying their tax and contributions systems. The same applies to EU legislation and its application at national level. Streamlined decision-making and simplified procedures would reduce costs and relieve pressure on public budgets.

4.2.3 In the areas of regulation, deregulation and market liberalisation, it is important to balance the interests of consumer protection and the environment and social policy goals carefully with the opportunities for the whole economy to grow. Future legislative and regulatory activity should, more than has been the case hitherto, be subject to legislative impact assessment ([19]).

4.2.4 In particular, SMEs and other independent businesses are disproportionately restricted in their productivity by thickets of red tape, as they have flat management and administration structures. The Committee therefore repeats its call for the creation of a specific statute for SMEs ([20]).

4.2.5 The Committee also sees significant opportunities in increased cooperation between the public and private sector to provide public services (Public-Private Partnership). This latest form of cooperation in the EU Member States and the EU itself in providing public services should ensure that there is a level playing field between the private and public sectors in order to maximise the benefit to the public. Borrowing from the private sector to finance projects should be considered when it is cost-effective and irrespective of how the projects are designed, built or operated.

Education and training

4.3 The concept of lifelong learning has an important role to play in relation to the knowledge-based economy, not least through flexible learning methods. If lifelong learning is to become a reality, there needs to be a culture of learning within society and the infrastructure to support it. The social partners and civil society should promote lifelong learning as a guiding principle. Moreover, greater use of the potential of public-private partnerships should also be considered in the area of education and training. At present, funding that infrastructure needs greater support from the state, but so far not enough has been forthcoming. Recently (in 2002), total spending on education and training in the EU25 was 5.2 % — similar to the level in comparable economic spaces. However, only 0.6 % was from private money; this is far less than in the reference regions, and could be increased where it is cost effective over the life-time of the project or the period of borrowing.

4.3.1 The EESC has already expressed a view on the connection between cultural exchanges and young people in the context of an action programme on lifelong learning ([21]). At this stage, the significance of this relationship for the creation of a knowledge-based society needs to be emphasised once again. Promoting cultural exchanges (especially among young people) stimulates the interest in other aspects of culture and thus makes a positive contribution to the exchange of knowledge.

([18]) See EESC opinions on *Researchers in the European Research Area: one profession, multiple careers* (OJ C 110, 30.4.2004, p. 3), *Integrating and strengthening the European research area* (OJ C 32, 5.2.2004, p. 81), *The European Research Area: Providing new momentum - Strengthening - Reorienting - Opening up new perspectives* (OJ C 95, 23.4.2003, p. 48) and *Reinforcing cohesion and competitiveness through research, technological development and innovation* (OJ 40, 15.2.1999, p. 12).

([19]) With this in mind, the European Economic and Social Committee has in the past called for a simplified tax system and regulatory framework. See also the opinion of the European Economic and Social Committee on the Broad Economic Policy Guidelines 2003-2005 (OJ C 80, 30.3.2004, p. 120, point 4.4.2.4).

([20]) See the EESC opinion on the *Proposal for a Council Decision on guidelines for the employment policies of the Member States, in accordance with Article 128 of the EC Treaty* – OJ C 286, 17.11.2005, p. 38).

([21]) Opinion of the EESC on the *Proposal for a Decision of the European Parliament and of the Council establishing an integrated action programme in the field of lifelong learning,* 10.2.2005 (OJ C 221, 8.9.2005, p. 134).

4.3.2 The Committee welcomes the fact that the decision on the directive on the recognition of qualifications has removed significant obstacles to the mobility of employees and self-employed people. It calls on the Member States to ensure that it is implemented rapidly. In addition, regular performance comparisons and benchmarking of universities and schools, such as take place as part of the Pisa study and the Bologna process, should have a positive effect on the participants' ambition and commitment ([22]).

4.3.3 Furthermore, the European tertiary education system is not sufficiently focused on the task of becoming a worldwide centre of excellence for top-level research. More attention should be paid to the concept of centres of excellence and excellence clusters at national and European level where this is not yet sufficiently the case. This would militate against the brain drain of top European researchers.

Research and innovation

4.4 The expected reduction and ageing of the European population will mean that more and more technological innovation is needed in order to secure the future prosperity of pan-European society. However, the Commission has established and correctly pointed out that the efforts to increase innovation in the EU have so far been inadequate ([23]).

4.4.1 To boost innovative activity at EU level, the Committee regards it as essential to remove the obstacles which impede its spread across borders. Besides the unsatisfactory labour market, the level of innovation, which is still below what it could be, is one of the key factors in the slowdown in the growth of productivity in the euro area. But to achieve better results in terms of innovation, it is necessary to remove the causes of the market segmentation which currently hinders the spread of new technologies.

4.4.2 The Committee agrees with the Commission that the framework conditions and incentives must be improved so as to create a productive and innovation-friendly environment.

4.4.3 State support for innovation should be used more efficiently and better targeted so as to avoid the wrong incentives for private investors and hence the wrong allocation of public funds. More use should be made of projects involving close cooperation between universities and companies in order to link research more effectively to the private sector — without prejudice to the need for fundamental research.

4.4.4 The rules for state aid measures should be more transparent in order to facilitate access to public research funds. The Committee also welcomes greater cooperation within the Commission services. The Committee reiterates its call for the general conditions for the granting of aid to be made more SME- and microenterprise-friendly.

4.4.5 An EU-wide Community patent would also have a positive effect on innovation. It should be possible to overcome obstacles to this, such as the so-called language problem. The Committee once again strongly advocates the introduction of a European Community patent as soon as possible.

Small and medium-sized enterprises

4.5 As the Committee pointed out in an earlier opinion, special attention should be paid to encouraging entrepreneurship ([24]). SMEs in particular have a special potential for innovation. In order to compensate for their disadvantage in relation to established larger companies in terms of costs, they need to hold their own through innovative products and services. Consequently the Committee welcomes the Commission's call for the removal of all obstacles to access to financing in general and to the risk capital markets for young companies in Europe ([25]).

Brussels, 15 February 2006.

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND

([22]) Elsewhere, the EESC has also highlighted 'the importance of the transparency and harmonisation of qualifications across Europe and at international level'. See the EESC opinion on the *Proposal for a Council Decision on guidelines for the employment policies of the Member States, in accordance with Article 128 of the EC Treaty* – OJ C 286, 17.11.2005, p. 38, point 3.8.1).

([23]) The EU spends only around 2 % of GDP on R&D. See European Commission, Recommendation on the broad guidelines for economic policy (2005-2008), COM (2005) 141 final, section B.2. This percentage is not much higher than it was when the Lisbon strategy was launched, and is still a long way off the EU target of 3 % of GDP for investment in research. The Committee recalls that two-thirds are supposed to be provided by private industry.

([24]) EESC opinion on *Fostering entrepreneurship in Europe: Priorities for the future* (OJ C 235, 27.7.1998) and the EESC opinion on the *Proposal for a Council Decision on guidelines for the employment policies of the Member States, in accordance with Article 128 of the EC Treaty* – OJ C 286, 17.11.2005, p. 38).

([25]) The European Economic and Social Committee has already expressed similar views on other occasions, and has also advocated the promotion of the entrepreneurial spirit and new business start-ups. See also the opinion of the European Economic and Social Committee on the *Broad Economic Policy Guidelines 2003-2005* (OJ C 80, 30.3.2004, p. 120, point 4.4.2.4).

APPENDIX 1

to the Opinion of the European Economic and Social Committee

Rejected amendment

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

Point 2.5.1

Delete.

Reason

In the EU Member States there are 23 million economic entities and several times as many managers, the majority of whom are employees. They work in an extremely stressful environment and assume responsibility for virtually everything which takes place in enterprises which is the fault of or caused by any member of the workforce. Many managers resign or take out insurance against the risks.

All EU Member States have legal systems, such as civil, commercial or penal codes, which set out rules governing the responsibility of managers of economic entities.

In point 2.5.1, the Member States and the European Union are called upon to pay more attention to and do more to correct the shortcomings in qualifications and integrity among managers.

A number of questions arise in this context and these questions must be addressed if we wish to see the EESC opinion given serious consideration.

1. How are the European Union and its Member States to monitor the qualifications and integrity of several tens of millions of people? Will new institutions have be set up? Are the existing legal systems not up to the task and would it not be appropriate simply to enforce the law?
2. Why should this appeal not also be addressed to workers, calling upon them to work efficiently and properly, to have the right qualifications and to behave ethically, bearing in mind that managers are responsible for mistakes for which the fault lies with workers? If the EESC is indeed a body which operates on the basis of consensus, we should also call on workers, all foundations and social and non-governmental bodies to ensure that they possess the requisite qualifications and observe the requisite principles and ask the Member States and the EU to monitor them. Why should we confine our attention to managers?
3. In the course of the ECO section's deliberations, whilst it was adopting its opinion, it was argued that the appeal to the EU and the Member States should not be taken seriously as it was only an appeal. In that case, why not deal with all problems — be they economic, social or other problems — right away in a single opinion and a single appeal, in the knowledge that it is just an appeal. This is the course of action that the opposition used to propose to parliaments in communist countries where the worse the economic situation became, the more the government adopted regulations in the belief that it was possible to change things by issuing rules, passing resolutions and adopting appeals. I propose that we adopt an opinion together with the following appeal directed at the EU and the Member States: 'The situation has to be resolved'. This would enable us to tackle not just the issue of managers but also all other matters. The European Economic and Social Committee will then cease to be of any further use, a situation which can only be to the benefit of the European Union and European integration.

Voting

For: 37

Against: 53

Abstentions: 9.

Opinion of the European Economic and Social Committee on EU-Mexico relations

(2006/C 88/17)

On 1 July 2004, the European Economic and Social Committee decided to draw up an opinion, under Rule 29(2) of its Rules of Procedure, on *EU-Mexico relations*.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 January 2006. The rapporteur was Mr Rodríguez García-Caro.

At its 424th plenary session held on 14 and 15 February 2006 (meeting of 15 February 2006), the European Economic and Social Committee adopted the following opinion by 107 votes to four with six abstentions.

1. **Introduction**

1.1 The aim of this opinion is to analyse the development of relations between the European Union (EU) and Mexico since December 1995, when the EESC adopted its first opinion on the issue ([1]), and to propose areas for discussion in order to develop and strengthen these relations, as regards both the future of EU-Mexico relations and the involvement of civil society in both regions.

1.2 Considerable progress has been made in EU-Mexico relations, resulting in the EU-Mexico Economic Partnership, Political Coordination and Cooperation Agreement (Global Agreement) signed in October 2000, which provided for a free trade area. This opinion therefore aims to provide information which will help to highlight the strategic importance of EU–Mexico relations and to strengthen and improve the EU-Mexico Association Agreement, whilst giving consideration to the specific features of each region.

1.3 One specific aim referred to in that Agreement (Articles 36 and 39) is the need to involve civil society from the two regions in the development of EU-Mexico relations.

In the Declaration ([2]) adopted at the Third Meeting of European Union, Latin American and Caribbean civil society organisations held in April 2004 in Mexico (in which the EESC played an active role), a series of initiatives were agreed, with a threefold goal: to step up the partnership between the European Union, Latin America and the Caribbean, to establish an agenda for social cohesion, and to strengthen the role of organised civil society. The Declaration highlights the need to create 'structured bodies for dialogue at national and regional level' and the parties' 'willingness to commit themselves fully to the process of creating and strengthening such institutions', and calls for 'the support of the European Economic and Social Committee in transferring expertise and fostering dialogue'.

1.4 The EESC believes, with respect to EU-Mexico relations, that the objective of incorporating civil society into the Agreement should not only involve the promotion of relations between civil society in both regions and between its representative bodies; it should also enable civil society to participate effectively in the institutional framework of the Agreement, by means of a consultative body acting either via mandatory consultations on matters relating to the Agreement or through own-initiative proposals. The EESC considers that this participation should be implemented by creating a Joint Consultative Committee, within the framework of the Agreement.

2. **Political, economic and social situation and outlook for Mexico**

2.1 *Political situation*

2.1.1 Mexico's democratic transition has been a long and unusual process. The events that have marked the country's political life in the last twenty years have created a solid basis for a pluralist and democratic regime. Mexico has experienced a changeover, strengthening and independence in its legislative and judicial powers, as well as changes in the distribution of political power and far-reaching institutional changes, such as the reform of the Mexican Supreme Court of Justice (Corte Suprema de Justicia de la Nación), the Federal Electoral Institute (Instituto Federal Electoral), and the Federal Electoral Court (Tribunal Electoral del Poder Judicial de la Federación).

2.1.2 The Mexican political situation reached a turning point in 2000, with the victory of presidential candidate Vicente Fox Quesada for the National Action Party (Partido de Acción Nacional — PAN), bringing an end to the 71-year governmental reign of the Institutional Revolutionary Party (Partido Revolucionario Institucional — PRI). This event highlighted the need for alternation in power to ensure the smooth running of the democratic system, and heralded a period of change.

2.1.3 The Mexican government's National Development Plan 2001-2006 was designed as a tool for political, economic, social and demographic change. It established a number of priorities for the current administration's activities, focusing on social and human development, growth with quality, and order and respect.

([1]) Point 5.5 of the opinion on EU-Mexico relations, adopted on 21 December 1995 (OJ C 82, 19.03.96, p. 68).

([2]) Point III of the summary and points 33, 34 and 35 of the Final Declaration adopted by the Third Meeting of European Union-Latin American-Caribbean civil society organisations held in Mexico on. 13, 14 and 15 April 2004. This document acknowledges the progress made on the recognition of cultural and ethnic diversity and the rights of indigenous peoples.

2.1.4 Various reform bills considered crucial by the current Mexican government (such as tax and energy policy reforms) have been blocked, because there is not a sufficient majority in parliament (Congress and Senate) for them to be passed, and because of the forthcoming presidential elections scheduled for July 2006.

2.1.5 The degree of economic growth and relative political stability that Mexico enjoyed throughout much of the second half of the 20th century boosted the country's role as a player on the international scene. This state of affairs changed in the wake of the economic crisis suffered by Mexico in the eighties and the upheavals that occurred internationally in the nineties, forcing the country to re-examine its economic, political and external relations objectives.

2.1.6 Since then, Mexico's strategic stance towards Europe, and vice versa, has been set down in the Global Agreement, which goes beyond the specific aspects of the bilateral relationship. Thus Mexico and the EU's positions on international matters have shown an increasing tendency to coincide in recent years, and the two regions have also displayed a growing ability to coordinate their stances in multilateral forums. Mexico and the EU have cooperated on issues such as the environment (Kyoto Protocol), development policy (Johannesburg and Monterrey summits), and human rights. For its part, Mexico has maintained very close relations with the rest of Latin America, as shown by the country's political cooperation with the Rio Group. Mexico also supports the Mercosur integration process and partnership with the bloc, and the Free Trade Area of the Americas (FTAA).

2.1.7 As a pivotal country on the American continent, Mexico must be a key strategic reference point for the EU in all aspects — present and future — of its relations with the area.

2.2 *Economic situation*

2.2.1 Mexico has also undergone a major economic transition over the last decade as its economy has become much more open: it is the only country to have Free Trade Agreements with the USA, Canada, Japan and the EU, and with the European Free Trade Association (EFTA), Israel and most Latin American countries. Furthermore, in 1984 it joined the GATT, now the World Trade Organisation (WTO), and in 1993 became a member of APEC (Asia-Pacific Economic Cooperation). Since 1994, it has been a member of the Organisation for Economic Cooperation and Development (OECD). The scale and speed of the Mexican reform process have exceeded those of most other developing countries that have made similar economic changes in recent years. The rise in domestic consumption, growth in US demand, the increase in the price of US assets, the rising price of oil, the major influx of foreign direct investment (FDI), the contributions from the tourist sector and remittances from emigrants have been among the key factors for Mexico's economy.

2.2.2 Approximately 98 % of Mexican firms can be considered micro-enterprises or small and medium-sized enterprises (SMEs). They play a vital role in job creation, regional economic activity and training of business leaders and technical experts. Their potential contribution to Mexico's economic and social development is huge, not just when it comes to meeting the basic needs of the population, but also because they provide large companies with raw materials and components, and generate direct and indirect exports.

2.2.3 Since the end of the eighties, it is the SME sector that has been most affected by the changes in economic policy, financial crises and the withdrawal of financial incentives for investment, employment and regional development. These companies have seen their business reduced substantially. It is widely agreed that, especially in the case of SMEs, the policies and instruments in force are not sufficient for their future survival and development.

2.2.4 According to the Report on Mexico by the International Monetary Fund (IMF) ([3]), management of public debt in Mexico has seen considerable progress in the last five years, due to an effective management policy and increased transparency. However, despite this progress, the public sector is still vulnerable to refinancing and interest rate risks.

2.2.5 Furthermore, the opening up of trade that began in 1986 when Mexico joined the GATT ([4]) has made Mexican exports the country's biggest driver of economic growth, with Mexico evolving from an exporter of raw materials to an exporter of manufactured goods, focused particularly on *maquiladoras* (assembly plants). ([5]) Nonetheless, Mexico's trade slowdown since the year 2000 has brought to light the country's vulnerability to fluctuations in foreign demand.

([3]) Report on Mexico by the International Monetary Fund (IMF) no. 04/418, 23 December 2004.

([4]) General Agreement on Tariffs and Trade.

([5]) According to Mexico's national council for the exporting *maquila* industry (Consejo Nacional de la Industria Maquiladora de Exportación - www.cnime.org.mx), *maquila* refers to the industrial or service-based process involving the processing, production or repair of goods of foreign origin which are temporarily imported and subsequently exported, performed by *maquiladoras* or companies that export under the terms of the Mexican decree for the supply and operation of the exporting *maquiladora* industry and its reforms. Industrial activity in Mexico includes the mining, manufacturing, construction, electricity, gas and water sectors. The fall in investment flows to the manufacturing sector between 2001 and 2003 led to a drop mainly in manufacturing and construction. During this period, the manufacturing sectors suffering the biggest reductions were those that were worst hit by the decrease in exports, especially the following: metal products (automobiles, electrical goods, electronics, machinery and equipment), textiles, clothing and leather, and chemical substances (oil, pharmaceuticals, rubber, plastic). The manufacturing sectors with the greatest reductions in actual production are those for which *maquiladoras* account for over 50 %, i.e. over half of their exports are from *maquiladoras*: for example, textiles and clothing (62 %), machinery and equipment (60 %) and wood (56 %).

2.2.6 The slowdown of the Mexican economy is a result of the following cause-effect chain:

— the lower growth prospects in the USA have a direct impact on Mexican exports;

— Mexican exports decrease, and hence investments in the export sector;

— in general, the lower investment levels affect national production;

— the drop in national production levels has an impact on employment indicators ([6]).

2.2.7 The US economy's less than optimal recovery is not the only factor impacting on the Mexican economy. Other factors include the economic emergence of China ([7]) and Mexico's loss of global competitiveness.

2.2.8 As regards Mexico's loss of global competitiveness, and according to the Mexican Institute of Competitiveness ([8]), Mexico's competitive position on the international stage has deteriorated in recent years. The reasons for this loss of competitiveness include, in particular, the collapse of Mexico's low-wage-based economic model, and the lack of improvements in other areas that would boost business activity, such as the cost of basic infrastructure (transport, communications, water), energy, taxation, education, the skill level and productivity of the workforce, security and government management.

2.2.9 In this context, the country is faced with the challenge of achieving conditions that will enable it to become truly competitive, based on such factors as improved competitiveness, productivity, a skilled workforce, technological development and innovation, and democracy. In trade terms, Mexico will need to strengthen its legal security, logistical processes and infrastructure to facilitate investment and the transport of goods, and develop a more competitive tariff structure.

2.3 *Social situation*

2.3.1 As mentioned above, Mexico is a country undergoing transition, whose social condition is characterised by inequality. The disparities between regions and individuals have increased (differing degrees of development, particularly between north and south), the rural exodus continues (spawning massive conurbations), and most Mexicans still live in conditions of extreme social fragility and insecurity.

2.3.2 After a long period during which the social situation deteriorated, the National Development Plan 2001-2006 was adopted, making social policies one of the highest priorities of the country. In recent years, government social programmes have been expanded, with an increase in the number of recipients and the benefits and aid granted. Social spending has grown in real terms: spending on education, social protection and schemes aimed at the poor increased annually by 8.4 % in the 90s, and has grown by 9.8 % a year since 2000.

2.3.3 However, there are differences in the growth rates, and the State's redistributive capacity is limited by the meagre tax intake and low fiscal pressure. Consequently, social cohesion policies are inadequate, and this situation is exacerbated by the low-volume domestic economy and the lack of a fully-fledged internal market.

2.3.4 Between 2000 and 2002, 3.4 million people rose above the breadline, i.e. they became able to cover their own food requirements and to invest — albeit modestly — in education and healthcare. This statistic is in contrast with the situation recorded between 1994 and 1996, when the number of people living below the breadline increased by 15.4 million.

2.3.5 The percentage of the population living below the breadline (homes whose income per person is not high enough to cover their food requirements) in urban areas dropped from 12.6 % to 11.4 %, while in rural areas the percentage fell from 42.4 % to 34.8 %. Despite the reduction in the number of people living in poverty, these percentages are still extremely high, given the country's level of development and wealth. Nonetheless, the progress recorded can be seen as a positive trend ([9]). The disparity within Mexican society is not linked solely to poverty, however. It also relates to the quality of and access to educational opportunities and healthcare, which complicates the situation for disadvantaged regions. In terms of education, illiteracy levels in the north of the country (5 %) contrast sharply with those in the south/southeast, which are as high as 17 %.

2.3.6 The issue of human rights is a serious problem, often linked to more than legal shortcomings. Large-scale trafficking of drugs and persons only exacerbates the issue, to the extent that the human rights situation in Mexico, particularly for the indigenous population, remains distinctly unsatisfactory. The main difficulties are caused by major shortcomings in the police forces and legal system. People are not always guaranteed satisfactory access to the justice system, although this problem is being combated at the highest levels of government.

([6]) According to the Mexican Department for Trade and Industry, all manufacturing industry subsectors recorded, between 2001 and 2003, an increase in unemployment of 17.8 % for *maquiladoras* and 13.8 % elsewhere, as compared to the 1995-2000 period. The recovery in 2004 has not affected employment indicators, which continue to show a downward trend.

([7]) Competitive pressure from China and its presence on the US and EU textile and garment market mean that other countries exporting to these markets will need to adapt. The consequences are particularly harsh for Mexico. Moreover, China's development potential poses a real threat to Mexico's current position, particularly as regards labour-intensive goods, given Mexican wage levels.

([8]) Analysis of competitiveness in Mexico. Mexican Institute of Competitiveness (IMCO). September 2003.

([9]) Ministry for Social Development. *Development measurement*. Mexico 2000-2002. 23 June 2003.

2.3.7 Moreover, although in recent years Mexico has made progress in constitutional matters as regards the recognition of cultural and ethnic diversity and the rights of indigenous populations, it is still facing major challenges in effectively protecting and promoting the human rights and fundamental freedoms of these peoples. These problems include land-related conflicts, discrimination in access to and administration of justice, and the displacement of people against their will ([10]).

2.3.8 Another key social problem is the issue of land distribution in Mexico. The Metropolitan Area of Mexico City (MAMC), with a population of approximately 25 million people, is undergoing two main transitions: first, from high population growth to relative demographic stability and spatial redistribution, and second, from a declining manufacturing economy focused on national markets to one based on services competing internationally ([11]).

2.3.9 The MAMC has considerable growth potential linked to the concentration of corporate headquarters and of education and research facilities, as well as rich cultural resources and high flows of FDI. However, potential growth is constrained by the concentration of low-income populations in precarious settlements, with limited or non-existent public services and infrastructure, and vulnerability to natural disasters. Education levels are insufficient and the insecurity index in these areas is much higher ([12]).

2.3.10 Nonetheless, between 2000 and 2002, the educational situation of those living below the breadline did change. The percentage of five to fifteen year-olds not attending school dropped from 14.3 % to 11.9 %. The biggest drop can be seen in the twelve to fifteen year-old age group: the percentage of those working fell from 18.6 % to 6.6 % during the reference period. Likewise, there was a decrease in the illiteracy rate and the percentage of fifteen-plus year-olds who do not complete their primary education. However, although these are positive developments, the level and quality of the education and healthcare systems are not adequate, nor therefore are they sufficient to achieve desirable levels of social cohesion.

2.3.11 As regards employment, Mexico's unemployment rate in 2004 was 3.1 %; during the same period, the unemployment rate was 8.2 % in the EU-15 and 5.6 % in the USA ([13]). According to the newly launched Employment Observatory ([14]), the last decade has seen an increase in professionals in almost every field of knowledge. It is worth noting that 56 % of all salaried professionals are concentrated in three fields of knowledge: economy/administration, education and social sciences. Of these, the first field has seen the greatest number of jobs created in the last four years.

2.3.12 The statistics also show that most women are gaining access to the labour market. However, only 40 % of women with a degree have a job, despite the fact that women account for 52 % of graduates.

2.3.13 Eight out of ten Mexican workers are salaried ([15]); i.e. they have an employment contract and receive a wage. While the highest-paid fields are those with the lowest employment rates (engineering, physico-mathematical science and biological science), it is the field of education that has the highest employment rate, but the lowest salaries.

2.3.14 Mexico's institutional framework has progressed in terms of social development and the promotion of civil society through networks and alliances. In this context, it is worth noting the law on access to public information, the social development law, and the law to promote civil society organisations.

3. **Background and evaluation of the EU-Mexico Global Agreement**

3.1 **Background** ([16])

3.1.1 The Economic Partnership, Political Coordination and Cooperation Agreement between the EU and Mexico (Global Agreement) took effect on 1 October 2000. It also includes a Free Trade Agreement between the two parties, and covers aspects of political dialogue and joint cooperation. This Global Agreement was preceded by an agreement signed in 1991 between the European Community and Mexico. In 1995, the two parties signed a Joint Declaration in Paris, setting down the political, economic and trade objectives that would be reflected in a new Agreement. Negotiations began in October 1996 and were concluded in July 1997. The result was the Global Agreement and the Interim Agreement, signed in Brussels on 8 December 1997.

3.1.2 The main priorities of the Global Agreement are to institutionalise political dialogue, strengthen trade and economic relations via bilateral, preferential, gradual, reciprocal liberalisation of trade in accordance with WTO rules, and to broaden the scope of cooperation, which currently includes around thirty different areas. Lastly, the Agreement established a Joint Council which is responsible for supervising its implementation.

([10]) UN Bulletin no. 03/042, 17 June 2003, on the fundamental rights and freedoms of indigenous peoples in Mexico.
([11]) OECD Policy Brief, October 2002. *Territorial reviews: Mexico City*.
([12]) Poverty in Mexico: an assessment of conditions, trends and government strategy, World Bank, 2004.
([13]) OECD, Employment Outlook, 2005.
([14]) The Employment Observatory is an instrument set up by the Mexican government to improve the labour market. A delegation from the EESC was present when it was inaugurated by the President of Mexico at his official residence, Los Pinos, on 2 March 2005.
([15]) National Institute for Geographical Statistics and IT. Mexico City, 8 March 2004.
([16]) 'EU-Mexico relations', Permanent Representation of Spain to the EU.

3.1.3 The Interim Agreement ([17]) enabled the parties to swiftly apply the provisions on trade and the supporting measures, pending the ratification of the Global Agreement. It took effect on 1 July 1998.

3.1.4 In November 2004, in the context of the Joint Committee, the EU and Mexico decided to implement the review clauses contained in the Agreement for the chapters on agriculture, services and investments. In parallel to this, it was agreed that negotiations in these sectors should begin in early 2005, with a view to concluding them within the year.

3.2 *Assessment*

Over five years after the entry into force of the **EU-Mexico Economic Partnership, Political Co-operation and Co-operation Agreement** (Global Agreement), the EESC believes that it is a powerful tool and that its progressive nature benefits both sides in the three areas that form the pillars of the Agreement (political dialogue, trade development and cooperation). The EESC is positive in its appraisal of the trade and investment figures and the strengthening of institutional dialogue. However, the EESC considers that the Global Agreement has not been implemented to its full potential; a number of comments are therefore included in this opinion.

3.2.1 Political dimension

3.2.1.1 In November 2004, at the fourth meeting of the EU-Mexico Joint Committee in Mexico City, Mexico and the EU agreed to drive bilateral political dialogue forward and reiterated their commitment to strengthening multilateralism. They also exchanged views on the International Criminal Court, and agreed on the need to support it.

3.2.1.2 In addition to the Summits of Heads of State or Government of the EU and Mexico, and the various councils and committees that bring together experts on specific subjects, the Global Agreement has opened up new, permanent channels for communication that did not exist before, enabling both sides to achieve high-quality dialogue. The Agreement has made it possible to bring political representatives closer. Meanwhile, and particularly as a result of the Third Meeting of European Union, Latin American and Caribbean civil society organisations held in April 2004 in Mexico City and organised by the EESC, relations have been stepped up between civil society organisations in both regions.

([17]) Framework agreement which defined the trade negotiation rules, representing a fast track for initiating trade negotiations, via the Joint Council provided for by the Global Agreement.

3.2.1.3 However, the EESC believes that the quality of the agreements should be improved by the inclusion of provisions on cooperation and institutionalised dialogue, and by bringing all the sectors concerned into the decision-making loop. In this connection, the EESC welcomes the conclusions of the Joint Council meeting, concerning the possibility of institutionalising dialogue with civil society and calling for the identification of 'the most appropriate methodology and format for such an institutionalisation' ([18]).

3.2.1.4 At the EU's proposal, the Agreement includes the so-called 'democratic clause' which establishes 'Respect for democratic principles and fundamental human rights, proclaimed by the Universal Declaration of Human Rights, underpins the domestic and external policies of both Parties and constitutes an essential element of this Agreement.' This clause aroused great hopes within civil society, as it was a step towards making trade a means of sustainable development and an instrument for the guarantee of human rights, including economic and social rights. However, nothing further is specified with regard to economic and social rights.

3.2.2 Economic dimension

3.2.2.1 Generally speaking, both parties believe that the results have been positive since the Agreement was signed five years ago, highlighting the significant increase in trade ([19]) and investment between Mexico and the EU.

3.2.2.2 The Agreement has also enabled the EU to compete on equal terms with those countries with which Mexico has free trade agreements, allowing European countries equal access to the conditions that the USA obtained in Mexico through the North American Free Trade Agreement — a situation known as NAFTA parity. Meanwhile, Mexico benefits from the high potential of European investment, technology transfer and the extensive European market.

3.2.2.3 However, the results could be greatly improved upon. Although trade flows between the EU and Mexico have increased since the Agreement came into force, this has not translated into a greater share of overall percentages for the EU, while the Mexican trade deficit continues to grow. Nonetheless, it should be borne in mind that this deficit relates mainly to imports of semi-finished goods and capital needed to modernise Mexico's production infrastructure, and the manufacture by European companies set up in Mexico of finished products with greater added value for export to the US market.

([18]) Point 15 of the Communiqué by the EU-Mexico Joint Council, Luxembourg, 26 May 2005.

([19]) From June 2000, when the trade chapter of the Agreement came into effect, until June 2004, total trade between the EU and Mexico increased by 31 %, i.e. 111,000 million dollars. *Europa en México, 2004*, EU Delegation to Mexico, 2004.

3.2.2.4 The EU's total investment in Mexico from January 1994 to June 2004 stood at 33,656.6 million dollars ([20]), which accounts for 24.3 % of all the foreign direct investment (FDI) received by the country during this period. Between 1999 and 2004, Mexico received a total of 78,060 million dollars in FDI, 19,791 million dollars of which came from the EU. With respect to FDI flows between January 1994 and June 2004, the EU Member States' contributions are ranked as follows: Spain (8.3 %), Netherlands (8.2 %), UK (3.7 %), and Germany (2.6 %). The growth in investment from the European Union highlights Mexico's strategic importance for the EU. Mexico and the EU must make the most of the options provided by the Global Agreement for extending and expanding the service sector (essential for the EU) and investment.

3.2.2.5 The EESC emphasises other economic effects of the Agreement, such as:

— EU investment must diversify (particularly in the fields of scientific and technological development), as it is restricted to a very low number of productive sectors and regions in Mexico;

— Mexico is exporting more products, but these are still concentrated in a very limited range; Mexican companies should therefore seek out niches for new products and markets in other EU countries;

— the increase in trade and investment has been positive for the economy in general, but it has not had the desired effects on social development and the campaign against poverty;

— while large Mexican and European companies take advantage of the Agreement, SMEs have not been able to reap all the potential benefits;

— the legal framework of the Agreement is not sufficient to attract greater investment, which is why it is essential to increase legal security;

— the Agreement does not in itself constitute an immutable structure for trade relations: new ways to improve and update it, via the review clauses, should therefore be considered.

3.2.3 Cooperation dimension

3.2.3.1 Cooperation between Mexico and the EU is based on four aspects: firstly, bilateral cooperation at government level; secondly, regional programmes offered by the European Commission for all of Latin America (AL-Invest; URBAN; ALFA; @lis, Eurosocial, etc.), in which Mexico participates; thirdly, cooperation on specific issues such as human rights, the environment and NGOs; lastly, Mexico has the possibility of accessing other programmes such as the 6th Research and Development Framework Programme.

([20]) All the FDI data are based on the information contained in: *Europa en México*, 2004, EU Delegation to Mexico, 2004.

3.2.3.2 A solid legal framework for bilateral cooperation is laid down in the Agreement's chapter on cooperation and in the Memorandum of Understanding on EU-Mexico multi-annual co-operation guidelines 2002-2006, under which both parties agreed to gear cooperation towards social development and the reduction of inequalities, consolidation of the rule of law, economic cooperation, and technological and scientific cooperation. Through co-financing, the EU has earmarked EUR 52.6 million for the 2002-2006 programming period, while the Mexican institutions implementing the projects have contributed a similar amount. Another of the instruments that has been set up is the Financing Framework Convention, which serves as the basis for specific cooperation projects between Mexico and the EU.

3.2.3.3 Moreover, greater impetus has also been given to the negotiation and adoption of additional instruments for strengthening cooperation between Mexico and the EU: for example, in February 2004, the Sectoral agreement for scientific and technological cooperation was signed. Meanwhile, contacts are being sustained with a view to formalising the Sectoral agreements on higher education and the environment.

3.2.3.4 The Integrated support programme for SMEs; (PIAPYME) is also being implemented. Among other things, this aims to build technical capability to boost productivity of SMEs; to support technology transfer; to boost business cooperation programmes in order to drive joint investment and strategic alliances between Mexican and European SMEs, and to modernise and internationalise SMEs. Furthermore, the Programme for the facilitation of the Agreement is geared towards specific fields such as customs, technical standards, health and plant-health standards, consumer protection and intellectual property.

3.2.3.5 In the field of human rights cooperation, there are projects for the 'Implementation of the recommendations resulting from the diagnosis of the human rights situation in Mexico' and the 'Promotion and protection of the indigenous peoples' human rights in Mexico'.

3.2.3.6 As regards the management and administration of cooperation, some Mexican government institutions have drawn the EESC's attention to the complexity of Community procedures and mechanisms for implementing cooperation. With regard to future cooperation, Mexico and the EU apparently agree on the importance of stepping up relations through a new cooperative approach, by identifying and adopting additional measures such as sectoral dialogue and trilateral cooperation between Mexico, the EU and third countries, particularly Central America. As regards the future areas of cooperation that need to be established for 2007-2013, the EESC considers it necessary to strengthen the support currently given to SMEs, together with social cohesion, education and the environment, among others.

3.2.4 Effects of the enlarged EU on relations with Mexico

3.2.4.1 The dynamism of trade between Mexico and the EU is particularly evident in its trade with some of the ten new Member States. Worth noting, for example, is the growth in trade with the Czech Republic, Hungary and the Slovak Republic. It is clear that the medium and small-scale economies are benefiting more than the larger economies. Nonetheless, trade between Mexico and the new Member States is still at an embryonic stage.

3.2.4.2 For Mexico, enlargement means that the special trade relationship that has existed with the EU since the Global Agreement came into force has been extended to the ten new members. Enlargement should therefore have a tangible effect for companies in Mexico and the new Member States, giving them access to a free trade area of more than 550 million ([21]) consumers (EU and Mexican populations combined ([22])). With enlargement, the new Member States also participate in the EU's trade policy, so that transactions in the new Member States by companies from non-EU countries such as Mexico have been considerably simplified, due to the application of a single set of trade regulations, single tariff and single set of administrative procedures.

3.2.4.3 Both Mexico and the new Member States agree that their markets offer many opportunities for each other's companies, with emphasis on the manufacturing sector in the new Member States and the agricultural sector in Mexico. Moreover, the economic growth that has been visible in the new Member States will further increase demand. This gives Mexican exporters a relative advantage over their Latin American and Asian competitors who do not yet have a preferential agreement with the EU.

4. **The EU-Mexico Global Agreement and the North American Free Trade Agreement (NAFTA)**

4.1 Mexico's proximity to one of the biggest markets the world, the USA, largely explains the level of integration of the Mexican economy with that of its neighbour. The USA was concerned to increase its competitiveness in relation to its main rivals, the EU and Japan. Meanwhile, Mexico hoped to establish its presence in the global economy. Mexico's relations with the USA were therefore channelled through NAFTA, which was greatly beneficial for North America and for small and large companies in general. The EU, meanwhile, was occupied with opening up to Eastern Europe, a process triggered by the reunification of Germany.

4.2 Since NAFTA came into force on 1 January 1994, three-way trade has risen to over USD 623 billion, more than double the pre-NAFTA level. Between 1994 and 2003 FDI in the three countries increased by more than USD 1.7 trillion. In addition to NAFTA, the North American Agreement on Environmental Cooperation (NAAEC) and the North American Agreement on Labour Cooperation (NAALC) also came into force ([23]).

4.3 According to the estimations of the World Bank ([24]), without NAFTA, Mexican exports and foreign investment would have been lower. North America is Mexico's main source of investment (while the EU is its second biggest source). From 1999-2004, North American investment went mainly into manufacturing industry (43.7 % of the total) and services (38.4 % of the total). However, NAFTA's effects have been questioned in other areas, particularly unemployment, migration, per capita income and agriculture. Since NAFTA came into force, the massive inflow of investment has not had the promised result of closing the gap between Mexico and its North American partners ([25]).

4.4 Lately, the NAFTA countries have been working to further economic integration in North America, seeking additional means to improve trade, investment and competitiveness. However, NAFTA does not address fundamental issues such as migration or mobility of workers, with the USA offering only a limited number of visas for professionals. Since the liberalisation of trade, the number of illegal Mexican immigrants in the USA went from 2 million in 1990 to 4.8 million in 2000 ([26]), which increased the problems at the border. In 2004, approximately 10 million people born in Mexico were residing in the USA. Add to this the number of US citizens of Mexican origin and the total rises to 26.6 million — 9 percent of the North American population. One of the most visible impacts of migration is the sending of remittances, which in 2004 added up to over 13 billion dollars ([27]).

4.5 The fundamental difference between NAFTA and the EU-Mexico Global Agreement is that the latter goes beyond trade: not only has it made the EU Mexico's second biggest trading partner, with a more balanced and fairer trade relationship, but it also incorporates fundamental aspects of political cooperation and coordination that are not included in NAFTA. NAFTA does not provide any mechanisms for civil-society involvement in the decision-making process.

([21]) Including Bulgaria and Romania.

([22]) In 2003, Mexico's population was 102 million (OECD Fact Book, 2005).

([23]) Joint declaration by the Free Trade Commission of the North American Free Trade Agreement. 16 July 2004.

([24]) Report on Mexico, Área de Estudios de Caja Madrid, May 2002. The World Bank 'Lessons From NAFTA for Latin America and the Caribbean Countries: A Summary of Research Findings' D. Lederman, W.F. Maloney and L. Serven, 2003.

([25]) World Bank, World Development Indicators Online.

([26]) John Audley, *ibidem*, p. 49.

([27]) Press release no. 71/04, Mexican Ministry of the Interior, 17 December 2004.

4.6 After five years, trade between the EU and Mexico has increased considerably although statistics ([28]) show that it has not been possible to counterbalance Mexico's predominance of trade with the USA, which remains its main trade partner. 90 % of Mexican exports in 2003 were to the NAFTA ([29]) countries, while exports to the EU represented only 3.4 %. Meanwhile, 64.2 % of Mexico's imports came from the USA, compared to only 10.4 % from the EU.

5. **Institutionalisation of dialogue with organised civil society**

5.1 The Global Agreement institutionalises political dialogue, which encompasses all bilateral and international matters of mutual interest, at all levels. In this respect, it provides for the creation of a Joint Council (Article 45) responsible for supervising the implementation of the Agreement, and assisted in its tasks by a Joint Committee (Article 48). The Agreement also stipulates that the Joint Council **may decide to set up any other special committee or body to assist it in the performance of its duties (Article 49).**

5.2 The participation of Mexican and European civil society must be promoted if the interests of the social sectors on both sides are to be incorporated in the application of the Global Agreement. The whole spectrum of civil society organisations need to be better represented — farmers, consumers, women, environmental, human rights and professional groups and SMEs.

5.3 Titles VI and VII of the Global Agreement contain the articles cited above and provide the legal basis for creating an EU-Mexico joint consultative committee. Firstly, Article 36 is an explicit acknowledgement of the need to involve civil society in the regional integration process. Secondly, Article 39 stipulates the areas on which cooperation should focus, the first area being the development of civil society. Lastly, Article 49 enables the Joint Council to set up any other consultative committee or body it deems necessary in order to implement the agreement. Meanwhile, the future developments clause (Article 43) provides for the widening of the scope of cooperation. There is therefore a real possibility of creating this joint EU-Mexico body, which would provide an opportunity for involvement in various aspects of the Agreement. The EESC believes, based on experience ([30]), that the name of this body should be the EU-Mexico Joint Consultative Committee (JCC).

5.4 The EESC believes that such a committee could be more easily created and run if Mexico had an **independent, representative, legitimate body equivalent to the EESC**, which would represent the three traditional sectors (employers, employees and various interests). However, several parliamentary attempts to create a Mexican ESC have thus far come to nothing, despite the tabling of a federal bill aimed at creating an Economic and Social Council as a public body domiciled in Mexico City ([31]). Nor have trade union, employer and third-sector organisations reached any consensus to set up such a body. When it comes to defining the nature of this type of body, there is some confusion regarding the instruments of social dialogue (consultation, cooperation and negotiation) and the consultation of civil society.

5.5 For the government, dialogue (more social than civil) with part of civil society revolves around the so-called Council for Productive Sectors Dialogue (CDSP) ([32]), which represents trade unions and employers, together with the central and regional administration. The third sector has a partial, insufficient presence through academic and agricultural representatives. The government has also been maintaining dialogue with other platforms incorporating various civil society organisations (trade unions, chambers of small businesses, NGOs), particularly as regards the trade agreements signed by Mexico.

5.6 The Mexican government and employers are keen for the CDSP to be the EESC's discussion partner, although the government does acknowledge that this would be a means of testing the water for the involvement of third sector organisations. The trade unions play an active role and recognise, for the most part, the CDSP, although they are not unanimous on whether it should be equivalent to the EESC. The organisations in the civil society platform are pushing for an ESC to be set up from scratch.

6. **Conclusions and recommendations**

6.1 Although the changes occurring in Mexico are to be welcomed, it is evident that many reforms are still required. For example, it will be necessary to strengthen the rule of law guaranteeing freedom and legal security, deal with problems in the application of justice, redistribute wealth more fairly, develop social protection, provide access to high-quality education and healthcare, and boost the internal market through SMEs (among other things), making social cohesion the crux of all the requisite improvements, in order that Mexico be considered a developed country with all the necessary guarantees.

([28]) Source: the Mexican Association of Importers and Exporters (ANIERM), with data from the Ministry of the Economy.

([29]) However, it should be noted that of this 90 % , oil accounted for 10 % and assembled products for 50 %.

([30]) Article 10 of the EU-Chile Association Agreement (in force since 1 March 2005, OJ L 352 of 30.12.2002) establishes the 'Joint Consultative Committee' whose role is to 'to assist the Association Council in promoting dialogue and cooperation between the various economic and social components of organised civil society' in the EU and Chile.

([31]) Article 1 of the bill.

([32]) For more information, see the following website: http://www.stps.gob.mx/consejo_dialogo/cpdsp/frameset.htm.

6.2 The EESC believes that the full potential of the Agreement, in all its aspects, has not been sufficiently developed. It therefore considers that the implementation of the Agreement must pushed forward in order to reduce tariffs, remove technical barriers to trade and open up new sectors to trade in services and investment. It is necessary to promote the development of businesses on both sides, facilitating institutional relations, creating a favourable climate for business activity and promoting forums for dialogue. Bilateral cooperation must be stepped up in external initiatives of common interest, particularly in the rest of Latin America and the USA. The social and occupational aspects of the Agreement (training, equal opportunities, employment, etc.) should be developed through cooperation projects.

6.3 In order to enable civil society to participate in the implementation of these tasks, the EESC believes that an EU-Mexico JCC could be set up. The EESC is firmly in favour of the creation of an opposite number in Mexico and, to this end, calls on the Mexican representatives to continue working towards this goal.

6.4 In the EESC's opinion, the EU-Mexico JCC could be a consultative arm of the Joint Council and would be involved in the development, monitoring and application of the Global Agreement. It would issue opinions on the basis of referrals from the Joint Committee or Joint Council, on such topics as they decide. It could also issue own-initiative opinions or recommendations on matters relating to the Agreement. Moreover, it would be required to draw up a periodical report on the progress of the Agreement and to coordinate the meetings of the EU-Mexico Civil Society Forum, with the support (including financial) of the Joint Committee. The JCC would hold regular meetings with the EU-Mexico Joint Parliamentary Committee (formats to be decided) in order to improve follow-up of the Agreement.

6.5 In order to study the possibility of setting up an EU-Mexico JCC, the EESC believes it necessary to pursue relations with Mexican civil society — which have thus far been sporadic — in a more systematic fashion. It therefore calls on Mexican civil society to appoint, by consensus, three representatives from each civil society group (employers, employees and the third sector). For its part, the EESC could appoint three representatives from each of its three groups, as a counterpart. The aim would be to create a joint working group which would make progress 'one step at a time'.

6.6 The purpose of this Joint EESC-Mexican civil society working group would be to draw up a proposal for the establishment, membership, duties and rules of procedure of an EU-Mexico JCC. This proposal could be drawn up over the course of 2006 and submitted to the Joint Council in 2007.

6.7 Moreover, bilaterally and outside the Agreement, the EESC would be willing — to the best of its ability and insofar as there were a consensus within Mexican society — to support the creation of an equivalent, national body in Mexico. This would facilitate the development of relations between the various European and Mexican civil society organisations, and would be a positive step towards stronger EU-Mexican relations.

6.8 The EESC believes that this body should reflect the pluralism of Mexican civil society and should therefore comprise the three sectors mentioned above. Like the EESC, it should be based on the principles of representativeness, independence and legitimacy. The EESC's experience has shown that in order to successfully set up this type of institution, there must be a concerted effort by the different civil society sectors involved, and a clear definition of how the various organisations will be represented therein.

Brussels, 15 February 2006.

The President

of the European Economic and Social Committee

Anne-Marie SIGMUND