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I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

481ST PLENARY SESSION HELD ON 23 AND 24 MAY 2012

Opinion of the European Economic and Social Committee on 'The digital market as a driver for growth' (exploratory opinion)

(2012/C 229/01)

Rapporteur: **Ms BATUT**

On 11 January 2012, the Danish EU Presidency decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on

The digital market as a driver for growth

(exploratory opinion).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 141 votes to 7 with 5 abstentions.

1. Introduction

1.1 The digital economy profoundly alters habits and affects the entire social and economic fabric of our societies. Its security and interoperability are crucial. The Union's Digital Agenda is one of the flagship initiatives of the EU 2020 strategy. The Committee has already adopted many opinions on the consequences of ICTs⁽¹⁾ in our societies.

1.2 Aware of the challenges, the Danish presidency has asked the EESC to identify what needs to be done in order to make it

a driver of growth. The Committee believes that any consideration of the digital economy should involve social and civil dialogue, as well as agreements and partnerships.

1.3 The market for the market's sake⁽²⁾ is not an end in itself. ICTs must be a means to serve the economy and must not threaten our economic, social, human and cultural gains. Producing and trading on line and developing the digital economy changes the employment market. The EESC **would like more visibility and information** for entrepreneurs and consumers, and **appropriate safeguards** for all.

⁽¹⁾ Key EESC opinions on the subject:

OJ C 318, 23.12.2006, p. 20 – OJ C 157, 25.5.1998, p. 1 – OJ C 376, 22.12.2011, p. 62 – OJ C 143, 22.5.2012, p. 69 – OJ C 318, 29.10.2011, p. 99 – OJ C 318, 29.10.2011, p. 105 – OJ C 68, 6.3.2012, p. 28 – OJ C 248, 25.8.2011, p. 144 – OJ C 97, 28.4.2004, p. 21 – OJ C 175, 27.7.2007, p. 91 – OJ C 77, 31.3.2009, p. 60 – OJ C 175, 28.7.2009, p. 8 – OJ C 218, 11.9.2009, p. 36 – OJ C 277, 17.11.2009, p. 85 – OJ C 48, 15.2.2011, p. 72 – OJ C 54, 19.2.2011, p. 58 – OJ C 107, 6.4.2011, p. 44 – OJ C 107, 6.4.2011, p. 53 – OJ C 107, 6.4.2011, p. 58 – OJ C 376, 22.12.2011, p. 92 – OJ C 24, 28.1.2012, p. 40 – OJ C 318, 29.10.2011, p. 9 – OJ C 143, 22.5.2012, p. 120.

1.4 The EU is lagging behind the great designers and providers (United States) and the great manufacturers (Asia). It should **urgently** implement the whole of its digital strategy and shift its approach towards confronting the challenges, both short-term (for example IPRs) and long-term (ageing of the population). The EESC's priorities are: focusing on economic intelligence, developing European leaders and ensuring that

⁽²⁾ OJ C 175, 28.7.2009, p. 43.

their decision-making centres and R&D are based in the EU and that they benefit all citizens, building confidence and increasing the capacities of everybody by developing productivity and including ICTs in the sustainable growth strategy.

The paragraphs below set out the EESC's recommendations:

2. Triggering growth through ICTs

2.1 Appropriate **infrastructures** must quickly cover the whole of European territory, including overseas territories⁽³⁾. Operators must guarantee **universal access** for all areas, including isolated areas. The EESC believes that communication COM(2011) 942 on building trust in the digital single market may not be sufficient.

2.2 **Accessibility for everybody**⁽⁴⁾ to **hardware and software and training in their use** are essential pre-requisites. A quarter of the population are senior citizens. Their economic strength must be incorporated. The Committee believes that accessibility must be a priority on the agenda.

2.3 **ICTs (information and communication technologies)** should be subject to standards defined with the industry, SMEs and all other civil-society stakeholders⁽⁵⁾, with the aim of ensuring that ICT applications and services are fully interoperable and compatible and establishing an ICT standardisation policy to support the Union's other policies (European Parliament Resolution of 21 October 2010⁽⁶⁾, points 69 and 72. The EESC considers financial aid for SMEs and societal stakeholders participating in standardisation to be useful.

2.4 **European networks must be interconnected** in order to expand the digital economy and increase the supply of goods and services (opinion CESE 490/2012 – TEN/469).

2.5 The Committee believes that the **interoperability** of supply should be coordinated at EU level. **Standardisation** will provide European stakeholders with access to new international markets.

2.6 The Committee has already expressed its **support for a neutral and open internet**⁽⁷⁾.

2.7 The single market must provide **all possible guarantees of use**, in order to release the potential demand through the use of **free and open software**.

2.8 The EESC supports the development of common interface standards.

2.9 The EESC considers it essential to ensure **administrative cooperation** between Member States and to open up cross-border e-Government services, which could be facilitated through the generalised use of the IMI system (internal market information system). This could be developed within the framework of European multilateral governance⁽⁸⁾.

2.10 **E-commerce points towards the harmonisation of national VAT rates**. The EESC believes that this would be a real advantage for companies and for citizens, provided that it is not used as a pretext to harmonise rates upwards.

2.11 Operators and citizens should **have easy access to all information** regarding their rights, so that they can carry out their cross-border operations with total confidence.

2.12 The Committee takes the view that **representatives of civil society must be involved** (see EU 2020 Strategy *Stakeholders and civil society*) in the creation of the European digital economy, and that their participation should be requested in negotiations and partnerships. Given its inevitable tendency to spread, it becomes diffused throughout society. All projects should have a digital and social dimension.

2.13 ICTs favour a service economy, which can lead to **de-industrialisation**, and even the destruction of European jobs. In the search for new markets, the EESC believes that technological innovation and manufacturing should be linked in Europe. Start-ups in the ITC sector should be able to realise their potential for rapid growth. The EESC believes that the question of why the situation is not conducive to the emergence of major European access providers and world-famous European shopping sites should be addressed as a matter of urgency.

2.14 Life-long **training and learning** help workers to remain employed. ICTs can facilitate this process, particularly for population groups in isolated areas or who are vulnerable. Training in ICTs leading to qualifications is necessary for everybody.

2.15 By 2015, 95 % of **jobs** will require internet-related **skills**. The Committee believes that the measures taken must have no negative impact on the working environment, such as:

- workers under constant 'urgent' pressure, subject to 'quasi-police' monitoring;
- teleworking paid at rock-bottom rates, and sidestepping the mediators in social conflicts, such as trade unions, to the detriment of both individuals and collective rights.

⁽³⁾ OJ C 44, 11.2.2011, p. 178.

⁽⁴⁾ OJ C 318, 29.10.2011, p. 9.

⁽⁵⁾ OJ C 376, 22.12.2011, p. 69.

⁽⁶⁾ OJ C 70E, 8.3.2012, p. 56.

⁽⁷⁾ OJ C 24, 28.1.2012, p. 139.

⁽⁸⁾ OJ C 376, 22.12.2011, p. 92.

The EESC believes that, in the digital economy as elsewhere, all jobs should be decent jobs, since this increases global demand.

3. Creating growth by means of confidence in the digital economy

3.1 Fundamental rights

3.1.1 The Committee wishes to protect the rights and security of citizens without reducing their freedom. In 2012, an overall **internet security** strategy will be examined in Europe. The establishment by 2013 of the European cybercrime centre will be of particular importance. **The EESC would like the EU finally to promote the emergence of a powerful European search engine comparable to Google.**

3.1.2 The Committee is drawing up an opinion on the protection of personal data, which is a crucial issue (COM(2012) 10 final). It has already spoken in favour of the 'right to be forgotten'⁽⁹⁾ and the rights of internet users, particularly for the young and the most vulnerable. It would like the Commission's proposal to be adopted as soon as possible and for its comments to be taken into account, despite the opposition expressed by ISPs from outside the EU.

3.1.3 The EESC expects the Union to promote innovation and **protect its own creative products**. The European patent is urgently needed and represents an opportunity for the single digital market.

3.2 Developing e-commerce

3.2.1 Fragmentation in the **supply of commercial goods** must be eliminated and borders opened to professionals and consumers so that they can access goods at competitive prices (http://ec.europa.eu/consumers/consumer_research/editions/cms6_en.htm).

3.2.2 The Committee believes that the **interoperability** of supply should be coordinated at EU level. **Standardisation** will provide European stakeholders with access to new international markets.

3.2.3 **The EESC believes that on-line purchasing problems need to be resolved urgently, eliminating discrimination** on the grounds of nationality or place of residence and creating the conditions for equal access rights for everybody.

3.2.4 Users should have easy access to information regarding their rights (COM(2011) 794 final) and opportunities to defend themselves. On-line one-stop shops need to be created. The Committee⁽¹⁰⁾ is delighted that the Commission specifies that such a system should not deprive consumers or traders of their

rights to seek redress before the courts. The Commission should incorporate smart interfaces, such as BATNA (Best Alternative to Negotiated Agreement) into its Directive No 2000/31/EC, in order to keep up to date in terms of 'first generation' regulations. In order to increase on-line demand, it is important that consumers can obtain **proper resolution of disputes**⁽¹¹⁾ arising from commercial relations. Users should be **clearly and easily informed of their rights**. All types of on-line dispute should be covered.

3.2.5 The EESC believes that European texts should provide citizens with the same degree of **confidence** in the digital market as they expect in their own countries. Consumers need information regarding market opportunities if they are to be well-informed users. To this end, a **guide to digital services for consumers** could be distributed widely.

In the framework of draft Directive No 2011/942, the EESC calls upon the Union's authorities to take initiatives in relation to:

- information for operators of on-line services and the protection of internet users;
- inadequate payment and delivery systems;
- combating the excessive number of cases of abuse.

3.2.6 Means such as:

- secure e-signatures;
- electronic time-stamping of operations;
- interoperability of e-signature systems;
- mutual recognition of certification bodies (SSCD - 'Secure Signature Creation Devices'), together with accreditation for providers of electronic certification services (PECS);
- the consumer protection system and harmonisation of redress procedures (Directive No 2011/83/EU and document COM(2012) 100 final)
- the report on the application of Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws;
- the Regulation on consumer protection cooperation

should create confidence amongst stakeholders, as their use becomes widespread.

⁽⁹⁾ OJ C 143, 22.5.2012, p. 120.

⁽¹⁰⁾ OJ C 162, 25.6.2008, p. 1.

⁽¹¹⁾ EESC Opinion on the Proposal for a Regulation of the European Parliament and of the Council on online dispute resolution for consumer disputes (Regulation on consumer ODR) (not yet published in the OJ).

3.2.7 The EESC remains consistently in favour of **collective action in order to seek effective compensation** for damages in the event of violations of collective rights. This would complement the protection already afforded by both legal and alternative remedies ⁽¹²⁾ (see Directive 98/27/EC of 19 May 1998). The conditions for fair competition within the internal market must be met (fourth paragraph of the Preamble to the TFEU). The principle of the right to an effective remedy is enshrined in the Charter of Fundamental Rights of the European Union (Article 47).

3.2.8 The Committee welcomes the Commission's communication on a **sales law** ⁽¹³⁾. Consumers need legal security. The EESC is delighted that the Commission has taken up its 'second regime' proposal, although it would prefer two separate texts (one for B2B and one for B2C).

3.2.9 **The Committee eagerly awaits the European consumer agenda** (COM(2011) 777 final/2) announced by the Commission, which will assess the impact of the digital revolution on consumer behaviour. A pan-European framework for electronic identification, authentication and signature is needed in order to double the volume of e-commerce and make it a lever for growth (COM(2011) 942 final).

3.3 Making exchanges secure

3.3.1 In order to **combat piracy and counterfeiting**, the FISCUS customs programme ⁽¹⁴⁾ sets out to establish on-line controls throughout the EU. The EESC believes that customs should be reinforced, in terms of staff and of the controls carried out. The European counterfeiting and piracy observatory should be given a higher profile and be provided with the tools it needs to meet the economic and public security challenges.

3.3.2 The legislation should assist administrations in their investigations of suspicious financial movements on the internet. Customs could be given the task of protecting European cultural and intellectual heritage and the role they play in assisting SMEs by means of databases such as the market access database, the export helpdesk and the single virtual gateway to information should be strengthened.

3.4 **The Committee wants** citizens to have a **charter of governance** and of **transparency**. It considers it urgent to regulate e-commerce, including e- and m-payments.

3.4.1 The EESC believes that the security of new means of digital payment should be guaranteed by means of public standards. At the moment, only private operators create and control

their standards and interoperability. The EESC considers the situation in which a third country might be able to control any European financial movements to be harmful.

4. Developing productivity and inclusive growth

4.1 A context helpful to growth

4.1.1 The digital market needs **European governance** which is fair and respects the rights of citizens. After 2015, the one-stop shop for goods and services should provide assistance for European economic stakeholders. Digital enterprises must conform to the principles of corporate social responsibility and social dialogue.

4.1.2 The single digital market is still fragmented into national markets. **Harmonised legislation** would enable economic actors to create economies of scale. In the EESC's view, the Commission should increase the synergy between the work of its directorates in order to develop the powerful leadership that is needed to promote ICT throughout the EU and to address all development deficits; it is urgently necessary for the EU to create the equivalent of a European Silicon Valley to bring together talent and public/private capital to embark on promising joint ventures.

4.1.3 The Committee would recall its opinion on e-inclusion, in which it discusses how to overcome the inequalities in ICT access; it wants the Union to recognise access to infrastructure and tools as a fundamental right and to make **ICT** a tool for inclusion.

4.2 Enterprises in 'digital' action for growth

4.2.1 The digital economy must target rapid GDP growth, in particular by financing start-ups. A certain US start-up is now worth EUR 75 billion ... **Promoting innovation** requires knowledge-based economic models and increases on-line supply.

4.2.2 The market's acceptance of new services depends upon **SMEs' capacity** to commit to ICTs ⁽¹⁵⁾ and to be interoperable. They should therefore receive assistance in their specific projects. **The EESC calls upon the Presidency to consider the results** of the following measures:

- the launch of the partnership between the public authorities of each Member State and the key stakeholders in ICTs;
- the use of the EUR 300 million allocated to companies developing infrastructures dedicated to energy savings and related smart technologies.

⁽¹²⁾ OJ C 162, 25.6.2008, p. 1.

⁽¹³⁾ EESC Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Common European Sales Law to facilitate cross-border transactions in the single market, OJ C 181, 21.06.2012, p. 75.

⁽¹⁴⁾ OJ C 143, 22.5.2012, p. 48.

⁽¹⁵⁾ OJ C 80, 3.4.2002, p. 67.

4.2.3 **Electronic payments by card and mobile.** Europe should maintain a position as leader in these fields, as in the case of the smart card, which has led to a considerable reduction in fraud.

4.2.4 The SEPA project (Single Euro Payments Area, regulation of February 2012, setting the date of 1 February 2014 for the replacement of national credit transfers and direct debits with their European equivalent) covers the main retail payment instruments. The EESC believes that commissions should be harmonised between banks and between Member States. Competition should not prevent innovation or create additional costs for the consumer.

4.2.5 The EESC believes that an appropriate framework is needed to help SMEs to access the digital market as well as other markets.

4.2.6 a) Internally:

4.2.6.1 The EESC recommends that the **scope of the digital economy** be established at European level, and that it be integrated into accounting standards. This scope could encompass digital and digitisable assets as well as assets which are in need of digitisation.

4.2.6.2 The Committee believes that companies should incorporate **their digital assets** into their valuation.

4.2.6.3 The true impact of the ICT sector on companies and on national wealth should be measured on the basis of criteria set at European level.

4.2.6.4 **The establishment of the European Company Statute** (2008) ⁽¹⁶⁾ (legislative proposal COM(2008) 396 final) would enable SMEs to develop by facilitating their cross-border trade activities.

4.2.7 b) Externally:

4.2.7.1 A supportive industrial environment is useful to the knowledge-based economy. It facilitates investment, the cross-border use of ICT and digital activity. **However, SMEs suffer firstly from legal and technical fragmentation**, a lack of transparency and often unsuitable delivery methods.

4.2.7.2 Successful models, such as DiSCwise (DG TREN, In Freight Transport Logistics Action Plan), could inspire other companies with a view to creating jobs and growth (intelligent transport).

4.2.7.3 **Globalisation:** In order for its products with high added value to be competitive, the EU needs export consortia, **clusters** supporting R&D, to be created, which are recognised in the Member States, in order to promote the internationalisation of SMEs (http://ec.europa.eu/enterprise/newsroom/cf/itemlongdetail.cfm?item_id=4968).

⁽¹⁶⁾ OJ C 125, 27.5.2002, p. 100.

4.2.8 **Cloud computing** can help SMEs ⁽¹⁷⁾ provided that data security, which is a major challenge to both the 'giants' of on-line services and the 'ISPs' (internet service providers), is truly guaranteed. The European Commission should focus on the 'cloud' and its benefits for SMEs, and help them to access it (through training and funding).

4.2.9 The Union should place more emphasis on information for companies regarding the **funding** opportunities available to them, and disseminating the idea of **project bonds** ⁽¹⁸⁾.

4.2.9.1.1 The EESC recommends **facilitating capital risk investments** to assist researchers and innovative companies (COM(2011) 702 final – Small Business, Big world).

4.2.10 The Committee recommends producing a guide for companies on accessing the cross-border digital economy.

4.3 Intellectual property

4.3.1 The EESC considers it crucial for the Union to protect creativity, which is its safeguard for the future, both internally and externally. The **'cultural exception'** should be preserved, since it reflects European diversity. The protection measures under consideration should not place this exception in jeopardy, to the advantage of American creative products.

4.3.2 Internally, Article 118 of the TFEU now guarantees the protection of intellectual property rights within the Union, but the 27 Member States control internet use in differing ways.

4.3.3 Externally, the Union is re-examining the policy on the application of IPRs (intellectual property rights) in third countries, incorporating the idea of reciprocity and multilateral negotiations, as in the case of ACTA (the Anti-Counterfeiting Trade Agreement, separate from the WTO, signed by the Commission and 22 Member States in January 2012.).

4.3.4 **The Committee has adopted an opinion on IPRs**, recommending that they not be dealt with according to a purely asset- and finance-based approach ⁽¹⁹⁾.

4.3.4.1 With a view to the Commission's future legislative proposal (2012), the Committee would insist that organisations representing the rights and interests in question must be consulted ⁽²⁰⁾. It would stress the need for transparency and for monitoring of bodies managing copyright and related rights. The Committee believes that the **tax on private copying is unfair** since this copying is a clear example of fair use. A distinction must be made between a citizen who has downloaded for their own use and a person running a profit-making activity based on large-scale counterfeiting. Cultural industries must not become money-making machines or the web an instrument for privatising culture and knowledge.

⁽¹⁷⁾ OJ C 24, 28.1.2012, p. 40.

⁽¹⁸⁾ OJ C 143, 22.5.2012, p. 116 and OJ C 143, 22.5.2012, p. 134.

⁽¹⁹⁾ OJ C 68, 6.3.2012, p. 28.

⁽²⁰⁾ See previous footnote.

4.3.4.2 The European Parliament has received a European petition with more than 2 million signatures (website - AVAAZ.org) calling on MEPs to 'stand for a free and open internet and reject the ratification of ACTA'. It is important to note that the signatories to ACTA do not include China, Russia, Brazil or India, which are the sources of many counterfeit products.

The Committee feels that its views regarding the **ACTA** international agreement have not been heard. It proposes that, if ACTA ⁽²¹⁾ is implemented, the Commission should ensure that the freedom of citizens and their creative capacities are protected.

4.3.5 The EESC believes ⁽²²⁾ that **in order to prevent deflection of digital trade and dumping, while protecting copyright**, the creation of a European Copyright Code could eliminate any doubts regarding the applicable fiscal legislation.

4.4 The public sector

4.4.1 **Public contracts**, representing 20 % of GDP, also need to be secured.

4.4.2 The EESC believes that **public administrations** must be quickly accessible on line through secure electronic identification and electronic signatures for all – private individuals, administrations, companies, public contracts.

4.4.3 **For the public sector**, the Member States carry out 'mutual evaluation' with the Commission of the implementation of the services directive. The Committee recommends an evaluation of the **services directive** in terms of the opportunities created for the single digital market.

4.4.3.1 The EESC is convinced that the single digital market can develop public services through legal certainty and technology: the savings resulting from smart public service solutions can create 'seamless' cross-border public contracts.

4.4.4 The Commission's revision of the directive ⁽²³⁾ on the **re-use of public sector information (PSI)** can simplify the work of companies and private individuals (see opinion TEN/478 – in preparation).

5. ICTs as a lever for sustainable growth

5.1 Creating a sustainable and highly competitive social market economy requires creativity and innovation on the part of the EU. ICTs are a means but also an asset, which goes beyond merely the commercial sphere.

5.2 The Committee believes that a specific strategy is needed aimed at guaranteeing **the 'sustainable' nature** of the single digital market.

5.3 Studies should be carried out to measure the carbon footprint of companies operating in this market, and in which they are expanding. The Committee believes that smart technologies can optimise global energy consumption and thus reduce CO₂ emissions.

5.4 Digital equipment must be de-carbonised; the **treatment in Europe of waste** from data processing systems (with recovery of rare metals) is an **important potential market** and would prevent pollution in third countries.

5.5 The Committee calls upon the Presidency to ensure that during 2012, the year of **active ageing**, the productive potential of ICTs for the management of medical and social care is highlighted, particularly in the case of demographic ageing: remaining in work through the lightening of workloads, and, in general terms, through communication, combating isolation, telemedicine, robotics, personal security etc. All of these areas offer market opportunities and opportunities for creating new forms of employment and growth.

5.6 **Space projects need to be completed** in order for the Union to be able to integrate its digital market. The necessary resources must be allocated. The EESC regrets that Galileo and its GNSS are not yet in operation, when the American GPS model is used throughout Europe and the world ⁽²⁴⁾.

Brussels, 23 May 2012.

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

⁽²¹⁾ OJ C 24, 28.1.2012, p. 139.

⁽²²⁾ OJ C 143, 22.5.2012, p. 69.

⁽²³⁾ EESC opinion on the Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/98/EC on re-use of public sector information, OJ C 191, 29.06.2012, p. 129.

⁽²⁴⁾ EESC opinion on the Proposal for a Regulation of the European Parliament and of the Council on the implementation and exploitation of European satellite navigation systems, OJ C 181, 21.06.2012, p. 179.

Opinion of the European Economic and Social Committee on ‘Tax and financial havens: a threat to the EU’s internal market’ (own-initiative opinion)

(2012/C 229/02)

Rapporteur: **Mr IOZIA**

Co-rapporteur: **Mr HERNÁNDEZ BATALLER**

On 14 July 2011 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on

Tax and financial havens: a threat to the EU’s internal market (own-initiative opinion).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 8 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 24 May), the European Economic and Social Committee adopted the following opinion by 144 votes to 30, with 13 abstentions.

1. Conclusions and recommendations

1.1 The European Union must use every possible means to step up its action within the G-20, the OECD and the FATF (Financial Action Task Force) to eradicate opaque tax jurisdictions as quickly as possible and to oblige Member States to combat the crime originating in many of these jurisdictions.

1.2 The progress made in terms of fiscal governance in international fora, such as the OECD and the G-20, should not prevent the European Union from applying stricter rules making it easier to recover capital moved abroad through illegal activities to the detriment of the internal market.

1.3 The EESC calls on the Union’s institutions to adopt measures to prevent abuse of the principle of ‘residence’ by means of ownership arrangements and fictitious residency, whereby holding companies not actively engaged in business, or bogus companies, allow the owners to avoid paying taxes in their country of domicile. It welcomes the Commission’s decision to present a new proposal on tax and financial havens before the end of the year, and hopes that the resistance on the part of a number of Member States to an effective and incisive response to activities geared to avoiding or evading national tax systems will be overcome.

1.4 The Commission has published a proposal for a directive (COM(2012) 85 final) putting forward, for the first time, rules on the freezing and confiscation of the proceeds of crime in the European Union. The EESC strongly recommends including tax-related crime arising from the exploitation of tax havens within the scope of the directive. The proposal comes as part of a broader political initiative aimed at protecting the licit economy from criminal infiltration, and is based on Articles 82(2) and 83(1) of the Treaty on the Functioning of the European Union (TFEU).

1.5 It is common knowledge that tax havens exist in a large number of territories – 44 in all – either linked to a sovereign state or themselves constituting sovereign states. Even when they are not sovereign states, they enjoy substantial administrative autonomy, apply opaque rules on information, tax exemptions and reductions, on the ownership and source of capital and the operation of financial bodies and commercial companies established within their borders.

1.6 It is, in the Committee’s view, particularly reprehensible that legal and tax advisors and some consultancies offer to set up legal entities – and indeed advertise such services – in order to use tax and financial havens as a means of avoiding the obligations incumbent upon companies operating in the Union. This applies in particular to their obligations regarding company tax and transparency of company transactions and financing.

1.7 Tax havens distort the internal market: effective EU action is therefore needed that can ensure fiscal justice and prevent destabilising opacity, tax evasion and corruption through tax havens. The introduction of criminal offences in this area should not be ruled out.

1.8 All obstacles to the automatic exchange of bank information must be removed so that the authors of transactions and owners of bank accounts can be easily identified. Multinational companies must be required to draw up statements of account, broken down by country, stating the scale of their activities, the number of employees and the profits made in each country.

1.9 Progress must be made in all these areas, subject to any advances that may be made as a result of global initiatives by multilateral international organisations, especially the UN and OECD. These aims should be pursued in a climate of trust, seeking equivalence of laws and new and higher international cooperation standards regarding tax havens.

1.10 The EESC hopes to see a strategy coordinated with the leading countries, first and foremost the United States, for adopting an approach to regulating this area that is as global as possible. At the same time, however, the EESC emphasises that the difficulty involved in establishing an agreed international plan of action must under no circumstances slow down or delay action by the European Union. European standards, such as those laid down in the European Savings Directive, are among the best in the world. The Foreign Account Tax Compliance Act represents a significant stepping-up of efforts by the United States to increase compliance with the tax rules for US citizens holding foreign financial instruments and accounts. The US tax authorities are calling on foreign financial institutions to 'automatically' notify them of the identities of citizens with business overseas.

1.11 Within Europe, Belgium has very advanced legislation based on the principle of confidentiality in exchange for anticrime policy. Secrecy serves as an alibi for sidelining the tax agenda and the development of an anti-evasion policy.

1.12 Integrated policies must be developed to link up the various areas of work. International accounting standards were designed to protect the interests of investors and markets: the focus must now be on the public interest. The role of the IASB – a private body – needs to be rethought, as does its function in laying down accounting rules, which should be far simpler and readily and clearly comprehensible.

1.13 The EESC deplores the fact that all police, judicial and economic authorities have long been aware that most cases of misappropriating public funds, defrauding public finances and diverting the proceeds to tax havens, concealing assets behind front companies and laundering money if they were not part of a technical and legal set-up that masks these activities, derives a very healthy profit from them and in some cases ends up overseeing them. European Union action is thus called for in this area.

1.14 The EESC calls for a coordinated strategy to step up the fight against tax evasion and particularly against *abusive practices*, and to restrict the right to free establishment in the case of completely bogus businesses set up exclusively for tax purposes.

2. Introduction

2.1 Tax havens are places where senior executives of the world's largest financial and industrial corporations mix with figures from the artistic or social 'jet-set', together with multi-millionaires who combine business with pleasure. They all rub shoulders with somewhat dubious individuals and use the same money that has been gained not only by legal means, but also from crime and economic offences, including even the most serious crimes such as murder, extortion, arms and drugs trafficking, counterfeiting, fraud, embezzlement, trafficking in human beings and illicit gaming. These territories display a number of common features, such as the lack of transparency on how they function and the low levels of taxation for non-residents who, in fact, do not carry out any activity there. This gives rise to harmful competition with a hidden structure, creating a legal status entirely lacking in transparency.

2.2 The question of tax havens must be analysed in terms of three main dimensions: the tax rules and the ensuing opportunities for tax evasion; the opening-up of breaches in the structure of financial legislation with the resulting threat to financial stability; the lack of transparent information with the possibility of criminal activity using havens as a platform. The common denominator of these dimensions, which are respectively overseen by the OECD, the FSB and the FATF, is secrecy or the difficulty of accessing information. Abolishing or curtailing this concealment of information would allow the problems and dangers of tax havens to be significantly diminished. The debate on standards under way within the OECD should continue, with the aim of reducing the burden of the tax and judicial authorities. The real risk is of agreement being reached on standards that are too weak and complex, simply as window-dressing to satisfy public opinion. The simplest solution for dealing with these problems would be automatic exchange of information.

2.3 Tax and finance havens are part of the history of capitalism, with examples dating back as far as the late Middle Ages. The French and industrial revolutions were milestones for speeding up the creation and consolidation of tax havens.

2.4 The phenomenon has now ballooned to massive proportions, having spread to every part of the world – the Pacific, the Caribbean and islands in the Atlantic – since the Second World War, including small and micro-states in Europe. It is estimated that one million companies, and twice that number of trusts, have been set up in the tax, financial and business havens spread across Europe alone. According to Raymond Baker, director of Global Finance Integrity, 619 916 companies are registered in the British Virgin Islands alone, which equates to 20 per inhabitant.

2.5 The current economic scene is marked by the globalisation of the trade in goods and services, the free movement of capital and across-the-board use of new technology applications in international financial transactions and trade. Although most financial institutions have compliance departments, there are not enough rules governing the enormous volume of daily transactions.

2.6 Europe's internal market, the well-being of the financial and commercial market and the sound development of an economy that keeps to the common rules adopted in order to safeguard the general interest must face up to the huge amounts of money salted away in areas and countries of convenience. They are protected by vast interests and are able to corrupt and bend entire governments to their purposes.

2.7 Tax havens introduce distortions at both the macroeconomic and microeconomic levels. As pointed out previously, at the macroeconomic level they can threaten the stability of financial systems. Moreover, the possibility of evading or avoiding tax on real and/or financial investment reduces state revenue, which must inevitably be clawed back through income tax: tax havens consequently distort the proper balance between tax on capital and on labour. At the microeconomic level, distortion occurs between large, small and micro-enterprises: for these three types of actor, the possibility of taking advantage of opportunities for evasion – or at least, for aggressive tax planning – diminishes with their size.

2.8 In the wake of the dual disasters that struck the United States of America – the criminal attacks of 11 September 2001 on New York and Washington, and the financial crisis triggered by the Lehman Brothers collapse in September 2008 – the international community took steps during the first decade of the 21st century to regulate how so-called tax and financial havens work.

3. Tax and financial havens

3.1 The harmful effects of these arrangements have, in many cases, led to criminal proceedings in relation to the funding of international terrorism and organised crime, tax evasion and

money laundering. They have created systemic risks on the financial markets and undermined the founding principles of free competition, amongst others.

3.2 Consequently, as indicated above, steps have been taken around the world in recent years and it has been decided to introduce structures and mechanisms in a joint response to the threat to the national security of states and the well-being of their citizens.

The various international-level decisions taken represent, perhaps, a substantial shift away from the approaches used prior to the agreement reached at the London G-20 summit on 2 April 2009.

3.3 The EESC is in favour of drafting measures to help combat tax evasion and other illegal activities that harm the EU's and Member States' financial interests and to ensure cooperation between administrations via the exchange of information on tax issues. It would also like the EU to be authorised to begin negotiations to reach an agreement with the Swiss Confederation on combating direct tax fraud and evasion and on guaranteeing administrative cooperation via the exchange of information on tax matters.

3.4 Since the G-20 agreement, the analysis and recommendation method – typical of the earlier practice of the bodies and forums tackling this issue – has given way to calls for condemnation of 'non-cooperative jurisdictions', including all tax and financial havens. This includes presenting proposals for unilateral, bilateral and multilateral sanctions, the progressive abolition of banking secrecy and the regular publication of lists of non-complying territories.

3.5 The subsequent implementation of these commitments given by the G-20 has, however, been highly disappointing. A variety of reasons for this have been put forward.

3.6 Many areas have escaped being rated as non-cooperative jurisdictions simply by signing at least 12 bilateral tax agreements between each other (such as the agreement between Liechtenstein and Monaco).

3.7 In brief, exchange of information can be ensured simply by means of a request from the authority applying the relevant measures (tax, criminal law, etc.). The authorities of the territory concerned cannot refuse such a request on the grounds of national interest, banking secrecy or similar.

3.8 It is clear that the bilateral action model is ineffective in these cases; efforts must therefore concentrate on improving international (multilateral) and supranational action.

This is borne out by the report published by the Tax Justice Network on 4 October 2011, which deems virtually all the bilateral agreements signed since 2009 to be of no worth. The organisation has thus drawn up a financial secrecy index based on two criteria: barriers to requests for information from the relevant authorities in another country and the weight of the jurisdictions suspected of opacity in the global financial market.

3.9 Moreover, as pointed out in a number of specialist reports (such as the Global Financial Integrity report), illicit capital flows have continued to rise by more than 10 % annually, with disastrous implications that are, for example, worsening the on-going sovereign debt crises in many members of the international community, notably certain EU Member States.

3.10 Unfortunately, only the EU has outlined a credible framework for action in this area, which it might be added is not adequately implemented.

3.11 A glaring example is provided by Directive 2003/48 on taxation of savings income in the form of interest payments, which covers non-residents (natural persons).

3.12 This is despite that fact that since the directive came into force, systems have been set up for the automatic exchange of information between all the Member States, and agreements have been signed with the four European countries previously considered to be financial and tax havens: Andorra, Liechtenstein, Monaco and San Marino.

3.13 These European countries, however, like Switzerland, have differing ties with the Union, making the application of these conventions a highly complex matter. Liechtenstein, for example, has joined the European Economic Area agreement but is not obliged to cooperate with the respective administrative authorities in civil and commercial judicial matters, because it is not a signatory to the Lugano II Convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

3.14 It is our hope that this change in legal status will produce the expected changes soon, given the entry into force of the Lisbon Treaty which, in Article 8(2) of the Treaty on European Union and the annexed declaration No 3, provides for the establishment of structural relations with small-sized neighbouring countries.

3.15 The ideal instrument for governing this issue would clearly be a multilateral partnership, in order to bring these non-cooperative jurisdictions together within a single model in a natural geopolitical, legal and economic area.

3.16 Similarly, four Member States have been taken to the Court of Justice by the European Commission for failing to transpose Directive 2005/60 on the prevention of money laundering.

3.17 In order to promote action with a real supranational impact, the EESC should adopt the vigorous line taken by the European Parliament in its April 2011 resolution⁽¹⁾, which included support for stepping up the fight to ensure more transparent information regarding international financial transactions. A whistle-blowing mechanism could also be introduced along the lines of the pardon granted in the area of competition, in order to encourage reporting of such behaviour, rewarding whistle-blowers financially by reducing the penalty they would otherwise pay.

3.18 In addition to this measure, there is a pressing need for agreed G-20 mechanisms to close the offshore legislative loopholes by which the tax laws in the world's main financial centres can be circumvented.

3.19 Even within the strict framework of EU competences, binding ad-hoc rules in the form of secondary legislation must be adopted as a matter of urgency, and should include provisions prohibiting any persons, natural or legal, who control funds or entities domiciled in tax or financial havens from receiving public funds.

3.20 In 2009, the OECD calculated that between USD 1 700 billion and USD 11 000 billion had been placed in these havens. It drew up a list which the G-20 used as a starting-point for a tough confrontation with those states that were not applying any or only some of the international conventions on banking and tax transparency.

3.21 The OECD report raised a storm of protest, in particular from Switzerland, Luxembourg and, of course, Uruguay. The case of Delaware in the United States was hotly debated.

3.22 Americans are well aware that Delaware is a sort of tax haven: almost half of companies quoted on Wall Street and Nasdaq are established in US Vice-President Joe Biden's home state, as they pay lower local taxes and profits are not taxable. Fewer people are aware that this small state, south of Pennsylvania, offers major benefits to offshore companies, presenting itself as an alternative to the Cayman Islands or Bermuda, but those working in the sector have long been in the know. The profits of companies established in Delaware are, on the grounds of transparency, deemed to belong to owners who, if not US citizens and provided the company's business is conducted outside the USA, are not subject to tax in the United States.

⁽¹⁾ European Parliament Resolution of 6 April 2011 on protecting the European Union's financial interests – Combating fraud – 2009 Annual Report (2010/2247(INI)).

3.23 The most important and widespread driving forces for these havens are money laundering, tax evasion, and funds for corruption or for diverting money to own companies. They are the launching pad for attacks on sovereign debts in difficulty, and for large-scale campaigns to protect the untrammelled free movement of capital, drawing in the media, political parties and representatives of institutions.

3.24 Poor fiscal governance encourages tax evasion and fraud and has serious consequences for national budgets and the European Union's own resources system.

3.25 Many multinational companies are structured in such a way as to take advantage of tax avoidance opportunities in the various jurisdictions under which they operate. Different tax arrangements in the various jurisdictions benefit the large, international or well-established companies more than the small, domestic or new companies (in their start-up phase). These tax avoidance strategies are at odds with the principle of fair competition and corporate responsibility. These territories are also used by organisations and companies as operating bases from which to put goods onto the internal market without proper certification of origin or guarantees demanded by the EU: this is seriously detrimental to consumers' interests and sometimes to public health. One such practice is to misuse transfer pricing, setting the prices of transactions within a group by applying evaluation criteria that reflect the group's tax needs rather than normal market conditions.

3.26 Multinational companies certainly have the resources to provide, without incurring a serious administrative overload, public country-by-country reporting on their sales, operating profits, infragroup transactions, pre-tax profits and taxes. If this information were placed in the public domain, the identity of those misusing transfer pricing or pursuing aggressive tax planning would become clearer.

3.27 The absence of fiscal controls or existence of weak prudential oversight, the opacity of information for identifying natural or legal persons or any other legal or administrative circumstance, enable companies operating from these territories to enjoy almost total impunity, unacceptable competitive advantages, and immunity against action by the judicial and administrative authorities of third countries.

3.28 The EESC expressly condemns the role played by tax havens in encouraging and taking advantage of tax avoidance, tax evasion and capital flight. The EU should step up its measures to combat these practices and enforce sanctions.

3.29 The international community, aware of the serious damage caused by the existence of such territories to international trade, the interests of national treasuries, to security

and public order and, as shown by the crisis that erupted in 2008, to the very stability of financial systems, has taken a few timid steps towards identifying them and seeking their progressive disappearance.

3.30 The results yielded by the combined efforts of the G-20 and the United Nations, together with the efforts undertaken as part of OECD initiatives, are still not enough to meet the challenges posed by tax havens and offshore financial centres and should be followed up with decisive, effective and joined-up initiatives.

3.31 The action of the G-20, FATF and OECD, amongst others, has however so far only alleviated the grave damage caused by tax and financial havens.

3.32 It is essential to identify those jurisdictions that are not cooperating, assess compliance with the rules, and enforce deterrent measures. Furthermore, the EESC believes that the OECD is not a satisfactory framework for combating tax havens and that it is necessary to improve the indicator used to establish the status of cooperating countries, by giving it a qualitative value. Also, the OECD should not allow governments to be removed from their blacklist simply by promising to fulfil the exchange of information principles without guaranteeing that they will effectively enforce them.

3.33 There are reasonable grounds for stating that the financial crisis has been driven in part by complex and opaque transactions carried out by financial operators domiciled in jurisdictions that maintain financial secrecy, causing serious loss for investors and the purchasers of such financial products. Tax havens host off-balance sheet transactions by financial institutions, as well as complex financial products that have contributed nothing to innovation in the financial sector, but generate financial instability. There is clear evidence that much foreign direct investment, especially in developing countries, comes from tax havens.

3.34 The European Union, mindful of this situation, has on occasion denounced such regimes through various institutional authorities. Unfortunately, it has proved unable to promote a supranational administrative legal framework that would help narrow the scope for impunity.

3.35 The EU's work has centred on abolishing some 100 harmful regimes situated within Member State jurisdictions with scanty financial controls, or externally on third-country

territory. In this respect, the European Commission adopted two communications on good fiscal governance in 2009 and 2010, together with a code of conduct. There are also three directives in force, on the proceeds recovered from tax evasion, administrative cooperation, and the taxation of savings (currently being revised). Moreover, the inclusion of clauses requiring compliance with best practices or good governance in the tax field is very widespread in EU association, trade and cooperation agreements with third countries.

3.36 Nevertheless, very little progress has been made because the powers of investigation and sanction lie with the Member States.

3.37 According to banking companies, those US rules have shown that unilateral adoption of this type of measure can create problems for financial institutions due to the incompatibility of the communication, withholding and closure of accounts obligations imposed by the FATCA with EU rules and/or the domestic rules of financial institutions' countries of residence.

3.38 On 4 March 2009, the then British Prime Minister delivered a major speech to the US Congress, urging his ally to join in the common task of creating a globally regulated economic system, and striving against the use of financial resources for personal enrichment only.

Brussels, 24 May 2012.

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

**Opinion of the European Economic and Social Committee on 'Horizon 2020: Road maps for ageing'
(own-initiative opinion)**

(2012/C 229/03)

Rapporteur: **Ms HEINISCH**

On 14 July 2011 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on the

Horizon 2020: Road maps for ageing

(own-initiative opinion).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 184 votes to 3, with 4 abstentions.

1. Conclusions and recommendations

1.1 In order to meet the major challenges facing us and to tap into the potential offered by demographic change and the accompanying economic and social developments in the future, EU Member States must step up appropriate action over the next few years at different levels and in a wide variety of fields.

1.2 Coordinated research could make a decisive contribution to appropriate measures at regional, national and European level, by establishing a sound basis for planning and decision-making.

1.3 The point has repeatedly been made that European research into ageing and demographic change should be carried out on a longer-term, interdisciplinary and transnational basis, or at least in a way which enables comparison between national research activities. The EESC unreservedly supports this view.

1.4 Adequate infrastructure and integrated coordination of research activities are also prerequisites for high-quality European research. Central coordination is also needed in terms of drawing up a budget and allocating resources. The EESC therefore recommends setting up a European gerontology research centre which could ensure the requisite coordination.

1.5 Road maps on the design of long-term research programmes are useful in setting future research priorities. Current road maps on ageing and demographic change have already identified some key aspects of relevance to 'Horizon 2020' ⁽¹⁾.

1.6 The EESC is pleased that the 'Societal challenges' priority of FP8 includes 'Health, demographic change and well-being' as a research priority ⁽²⁾.

1.7 In addition to the current research priorities mentioned in the current road map and 'Horizon 2020', the EESC would like to see European research into more innovative and possibly more problematic aspects of ageing and demographic change. Such aspects include staying healthy, rehabilitation, longer working lives, the implications of people increasingly taking and sharing responsibility for their lives, learning for a long life, the impact of the increasing role of technology in many areas of life, and European social issues arising from demographic, social and technological change.

2. Justification/general comments

2.1 In order to meet the challenges and tap into the potential offered by demographic change, we urgently need well-funded planning and decision-making over the next few years as a basis for measures to point the way forward. In particular we need adequate research to support such planning and decision-making. The results of previous European research programmes such as the fifth, sixth and seventh research framework programmes ⁽³⁾, the Ambient Assisted Living Joint Programme ⁽⁴⁾ (AAL JP) ⁽⁵⁾, the Competitiveness and Innovation Framework Programme (CIP) ⁽⁶⁾ and ERA-Net activities have clearly demonstrated the usefulness of research. Research can therefore make a decisive contribution to managing demographic change and tapping into its potential benefits at regional, national and European levels.

⁽²⁾ See footnote 1.

⁽³⁾ OJ L 26, 1.2.1999, p. 1, OJ L 232, 29.8.2002, p. 1, OJ L 412, 30.12.2006, p. 1 and OJ C 65, 17.3.2006, p. 9.

⁽⁴⁾ <http://www.aal-europe.eu>.

⁽⁵⁾ See <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1726&format=HTML&aged=1&language=EN>

⁽⁶⁾ OJ L 310, 09/11/2006, p. 15, and OJ C 65, 17/03/2006, p. 22.

⁽¹⁾ COM(2011)809 final.

2.2 Road maps are useful in designing long-term research programmes. They are a useful way of exploring possible future scenarios and avenues for development, highlighting common ground between different disciplines, identifying relevant stakeholders and cooperation partners, evaluating the scope for political action and financing options, and developing strategies to implement processes and findings.

2.3 In recent years, research-related road maps have been developed and implemented in many areas. The following are just a few of the many national and international road maps: the Swiss road map for research infrastructures⁽⁷⁾; the German BMBF '2020 road map and environmental technologies' project⁽⁸⁾; the US Republicans' road map for America's future⁽⁹⁾; the ERA road map on developing energy-efficient buildings⁽¹⁰⁾; and the VPH-FET (Virtual Physiological Human-Future and Emerging Technologies) research road map⁽¹¹⁾.

2.4 Road maps for future research and innovation in the field of ageing and demographic change focus on health aspects. Examples include the road maps developed by the European projects on Future BNCI: *Future Directions in Brain/Neuronal Computer Interaction (BNCI) Research* (2010-2011); DIAMAP: *Road Map for Diabetes Research in Europe* (2008-2010); ROAMER: *A Road Map for Mental Health Research in Europe* (2011-2014); *Why We Age: A road map for molecular biogerontology* (2008-2010)⁽¹²⁾, as well as national road maps such as the road map for the health research programme of the German federal government⁽¹³⁾.

2.5 Road maps looking at broader themes in the field of ageing and demographic change also mention health aspects as research priorities; these include the European projects on FUTURAGE – *A Road Map for Ageing Research*⁽¹⁴⁾ and BRAID: *Bridging Research in Ageing and ICT Development* (2010-2012)⁽¹⁵⁾. The FUTURAGE road map mentions three health-related priorities: 'Healthy Ageing for More Life in Years', 'Maintaining and Regaining Mental Capacity' and 'Biogerontology: from Mechanisms to Interventions'⁽¹⁶⁾. In the BRAID project the relevant priority is 'Health and Care in Life'.

⁽⁷⁾ Swiss Confederation, Federal Home Affairs Department, State Secretariat for Education and Research, National Research Department, 2011: *Schweizer Roadmap für Forschungsinfrastrukturen*. Download: http://www.sbf.admin.ch/htm/dokumentation/publikationen/forschung/11.03.30.NFO.RoadmapForschungsinfrastrukturen_d.pdf.

⁽⁸⁾ Schippl, J. et al.: *Roadmap Umwelttechnologien 2020 – Endbericht*. Karlsruhe: Karlsruhe Research Centre 2009 (Scientific Reports FZKA 7519).

⁽⁹⁾ <http://www.roadmap.republicans.budget.house.gov>.

⁽¹⁰⁾ <http://www.eracobuild.eu>.

⁽¹¹⁾ https://www.biomedtown.org/biomed_town/VPHFET.

⁽¹²⁾ <http://future-bnci.org>; <http://www.diamap.eu>; <http://www.roamer-mh.org>; <http://www.whyyeage.eu>.

⁽¹³⁾ Health Research Council of the Federal Education and Research Ministry (Eds.) (2007): *Roadmap für das Gesundheitsforschungsprogramm der Bundesregierung*. Bonn/Berlin: BMBF.

⁽¹⁴⁾ <http://futurage.group.shef.ac.uk/road-map.html>.

⁽¹⁵⁾ <http://www.braidproject.eu>.

⁽¹⁶⁾ The Future of Ageing Research in Europe. A Road Map.

2.6 The Commission would like to use public-private and public-public partnerships⁽¹⁷⁾ as additional tools to deal with current social challenges⁽¹⁸⁾. Current joint initiatives include the European Innovation Partnerships (EIPs), including the European innovation partnership for active and healthy ageing (EIP AHA)⁽¹⁹⁾, the Digital Agenda for Europe⁽²⁰⁾, the JPI on 'More years, better lives - the potential and challenges of demographic change' (MYBL)⁽²¹⁾, as well as the planned Horizon 2020 programme⁽²²⁾.

2.7 Despite such useful important initiatives to develop research and innovation partnerships, we urgently need more extensive research activity. The world, together with society, technology, medicine and elderly people are in a state of constant flux. We therefore need more and more new research so that the relevant (policy) measures can be adapted to changing circumstances in good time rather than lagging behind developments.

2.8 The EESC therefore welcomes the European Commission's support for joint programming initiatives and for the development of road maps for future research activities in the field of ageing and demographic change⁽²³⁾. It is also pleased that the 'Societal challenges' priority of 'Horizon 2020' includes 'Health, demographic change and well-being' as a research priority⁽²⁴⁾.

3. Specific comments

3.1 Infrastructure requirements

3.1.1 For a long time, it has been argued that European research should be carried out on a longer-term, interdisciplinary and transnational basis; at the very least, national research activities should be made comparable with one another⁽²⁵⁾. In this opinion, we unreservedly approve and reiterate these arguments. Obviously, comparative research must take account of the relevant structural conditions.

3.1.2 Research into ageing must also involve all stakeholders dealing with the subject, for example environmental researchers, biologists and sociologists, engineers and designers, manufacturers and service providers, political decision-makers, architects, town planners and transport planners, representatives of

⁽¹⁷⁾ Examples of P2P partnerships include ERA-NET and ERA-NET Plus, Article 185 initiatives and Joint Programming – JP. R&I PPPs include for example Joint technology initiatives (JTIs) and Future Internet.

⁽¹⁸⁾ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, COM(2011) 572 final, 21.9.2011.

⁽¹⁹⁾ See IP/10/1288.

⁽²⁰⁾ See IP/10/581, MEMO/10/199 and MEMO/10/200.

⁽²¹⁾ See <http://www.jp-demographic.eu>.

⁽²²⁾ MEMO-11-435.

⁽²³⁾ See e.g. C 132, 3.5.2011, p. 39 on COM(2010) 546 final.

⁽²⁴⁾ COM(2011)809 final.

⁽²⁵⁾ See e.g. C 74, 23.3.2005, p. 44.

business and civil society, and above all, elderly people themselves. In view of this, we welcome the integration of various European funding instruments (ERA-Net, ERA-Net Plus together with INNOVA and PRO INNO) in a more flexible ERA-Net instrument in order to simplify participation by the relevant stakeholders.

3.1.3 Adequate infrastructure and integrated coordination of research activities are also prerequisites for high-quality European research in the European Research Area (ERA). Central coordination is also needed in terms of drawing up a budget and allocating resources. This will certainly not replace research activity at national level. However, we do need to ensure maximum compatibility between isolated national research activities, thus enabling comparative analysis and evaluation of findings. The EESC therefore recommends setting up a European gerontology research centre which could ensure the requisite coordination.

3.2 *Need for further research*

3.2.1 In addition to the above-mentioned general principles, there are specific areas which should be researched more intensively in future. Not only are we experiencing unprecedented demographic change, but there are also technological developments which could have a lasting impact on society, healthcare and our relationship to the environment.

3.2.2 *Preserving health*

The first major research area should include all issues linked to the theme of staying healthy, as mental and physical health in old age are prerequisites for autonomous and active lifestyles. The following are examples of possible subjects for research:

- How can we encourage people to adopt healthy lifestyles from childhood on?
- Which strategies do we need to ensure targeted support for and development of preventive measures?
- Comparing approaches in different countries, which treatment and rehabilitation measures have proved particularly successful? In which areas are we lagging behind, and where do we need to step up research and development activity?
- How can we develop the skills needed by patients?
- How can transnational health threats, rare diseases, chronic diseases, dementia and other neurodegenerative illnesses be prevented or at least diagnosed and treated earlier?
- More work is needed on research into the effectiveness of medicines and interaction between them, particularly in the case of elderly women. At present, most medicines are tested on young people, even though they are mainly used by the elderly.

- We need to emphasise the impact of chronic pain on the health of elderly people, and on how we can help elderly people to feel less pain and discomfort.

- At the same time, not much research has been done into drug and alcohol abuse by elderly people, the causes of such abuse, or the mental, physical and social impact.

3.2.3 *A longer active working life*

Given changes in age structures and rising life expectancies, working for longer has become an unavoidable necessity. This gives rise to research questions, for example the following:

- How do employees feel about a more flexible retirement age? Which factors do these feelings reflect (e.g. type of work/welfare arrangements/regional conditions)?
- Which general conditions do we need in terms of education and prevention in order to enable or develop a more flexible retirement age? Which experiences do different countries have, and which of these could we use?
- What changes are needed to work organisation and working hours, and how can we ease the pressures of work, so that people can be enabled to work longer? How could new technology help here?
- Which steps are already being taken or could be taken in companies to promote civil society involvement, so that people can contribute to civil society even while they are still working? What experience do different countries have of this?

3.2.4 *Living independently; taking and sharing responsibility for one's life*

Due to the declining numbers of young people, the support available for elderly people will also decline. In future therefore the elderly will have to take greater responsibility for maintaining their independence and remaining involved in society. Relevant research questions include the following:

- Which approaches to the autonomy of elderly people do we find in different countries, and what are the implications for systematic efforts to support appropriate lifestyles?
- Which approaches to the shared responsibility of elderly people (for e.g. future generations, the environment) do we find in different countries, and what are the implications of this? How do elderly people organise their lives, and how they organise things for their own generation and future generations? What are they doing for their fellow human beings, their communities and the environment?

- Which kinds of local support are needed for this to happen? Research should look at this issue in structurally comparable contexts (at local authority or regional levels).
- Generally speaking, research should look at how local authorities can support active and responsible lifestyles among elderly people, for example through appropriate urban, housing and transport policies for people of all ages. Such research should be carried out in structurally comparable contexts (e.g. in urban and rural areas in different countries).
- How can we develop and support 'caring communities' as an expression of shared responsibility? In which ways are families, volunteers and professionally active people already cooperating on care (for example in the case of persons with chronic illnesses or dementia)? How can technical systems support such communities? In which ways are businesses trying to meet the needs of such communities? Which kinds of shared responsibility can we find in different countries? How do these caring communities relate to national social policies and the planning of social structures at local authority level?
- Which kinds of lifestyles and housing solutions work well for elderly people, especially for those living alone or with dementia, and which of these are transferable? Here too we should compare examples from different countries.

3.2.5 Education

It is now accepted that an ageing society means lifelong learning for everybody. This gives rise to research questions, for example the following:

- How can lifelong learning become learning for a long life?
- Apart from vocational education, what kind of educational options are needed for an ageing population? How can active learning be encouraged through such options?
- Which specific kind of training is needed for people who want to volunteer?
- How can aesthetic education help to preserve cognitive and emotional plasticity and creativity among elderly people? If we compare lifelong learning in different countries, what conclusions can be drawn?
- What role can be played by various educational organisations (universities, adult education centres, etc) in strengthening various skills, e.g. working with new technologies, volunteering and providing care, as well as in transferring social and technical expertise, etc?

3.2.6 The increasing role of technology in all areas of life

One area where very little research has been done is the long-term implications of the increasing role of technology in all walks of life and the need to use technical systems to support independent, active and involved lifestyles for elderly people. Research is therefore urgently needed on questions such as the following:

- What needs to be done in terms of technical solutions, organisation, decisions and promoting acceptance so that we can make efficient and ethically acceptable use of tele-monitoring, tele-health and tele-rehabilitation in improving health care?
- Which organisational, legal, data protection/technological and ethical requirements need to be met at local, regional, national and European level in order to manage and control such systems if they are introduced on a large scale?
- What are the long-term implications of more intensive use of technical systems for relations between the elderly and their families, patients and doctors, and between those who need care and their (professional or other) carers?
- Nor has there been much research into the psychological, social and ethical implications of the increasingly extensive implantation of sensors and other technical devices in the human body. What is the impact of such devices, firstly, on the self-perception and identity of the persons concerned and secondly on social attitudes to illness, health and disability?

Another area where knowledge is lacking is the possibility of using - for example - music and lighting to assist in a dignified end of life - a technical approach, but one which can offer emotional support.

3.2.7 A European society of the future

A last area of research could include all the questions relating to current and future changes in European societies - for example, attitudes to ageing, cultural differences, differing experiences and existing inequalities in European living conditions:

- What are the attitudes to active ageing and age in view of demographic change in different European countries? How can an exchanges between countries help people to approach elderly people in a more realistic way rather than on the basis of stereotypes?
- How do people age in the increasingly diverse different cultures represented in the Member States? How do people see age, illness and death in a given culture? How can we organise exchanges of experiences and contribute to mutual understanding and enrichment?

- What role do music and the visual arts play in the ageing process in different cultures? What are the implications of this and how can the resulting benefits be transferred?
- Due to rising life expectancies and the rapid pace of social and technological change, there are increasing divergences between the experiences of different generations as well as within each generation - how can these be overcome? In view of this, how can we enable mutual understanding and learning?
- Similar questions apply to the existing and in some cases growing inequalities in living conditions, both within and between European countries.
- Another question that needs to be answered is how differing approaches to death specific to each country impact on individual elderly people and society as a whole. It is particularly important to address this question and the potential implications, given that we are living in an ageing society.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on ‘The 2011 monitoring report on the EU’s sustainable development strategy: the EESC evaluation’ (own-initiative opinion)

(2012/C 229/04)

Rapporteur: **Mr PALMIERI**

On 25 October 2011 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

The 2011 monitoring report on the EU’s sustainable development strategy: the EESC evaluation.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 11 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 138 votes to 9 with 12 abstentions.

1. Conclusions and Recommendations

1.1 The EESC considers Eurostat’s monitoring report (2011 monitoring report of the EU sustainable development strategy) to be a useful and important instrument in terms of:

- taking stock of progress made so far towards meeting the objectives and targets of the European sustainable development strategy (SDS);
- reviewing and fine-tuning the objectives, actions and measures of the EU’s SDS, while also refining the methodologies and tools currently used to measure sustainable development;
- tackling the new challenges on the horizon, particularly in the light of the effects on the SDS of the global economic and financial crisis.

1.2 In this respect, the EESC is disappointed that there has been no Commission report on progress in implementing the SDS in the EU and calls on the Commission and the EU’s other institutions to respond to the findings of the Eurostat report as an integral part of the strategy itself and a basic tool for political evaluation of the measures implemented to date and helping to determine future avenues.

1.3 The EESC argues, therefore, that more effective political action is needed to achieve the strategy’s objectives, starting with endeavours to measure the state of sustainable development accurately, which will involve an assessment of pro-sustainability policy measures that is both scientific and political in nature.

1.4 To this end, the EESC calls once again for consideration to be given to the pointers and thoughts generated on these issues within its Sustainable Development Observatory, so as to

allow civil society to have its say. The only way to achieve transition to a more sustainable model for development is to activate democratic processes that encourage public awareness of and participation in decision-making, by developing the structures for dialogue between civil society and political leaders.

1.5 The EESC stresses the need to reinforce the links between the SDS and the EU’s other major policies. The cross-cutting, all-pervasive nature of the concept of sustainable development demands a very close connection with all the other emerging political priorities (social equity, the fight against poverty and unemployment, social justice, the efficient use of resources, nature conservation, social cohesion and development cooperation).

1.5.1 This need for joined-up thinking on the EU’s various policy strategies is all the more important at this point in time. The serious repercussions of the global economic crisis make it necessary to distinguish between the impact of the current world economic situation and the development of long-term, far-reaching, structured strategies.

1.5.2 In particular, the EESC reiterates the need for enhanced cooperation and symbiosis between the EU’s Sustainable Development Strategy and Europe 2020 strategy so as to ensure that the measures taken under the latter are genuinely geared towards achieving more sustainable development. Analysis of and research into new indicators can offer a way of assessing the effectiveness of measures to promote sustainable consumption and production models while also feeding into the Europe 2020 monitoring process.

1.6 The EESC recommends bolstering the social dimension of sustainable development, especially given the social repercussions of the economic crisis, particularly in terms of the increase in unemployment, inequalities and the risk of social exclusion, which hit the most vulnerable groups hardest and have a long-term knock-on effect on people’s living conditions, while also restricting room for manoeuvre on environmental protection.

1.7 The EESC is strongly in favour of promoting economic development that can secure economic growth while also neutralising negative consequences for the environment and giving consideration to the key principles of equity, cooperation and social justice (that underpin the concept of sustainable development).

1.7.1 The EESC supports the concept of green growth and the development of a green economy, to be achieved within the framework of long-term sustainable development, reducing disparities and inequalities in opportunities in the transition to a low-carbon development model ⁽¹⁾.

1.7.2 In this respect, the EESC welcomes the recommendations of the International Labour Organisation (ILO) on green jobs, aiming to ensure that workers are guaranteed decent, high quality work in the transition to a green economy so as to prevent replication of the social divisions that have materialised at other times of change.

1.8 In the transition towards sustainability more investment is needed in research and innovation, particularly in the field of energy, in order to promote a development model based more on renewables and less fossil-fuel-dependent and continue reducing the energy intensity of the economy, and also in view of the positive impact on growth and jobs that can be generated by launching of new activities and promoting economic competitiveness.

1.9 Training, too, plays a fundamental role alongside high-quality research and technological innovation: it leads civil society towards a different model for development, providing the tools needed to tackle the challenges development brings and reinforcing its role as a catalyst for change.

1.10 Appropriate awareness-raising and training in the area of sustainable development is therefore a crucial objective, one that goes hand in hand with the aim of implementing more effective parameters for measuring progress made towards greater sustainability.

1.11 In particular, it would be worthwhile continuing along the path taken by the EESC in backing the framing of new, non-GDP-based indicators ⁽²⁾. The analysis must build in both quantitative and qualitative dimensions and also possibly include a survey of the way in which social players perceive and assess the issues surrounding sustainability.

1.12 It is only by means of a participatory process supported by experts and political, social and civil society players alike that it will be possible to build a new political and social culture that can plan for the kind of development that embraces and combines the three dimensions - economic, social and environmental - on which the concept of high-quality, sustainable human progress is built.

2. Introduction

2.1 The latest Eurostat monitoring report (*2011 monitoring report of the EU sustainable development strategy*), which gives an overview of the EU's sustainable development strategy in 2011, provides a detailed picture of the situation in the EU Member States two years on from the start of the crisis and in this way allows for a critical evaluation both of the major changes taking place in our societies and of the ongoing debate on the possibility that the transition to a low carbon economy could provide an opportunity to beat the recession by stimulating a process of recovery in production and reversing the fall in employment.

2.2 In the light of its role as the bridge between the EU institutions and organised civil society, the EESC plans to contribute to the debate sparked by this report, by facilitating the involvement of the bodies representing the European public in an evaluation of those themes and projects that are important when it comes to the pursuit of sustainable economic, social and environmental development.

2.3 This opinion is also intended as a follow-up to previous opinions drafted by the EESC in preparation for the UN Conference on Sustainable Development (UNCSD), to be held in Rio de Janeiro (Rio + 20) in June 2012.

2.3.1 This opinion will constitute a civil society contribution in preparation for the negotiations at the Rio + 20 summit with particular regard to one of the two key challenges that will be central to the summit: the institutional framework for sustainable development.

3. General comments

3.1 Analysis of the data in the 2011 report highlights the way some of the progress made towards reaching the EU's SDS objectives is attributable more to the impact of the current world economic situation than to the implementation of structured, long-term strategies geared to achieving sustainable development. Analysing and tackling the disparities between Member States in the pursuit of these objectives must be seen as a priority.

3.1.1 **Positive developments** highlighted by the report for the period between 2000 and the present day include:

— a reduction in the number of people at risk from poverty or social exclusion (although the share of workers at risk of poverty has risen);

⁽¹⁾ EESC opinion on the EESC position on the preparation of the United Nations Conference on Sustainable Development (Rio + 20), rapporteur: Mr Wilms, JO C 143 du 22.05.2012, p. 39.

⁽²⁾ EESC opinion on GDP and beyond – the involvement of civil society in choosing complementary indicators; JO C 181 du 21.06.2012, p. 14.

- an increase in life expectancy and a general improvement in public health (although unequal access to healthcare persists);
- a reduction in greenhouse gas emissions and an increase in the consumption of renewable energy;
- stability in the abundance and diversity of common bird species as a good proxy for the overall state of biodiversity and the integrity of ecosystems.

3.1.2 As regards negative developments:

- there has been an increase in demand for materials, despite a positive upward trend in resource productivity;
- despite an increase in the employment rate for older workers, the 2010 target was not reached;
- fishing activities have continued to outstrip sustainable fish stock levels;
- there is evidence that the current decoupling of transport energy demand from economic growth is only relative and that there has been a failure to shift goods and passenger transport to transport modes with a lower environmental impact;
- the 0.56 % target set for 2010 for the share of gross national income spent on official development assistance was not met.

3.2 As regards the influence of the crisis on the positive and negative trends analysed by the Eurostat report, it has been observed that while the reduction in climate-changing gas emissions can be attributed in part to a more efficient use of energy and greater recourse to low carbon fuels, it is also one of the effects of the recession.

3.2.1 Energy, which is necessary for all economic activities, appears to be the variable most closely linked to economic growth, as shown by the reduction in final energy consumption in parallel with the fall in GDP. This makes it fundamentally important to take further steps towards decoupling economic growth from environmental pressures by breaking the link between the generation of wealth and energy consumption.

3.3 Ultimately, the picture painted by the Eurostat report shows that while the European Union has made considerable progress towards sustainable environmental, economic and social development, the EU economy is still energy- and carbon-intensive and efforts to make far-reaching structural changes will have to be stepped up in order to launch a long-term transition process, free of the effects of the current global economic situation.

4. Specific comments

4.1 Analysis of indicators measuring the scale of **socio-economic development** from 2000 to 2011 gives a stark indication of the effects of the recession generated by the global economic crisis. This is particularly clear when examining GDP, investments and labour productivity.

4.1.1 Negative trends have been recorded for unemployment and employment, with particularly worrying youth unemployment rates. On the plus side, there has been an upturn in household savings in response to the crisis, spending on research and development has increased and energy intensity has improved, showing total decoupling.

4.1.2 The socio-economic development theme involves measuring progress made in building a society based on an innovative and eco-efficient economy offering society high standards of living. The economic crisis has had a negative influence on progress towards achieving these objectives. Nevertheless, the process of greening the economy could be a powerful tool when it comes to tackling the recession, contributing to a recovery in production and employment.

4.2 Analysis of progress made towards **sustainable models of production and consumption** shows contradictory trends. Although the EU has become more efficient in its use of resources, there is evidence of a continued increase in demand for materials. On the energy front, consumption of electricity is increasing, but there has also been a reduction in final energy consumption. With regard to waste, there has been an increase in the production of dangerous waste, whereas the quantity of non-mineral waste has decreased and recycling is on the increase. In addition, the number of cars continues to grow, but there has been a reduction in emissions of polluting substances, owing largely to falling transport volumes and the spread of higher-performance engines.

4.2.1 The picture of contrasts that emerges from the indicators analysed shows that, despite the progress made, additional efforts are needed to achieve the objective of breaking the link between economic growth and use of resources, while respecting the carrying capacity of ecosystems. It is also fundamentally important to consider consumption and production more interdependently, and promote the concept of product life cycle. More must be invested therefore in awareness-raising measures to promote more environmentally responsible models of production and consumption.

4.3 Indicators relating to **social inclusion** show rather positive trends, with a reduction in the risk of poverty or social exclusion. However, the risk of poverty is growing for the 25-49 age-group, and there has been a slightly less marked increase in youth unemployment for the 18-24 age-group. On the other hand, reductions have been recorded in poverty intensity, income inequality, the long-term employment rate, and the gender wage gap.

4.3.1 Negative trends also include: an increase in the share of working poor; insufficient growth in participation in life-long learning to reach the 2010 target; and the need to further reduce the early school-leaving rate.

4.3.2 Whereas the picture painted by the Eurostat report is quite positive, there is a need to improve the results relating to early school leaving and life-long learning. The risk of poverty is greater for people with a low level of education. Furthermore, education and training play a crucial part in enabling people to benefit from the employment opportunities associated with the development of the green economy, requiring the development of new eco-efficient technologies and re-skilling in line with technological innovation processes. Training is therefore fundamental in terms of both enabling young people to access the labour market and responding to the needs of those already working and needing to meet new demands resulting from the changes taking place.

4.4 Analysis of **demographic changes** shows significant improvements in the employment rate of older workers, life expectancy beyond 65 and reduced risk of poverty for the over-65s.

4.4.1 Nevertheless, despite these improvements, there has been an increase in the quantitative and qualitative levels of spending on welfare and of public debt. The demographic changes being seen – in particular lower fertility rates, longer life expectancy and the resulting inter-generational imbalances – raise the challenge of creating a socially-inclusive society, keeping public spending at sustainable levels and tailoring welfare spending to altered expectations involving greater demand in the realms of pensions, health and long-term medical care.

4.5 Analysis of **public health** shows improvements when it comes to living and staying healthy for longer: life expectancy has increased, the numbers of deaths from chronic diseases and the number of suicides have decreased; furthermore, there have been reductions in the production of toxic chemical substances, the rate of serious accidents at work and the level of exposure to noise pollution. Despite this positive picture, inequalities in access to healthcare persist between the various socio-economic groups.

4.5.1 The concept of public health encompasses various social, economic and environmental aspects of development (health and safety at work, healthcare funding, exposure to pollutants, etc.), and represents one of the key challenges of the EU's SDS, requiring greater efforts to take a joined-up, analytical approach in order to remarry the three spheres of sustainability that often end up being addressed separately.

4.6 Analysis of indicators relating to **climate change and energy** shows a few significant improvements; however, the economic crisis has had a significant impact on these trends, owing to the close link between energy and economic growth. The positive changes observed include: a reduction in greenhouse gas emissions, bringing the EU closer to meeting its reduction target of 20 % by 2020 and the Kyoto target set for 2012; an increase in the energy share of renewables that could hit the target of a 20 % renewables share in gross final energy consumption by 2020; and an increase in the use of renewables in transport. Lastly, demand for energy has fallen.

4.6.1 Negative developments, however, include: the increase from 2000 to 2009 in dependence on energy imports; failure to meet the 21 % target for the share of renewables in electricity production; and slow progress on cogeneration and on shifting the tax burden from labour to resource use.

4.6.1.1 Energy production and consumption, meanwhile, carry the main responsibility for CO₂ emissions and therefore for their global environmental impact. This makes technological innovation in the energy field extremely important. Furthermore, in addition to cutting emissions of climate-changing gases, the development of renewable resources and energy efficiency can also yield economic and social benefits, by generating new activities that bring jobs, coupling environmental protection with economic and employment growth.

4.6.1.2 To this end, care must be taken to ensure that the economic crisis does not jeopardise the current processes of greening the economy, which seem particularly fragile at this time of recession.

4.7 Even the changes noted in the area of **sustainable transport** can be put down in part to the consequences of the economic crisis. The reduced number of road accidents and the lower levels of greenhouse gas emissions and of energy consumption can be attributed to the resulting lower volume of transport, for which the decoupling has been only relative.

4.7.1 Positive trends include, in particular, progress on reducing CO₂ emissions from new cars and decreased levels of pollutants in the air. When it comes to negative trends, it has been noted that neither goods nor passenger transport has shown a shift to transport with a lower environmental impact.

4.7.1.1 Transport is a complex sector in which the critical elements have diverse origins involving life style choices and cultural models of consumption. In this respect, transport provides an example of how if the fight against climate

change is to be effective, it must deal directly with people in their daily routines, and not just with political measures and technical choices.

4.8 Efforts to protect **natural resources** have led to some positive results but there is still a very long way to go. Whereas the abundance and variety of many common bird species has remained stable, the over-exploitation of fish stocks continues ⁽³⁾. The number of areas designated for nature conservation has increased, but the expansion of built-up areas has continued, to the detriment of farmland and semi-natural land.

4.8.1 Natural resources are not only necessary for the development of human production and consumption, but they are also the key to a balanced ecosystem, whose alteration can have irreversible consequences for the entire planet. For this reason, major efforts are needed to stem environmental decline, including conservation of the natural capital of the land and of its biodiversity.

4.8.2 There is a pressing need to address the current lack of ecological indicators, by adding additional indicators that can provide a better reflection of the state of biological resources and the current and future benefits to the public that derive from functioning ecosystems.

4.9 Developments under the **global partnership** theme, from 2000 onwards, are looking favourable, despite the negative impact of the crisis on trade flows (as a result of increased imports from developing countries and the reduction in EU agricultural subsidies), on financing for sustainable development and on the management of natural resources.

4.9.1 On the other hand, however, there was only a slight increase in the share of gross national income earmarked for official assistance for development in developing countries, making it impossible to meet the 2010 target. Furthermore, the gap in CO₂ emissions between the EU and developing countries has narrowed owing to the increase in emissions from the latter and a decrease in emissions from EU countries.

4.9.2 Global partnership is a fundamental component of the EU's SDS: tackling widespread poverty, inequalities and the lack of access to resources in less-developed and developing

countries is a key challenge in the realm of sustainable development. Whence the duty to help the poorer countries to keep up with the transition to sustainability in a fair way, facing up to the growth in the world population, growing expectations in terms of living standards and the increased consumption of raw materials.

4.10 The indicators that measure the level of **good governance** are showing both positive and negative trends. On a positive note: a) there has been a significant reduction in the number of cases of infringements of EU laws at national level; b) between 2007 and 2009 the transposition of European directives surpassed the 98.5 % target; c) there has been an increase in the availability of e-government for basic public services and its use by the public in the Member States; d) half of the people interviewed stated that they had confidence in the European Parliament. As regards negative developments: e) there has been a fall in national election turnout, while turnout at the elections to the European Parliament was still lower (over 20 % difference in all 27 countries except one which had a higher turnout); f) there has not yet been sufficient progress in shifting taxation towards a higher share of environmental taxes in total tax revenues.

4.10.1 The concept of governance is closely linked to sustainable development and the affirmation of the principle of social and inter-generational equity, requiring that the interests of future generations be incorporated within current inter-generational agreements. Good governance requires the development of a democratic society, involving full participation of the economic players, the social partners and civil society by fine-tuning the structures for dialogue between the public and political leaders.

4.11 The EESC views the involvement and participation of civil society to be of fundamental importance if further progress is to be made towards achieving sustainable development and consolidating the EU's SDS. To secure civil society participation and allow it to contribute to the achievement of sustainable development it is necessary to expand access to knowledge and information on sustainability-related themes.

4.12 In order to improve communication it is also necessary to set out more effective parameters in order to measure the progress made in securing sustainable development. For instance, it would be worthwhile pursuing the path taken by the EESC in supporting the framing of new non-GDP-based indicators for measuring economic progress ⁽⁴⁾, to include an environmental and social quality evaluation along side the economic evaluation; it is also necessary to marry both quantitative and qualitative dimensions, while also possibly including a survey of the perceptions and evaluations of social players regarding sustainability matters.

⁽³⁾ EESC opinion on the Proposal for a Regulation of the European Parliament and of the Council on the Common Organisation of the Markets in Fishery and Aquaculture Products, JO C 181 du 21.06.2012, p. 183.

⁽⁴⁾ EESC opinion on *GDP and beyond – the involvement of civil society in choosing complementary indicators*, JO C 181 du 21.06.2012, p. 14.

4.13 In truth, the development of a good information system, far from being merely a matter of knowledge, ties in with the decision and policy-making process, and is the basis upon which to build a system of social preferences. It is for this reason that the discussion on the very meaning of social and environmental progress and the resulting search for new indicators and interpretative instruments must actively involve experts, political and social forces and civil society, by means of democratic participation in decision-making.

4.14 The EESC also notes the absence of a report on the implications of Eurostat's work for the future and requests clarification as to how the development of policies and future trends will be built into the work of the Commission and of the Member States.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

481ST PLENARY SESSION HELD ON 23 AND 24 MAY 2012

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 — Developing a Maritime Strategy for the Atlantic Ocean Area’

COM(2011) 782 final.

(2012/C 229/05)

Rapporteur: **Mr PARIZA CASTAÑOS**

On 13 July 2011, the European Economic and Social Committee, acting under Article 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on the

EU Strategy for the Atlantic Region.

On 21 November 2011, The European Commission decided to consult the European Economic and Social Committee, acting under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Developing a Maritime Strategy for the Atlantic Ocean Area.

COM(2011) 782 final.

On 6 December 2011, the Bureau of the European Economic and Social Committee asked the Section for Economic and Monetary Union and Economic and Social Cohesion to prepare the Committee's work on the subject, converting the own-initiative opinion into a consultation.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 May 2012.

At its 481st plenary session, held on 23 and 24 May (meeting of 24 May), the European Economic and Social Committee adopted the following opinion by 151 votes to 2 with 5 abstentions.

1. Conclusions and recommendations

1.1 The European Atlantic coast, which is Europe's western gateway, must strengthen its central role and avoid the risk of becoming removed from Europe's political and economic heart. Through the Atlantic, Europe establishes economic and political ties with America and Africa.

1.2 The Atlantic macro-region comprises the regions and islands of the Atlantic coast of Ireland, the United Kingdom, France, Spain and Portugal. Iceland, which is currently applying

for EU membership should be involved, as should Norway, which is a member of the EEA. The same applies to Greenland and the Faroe Islands. Although the North Sea regions have common interests in the Atlantic area, they could in future develop their own strategy.

1.3 The European Atlantic region has a significant tradition of political cooperation in order to promote initiatives of common interest covered by European transnational programmes. This cooperation involves not only regional authorities, but also civil society.

1.4 The EESC welcomes the European Commission's proposal for the Atlantic under the European Integrated Maritime Policy: it will provide support for the new and emerging economic sectors and a fresh impetus for traditional sectors, as part of a sustainable development-based approach.

1.5 The EESC proposes a more ambitious approach, however; a macro-regional strategy which, in conjunction with the maritime pillar, incorporates the territorial pillar, taking account of the experiences of the Baltic Sea and Danube regions.

1.6 The EESC's proposal is supported by the position of the European Parliament, the governments of the regions of the Atlantic Arc Commission, the Economic and Social Councils within the Transnational Atlantic Arc and a number of civil society stakeholders (business leaders, unions, chambers of commerce, towns and cities, etc.).

1.7 The EESC believes that the Atlantic Forum provided for by the Atlantic maritime strategy is a first step towards transforming the Atlantic maritime strategy into a macro-regional Atlantic strategy. The Forum will harness the experience gained in drawing up, monitoring and assessing maritime affairs, to become the future macro-regional forum, which will set common strategic action lines and the priority projects for territorial cohesion among the Atlantic regions.

1.8 The EESC, which is a member of the Atlantic Forum leadership group, has proposed that the Atlantic Transnational Network (ATN) of Economic and Social Councils participate in the Forum, because they are grassroots stakeholders and are crucial to identifying and implementing projects. For the Action Plan to succeed, the most important social and regional stakeholders must be involved.

1.9 The priority objectives of the Atlantic macro-region should be based on the thematic pillars of the Europe 2020 Strategy. The EESC considers the Atlantic strategy to be very important, not only for the regions concerned, but also for the European Union as a whole.

1.10 The Atlantic Strategy should be involved in both sectoral policies and cohesion policy and the EESC therefore recommends moving beyond the principle of the '3 NOs', in order to ensure that in future, macro-regional policies have appropriate legislation, their own funding and the necessary administrative structures.

2. Macro-regional strategies in the EU: new instruments for cooperation and territorial cohesion

2.1 In June 2009, the European Commission presented a European Strategy for the Baltic Sea Region⁽¹⁾, which by promoting territorial cooperation, defines an integrated, multi-

sectoral strategic geographical framework aimed at resolving common problems through various specific objectives. Next, the Danube Region policy was implemented⁽²⁾.

2.2 The Commission refers to macro-regions as areas which comprise a number of administrative regions but with sufficient issues in common to justify a single strategic approach⁽³⁾. On the basis of a geographical area, macro-regions are defined at functional level.

2.3 The administrative, regulatory and financial conditions are based on the '3 NOs': no additional financing, no new administrative structures, and no new legislative provisions. Although this was the condition agreed to in the Council by the Member States, the EESC does not agree with these restrictions.

2.4 Eight EU Member States and three neighbouring states were involved in the Baltic Sea Strategy.

2.5 In 2011, the EU set up the Strategy for the Danube Region, in which eight Member States and six non-EU countries participated⁽⁴⁾.

2.6 The first operating analysis of the Baltic Sea Strategy⁽⁵⁾ shows it to be a satisfactory instrument for improving macro-regional cooperation, with a view to achieving the challenges and opportunities that go beyond regional and national scope. It is a very useful instrument for the territorial cohesion objective and the Europe 2020 Strategy.

2.7 The EESC agrees with the idea of extending this type of instrument to other macro-regions that could offer added value.

2.8 The Lisbon Treaty, which incorporates the objective of territorial cohesion within that of economic and social cohesion, has given impetus to the macro-regional strategies.

2.9 The Territorial Agenda 2020⁽⁶⁾ adopted in Gödöllő, Hungary, proposes an innovative 'place-based approach', taking into account existing macro-regional strategies.

⁽¹⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions concerning the European Union Strategy for the Baltic Sea Region (COM (2009) 248 final).

⁽²⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: European Union Strategy for the Danube Region (COM(2010) 715 final).

⁽³⁾ See footnote 1.

⁽⁴⁾ See EESC opinions on the EU Strategy for the Baltic Sea Region, OJ C 48, 15.02.2011, p. 2, and OJ C 248, 25.08.2011, p. 81.

⁽⁵⁾ Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Implementation of the EU Strategy for the Baltic Sea Region (EUSBSR) COM(2011) 381 final.

⁽⁶⁾ Territorial Agenda of the European Union 2020. Towards an Inclusive, Smart and Sustainable Europe of Diverse Regions, 19 May 2011.

2.10 Cohesion policy is the basic instrument used to address the challenges of the EU's regional policy and boost endogenous development of the macro-regions.

2.11 The process of setting the EU's new multi-annual financial framework for cohesion policy from 2014-2020 is already underway.

2.12 Territorial cooperation continues to be an objective of cohesion policy, which would increase its budget. It will be covered by a regulation, and it will specifically include 'new forms of territorial cooperation, tailor-made responses to address macro-regional challenges' (7).

3. The Atlantic region

3.1 The European Atlantic arc (Appendix I) is an extensive geographical area stretching from north to south, which is linked by the Atlantic ocean. The Atlantic macro-region comprises the regions and islands of the Atlantic coast of Ireland, the United Kingdom, France, Spain and Portugal. Iceland, which is currently applying for EU membership, is also interested, as is Norway, which is a member of the EEA. The same applies to Greenland and the Faroe Islands.

3.2 The region's location to the west of the European continent and its outlook over the ocean have for centuries been a strong factor for dynamism and prosperity.

3.3 The maritime dimension is a key feature of this area, whose shared economic, technological and cultural heritage includes activities such as fishing, shipbuilding, the metallurgical industry, engineering, research and science, ports, trade and maritime transport.

3.4 The European Atlantic coast stands far removed from Europe's political and economic heart. There are also problems of accessibility, and the lack of transport, energy and communications infrastructure between the Atlantic regions and with more prosperous areas of Europe.

3.4.1 Most of the Atlantic regions have income levels below the Community average, and some fall under the cohesion policy convergence objective (Appendix II).

3.4.2 The situation is worsening, due to traditional Atlantic businesses falling off sharply, with an over-capacity fishing sector that has drastically reduced its workforce and catches, shipyards in decline and under-exploited maritime and port transport.

3.5 On the flip side, the Atlantic has valuable resources that remain untapped, which could be sources of wealth, economic diversification, job creation and environmental improvement, such as renewable marine energies, underground resources, marine biotechnology, nautical leisure and tourism activities, etc.

3.6 The EESC believes that the Atlantic area comprises a variety of regions with their own development challenges, whose unity and specific features are rooted in their maritime nature and global outreach and their lack of connections with the European economic and political centres.

4. The Communication on Developing a Maritime Strategy for the Atlantic Ocean Area

4.1 At the request of the Council and the Parliament, the European Commission published a communication on 21 November entitled 'Developing a Maritime Strategy for the Atlantic Ocean Area' (8).

4.2 With the overarching aim of promoting growth and sustainable jobs, the **strategy** groups the challenges and opportunities facing the Atlantic Ocean into five interlinked themes:

4.2.1 **Implementing the ecosystem approach**, under which activities having an impact on the Atlantic must be managed in a way that maintains a healthy and productive ecosystem. The strategy focuses on developing three areas: fisheries, aquaculture and observation systems.

4.2.2 **Reducing Europe's carbon footprint**, under three headings: marine wind power, marine energies and maritime transport.

4.2.3 Sustainable exploitation of the Atlantic **seafloor's natural resources** is geared towards encouraging sustainability, research and knowledge.

4.2.4 Responding to **threats and emergencies** caused both by accidents and natural disasters, improving security and coordination.

4.2.5 **Socially inclusive** growth, because many Atlantic seaboard communities need to create new jobs in emerging activities in order to replace traditional activities now in decline.

4.3 **The EU instruments** are a strategic combination of the EU's financing and legislative instruments:

(7) Proposal for a Regulation of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal. COM (2011) 611 final.

(8) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Developing a Maritime Strategy for the Atlantic Ocean Area, 21.11.2011, COM(2011) 782 final.

4.4 Implementation of the strategy: adopting an Action Plan by the end of 2013.

4.4.1 The tools to implement the strategy are: political cooperation, targeted actions within existing agreements and structures, combination of financing and legislative instruments.

4.4.2 An **Atlantic Forum** will be set up, to which Member States, Parliament, regional authorities, civil society and representatives of existing industries will contribute. The Forum, which will commence work in 2012 and be dissolved in 2013, will include a set of thematic workshops and a think tank.

5. General comments

5.1 The EESC welcomes the European Commission's initiative, which proposes an approach for the Atlantic region rooted in the European Integrated Maritime Policy (IMP). The IMP provides a common framework for all sectoral policies having implications for the sea, thereby avoiding inconsistency and efficiency.

5.2 The Committee believes that the practical implementation of the IMP in the Atlantic region will offer a new approach to drawing up marine policies and make use of the opportunities offered by the Atlantic for economic and social development.

5.3 The EESC supports the approach underpinning the strategy: to support both the new, emerging economic sectors and to provide a new boost for traditional sectors, as part of an approach based on sustainable development.

5.4 The Committee suggests that renewable marine energies should receive as much political and financial support as possible from the EU's institutions, because they help reduce Europe's carbon footprint and create substantial related industrial and economic activity, which goes beyond the coastal areas neighbouring wind turbine installations.

5.5 The strategy must act as a driver for research, technological development and production in the marine energy industry, auxiliary industries and related logistical networks in the Atlantic regions. This will make it possible not only to diversify the economic fabric but also to steer declining sectors in a new direction.

5.6 This applies not only to fixed wind turbines but also to floating wind-energy generators.

5.7 Waves and tides represent a high-potential energy and economic resource, since the Atlantic has the world's best resources in this field. The EESC suggests that the Atlantic Strategy step up support for research and development in these activities.

5.8 Renewable energy sources in the sea require links between the main production centres and centres of consumption. Networks linking these centres are essential if the sea's energy potential is to be harnessed. This means having maritime electricity grids that are linked to land-based grids.

5.9 Shipbuilding is also one of the traditional economic activities in the Atlantic regions that needs support, but in new forms. Building technologically advanced, more environmentally friendly ships that comply with strict legislation on emissions and pollution levels and the different range of vessels linked to marine wind energy, are new sectors offering a future for Atlantic shipyards.

5.10 The geographical remoteness of many Atlantic coastal communities, especially of some of the islands, requires the new communication technologies to facilitate the development of innovative economic activities, the creation of networks and contact with the markets.

5.11 The EESC suggests that measures for socially inclusive growth be stepped up in the Atlantic regions. Training, especially for young people, is crucial. The transmission of knowledge and skills between generations must be ensured. Cooperation between universities, businesses and centres of secondary education must be improved and social dialogue promoted.

5.12 The fisheries sector has suffered significant job losses in recent decades and the EESC therefore considers that coastal communities traditionally involved in this activity need measures enabling them to diversify and move into new areas of activity. Small-scale coastal fishing, shellfishing and aquaculture are the most sustainable activities and are crucial to the economic and social development of some coastal regions. They are also of great cultural importance.

5.13 The EESC suggests that greater use be made of maritime freight transport, thus reducing freight transport by road. The motorways of the sea should be promoted, which will require improved intermodality between ports and railways.

5.14 As demonstrated by a number of accidents, security in terms of emergencies and threats is a major challenge. Mechanisms and systems must be put in place to improve vigilance and security. The EESC proposes a larger role for the European Maritime Safety Agency, improved coordination between Member States and the adoption of appropriate legislation that can prevent the current risks.

5.15 The Atlantic Strategy represents an opportunity for the regions concerned. The EESC suggests that a bold approach be adopted to make use of all existing resources.

5.16 The **Atlantic Forum** must ensure the appropriate participation of all players involved in the strategic development of the Atlantic. It is extremely important that in addition to the Member States and the European institutions, regional authorities and civil society organisations are also involved.

5.17 The EESC, which is a member of the Atlantic Forum leadership group, has proposed that the Atlantic Transnational Network of Economic and Social Councils participate in the Forum, because they are grassroots stakeholders and are crucial to identifying and implementing projects. For the Action Plan to succeed, the most important social and regional stakeholders must be involved.

5.18 The Forum could play an important role in monitoring and assessing implementation of the Action Plan and Strategy. It therefore regrets that the Commission plans to dissolve the Forum just at the start of the operational stage of the projects' implementation. The Committee proposes that the Atlantic Forum continue to operate even once the Action Plan is drawn up.

6. Atlantic cooperation: transnational cooperation projects and networks

6.1 To promote balanced development in the EU, networks have been set up linking regions in Ireland, the UK, France, Spain and Portugal and cities and civil society in these regions (economic and social councils, chambers of commerce, trade unions, employers' organisations, social economy organisations, NGOs, universities, etc.).

6.2 The Atlantic Arc Commission⁽⁹⁾ is one of the six geographical commissions of the European Conference of Peripheral Maritime Regions (CPMR). It comprises 24 regions on the Atlantic seaboard and is a political forum for issues of interest to the regions which boosts transnational Atlantic cooperation on common projects. The Atlantic cities also pursue similar objectives in the context of the Conference of Atlantic Arc Cities⁽¹⁰⁾.

6.3 The Atlantic Transnational Network⁽¹¹⁾ (ATN) of social and economic players was set up in 2003, comprising social and economic councils and similar bodies from the British, French, Spanish and Portuguese Atlantic coasts, as a platform for cooperation between civil societies from the Atlantic area. Its goal is to promote cooperation and policies which, in the context of European integration, have a positive impact on the development of the Atlantic regions, improving competitiveness and social and territorial cohesion, and overcoming the inherent disadvantage of their geographical location.

⁽⁹⁾ <http://arcatlantique.org>.

⁽¹⁰⁾ <http://www.atlanticcities.eu>.

⁽¹¹⁾ Welsh Economic Forum, Conseils Économiques, Sociaux et Environnementaux Régionaux de Basse-Normandie, Bretagne, Pays de la Loire, Poitou-Charentes, Aquitaine, Centre y Limousin; Consejos Económicos y Sociales de País Vasco, Cantabria, Asturias, Galicia y Canarias; Instituto de Soldadura e Qualidade de Lisboa, USALGARVE.

6.4 The ATN has drawn up various studies and proposals on innovation and technology transfer, intermodality in the transport of goods, with particular focus on maritime transport, ports and the hinterlands, and on maritime security in the Atlantic area. Recently, the ATN worked on the development of renewable marine energy and on the European Atlantic Strategy.

6.5 Other Atlantic networks exist, such as the Chambers of Agriculture of the Atlantic Arc, (AC3A) and others in the academic sphere. Since 2007, the Atlantic Arc Commission has welcomed representatives from all of these networks on its Coordination Committee, in a common forum for discussion of strategic topics for the Atlantic Area.

6.6 Cooperation began in 1989 through INTERREG. In the current programming period, large scale, cohesive projects are being developed in the fields of transport and the creation of an Atlantic cluster for renewable marine energies.

6.7 The EESC shares the concerns of those involved: Atlantic cooperation has suffered from the limitations of transnational territorial cooperation in general, the lack of a strategic vision, the absence of coordination between projects and the resulting loss of synergies, and the proliferation of non-operational projects⁽¹²⁾.

6.8 The EESC believes that this history of dynamic, diversified cooperation between the Atlantic stakeholders provides a solid basis from which to implement new cooperation initiatives with greater ambitions and strategic dimensions.

7. The EESC's proposal: a macro-regional strategy for the Atlantic area

7.1 The EESC believes that a macro-regional strategy is a suitable instrument for the Atlantic region. Promoting the endogenous development of the Atlantic macro-region through a wide-ranging strategy will place the Atlantic Region in a better position to achieve the EU's goals and to implement the Europe 2020 Strategy.

7.2 The Council has called upon the Member States and the Commission to continue driving forwards the current macro-regional strategies, and to consider implementing others in the future.

7.3 The EESC believes that the goal of territorial balance in the EU justifies the promotion of a macro-regional strategy in the Atlantic that makes it possible to address the transnational challenges affecting the area. The situation of the Atlantic arc in Western Europe is emphasised with the impetus given to the northern and central regions of the EU with the two current macro-regional strategies.

⁽¹²⁾ *Schéma de Développement de l'Espace Atlantique (SDEA)*, Atlantic Arc Commission-CPMR.

7.4 The preparation of the multi-annual financial framework for 2014-2020 and the framing of policies during the new period mean that this is the right time to take the necessary decisions.

7.5 A macro-regional strategy for the Atlantic region is an opportunity to tap into the rich and extensive cooperation experience already obtained and to make a leap in quality towards more complex, ambitious forms of cooperation, because the Atlantic region needs to develop joint large-scale projects, which cannot be carried out by means of the current instruments.

7.6 Many of the opportunities and challenges of the Atlantic area reside within its maritime dimension, but bearing in mind that its relationship with the continent remains vital, the EESC proposes that as well as the maritime dimension, the territorial dimension also needs to be included. The continental region manages and develops the hinterland, without which any attempt to enhance the maritime potential would be meaningless. The maritime coast needs an active, dynamic hinterland and the synergies that allow for consistent development of the region as a whole.

7.7 The European Parliament has also spoken out in favour of a macro-regional approach that includes the maritime and territorial pillars in the Atlantic area ⁽¹³⁾.

8. Structure and thematic pillars

8.1 The EESC recommends adopting a framework similar to the Baltic Strategy:

8.1.1 A clear, action-oriented strategic document which covers the thematic pillars.

8.1.2 An action plan with priority actions for the thematic pillars and flagship projects.

8.1.3 The EESC believes that systems should be introduced to assess the progress of the strategy, as it is a dynamic, innovative process that should include mechanisms for monitoring, assessment and review.

8.2 The EESC proposes that the macro-regional strategy for the Atlantic region be based on the thematic pillars of the Europe 2020 Strategy. This will ensure that the thematic content and sectoral policies are fully interlinked.

8.3 International dimension

8.3.1 Iceland and Norway are also European countries located in the Atlantic region and should take part in the macro-regional strategy, with the same applying to Greenland

and the Faroe Islands. Member States from the North Sea Region might also be interested in developing a macro-regional strategy for that area.

8.3.2 The geopolitical position of the Atlantic, its historical and cultural links and cooperation experience must be included in an Atlantic macro-regional strategy. The transatlantic dimension is crucial because relations with the USA, Central and South America and Africa are of strategic importance for the EU.

8.4 Sustainable growth

8.4.1 The Atlantic region needs a more sustainable transport system that would reduce dependence on road transport, which emits more carbon dioxide than other modes. Traffic should be transferred to the sea by boosting maritime transport: motorways of the sea, and land-based port connections, principally via rail. This would involve the planning of port areas, port-city relations and transport platforms and networks in general. Maritime safety and cooperation in disaster prevention and response should be included.

8.4.2 The sustainability of the marine environment is inter-linked and is very vulnerable to pressure from human activity, including the pollution of land and inland waterways that flow into the Atlantic.

8.4.3 Coastal sustainability and the integrated management of coastal areas should cover not only coastal economic activity and pollution, but also the phenomenon of the heavy concentration of urban development along the coast and the link between the coast and inland areas.

8.4.4 Measures for adaptation and prevention of climate change, and its impact on urban and rural coastlines, should be included.

8.4.5 The Atlantic's renewable energy potential offers a massive source of clean, local power which remains untapped.

8.5 Smart growth

8.5.1 North-south Atlantic communication and its connection with central and eastern European markets is a key factor for competitiveness, and should be achieved by creating an Atlantic rail-port corridor. Air links in the Atlantic area are also inadequate.

8.5.2 The use of Atlantic resources such as renewable marine energies, marine biotechnologies and other deposits from under the sea floor offer the opportunity to create flourishing, highly innovative economic sectors that could create wealth and jobs.

⁽¹³⁾ European Parliament resolution of 9 March 2011 on the European Strategy for the Atlantic Region.

8.5.3 These policies require the substantial involvement of economic and social players, along with those from the scientific, technological and financial world. Goals must be set in fields such as infrastructure, industry, training, R+D+I policies, cooperation between universities, technological centres and businesses, the creation of clusters, etc.

8.5.4 Research into advanced environmental systems and technologies is opening up new strategies and new opportunities for traditional Atlantic activities in decline, such as fishing and shipbuilding. The nautical sector is very strong and contributes to development strategies.

8.5.5 Nautical tourism and holidays form an attractive sector that should be given a boost, focussing on both natural and cultural heritage. Tourism generates economic activity and jobs and also helps develop the Atlantic and European identity.

8.6 *Inclusive growth*

8.6.1 The Atlantic strategy should include a strong social dimension. Economic development and the creation of new jobs should make it easier for the inhabitants of Atlantic regions to enjoy a better quality of life and stay living in the area.

8.6.2 The regional authorities should promote social dialogue and the involvement of social and civil society partners.

8.6.3 It is a priority to improve training in maritime and nautical subjects, and cooperation between universities and training centres.

8.6.4 Information technologies require greater development, particularly in the more remote areas of the Atlantic region, which need better connectivity.

8.6.5 Based on an integrated approach to territorial cohesion, account should be taken of the situation of small coastal towns, the islands, cities and metropolitan areas and rural areas.

9. Governance and funding

9.1 The EESC considers that the Treaty provides a number of legal bases supporting these policies, including Articles 174 to 178 (Cohesion), 38 and 39 (Agriculture and Fisheries), from 90 to 100 (Transport), 170-171 (European Transport Networks), 173 (Industry), 191-193 (Environment), 194 (Energy), 195 (Tourism) and 349 (Outermost Regions).

9.2 The strategy must be European, drawn up by the Commission, approved by the Council and Parliament and endorsed by the EESC and the CoR. Its implementation will require a substantial commitment on the part of the Atlantic coast's Member States.

9.3 It should be implemented as part of a broad process of consultation and dialogue with all stakeholders, at national, regional and local levels, both institutionally and in organised civil society.

9.4 Various stakeholders should be involved; these can only be mobilised through a model of multilevel governance that covers them all. Their participation and contributions need to be ensured in a balanced, structured fashion.

9.5 The EESC considers that the principle of the '3 NOs' should be abandoned, taking into account the experiences of the Baltic Sea and the Danube Region, because in the future new legislative, administrative and financial instruments will be needed, if the macro-regional strategies are to succeed.

9.6 The European Commission should have the role of facilitating and coordinating actions.

9.7 A high-level group should be set up, representing the Member States, the Commission, the EP, the EESC and the CoR.

9.8 There should be contact points in each of the five Member States involved, to coordinate national actions linked to the strategy.

9.9 The coordinators for each priority area and for projects could come either from national bodies or regional or local ones.

9.10 The EESC wishes to highlight the importance of the Atlantic Forum which, on the basis of multi-level governance, would meet and serve as a conduit for the contributions of all interested parties, with regard not only to the strategy's drafting but also to its monitoring, assessment and review. The Atlantic Forum's membership should come from regional authorities and civil society organisations, businesses, the unions, the social economy, universities and technology centres and other stakeholders should be actively involved in its work.

9.11 The principle of 'no additional funding' means that the Cohesion Funds form the biggest source of funding for the macro-regional strategy. In the EESC's view, however, specific funding will be required in future.

9.12 The EESC believes that the Funds currently harnessed have some limitations as regards financing a number of strategic projects. The range of funding instruments needs to be enlarged, also harnessing Community funds linked to sectoral policies.

9.13 The European Investment Bank can also provide funding for specific projects. National, regional and local resources should co-finance projects, along with public-private partnerships.

9.14 As the multi-annual Community financing framework is being shaped and EU regional policy is being reformed, it would be a good time to ensure that the regulation of funds allows for financing of the macro-regional strategies.

9.15 In order for the actions and projects of the Atlantic macro-regional strategy to be included in the programming of funds for the 2014-2020, the decisions should be taken in 2013 to guarantee that the macro-regional strategy will be operational at the start of the new programming period.

Brussels, 24 May 2012.

The president
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a Council Regulation laying down the multiannual financial framework for the years 2014-2020’

COM(2011) 398 final — 2011/0177 (APP)

and on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — A budget for Europe 2020’

COM(2011) 500 final

(2012/C 229/06)

Rapporteur: **Mr PALMIERI**

Co-rapporteur: **Mr KRAWCZYK**

On 29 June 2011, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A budget for Europe 2020

COM(2011) 500 final.

On 19 October 2011, the Council decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Council Regulation laying down the multiannual financial framework for the years 2014-2020

COM(2011) 398 final — 2011/0177 (APP).

The Section for Economic and Monetary Union Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 24 May 2012), the European Economic and Social Committee adopted the following opinion by 165 votes to 9 with 5 abstentions.

1. Conclusions and recommendations

1.1 The Committee understands the Commission's attempt to strike a balance on the new multiannual financial framework (MFF) and reconcile two opposing demands in a complex social, economic and political climate. On the one hand, there is the desire of some Member States to limit the public funds committed in the wake of the crisis, which will inevitably continue to weigh upon the debate and the substance of the final agreement. On the other hand, we have the need to effectively and appropriately tackle the ambitious challenges facing the EU, stemming from both the Lisbon Treaty and the Europe 2020 strategy.

1.2 Indeed, Europe is in difficulty because of both the acute financial and economic crisis and the lack of a concerted response to that crisis from the Member States. The danger is that this could jeopardise the actual functioning of the European Union (EU) and even its very future.

1.3 The Committee has stated in previous opinions and reiterates here – in line with the European Parliament and the Committee of the Regions – that the ambitious challenges

facing the EU make it not only desirable but also necessary to increase the size of the EU budget so as to revitalise economic growth and employment. The Committee endorses the message that more (and better) Europe is needed – not less. Conversely, freezing the MFF in real terms at current levels would mean failing to address many of the challenges that the EU will have to cope with in the coming years.

1.4 The Commission's proposal thus seems excessively geared towards preserving the status quo, in terms of both the resources allocated and the budget structure. This has resulted in a mismatch between the nature and scale of the new challenges facing the EU and the resources available – i.e. between Europe's ambitions and the means to achieve them.

1.5 Moreover, the Committee thinks that discussion on revising the EU budget must focus on how effective it is in terms of the EU's political project, which is now being seriously questioned as a result of the crisis. Any assessment of the MFF should be based on the degree to which it gives the EU the wherewithal to pursue its strategic priorities without

increasing the fiscal burden on the public and businesses, i.e. its ability to provide added value⁽¹⁾ at European level with Europe's citizens sharing the burden equally.

1.6 Going into the detail of the proposal, the Committee welcomes the moves to improve and simplify the structure of the EU budget, so as to substantially deflate the issues of fair return and horizontal fairness between the Member States, focusing instead on effectively achieving Europe's strategic objectives.

1.7 A major innovation on the revenue side is the proposal to introduce a new system of own resources, arising from a modified VAT resource and the financial transaction tax (FTT). The Committee has previously endorsed returning to the original spirit of the Treaty of Rome⁽²⁾ and thus giving the EU proper financial autonomy.

1.7.1 The Committee supports the proposal to modify the VAT own resource insofar as it would contribute to the development of the EU's internal market and prevent economic distortions within the Member States. It points out, however, that the Commission's proposal is short on specifics as regards changes to the structure of the VAT resource and on how this would translate in monetary terms for the individual Member States. While reiterating the need to secure global application of the FTT, the Committee believes that introducing an FTT at EU level would help (by means of a minimum rate for all Member States) increase the contribution of the financial sector to the EU and Member States' budgets and reduce the economic volatility brought about by purely speculative actions.

1.8 Achieving the objectives of the Europe 2020 strategy will require vast resources beyond the provisions of the MFF; the Committee thus advocates exploring the idea of creating innovative financial instruments to cover those investments (project bonds), subject, however, to a detailed assessment of the potential consequences and of the possible transfer of risk to the public sector.

1.9 On the expenditure side, the priorities identified by the Commission require responses which can only be mounted at EU level: this is specifically the 'added European value', where a euro spent at EU level is more effective than one spent at national level. These concern 'European public goods', which cannot be supplied effectively at national level (because of market failures or economies of scale that cannot be reproduced at national level) and so require effective EU intervention.

⁽¹⁾ 'The value resulting from an EU intervention which is additional to the value that would have been otherwise created by Member State action alone', (COM(2010) 700 final; SEC(2011) 867) final.

⁽²⁾ Article 201.

1.10 In this regard, the Committee welcomes the CAP reform, which is intended to deliver an efficient and effective European model of agriculture and genuine added value for the EU. The Committee has expressed before, and reiterates here, its firm belief that the CAP – together with the common fisheries policy (CFP) – should be designed in such a way as to strengthen the link between agriculture, forestry and fisheries on the one hand, and environmental protection and the sustainability of natural resources on the other. This will ensure not only that good environmental practices are promoted, but that the economic viability and competitiveness of farms and fisheries is also supported, against the backdrop of highly volatile primary commodity prices.

1.11 As regards the direct payments system, the Committee emphasises that achieving the goal of harmonising competitive conditions for European farmers and increasing the integration of the new Member States must also involve a careful assessment of the potential effects on all Member States. In order to avoid distorting competition, which could have social consequences, it must be ensured that no country's direct payments are under 90 % of the average of the 27 EU Member States at the end of the financial framework for the period 2014-2020.

1.12 Article 174 of the Lisbon Treaty should be the guiding principle for the future of the cohesion policy: '... the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions.'

1.13 With regard to cohesion policy, while the focus on a few core EU priorities is convincing, the Committee is, however, opposed to the idea of applying macroeconomic conditionality to the disbursement of cohesion policy funds. It maintains, moreover, that the introduction of the new category of transition regions in place of the current phasing-out and phasing-in system should not penalise the resources for the least developed regions, and that the Cohesion Fund should not be used inappropriately for purposes that fall outside of its original remit. However, by way of exception, funds left over from the 2007-2013 programming period could be used to finance a European plan for growth launched by the Union. The same could be done for a limited period, the first three years for example, with funding for the next period (2014-2020).

1.14 The Committee believes that, if the objectives of the new MFF are to be duly achieved, the EU budget should be exemplary, efficient, effective and transparent, so that it gains credibility in the eyes of the European public and serves as a clear illustration of both the advantages of Europe and the costs of 'non-Europe'. The Committee therefore stresses the need for a system to be set up or implemented to monitor the results of all EU policies, in order to assess their social, economic and regional impact.

1.15 Deeming the Commission's proposal to be a starting point for current negotiations, and on the basis of the recommendations made in this opinion, the Committee pledges to monitor progress and give its input regarding how it translates into legislative changes.

2. The European Commission's proposal for the Multi-annual Financial Framework 2014-2020

2.1 This Committee opinion concerns the Proposal for a Council Regulation COM(2011) 398 final, which is the implementing act of Communication from the European Commission COM(2011) 500 final of 29 June 2011 – *A budget for Europe 2020* and as such establishes the multiannual financial framework (MFF) 2014-2020.

2.2 Overall, the MFF involves EUR 1 025 bn, which is equal to 1,05 % of the EU's gross national income (GNI), plus a further EUR 58,5 bn for non-MFF costs (European Development Fund and European Globalisation Adjustment Fund). The total is almost the same – discounting inflation – as the MFF for the previous period (2007-2013), which was set at EUR 994 bn.

2.3 The changes on the expenditure side are:

- simplification through fewer programmes and goals in order to cut red tape for recipients and facilitate impact assessment;
- a cut in resources for the Structural Funds (ERDF, ESF and the Cohesion Fund) – not taking account of the Connecting Europe Facility – from EUR 355 bn to 336 bn, with the creation of a new 'transition region' category to replace the current phasing-out and phasing-in system;
- the creation of a common strategic framework for the Structural Funds and for rural development and fisheries, and Horizon 2020, covering research and innovation, with a key role for the European Institute for Technology;
- a new Connecting Europe Facility for large-scale transport, energy, and ICT networks (EUR 40bn + EUR 10bn from the Cohesion Fund);
- launching of CAP reform and a slight cut in its size as a percentage of the total budget (EUR 60 bn annually) and in real terms ⁽³⁾, as well as closer linkage to environmental change (greening) and a commitment to greater flexibility; and

- an increase in funding for research and innovation and for education and training (EUR 80 bn).

2.4 On the revenue side, a gradual shift is proposed from a budget dominated by contributions based on gross national income (GNI) towards a streamlined one founded on genuine own resources and with revamped correction mechanisms. In particular, the Commission proposes scrapping current VAT-based own resources and putting in their place – from 2018 at the latest – a system of own resources based on the introduction of a financial transaction tax (FTT) and a new value-added tax (VAT) resource which would improve harmonisation of the various national systems and jettison the exemptions and derogations.

3. General comments

3.1 The Commission is clearly trying to strike a balance on the new MFF at a particularly difficult time for the functioning and future of the EU, given both the financial and economic crisis in Europe and the lack of a concerted political response from the Member States. This is a balance between opposing demands that are both compelling: on the one hand, the climate of austerity arising from the crisis, and the consequent desire to limit the public funds committed, which will inevitably continue to weigh upon the debate and the substance of the final agreement; on the other hand, the availability of adequate financial resources to effectively tackle the ambitious challenges facing the EU.

3.2 The Commission's *A budget for Europe 2020* proposal must therefore be seen in the context of the current economic and political situation. While any discussion of what form the EU budget should take has to question the role of EU integration today so that we can face the new challenges raised by a world in transition, we also have to understand how far the Member States really intend to acknowledge and secure that role of the EU.

3.2.1 The fraught negotiations that led to the MFF 2007-2013, as well as the difficulties in adopting the EU 2011 budget and the letter to the Commission president Mr Barroso signed – in summer 2011 – by nine Member State heads of government ⁽⁴⁾, suggests that at least a significant number of countries would like to see a minimum possible European financial commitment, which is likely to lead – once again – to delicate and complex negotiations.

3.3 However, in a situation in which the EU is facing more and tougher challenges (economic, financial and social crisis, competitiveness, climate change, etc.), the Commission's proposal seems excessively geared towards preserving the status quo. It appears, in other words, to embody a mismatch between the nature and scale of the new challenges facing the EU and the resources available – i.e., between Europe's ambitions and the means to achieve them.

⁽³⁾ In nominal terms, the CAP budget is not reduced but remains constant over the programming period; thus, in real terms, it will contract compared to 2012.

⁽⁴⁾ www.euractiv.com/euro-finance/eu-countries-call-slim-eu-budget-news-507532.

3.4 The Committee has previously stated⁽⁵⁾ and reiterates here that increasing the EU budget is not only desirable but also necessary, given the scale of the new challenges which require a joint response: *The EU budget review is not a question of figures but rather a tool serving a political project. Today the European Union does not have the budgetary means to implement either its political strategy or the commitments deriving from the new Lisbon Treaty.*

3.4.1 We would reiterate here the European Parliament's position that more Europe – not less – is the solution to the crisis and the challenges facing the EU. From its perspective, freezing the MFF in real terms at current levels – as the Commission proposes – means failing to address many of the challenges that the EU will have to cope with in the coming years. It has accordingly called for a 5 % increase in resources in the next MMF, challenging the Council – should it decide otherwise – to clearly identify the political priorities and the projects that will have to be dropped, notwithstanding their proven European added value, in the period 2014-2020⁽⁶⁾.

3.4.2 By the same token, the Committee of the Regions believes that the level of financing proposed should be seen as the absolute minimum required to deliver the ambitions the Member States have agreed for the EU, and that there is a need to bring about a change in perception, particularly amongst national treasuries, so that the EU's core tasks are considered an investment rather than an expense⁽⁷⁾.

3.4.3 Furthermore, the changes introduced by the Treaty on the Functioning of the European Union mean that establishing the MFF 2014-2020 is no longer the exclusive responsibility of the Commission and the Member State governments, since the European Parliament has a greater say in a context of greater democratic accountability. This new set-up provides opportunities for civil society – and thus particularly for the Committee – to monitor preparation of the new MFF and to take an active part in the debate in close coordination with the European Parliament.

3.5 Accordingly, the Committee pledges to monitor progress and give its input into the negotiation process that will see the Commission proposal translate into legislative changes. The MFF's role is to give the EU what it needs to pursue its priorities without increasing the fiscal burden on the public and businesses: it must be judged in this light.

3.6 Focusing more on results must, then, shift attention from the formal respect of the rules – all about the amount of

expenditure – to real control over how well and effectively funds are used and to achieving results, especially where cohesion policy and the CAP are concerned. This change in vision, explicitly formulated in the idea of *increasing the added value of EU spending*, thus necessitates a coherent approach in both management and control mechanisms.

3.7 We must not lose sight of the fact that, although the EU budget amounts to around 1.1 % of EU GNI, over the period 2007-2013 it has still constituted a significant allocation of resources for investment, which, if put to good use, can provide a crucial lever for the EU's economic growth. This is why the Committee thinks it expedient to consolidate appropriate synergies between the EU budget and national budgets in implementing Europe's major strategic objectives.

3.8 It is crucial, the Committee believes, that the MFF 2014-2020 inspires the confidence of Europe's citizens and gains credibility in their eyes, underlining both the advantages of Europe and the costs of 'non-Europe'. To achieve this, the EU budget must be:

- well managed and not entail excessive administration costs;
- efficient in terms of savings made compared to the current MFF;
- effective in facilitating delivery of the goals fixed and in making a visible impact on the lives of Europeans;
- transparent and monitorable in every aspect regarding costs, resources employed and results obtained; and
- geared to compliance with the EU principles of solidarity, fair competition and competitiveness.

3.9 The Committee believes discussion of the validity of the Commission's proposal is only possible if the proposal is assessed so as to ascertain:

- its added European value and correct strategic priorities; and
- its capacity to meet the challenges posed by the crisis by directing Europe towards a solidarity-based development strategy in the face of the current trend in the Member States of cutting back national public spending.

⁽⁵⁾ OJ C 248, 25.8.2011 p. 75.

⁽⁶⁾ European Parliament Resolution INI/2010/2211 of 8 June 2011 on *Investing in the future: a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe.*

⁽⁷⁾ CoR opinion on *The new multiannual financial framework post-2013*; OJ C 54, 23.2.2012, p. 40.

3.9.1 Regarding added European value, the Commission identifies important priorities for which responses can only be

mounted at EU level. These concern 'European public goods' – areas of intervention where a euro spent at EU level is more effective than one spent at national level.

3.9.2 European public goods include research and development, common defence, food security, immigration and the right of asylum, climate change responses, and pan-European infrastructure investment in energy, communications and the single market (which still has to be completed). The MFF 2014-2020 has significant increases in the budget allocations for these strategic areas compared with its 2007-2013 predecessor, notwithstanding the austere budget.

3.9.3 Although the Committee acknowledges the important innovation in the Commission proposal, it must, however, point out that there has been absolutely no debate on these priorities. The resulting risk is that the EU budget will fail to address head on the critical issues arising from the current economic and financial crisis and continue to come under pressure from special interest groups.

3.10 In this delicate context the EESC reiterates⁽⁸⁾ that the EU's budget policy must be defined consistently with the fundamental choice between federalism and an intergovernmental system, and hence with the desired degree of integration pursued. In particular, the principle of fair return for the Member States is based on accounting for financial resources in terms of national GDP, which runs counter to the letter and spirit of the EU treaties.

3.10.1 The current system of resources, based on Member State contributions, is complex and lacks transparency, and this undermines democratic oversight over the system itself. Moreover, the system does not help highlight the underlying commitment to European integration. It creates a perception that contributions to the EU are a further burden on national budgets, thus limiting the resources available for EU policies. It is also out of keeping with the need to create a direct link between the EU and citizens.

3.11 The Committee reiterates⁽⁹⁾ that – far from increasing the fiscal burden on the public and business revenue – the new system must link EU budget expenditure with the commitment to implement the EU's own political strategy and commitments arising from the new Lisbon Treaty. It has to make sure that all Member States are treated fairly and it must be much more transparent, simplified and comprehensible to the public.

4. Specific comments

4.1 With the new MFF, the Commission is proposing significant changes to the way in which the EU budget is

funded. These changes are based primarily on increasing financial autonomy by introducing a new system of own resources that can ensure fairer treatment of the Member States. The new proposal provides for a change in the model: breaking the EU's dependency on contributions from the Member States and gradually moving towards financial self-sufficiency.

4.1.1 At the heart of the proposed new system of own resources is the modified VAT resource and the introduction of the FTT. The new system would make the EU budget more balanced, so that around 40 % is financed by the new own resources, 20 % by traditional own resources and 40 % by Member State contributions based on GNI⁽¹⁰⁾. The advantage of the new system would lie in reducing the perception among Member State governments that national contributions are raised as a tax on their product, which in turn triggers claims for a fair return, the granting of which restores equilibrium in terms of economic benefits.

4.1.2 The Committee reiterates its support⁽¹¹⁾ for the creation of the new VAT resource to replace the current one which is now inadequate, insofar as it would contribute to the development of the EU's internal market and prevent economic distortions within the Member States. It points out, however, that the Commission's proposal is short on specifics as regards changes to the structure of the VAT resource and on how this would translate in monetary terms for the individual Member States. It also points to the need for this to be accompanied by measures aimed at eradicating VAT fraud.

4.1.3 Although it is still under discussion, the Commission proposal makes an interesting innovation with the FTT. While reiterating the need to secure global application of the FTT, the Committee has welcomed the proposal to introduce a financial transaction tax at EU level⁽¹²⁾. The EESC would underline the need to manage the macro- and microeconomic consequences of the application of the FTT very carefully and thus calls for ongoing monitoring and subsequent annual assessment of the effects of its introduction.

4.1.4 The FTT would serve at least three goals:

- increasing the share of the financial sector's contribution to the EU and national budgets (it is estimated that the tax should yield EUR 57 billion)⁽¹³⁾;

⁽⁸⁾ EESC opinion on *The system of own resources of the European Union*, OJ C 181, 21.6.2012 p. 45.

⁽⁹⁾ OJ C 248, 25.8.2011 p. 75.

⁽¹⁰⁾ COM(2011) 510 final, page 5. Currently, Member States' contributions based on GNI amount to 70 % of the total EU budget, traditional own resources (customs duties and the tax on sugar) account for 14.1 %, value-added tax provides 11.2 % and the other resources (surplus from the previous years) 4.7 % (SEC(2011) 876 final).

⁽¹¹⁾ EESC opinion on *The system of own resources of the European Union*, OJ C 181, 21.6.2012 p. 45.

⁽¹²⁾ EESC opinion on a *Common system of financial transaction tax and amending Directive 2008/7/EC* adopted at the plenary session on 29 March 2012, OJ C 181, 21.6.2012 p. 55.

⁽¹³⁾ SEC(2011) 1103 final.

- modifying the behaviour of financial operators, reducing the volume of high-frequency and low-latency trading which, within the EU Member States, comprises a share of between 13 and 40 % of the volume of trade ⁽¹⁴⁾; and
- fixing a minimum rate of financial taxation for all Member States.

4.1.5 Reform of correction mechanisms and the replacement of existing mechanisms with lump-sum reimbursements are also conducive to the desired streamlining and greater transparency, especially since the economic conditions of the Member States are now entirely different from when this system was launched in 1984. As previously highlighted by the Committee ⁽¹⁵⁾, the impact of this reform still needs to be more fully ascertained, as it is so far unclear what volume of funds would be involved or how the proposed system would compare with the current situation.

4.2 The Committee very much welcomes the moves to improve the structure of the EU budget with Europe's citizens sharing the burden equally. This will substantially deflate the issues of fair return and horizontal fairness between the Member States. Evaluation would focus instead on how efficient and effective EU expenditure was (in both meeting the needs of the European public and businesses and matching benefits obtained with outlay). However, the Committee again expresses regret ⁽¹⁶⁾ that the Commission proposal deals only with the internal architecture of the budget and does not refer to the new own resources in order to address the key issue of the size of the budget, in terms of its role as an instrument serving a political endeavour, namely the ambitions of the EU.

4.3 As the European Parliament has stressed, the EU budget is essentially an ensemble of investments that can activate further resources from public or private sources ⁽¹⁷⁾. In this regard the Committee thinks that – in order to overcome the quantitative limits and the legislative constraints of the EU budget – some forms of project bond could be tried out for financing specific infrastructure and education projects ⁽¹⁸⁾ in line with the 2020 Project Bonds initiative launched by the Commission ⁽¹⁹⁾.

4.3.1 The project bonds could provide important leverage for Europe's economic development through the spillover effects they would create and which are at present stymied by the inelasticity of Member State budgets as they struggle to cope with the consequences of the economic crisis and to comply with the Stability and Growth Pact (SGP).

⁽¹⁴⁾ European Commission, 8 December 2010, public consultation on the *Review of the Markets in Financial Instrument Directive* (MiFID). Directorate-General for Internal Market and Services. SEC(2011) 1226 final.

⁽¹⁵⁾ EESC opinion on *The system of own resources of the European Union*, OJ C 181, 21.6.2012 p. 45.

⁽¹⁶⁾ EESC opinion on *The system of own resources of the European Union*, OJ C 181, 21.6.2012 p. 45.

⁽¹⁷⁾ European Parliament resolution, cit.

⁽¹⁸⁾ Haug J. et al., op. cit., chap. 4.

⁽¹⁹⁾ http://ec.europa.eu/economy_finance/consultation/index_en.htm.

4.3.2 Nevertheless, the Committee highlights the need for a detailed assessment of possible innovative financing arrangements outside of the MFF, since the experience with public-private partnership demonstrates the possibility of transferring risk to the public sector ⁽²⁰⁾.

4.4 The Commission's proposal does not call into question the EU's biggest expenditure items, namely cohesion policy and the common agricultural policy (CAP). The emphasis generally is on new arguments – in the context of the Europe 2020 strategy – for ensuring an efficient and effective spending policy and the added value of existing expenditure instruments.

4.4.1 The Committee welcomes the CAP reform intended to adjust its proportion of the total EU budget and to bolster the link between EU spending and the common goods produced by the farming sector, as called for by the Commission itself in *The CAP towards 2020* ⁽²¹⁾. When, as now, resources are scarce, the CAP – together with the common fisheries policy (CFP) – should be measured against the goals and functions laid down in the Lisbon Treaty: improving the environment (biodiversity, water, land, air), landscape conservancy, keeping rural areas alive, animal welfare, and food safety and sustainability ⁽²²⁾.

4.4.2 The Committee has stated ⁽²³⁾ that agriculture, forestry and fisheries play a key role in environmental protection and the sustainable management of natural resources. The Committee therefore, while welcoming the approach introduced by the Commission of 'greening' the CAP, stresses that particular attention must be paid to ensuring that the review process does not disrupt the objectives and financing mechanisms of the CAP and its support for operators along the agricultural, food and environmental supply chain.

4.4.3 The Committee is concerned about the Commission's attempt to reduce the CAP's share of the budget by assigning to other instruments – such as the European Social Fund and the European Globalisation Adjustment Fund – new tasks related to food and agricultural objectives.

4.4.4 The Committee believes that achieving the goal of harmonising competitive conditions for European farmers and increasing the integration of the new Member States, through the system of direct payments, must also involve a careful assessment of the potential effects on all Member States. The Committee emphasises the importance of efforts to close the gap between the level of support received by farmers in the different Member States. The EESC has already ⁽²⁴⁾ recommended redistribution of national direct payment envelopes

⁽²⁰⁾ OJ C 143, 22.05.2012, p. 134.

⁽²¹⁾ COM(2010) 672 final.

⁽²²⁾ Hart K. – Baldock D. (eds): *What Tools for the European Agricultural Policy to Encourage the Provision of Public Goods*, European Parliament, July 2011.

⁽²³⁾ OJ C 132, 3.5.2011, p. 63.

⁽²⁴⁾ EESC opinion NAT/520 on the CAP towards 2020, OJ C 191, 29.6.2012 p. 116.

based on objective, non-discriminatory criteria and an appropriate transition period for the planned fair convergence away from the historical reference principles. The goal is to ensure that no country's direct payments would be under 90 % of the average of the 27 EU Member States at the end of the financial framework for the period 2014-2020.

4.4.5 In the Committee's view, the new MFF must ensure that the CAP and the CFP can deliver:

- a secure food supply;
- a competitive and innovative agri-food sector;
- profitable agricultural and fisheries industries; and
- a fair income for the EU's farmers and fishermen.

By pursuing these lines of action – against the backdrop of highly volatile agricultural commodity prices – it will be possible to emphasise the dual nature of the CAP, in promoting good environmental practices whilst supporting the economic viability and competitiveness of farms, thereby reviving its historic mission of producing healthy and nutritious food in sufficient quantities and at affordable prices for Europeans.

4.5 There must be the same efficiency in projects funded under cohesion policy, which remains crucial for increasing the integration of the new Member States and which – as the Barca report affirms ⁽²⁵⁾ – must be focused on a few relevant EU priorities, the impact of which on the social, economic and territorial context must be carefully assessed, with ex ante, in itinere and ex post evaluations. At the same time, these evaluations should never result in more red tape.

4.5.1 The Committee is, however, opposed to the idea of applying macroeconomic conditionality to the disbursement of cohesion policy funds, in order not to place a further

burden on the Member States in a difficult social and economic climate. It maintains, moreover, that the introduction of the new category of transition regions in place of the current phasing-out and phasing-in system should not penalise the resources for the least developed regions. Finally, while endorsing the proposed *Connecting Europe Facility*, the Committee points out that this facility should not be receiving some EUR 10 billion of funding from the Cohesion Fund, as the fund should not be used inappropriately for purposes that fall outside of its original remit.

4.6 Article 174 of the Lisbon Treaty should be the guiding principle for the future of the cohesion policy: '... the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions.'

Therefore:

- Safeguard and widen the cohesion policy investments with the focus on the convergence objective.
- For Member States, whose average GDP growth in the period 2007-2009 is negative and who have demonstrated a good absorption rate in the current period, the capping rate will be set at least at the level of current period for the cohesion policy.

4.7 The Committee would like to see increased monitoring of the results of EU policies – especially the CAP and Cohesion Funds given their share of the total budget – so that the efficacy of EU spending and capacity for achieving the key goals the EU has set itself – starting with the Europe 2020 strategy – can be evaluated ⁽²⁶⁾. One way to do this is through a combination of sanctions for failure to reach fixed benchmarks and financial incentives for those Member States that have achieved the best results.

4.7.1 In this context, the Committee would nevertheless like to see local and regional authorities being supported and more closely involved at national and EU level so that they have every opportunity to operate and implement the programmes funded under cohesion policy and the CAP, by means of suitable training programmes on EU procedures regarding programming, support, monitoring and assessment.

Brussels, 24 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽²⁵⁾ Barca F. (ed.): *An agenda for a reformed cohesion policy. A place-based approach to meeting European Union challenges and expectations*; report for DG REGIO, 2009.

⁽²⁶⁾ Chambon N. and Rubio E.: In search of 'the best value for money': analyzing current ideas and proposals to enhance the performance of CAP and cohesion spending; workshop. The post 2013 financial perspectives: Re-thinking EU finances in times of crisis, Turin, 7-8 July 2011.

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 — Partnering in Research and Innovation’

COM(2011) 572 final

(2012/C 229/07)

Rapporteur: **Ms HEINISCH**

On 21 September 2011, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Partnering in Research and Innovation

COM(2011) 572 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 191 votes to 2, with 7 abstentions.

1. Conclusions and recommendations

1.1 The EESC shares the Commission's view that partnerships offer a range of advantages and still have untapped potential. The EESC therefore welcomes the Commission's initiative to establish and promote European innovation partnerships (EIP) under the Innovation Union flagship initiative, which are geared towards organising the European research and innovation cycle in a more effective way and reducing the timeframe for innovations in the market.

1.2 To ensure that partnerships have a long lifespan and a sustainable impact, conditions must be put in place which are geared towards overcoming challenges relating to management structures, financing and implementation.

1.3 A basic requirement is that partnerships must be simple, flexible, inclusive and open, steering groups should be representative and balanced, and relations between existing initiatives and instruments must be clarified from the beginning.

1.4 The EESC stresses the importance of social innovation as a key instrument for creating an innovation-friendly environment with a view to encouraging businesses, the public sector, the social partners and other civil society organisations to cooperate and thus increase their innovation and production capacity.

1.5 In order to take forward the partnership approach, clarification and ongoing review of the relationship between the EIP and other political initiatives is required (point 2.3.2 of the communication).

1.6 Facilitating coordinated implementation and funding of European and national programmes as a matter of necessity with a view to addressing societal challenges more effectively (points 3.1.3 and 3.3.3 of the communication) should involve an adjustment of Member States' national administrative

procedures, national development guidelines and funding conditions.

1.7 Furthermore, the EESC recommends that existing resources be pooled more closely, that the various (co-)financing possibilities be categorised more clearly and thematically more effectively, that their use be targeted and that information about them be provided centrally and systematically.

1.8 The EESC also proposes that consideration be given to all stakeholders and initiatives at national and European level which can contribute to appropriate regular follow-up and the future sustainability of partnerships and to the implementation of results.

1.9 Including third countries in R&I partnerships should continue to be supported in order to make Europe more attractive to global players.

1.10 On the basis of previous experiences of partnerships, it should be explained what form and what degree of commitment are needed to guarantee flexibility, openness and innovativeness while ensuring long-term, stable partnerships with a sustainable impact.

1.11 In order to conserve human resources and not waste time and money, in future consideration should be given to achieving a higher degree of effectiveness. To this end, measures must be better coordinated, evaluated regularly and implemented consistently.

1.12 There must be close ties with stakeholders at national, regional and local level with a view to taking account of particular national and regional features. At the same time, the importance of the global dimension of current challenges must not be overlooked.

2. Communication from the Commission

2.1 The Commission's communication on partnering in research and innovation (R&I) ⁽¹⁾ deals with the question of how to optimise existing R&I resources so that the European Research Area can be completed by 2014 and the Innovation Union, Digital Agenda and other Europe 2020 flagship initiatives ⁽²⁾ can be implemented, even in view of the current economic and financial crisis.

2.2 In its communication, the Commission falls back on the concept of partnerships, the importance of which as a means of pooling efforts was emphasised in the Commission's communication on the Innovation Union published in October 2010 ⁽³⁾. Partnerships should bring together European and national stakeholders from the public sector in public-public (P2P) and public-private (PPP) partnerships ⁽⁴⁾, in order to meet the major challenges facing society and to strengthen Europe's competitive position.

2.3 In order to reach a common view on how R&I partnerships may contribute to smart and sustainable growth in Europe, partnership models were developed and tested in the seventh framework programme for research (FP7), the competitiveness and innovation programme (CIP), the European Research Area (ERA) and in the political framework of the Innovation Union.

2.4 In its overall assessment, the Commission concludes that partnerships offer a range of advantages and still have untapped potential.

2.5 European innovation partnerships (EIP) may provide an overarching framework for the various partnership models by bringing together all important stakeholders in the R&I cycle, covering both the supply and demand sides, and by fostering political commitment to agreed measures. In addition, partnerships are an efficient way of involving small and medium-sized enterprises (SMEs) more closely in research and innovation.

2.6 However, partnerships are not a 'sure-fire success'. To ensure that they have a long lifespan and a sustainable impact, conditions must be put in place which are geared towards overcoming the management, financing and implementation challenges linked to partnerships.

2.7 On the basis of the results of various partnerships, important conclusions have already been drawn for the design of partnerships and potential solutions have been developed to meet the challenges highlighted ⁽⁵⁾.

3. General comments

3.1 Demographic change, climate change as well as changes in industry, the economy and in the labour market as a result of globalisation are the biggest challenges for the future development of the European Union's Member States. In order to overcome these challenges, joint efforts and the participation of all potential stakeholders are required and relevant measures must be coordinated centrally. They must be dealt with urgently through a combination of research, science and technology-based innovation as well as social innovation.

3.2 Pooling resources, the creation of an appropriate budget and distribution of resources also requires central coordination so that the opportunities also associated with demographic change and global challenges can be used effectively for research and innovation.

3.3 The EESC therefore welcomes the Commission's initiative to establish and promote European innovation partnerships (EIP) under the Innovation Union flagship initiative ⁽⁶⁾, which are geared towards organising the European research and innovation cycle in a more effective way and reducing the timeframe for innovations in the market ⁽⁷⁾.

3.4 On the basis of an analysis of the partnership models tested under the seventh research framework programme (FP7) ⁽⁸⁾, the competitiveness and innovation programme (CIP) ⁽⁹⁾, the European Research Area (ERA) ⁽¹⁰⁾, within the political framework of the Innovation Union ⁽¹¹⁾ and the European pilot partnership on active and healthy ageing (AHA), it has already been possible to draw initial conclusions for the design of partnerships ⁽¹²⁾.

3.5 According to the conclusions, partnerships should be simple, flexible, inclusive and open, steering groups should be representative and balanced, and relations between existing initiatives and instruments must be clarified from the beginning. Furthermore, partnerships require clear frameworks for how they are structured, financed and operate in order to ensure their stable development over the longer term.

⁽¹⁾ COM(2011) 572 final, 21.9.2011.

⁽²⁾ COM (2010) 546 See also IP/10/225. The 10-year follow-up programme to the Lisbon Strategy was adopted by the European Council in June 2010. The objective is smart, sustainable and inclusive growth with better coordination of national and European economies.

⁽³⁾ COM(2010) 546; see also EESC-opinion OJ C 132, 3.5.2011, p. 39.

⁽⁴⁾ Examples of P2P partnerships include ERA-NET and ERA-NET Plus, Article 185 initiatives and Joint Programming – JP. R&I PPP include for example Joint technology initiatives (JTI) and Future Internet.

⁽⁵⁾ See Commission Staff Working Paper SEC(2011) 1028 final of 1.9.2011.

⁽⁶⁾ COM(2010) 546 final, 6.10.2010.

⁽⁷⁾ COM(2011) 572 final, 21.9.2011.

⁽⁸⁾ OJ L 412, 30.12.2006, p. 1 and OJ C 65, 17.3.2006, p. 9.

⁽⁹⁾ OJ L 310, 9.11.2006, p. 15, and OJ C 65, 17.3.2006, p. 22.

⁽¹⁰⁾ COM(2000) 6 final and OJ C 204, 18.7.2000, p. 70.

⁽¹¹⁾ See footnote 6.

⁽¹²⁾ See Commission Staff Working Paper SEC(2011) 1028 final of 1.9.2011.

3.6 The EESC welcomes and supports the Commission's efforts to develop these conclusions into concrete proposals and guidelines and to incorporate relevant aspects into the Horizon 2020 programme. The proposals described in the communication are necessary but, in the EESC's view, still need to be amended.

4. Specific comments on the Commission's proposals

4.1 Objectives of the European Innovation Partnerships (EIPs)

4.1.1 The EESC welcomes and supports the objective of the Commission communication to use the EIP to link tried and tested supply-side tools (research and technology) with demand-side tools (users, regulatory, standardisation, etc.) (2.3.1). It agrees with the Commission that EIP can bring together key stakeholders at national and regional level from the public sector and civil society and boost dialogue among them, thus optimising instruments, increasing synergies and pooling resources as well as promoting innovation – especially social innovation such as new business models⁽¹³⁾ – and strengthening political commitment.

4.1.2 In this connection the EESC underlines the importance of the Commission's proposals which are based on the conclusions of the Commission Staff Working Papers on AHA pilot EIP and other partnerships⁽¹⁴⁾. They point out that clear conditions are needed for management structures as well as for implementation and funding so that R&I partnerships can develop efficiently and over the long term.

4.2 Taking forward the partnering approach

4.2.1 The EESC considers the following points to be especially important for taking forward the partnership approach and proposes that the following aspects be added:

4.2.2 Clarification of the relationship between EIP and other political initiatives (point 2.3.2 of the communication); this relationship should be continually reviewed and clarified especially in the case of new EIPs.

4.2.3 Involvement of all stakeholders who can ensure appropriate regular follow-up (2.3.2); to this end, the respective roles and needs of the various stakeholders in the innovation process must be identified and taken into consideration. It is just as important to be able to abandon a measure as well, either when it has met its objective successfully or if, over time, a measure turns out to be unsuitable.

4.2.4 Facilitating coordinated implementation and funding of European and national programmes with a view to addressing societal challenges more effectively (3.1.3). In the EESC's view, this would involve a comprehensive overhaul of national development guidelines and funding conditions. The need to

synchronise national administrative procedures of Member States is already mentioned in the Commission communication (3.3.3).

4.3 Current research and innovation partnerships

4.3.1 Partnership models have been developed and tested in the FP7, the CIP, the ERA and within the political framework of the Innovation Union⁽¹⁵⁾.

4.3.2 Current joint initiatives include the European innovation partnership for active and healthy ageing (EIP AHA)⁽¹⁶⁾, the Digital Agenda for Europe⁽¹⁷⁾, the JPI 'More years, better lives - the potential and challenges of demographic change' (MYBL)⁽¹⁸⁾, as well as the planned Horizon 2020 programme⁽¹⁹⁾.

4.3.3 If fragmentation of the market and duplication of work is to be avoided, then other key stakeholders and initiatives at national and European level must be involved. Initiatives such as the 2012 European Year for Active Ageing and Solidarity between Generations⁽²⁰⁾, the WHO Age-friendly Environments Programme⁽²¹⁾ and the UN Convention on the Rights of Persons with Disabilities lend themselves to R&I partnerships or, at the very least, synergies⁽²²⁾.

4.3.4 Greater consideration should also be given to the relevant preparatory work of other stakeholders at national and European level. This includes, for example, the various programmes and initiatives of DG SANCO, the European Institute of Innovation and Technology (EIT)⁽²³⁾ and the Institute for Prospective Technology Studies (IPTS)⁽²⁴⁾.

4.3.5 Furthermore, the EESC emphasises the importance of partnering in increasing Europe's attractiveness as a global partner in research and innovation. By helping to build scale and scope, partnering increases the efficiency and effectiveness of research investment in Europe for global players⁽²⁵⁾. The EESC encourages the further development of partnering in this direction.

⁽¹⁵⁾ See footnote 4. A relevant example of a P2P partnership is the AAL JP with a volume of over EUR 600 m. A specific example of a PPP is the joint technology initiative ARTEMIS (Embedded Computing Systems).

⁽¹⁶⁾ See IP/10/1288.

⁽¹⁷⁾ See IP/10/581, MEMO/10/199 and MEMO/10/200.

⁽¹⁸⁾ See <http://www.jp-demographic.eu>.

⁽¹⁹⁾ Framework Programme for Research and Innovation (2014-2020); MEMO-11-435. See also preliminary draft opinion INT/614-615-616-631 on Horizon 2020, rapporteur: Gerd Wolf.

⁽²⁰⁾ See <http://europa.eu/ey2012/>.

⁽²¹⁾ See http://www.who.int/ageing/age_friendly_cities/.

⁽²²⁾ See <http://www.un.org/disabilities/default.asp?id=150>.

⁽²³⁾ See <http://eit.europa.eu>.

⁽²⁴⁾ See <http://ipts.jrc.ec.europa.eu>.

⁽²⁵⁾ To mention just two examples, as result of the Joint Programming Initiative on Neurodegenerative Diseases, Canada has reoriented its research agenda in this field towards coordination with Europe and is now a partner in a pilot action on centres of excellence; and India is actively interested in participating in the Joint Programming Initiative on 'Water'.

⁽¹³⁾ OJ C 132, 3.5.2011, p. 22-25.

⁽¹⁴⁾ SEC(2011) 1028 final.

4.3.6 In addition to structural conditions, a workable common vision which points the way ahead is also crucial for the future sustainability of research and innovation partnerships. The EESC therefore believes that, alongside all potential stakeholders and representatives of civil society and older people, the social partners as well as young people or their representatives must also become involved in partnerships in order to secure their active support for sustainable future development and implementation.

4.3.7 Innovations do not necessarily come about as a result of a linear process, but by linking up and integrating sectors, systems and concepts. The most common factors contributing to service-related innovations for example include social structural changes, new customer needs and the reaction of businesses to such changes. Such factors must be taken into consideration especially in connection with social innovations.

4.4 Other proposed changes

4.4.1 Funding and implementation – Article 3.2 of the Commission communication

4.4.1.1 In order for partnerships to have a long lifespan, they need to have a reliable financial framework. The Commission's proposals to simplify and coordinate existing financial instruments at European and national level are therefore very useful and should definitely be pursued.

4.4.1.2 In addition, it would be a good idea for the various (co-)financing possibilities to be categorised more clearly and thematically more effectively in order to put planning and implementation of initiatives on a more solid footing. The EESC therefore recommends that resources be pooled more closely, that their use be targeted and that information about them be provided centrally and systematically.

4.4.2 Clarification of the level of commitment required in future partnerships

In terms of the level of commitment required, current partnerships range from loose cooperation on particular issues, through binding undertakings by individual partners, which are, however, limited in terms of time and money, to a long-term commitment by all stakeholders in a partnership. With an eye to the Horizon 2020 programme and on the basis of previous experiences of partnerships, it should be explained what form and what degree of commitment are needed to guarantee flexibility, openness and innovativeness while ensuring long-term, stable partnerships with a sustainable impact.

4.4.3 Implementation

R&I partnerships should be geared towards swift and consistent implementation of measures which are deemed suitable. Therefore interaction between science and practice as well as an approach which is geared towards and includes users must

be strengthened in innovation partnerships. In order to avoid using valuable time and human and financial resources unnecessarily, in future consideration should be given to achieving a higher degree of effectiveness and measures should be better coordinated, evaluated continually on the basis of agreed criteria and implemented consistently.

4.4.4 Intellectual property

When several stakeholders are involved in a project or partnership, the question of intellectual property rights to joint initiatives becomes an important issue. Fair solutions to this issue must be guaranteed from the very beginning for the future innovation partnerships as well, so that all stakeholders – including relevant end-users – receive an appropriate share of the funding and any subsequent profits.

4.4.5 Regional identification

Partnerships must always be implemented and prove their worth in concrete contexts. Close ties with stakeholders at national, regional and local level and consideration of particular national and regional features is therefore to be recommended as a matter of priority, since requirements both within Member States and between them vary significantly. However, such a context-based approach must not lose sight of the importance of the global dimension of current challenges.

4.4.6 Examples of good practice

4.4.6.1 Examples of successful existing partnerships should be gathered and publicised. The EESC proposes that current ways of disseminating information, such as the CORDIS website, be supplemented with a separate web portal for example or annual events to award the most successful partnerships.

4.4.6.2 However, it may be just as useful to find out the reasons why certain partnerships have failed and to learn from this. The EESC therefore recommends collecting examples of best practice and failed initiatives and finding out the circumstances which gave rise to both, and actively disseminating information about them.

4.4.7 Clarification of concepts

4.4.7.1 The concepts of innovation, research and partnership have not been explained. Although important conditions for partnerships are already defined⁽²⁶⁾ in the Commission communication and the term 'innovation' is clarified in various communications and opinions⁽²⁷⁾, it remains largely unclear what future research should focus on, with only examples being given. However, in view of demographic change and global social challenges excellent basic research is indispensable.

⁽²⁶⁾ See IP/11/1059 and MEMO/11/623 of 21 September 2011.

⁽²⁷⁾ COM(2010) 546 final. See also OJ C 132, 3.5.2011, p. 39.

4.4.7.2 Any explanations on this matter would be beyond the scope of this opinion. The EESC is drawing up an own-initiative opinion for this purpose entitled, 'Eighth Research and Development Framework Programme: Road maps for ageing' ⁽²⁸⁾.

4.4.8 Tapping potential more effectively

The ageing population is an example of successful interaction between medical and technical research and development on the one hand, and social progress on the other. Pooling all available intellectual, financial and practical resources can continue to produce a tremendous force aimed at overcoming the current challenges.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽²⁸⁾ 'Horizon 2020: Road maps for ageing', (own-initiative opinion), See page 13 of this Official Journal (CESE 1290/2012.)

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: Social Business Initiative — Creating a favourable climate for social enterprises, key stakeholders in the social economy and innovation’

COM(2011) 682 final

(2012/C 229/08)

Rapporteur: **Mr GUERINI**

On 25 October 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Social Business Initiative – Creating a favourable climate for social enterprises, key stakeholders in the social economy and innovation

COM(2011) 682 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 193 votes to 4, with 8 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the initiative on the part of the Commission: its present communication, which sets out eleven key actions, is well-timed. The EESC is also pleased to note that the Commission has taken on board several points from its exploratory opinion ⁽¹⁾ on social entrepreneurship.

1.2 The EESC considers that social enterprises should be supported by virtue of the key role that they can play as drivers of social innovation, both because they introduce new methods for providing services and action aimed at improving people's quality of life, and because they promote the creation of new products to satisfy society's new needs. In particular, the EESC would like to highlight the enormous potential that social enterprises offer for improving labour market access and working conditions especially for women and young people, as well as for various categories of disadvantaged workers.

1.3 This initiative by the Commission is a significant opportunity to support initiatives that help bring greater clarity to the terminology used (ironing out any overlap between the concepts of social economy, social business, social enterprise and social entrepreneurship). This would help to consolidate the objectives and aims of the initiative, boosting its effectiveness. The EESC therefore recommends that the EU institutions consistently use the expression “social enterprise” both in policy proposals and in communications.

1.4 The EESC welcomes the action proposed by the Commission to develop tools to improve awareness of the sector and the visibility of social enterprises, and supports the aim of developing initiatives to assist social enterprises in building their business capacity, professionalism and skills networking. This would also serve as an incentive for the contribution they make to smart, sustainable and inclusive growth.

1.5 It warmly welcomes and supports the Commission's objectives in relation to improving access to finance and the regulatory framework: with regard to these two objectives, it emphasises that, in order to promote social enterprises, a favourable economic and regulatory environment is essential.

1.6 The EESC welcomes the invitation extended in the communication concerning initiatives to encourage and promote measures to make public procurement more accessible to social enterprises.

1.7 The EESC calls on Member States to develop national frameworks for the growth and development of social enterprises, taking into consideration the main areas involved in ensuring support and development. In particular, it recommends that initiatives be taken to enable individual Member States to grant tax relief on undistributed surpluses so as to help consolidate the equity of social enterprises.

⁽¹⁾ OJ C 24, 28.1.2012, p. 1.

1.8 In order to provide more effective support for the actions proposed by the communication, efforts to evaluate the successes and benefits generated by social enterprises should be promoted.

2. Introduction

2.1 In recent years, social enterprises have played an increasingly important role in economic and cohesion policies. Many and various initiatives have been taken and promised by various organisations. The EESC has itself issued a number of own-initiative opinions which the present document fully endorses and echoes. Particularly worthy of mention are the 2009 opinion on *Diverse forms of enterprise* ⁽²⁾ and the recent and important exploratory opinion on *Social entrepreneurship and social enterprise* ⁽³⁾, drafted at the request of the European Commission as a contribution to the drafting of the Social Business Initiative, which includes some key priority areas for the development and growth of social enterprises.

2.2 A solid body of academic and scientific experience has been built up over the years in Europe and elsewhere concerning social enterprise issues, which has also served to stimulate the EU institutions.

2.3 At this point, it is important to recall the European Parliament's resolution of 19 February 2009 on the social economy (2008/2250(INI)) and the appeal launched by 400 European university teachers, *From Words to Action: European Scholars in Support of Social Economy Enterprises*, which culminated in a European Parliament event on 13 October 2010 in which Commissioners Barnier and Tajani took part.

2.4 Over time the concept of "social business" has taken on a range of gradually expanding meanings, according to the various authors who have used it. It initially designated business activities carried out by not-for-profit organisations to generate profits to be ploughed back into their own funding; it is important to preserve the social enterprise concept, preventing the risk of it blending into that of corporate social responsibility. This point needs to be emphasised in the EU institutions' next initiatives in this area.

3. Definition of social enterprise

3.1 The definition of social enterprise put forward by the communication on the Social Business Initiative represents a step towards recognition of the specific nature of this type of organisation. This should be the reference description used by the EU institutions. It gives due consideration to the three key dimensions that mark the social enterprise: a social objective/purpose; commercial activity; and participatory governance. The EESC emphasises the need for the same description to be used

in the proposal for a regulation on European Social Entrepreneurship Funds.

3.2 It is likewise important to bear in mind that the European Commission itself, in its proposal for a European Parliament and Council regulation on an EU programme for social change and innovation, lays down a number of criteria for identifying a social enterprise, with which the EESC fully agrees.

3.3 The EESC welcomes the fact that the Commission does not give a standard definition of social enterprise, as this reflects the diversity of existing provisions at national level. These must be respected so that the definition of social enterprise is not open to abuse.

3.4 The EESC would like to take this opportunity to mention its recently-adopted exploratory opinion on social entrepreneurship and the social enterprise, which contains a description of social enterprises, which are characterised thus:

- having primarily social objectives as opposed to profit objectives, producing social benefits that serve the general public or its members;
- being primarily not-for-profit, with surpluses principally being reinvested and not being distributed to private shareholders or owners;
- having a variety of legal forms and models: e.g. cooperatives, mutuals, voluntary associations, foundations, profit or non-profit companies; often combining different legal forms and sometimes changing form according to their needs;
- being economic operators that produce goods and services (often of general interest), often with a strong element of social innovation;
- operating as (one or more) independent entities, with a strong element of participation and co-decision (staff, users, members), governance and democracy (either representative or open);
- often stemming from or being associated with a civil society organisation.

3.5 With reference to these characteristics, it is important to emphasise the following distinctive requirements:

- **The not-for-profit motive**, which should be enshrined in the statutes by requiring profits and operating surpluses to be ploughed back into performing the statutory activity or to increasing equity by assigning such profits or surpluses to an indivisible owners' account during the lifetime of the enterprise and in the event of it being wound up. In a social enterprise, profits, operating surpluses, funds and reserves may not be distributed to managers, partners, participants, workers or collaborators either directly, or indirectly in the form for example of payments to

⁽²⁾ OJ C 318, 23.12.2009, p. 22

⁽³⁾ OJ C 24, 28.1.2012, p. 1

managers and workers higher than those made by enterprises operating in the same or comparable sectors and conditions. Similarly, remuneration of financial instruments should be limited and must not exceed a specified percentage that guarantees the possibility of adequately capitalising social enterprises.

- **A focus on the common good and the general interest of the community.** Social enterprises are often defined by reference to two distinct factors: a social objective that extends to the *general interest* in terms of the local community or specific social groups that are “disadvantaged” in one way or another; and most importantly the type of goods or services produced in keeping with the objective.
- **The function of promoting social cohesion** by means of goods and services that reflect the aim of achieving greater economic, social and environmental sustainability.

4. Comments on the Commission proposal

4.1 The communication highlights a number of aspects concerning better access to finance (3.1), the visibility of social enterprises (3.2) and improving the regulatory framework (3.3).

4.2 With respect to improving access to funding, the EESC agrees with the European Commission's assessment of the funding needs of social enterprises. It does so because, both amongst financial institutions and amongst those managing credit support provided by public bodies, we observe a lack of appropriate instruments for assessing the creditworthiness of social enterprises. They are frequently disinclined to recognise the “business” value and economic solidity of social enterprises.

4.3 To ensure greater visibility of the benefits of social enterprises, it is essential to start by measuring the social results separately from purely economic ones. We would stress the need for instruments for assessing and enhancing the impact and social effectiveness of social enterprises' activities.

4.4 Social accountability practices have a key role for social economy organisations. A range of tools for gauging the social results of enterprises exist. These have mostly been developed by the more structured organisations. However, instruments that are also suitable for use by small-scale operators should be studied and used as models. The Commission should launch a comparative study of existing models, promote the use of these systems, and work to devise a common European system or code of conduct that could be used by a wide range of social enterprises.

4.5 A key factor in fostering trust and confidence in social enterprises is to build trust in social enterprises by comparing social “labelling” across the EU. As proposed by the Commission in Key action No 6, the EESC advocates creating a public database to compare models of social accounting and how existing methods are applied.

4.6 The EESC agrees with the aim of improving the legal environment for European social entrepreneurship (Key action No 9), covering both simplification of the regulation on the Statute for a European Cooperative Society and the possibility of introducing a European foundation statute. Moreover, an improved legal environment for social enterprises could use guidelines for establishing statutes for the charities and voluntary organisations that frequently give birth to social enterprises. The EESC therefore urges the Council and Parliament to press ahead with adopting the proposed regulations.

4.7 In this regard, the EESC welcomes the commitment made by the Commission in its communication to initiate a study on the situation of mutual societies in all the Member States in order to examine their cross-border activities in particular. The rediscovery and re-enhancement of the mutual society system as a social protection tool unarguably represents an important future path in preserving an inclusive welfare system.

4.8 Support for social enterprises can provide fertile ground for stakeholder involvement and encourage individual people to get involved through self-help organisations, facilitating demand aggregation processes and promoting experimentation with mutual forms of assistance.

4.9 Social enterprises for work integration may, if effectively promoted, represent a forward-looking tool for active employment policies, helping to integrate disadvantaged people into work; at the present time of employment crisis, they can be vital for those excluded from the employment market.

4.10 Worker participation can be an important lever, and can also help in tackling certain industrial crises. Buy-outs by workers joining together in cooperatives or types of social enterprise could be a way forward.

4.11 Social enterprises play a key role as drivers of social innovation. The experience of social cooperatives in getting people into work is an obvious example. However, legal forms aside, social innovation also arises from new methods of providing services and from the creation of new products to satisfy society's new needs. The European institutions must therefore take coherent action, coordinating the provisions on social enterprises with those on innovation and social change.

4.12 Organisations facilitating the establishment and growth of networks between social enterprises can be very helpful in supporting innovation, by promoting membership of partnerships and business pooling arrangements for social enterprises joining together in consortiums. The Commission's proposal, under Key action No 5, is therefore an important one. It proposes measures to promote pooling and networking amongst social enterprises to facilitate exchange of best practice, economies of scale and shared services (training, planning, administration etc.).

4.13 The EESC welcomes the action proposed by the Commission to develop tools to improve awareness of the sector and the visibility of social entrepreneurship (Key actions 5, 6 and 8). Greater awareness of the potential of this business model will help facilitate greater cooperation between social enterprises and ordinary businesses.

4.14 It is important to take steps to assist social enterprises in building their business capacity, professionalism and skills networking. The idea of promoting platforms for swapping best practices might be helpful in achieving this, not least by boosting the internationalisation of social enterprises.

4.15 We consider that the Commission should, as a priority, launch an exploratory study to compare the new legal forms emerging for social enterprises. However, subsidiarity must be the main guiding principle, given that national models may or may not require regulatory frameworks based on their own context and traditions.

4.16 It is important to foster a more "subsidiarity-friendly" attitude on the part of public institutions, the introduction of a policy of targeted incentives, and to work to implement initiatives by business associations, which have proved to be crucial to the growth of social enterprises.

4.17 Incentive policies must not distort the principles of competition, but must recognise the specific features of social enterprises – which may not be twisted in order to gain undue advantage from them.

4.18 Turning to the development of instruments to enhance funding, the EESC should collate and share innovative approaches in the Member States. It would be helpful to emphasise those aimed at consolidating the specifically business-related aspects, including:

- tools to guarantee credit for social enterprises (such as mutual guarantee networks or public guarantee funds);
- capitalisation tools for medium to long-term social investments (such as ethical funds, social innovation funds, social venture capital funds);

- regulatory or fiscal measures to support the capitalisation of social enterprises, encouraging or facilitating the participation of different stakeholders.

4.19 Particular attention should be given to hybrid forms of investment, which are more suitable for social enterprises as they combine elements that evaluate the common good with financial elements. It is also important that, alongside social enterprises, more should be made of the best experiences of banks and financial institutions with a strong community or participatory character, such as cooperative banks or banks with ethical and social aims.

4.20 Whilst it is helpful to support areas such as microcredit, it is important to make a distinction between the beneficial social function of microcredit, a powerful tool for individuals to escape from poverty, on the one hand, and business development mechanisms, which are of necessity more complex and more structured, on the other. Indeed, some social enterprises implement investments amounting to hundreds of thousands of euros, which could not be supported by microfinance.

4.21 The EESC welcomes the opportunities for supporting social innovation, entrepreneurship and enterprises provided by the new structural funds programmes proposed in Key actions 3 and 4 or in the Social Business Initiative. The EESC would like to stress that that these areas must be considered as priorities by the Member States in their National Reform Programmes so that they can be included in the next programming period of the European Social Fund. Moreover, the proposed Programme for social change and innovation could also facilitate additional support for developing capacity and financing for social enterprises, which we welcome.

4.22 Turning to Key action 1 (Social Entrepreneurship Funds), the EESC welcomes the initiative, but points out the need to keep the same description as that used in the Social Business Initiative. That fund must be considered as one amongst the many types of investment instrument directed toward social enterprises.

4.23 The planned *de minimis* regime for social enterprises (Key action 11) should be revised to make it less restrictive, particularly where social enterprises for work integration are concerned, even when public support is granted directly to the business rather than being allocated to the workers. This position can be justified by reference to the recent example of the "Big Society Fund" in the UK, which was cofinanced with a substantial input of public money that the Commission did not consider to be state aid, given the clear social value of the initiative.

4.24 The intention to facilitate access to public procurement (Key action 10) is to be welcomed. In recent years, the European Commission has played a crucial role in helping to promote social clauses in public procurement procedures.

Over the last decade, the European institutions have displayed a greater sensitivity towards social cohesion and sustainable development issues, being well aware that economic growth must promote environmental sustainability and social cohesion, if the objectives of a more prosperous and fairer society are to be reached.

4.25 The Commission should continue to move decisively in this direction to promote social and environmental criteria amongst the criteria for awarding public contracts, and should collect and disseminate the best examples – amongst the Member States – that take into account social and environmental aspects amongst award criteria. Moreover, the European Court of Justice itself has recognised, in case law, the importance of such provisions.

4.26 The EESC welcomes the Commission's Key action 6, developing a certification database so as to make systems easier to compare. In addition, the Commission should carry

out a study on such systems to find synergies and share lessons. In this exploratory document, the EESC has highlighted the need for comparable, consolidated statistics, for research and for data on social enterprises. The Commission and Eurostat should play a pivotal role in helping people within the EU learn from each other.

4.27 The proposal for a single point of access for data (Key action 8) is welcome, and should be complemented by similar initiatives in the Member States to ensure compatibility and synergy.

4.28 The European Commission plays a pivotal role in keeping support for social enterprises on the political agenda and in ensuring that such enterprises are looked at consistently; the proposal to set up a consultative group on social business to examine the progress of the measures envisaged in the communication is therefore important. Similar structures should also be promoted in the Member States.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Small Business, Big World — a new partnership to help SMEs seize global opportunities’

COM(2011) 702 final

(2012/C 229/09)

Rapporteur: **Mr VOLEŠ**

On 9 November 2011 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Small Business, Big World – a new partnership to help SMEs seize global opportunities

COM(2011) 702 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 195 votes to 2, with 7 abstentions.

1. Conclusions and recommendations

1.1 Harnessing the potential of European SMEs to penetrate third-country markets, especially fast-growing ones, could become an important factor in boosting growth and jobs. For this reason, the internationalisation of SMEs must be part of all EU policies relating to such enterprises.

1.2 Internationalisation embraces a broad range of activities, such as exports, imports, foreign direct investment, subcontracting and technical cooperation. The Committee regrets that the communication deals mostly with supporting exporters and investors.

1.3 Given the close link between internationalisation and innovation, the Committee recommends making the new Horizon 2020 and COSME programmes more accessible and user-friendly for SMEs. The European Social Fund also needs to be enlisted to foster internationalisation.

1.4 European support for internationalisation should take account of that offered at national level, which it should not duplicate but complement where this falls within EU competence, i.e., by opening up markets, concluding bilateral and multilateral agreements, dismantling barriers, providing information on customs issues, intellectual property rights protection, investment protection, standards, regulations, public tenders, the fight against corruption and so on.

1.5 The EESC calls for better alignment and a joint management of internationalisation policy between the

Commission's DGs, the Council, the European External Action service, the European Parliament and the network of national SME Envoys.

1.6 The proposed web portal could serve its intended purpose, but only if it covers all available information sources, links up with national portals and provides basic information in every official EU language.

1.7 The EESC points out the inadequately harnessed potential of the Enterprise Europe Network and welcomes the proposal to change its management structure. It calls for business associations that are closest to SMEs to be brought into managing the network.

1.8 European support to help SMEs enter third-country markets should be closely tied in with their crossborder operations within the single market, since this is where most of them gain their international experience, and should also include help for SMEs in accessing the single market and the removal of barriers impeding this.

1.9 One of the biggest shortcomings of the current system of European and national support is that SMEs are scarcely aware of its existence, the information they need is difficult to find and couched in impenetrable language, and access to practical guidance on procedures is difficult. The Committee recommends that SME umbrella organisations, above all, should be enlisted in information activities.

1.10 Access to financing is an important precondition for SMEs going international, especially at a time of crisis. The EESC therefore calls on the Commission to create new financing instruments to support SME internationalisation, such as export credit guarantees, insurance for international operations and easy provision of loans via guaranteed credit cards.

1.11 The Committee calls for a unification of the conditions for various regional programmes, such as East Invest, AL Invest and Medinvest, which would make them easier for SMEs to use. It also calls for a re-think of the current rules, under which only partner-country SMEs can draw on support for taking part in programme actions.

1.12 The EESC proposes a series of tangible measures at European level that could usefully complement existing support, such as introducing a European SME exporter prize, using Europe-wide initiatives such as the European Enterprise Award, promoting SME internationalisation at the SME Week, setting up and maintaining a support providers' database of best practice, and reviving matchmaking initiatives such as Europartenariat or Interprise.

1.13 The EESC endorses the idea of convening an annual forum to evaluate progress in going international and calls for this to be a permanent platform in which social partners and other stakeholders, including the EESC, are effectively involved.

1.14 The EESC recommends that prospective markets such as the Gulf and South-East Asia be added to the selected BRIC priority territories.

2. Gist of the Commission document

2.1 The European Union needs to find new sources of growth and jobs. Major non-EU markets, especially China, India, Russia and Brazil, are experiencing strong growth and there are opportunities to be had for EU companies. Supporting the operations of SMEs outside the EU thus also helps to boost the Union's competitiveness as set out in the Europe 2020 strategy and other documents ⁽¹⁾.

2.2 In November 2011, the Commission published the communication 'Small Business, Big World – a new partnership to help SMEs seize global opportunities' ⁽²⁾, in which it

proposed a complete overhaul of support to SMEs for internationalisation at EU level, intended to help extend it and make it more effective and transparent.

2.3 While 25 % of EU-based SMEs have been exporting to the single market in the last three years, only 13 % have been active outside the EU, which flags up substantial unexploited potential for expansion beyond the Union, especially in innovative manufacturing industries and creative sectors.

2.4 The Commission defines the goals it wants to achieve – providing SMEs with accessible information, making support activities more coherent, improving cost-effectiveness, filling gaps in services provided at national level by the public and private sectors, and ensuring equal access for SMEs from all Member States.

2.5 The prime instruments the Commission intends to deploy to achieve these goals are: delivering information to the SME's doorstep, bringing a European dimension to services for SMEs in priority markets, supporting clusters and networks, and rationalising new activities in priority markets. Three principles are to be respected here: complementarity, sustainability, and efficiency in the use of public funds by setting SMART (specific, measurable, achievable, relevant, timed) objectives. The Commission will establish priority territories based on the criteria defined. SME internationalisation should also be part of other EU policies.

3. General comments

3.1 The EESC welcomes the Commission's communication and concurs with most of the analysis and conclusions. It notes that the communication concentrates more on the system for delivering support than on the content and aim of such support. The Committee draws attention to recent opinions devoted to SME internationalisation – Review of the 'Small Business Act' ⁽³⁾, How to support SMEs in adapting to global market changes ⁽⁴⁾ and The external dimension of European industrial policy ⁽⁵⁾.

3.2 The EESC agrees that a policy to help SMEs penetrate non-EU markets should feature in the EU's Europe 2020 competitiveness strategy and other EU policies and it underscores the need to coordinate the deployment of these policies with a view to SME internationalisation.

⁽¹⁾ Communication on an integrated industrial policy, COM(2010) 614 final; review of the Small Business Act, COM(2011) 78 final; communication on trade policy, COM(2010) 612 final; and on the Single Market Act, COM(2010) 608 final.

⁽²⁾ COM(2011) 702 final, 9.11.2011.

⁽³⁾ OJ C 376, 22.12.2011, p. 51.

⁽⁴⁾ OJ C 255, 22.9.2010, p. 24.

⁽⁵⁾ OJ C 218, 23.7.2011, p. 25.

3.3 The Commission communication concerns itself almost exclusively with support for direct exporters to third countries. However, the internationalisation of SMEs embraces exports, imports, foreign direct investment and technical cooperation, subcontracting and other activities, in which SMEs are part of the value chain.

3.4 Information and training support must be extended to other facets of internationalisation to deliver the benefits to the broadest possible spectrum of users. A distinction must also be drawn between the needs of different categories of enterprises according to their size and international experience.

3.5 The published statistics for the number of SMEs that could be involved in internationalisation merit some caution⁽⁶⁾, since a large portion of SMEs will be meeting only local demands for small services, craft products and so on in local markets.

3.6 The EESC notes that a business-friendly environment for SMEs has to be created on a systematic and permanent footing, red tape and overregulation that jeopardise the competitiveness of EU firms in third-country markets must be cut, and all the barriers to SMEs going international must be systematically dismantled.

3.7 Innovation stimulates internationalisation, which may, in turn, boost company performance⁽⁷⁾. In the current EU budgetary period, SMEs are only taking up 15 % of funding under the FP7's Cooperation programme⁽⁸⁾. The new Horizon 2020 and COSME programmes and the fourth pillar of the European Social Fund could do a great deal to improve competitiveness through innovation and thus foster a healthier environment for internationalising Europe's SMEs and, subsequently, for greater growth and creation of jobs. However, SMEs need to be made aware of, and given access to, these programmes, which must also be made easier to use.

⁽⁶⁾ See EIM study, p. 5. 25 % of SMEs within the EU27 export, of which about 50 % also go beyond the internal market (13 %); 29 % of SMEs within the EU27 import, again 50 % import from countries outside the internal market (14 %); 7 % of SMEs within the EU27 are involved in technological co-operation with a foreign partner, 7 % are a subcontractor to a foreign partner; 7 % have foreign subcontractors, and 2 % of SMEs are active in foreign direct investment.

⁽⁷⁾ SME Performance Review 'Do SMEs create more and better jobs?' EIM, November 2011, p. 77.

⁽⁸⁾ SME Participation in FP7 Report 2007-2011. European Commission, January 2012.

3.8 Support for SME internationalisation can only be effective if providers at both European and national levels adopt a new approach and move from one-size-fits-all, standardised services to ones that are targeted, proactive and bespoke, taking account of the sector, life cycle, availability of resources, position amid the competition and the company's intrinsic potential – such as language skills and knowledge of the local culture and business environment⁽⁹⁾.

3.9 Business is about profit, growth and market share. Breaking into foreign markets may deliver these, but there is no guarantee of success. While half of SMEs operating abroad experience a growth in turnover, the other half do not. The aim of the support provided should be to minimise the risks of failure due to lack of information and experience.

3.10 Fostering the internationalisation of SMEs is a matter for the Member States, which have a raft of over three hundred both publicly and privately funded support programmes⁽¹⁰⁾. This is why ample consideration must be given to what added value the new support at EU level could deliver, in order to avoid duplication or overlapping of current support. In this respect, regular exchange of information between national authorities providing support for the internationalisation of SMEs and their coordination with relevant Commission directorates would be useful.

3.11 Europe's contribution should primarily zero in on opening up markets and making them easier to access, concluding bi- and multilateral agreements, removing tariff and non-tariff barriers and providing information (Market Access Database – MADB) – especially about particular and shared aspects, such as protection of industrial property rights, standards, customs duties, import/export documents, regulations, sanitary, phytosanitary and veterinary rules, the fight against corruption, and public tenders. The EU should systematically require partner countries to validate the national certificates of Member States that are recognised within the single market, thus preventing some Member States being discriminated against.

3.12 EU support should also be deployed to create a level playing field when it comes to SMEs from smaller and new Member States that are not able to maintain their own representation in third markets.

⁽⁹⁾ Fabio Antoldi, Can European SMEs really intercept the international paths of fast growth?, presentation at the EP seminar on 24 January 2012, p. 31.

⁽¹⁰⁾ EIM Study: Opportunities for the internationalisation of European SMEs, final report, p. 30.

3.13 The principle of partnership between public institutions and business representatives (chambers of commerce, associations representing the interests of SMEs, business and sector associations) should be followed strictly. The involvement of the social partners, especially at regional and local level, should ensure that policies and resources needed to support SME internationalisation are identified and their proper use monitored. The partnership principle should respect national interests and the various forms of support and free competition between companies and support providers. Government bodies in the Member States, which provide services supporting internationalisation, should not act in competition with organisations representing businesses.

3.14 The EESC would have welcomed a proposal in the communication for better coordination and joint management of internationalisation strategy at European level. When it comes to SME internationalisation, there is no clear demarcation of the competences of the Commission's directorates-general (such as Enterprise and Industry, Trade, Internal Market, Development & Cooperation, and Taxation and Customs Union). Collaboration should also be improved between, on the one hand, these Commission DGs and the European External Action Service and, on the other, the Council, the network of national SME Envoys, the European Parliament, Member State representations in third countries and other bodies that implement internationalisation policy and play a part in shaping it.

4. Specific comments and recommendations regarding the Commission proposals

4.1 The proposed mapping of the state of play should focus primarily on gauging the efficacy of current EU support measures and instruments, pinpointing the present gaps in national support systems and closing these with an EU contribution.

4.2 There should be some serious thinking – not least about costs – before setting up a new EU information portal. The following principles should be respected:

- It should not involve duplicating existing national sources;
- The portal should link all existing EU and national information sources so that they are easily available in one place;
- Shared information from European sources should be provided in national languages;

- Information from the EU's own sources should focus on the identification and removal of barriers to market access, customs regulations, certification, sanitary, phytosanitary and veterinary requirements, investment incentives and protection of investment, intellectual property rights (IPR), public procurement, the fight against corruption, etc.;
- SMEs should also be informed about those aspects of the OECD Guidelines for Multinational Enterprises that are also relevant to them ⁽¹⁾;
- Information should accommodate the needs of all those involved in internationalisation: importers, exporters, investors and subcontractors, taking account of the specificities of different sectors.

4.3 The EESC regrets there are no measures to support e-commerce, which could become an important area in SME internationalisation. This requires EU targets for broadband internet to be met, especially those concerning coverage of rural and remote areas, which would facilitate SME access to the information needed for internationalisation.

4.4 The EESC appreciates the helpful contribution made by the Enterprise Europe Network (EEN) to developing contacts and trade relations between EU firms in some countries. Even so, the site's potential could be much better harnessed, as is testified, for example, by the fact that most of Europe's SMEs appear to have scant awareness of its existence. The services offered by the EEN should be grounded as much as possible in real SME demands and needs. In many regions, SME umbrella organisations are not part of the EEN. The EESC stresses the need, therefore, to restructure EEN governance and calls for business support organisations most closely involved with SMEs to participate in managing the network.

4.5 European support to help SMEs enter third-country markets should also include a variety of support to help them enter the single market, along with the dismantling of barriers that continue to impede full exploitation of the opportunities afforded by the single market as laid down in the Single Market Act. It is common for SMEs to first trade internationally within the single market and then branch out into third-country markets.

4.6 It is clear from all the research and studies that SMEs have limited knowledge of the support and programmes available. The language used by EU and national institutions should be simple, understandable and tailored to what SMEs

⁽¹⁾ OECD Guidelines for Multinational Enterprises, 2000.

are about. The EESC recommends drawing up a clear, succinct guide through the labyrinth of support options, improving the dissemination of information about current support from the European institutions, and involving – in particular – organisations representing SME interests (such as chambers of commerce and sector and SME associations) in transmitting information and raising awareness about support and giving them the required financial support to provide the necessary advisory services.

4.7 In the light of the Commission's Action Plan⁽¹²⁾, the EESC would welcome improved SME access to finance, which is vital for their survival, growth and potential internationalisation, especially in the EU's current economic and financial crisis. The EESC calls on the Commission to create new support funding instruments for SME internationalisation, such as export credit guarantees, insurance for international operations and, perhaps, easy provision of loans via guaranteed credit cards⁽¹³⁾.

4.8 New regionally focused programmes should be built on identical financial and administrative conditions, unlike current programmes such as East Invest and Al Invest. The Committee calls on the Commission to review the current rules under which only partner-country SMEs can draw on support for taking part in programme actions. They should also facilitate SMEs from Member States participating in their implementation by extending support to cover initial costs of taking part in activities.

4.9 The Committee welcomes the Commission's endeavour to enable SMEs from Member States that do not have their representations in key third-country markets to access support and information provided by other EU Member States. It points out, however, that configuring such cooperation will be no easy matter. It will have to be clarified whether services subsidised from a country's public purse can be used by SMEs from other Member States.

4.10 This hurdle could be surmounted by the gradual establishment in key partner countries of European SME support centres for mutual trade. SME umbrella organisations should be directly involved in decisions about the nature and form of their activities. The EESC therefore recommends that organisations representing SMEs at both national and EU level be given the necessary funding for raising their profile.

⁽¹²⁾ An action plan to improve access to finance for SMEs, COM(2011) 870 final.

⁽¹³⁾ See the Széchenyi Card in Hungary, which is guaranteed by the state and enables SMEs to get loans without collateral: www.iapmei.pt/conferencia/1_Laslo_Krisan.ppt.

4.11 The EESC calls for an annual forum to be set up to evaluate SME internationalisation. Participation should be open to organised civil society (employers, trade unions, consumers, chambers and professional associations, SME associations, etc.), including the EESC and organisations such as EUROCH-AMBRES, UEAPME, Business Europe, ETUC and possibly European sector associations in those branches that are most important for internationalisation. Acting as a permanent coordination platform, the forum should also keep track of how the considerable resources allocated to various programmes and support are used and monitor their effectiveness on the basis of clear criteria.

4.12 The EESC proposes that a European prize for the best SME exporter be instituted and awarded annually at, for example, the forum's assembly.

4.13 The European Enterprise Award and the European Entrepreneurial Region prize awarded by the Committee of the Regions could be better used to promote internationalisation achievements by public bodies.

The annual SME weeks should include support for internationalisation and the exchange of best practice in this area between Member States.

The EESC calls for the creation and maintenance of an online database of the best internationalisation practices of European chambers of commerce, SME umbrella associations, and sector organisations and its targeted dissemination via SME umbrella organisations.

4.14 The EESC recommends revisiting the tried and tested EU initiatives that many candidate-country SMEs benefited from in the past for their internationalisation, such as Europartenariat or Interprise.

4.15 As far as the territorial scope of SME internationalisation is concerned, the EESC agrees with the focus on the BRIC countries, which are recording high economic growth, but recommends that attention also be extended to other prospective markets, such as the Gulf states and South-East Asia. The Committee also recommends establishing sector priorities that SME internationalisation should focus on.

4.16 The EESC recommends far greater involvement of SME Envoys in the countries where they operate in the internationalisation of SMEs, which should be made one of the key priorities of national policies to support SMEs.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on European Social Entrepreneurship Funds'

COM(2011) 862 final — 2011/0418 (COD)

(2012/C 229/10)

Rapporteur: **Ariane RODERT**

The Council and the European Parliament decided, on 20 January and 17 January 2012 respectively, to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union (TFEU), on the

Proposal for a Regulation of the European Parliament and of the Council on European Social Entrepreneurship Funds

COM(2011) 862 final — 2011/0418 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 17 April 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 194 votes to 1 with 9 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the European Commission's proposal for a Regulation on European Social Entrepreneurship Funds to regulate the development of such funds by creating clarity and certainty for all parties concerned while facilitating cross-border raising of capital.

1.2 Social enterprise is a growing sector which makes a significant contribution to achieving the Europe 2020 goals. The EESC welcomes the Commission's interest in this sector and its willingness to support its development and growth.

1.3 Improving access to appropriate capital for social enterprise is a top priority, but the EESC would stress that this initiative should be seen as just one of many much-needed tailored financial instruments that still need to be developed.

1.4 The EESC urges the Commission to continue to use the definition of social enterprise set out in the Social Business Initiative, rather than coining a new definition. Specifically, the different approach in the Regulation to authorising the distribution of profits to owners should be fine-tuned and clarified in order to highlight the specific features of social enterprise in comparison with companies that focus strictly on maximising profit, as well as the fund's approach relative to other, more traditional, venture capital funds.

1.5 In the EESC's opinion, there is a risk that some of the proposed equity instruments may have a limited impact on investment in social enterprise, as the structure of the proposed investment instruments assume a type of ownership

that, in many cases, is incompatible with the legal forms within which many social enterprises operate. As regards these legal forms, the most worthwhile instruments for further development are the proposed long-term loans and the scope for 'any other type of participation'.

1.6 Other features of social enterprise also need to be taken into consideration. For example, attention should be paid to the divestment of holdings in relation to operations involving work with vulnerable groups, the impact on social enterprises' estimation of their independence, their specific governance models, the need for long-term rather than short-term investment, and their lower financial returns.

1.7 To improve the impact of these types of funds on social enterprise, they might usefully be seen as one element of a hybrid capital solution, which is the most appropriate form of financing for social enterprise. Hybrid capital combines grants with long-term, 'patient' loans and other instruments whose durability and long-term nature are underwritten by public ownership or guarantees. Combination with other forms of private capital such as grants and donations should also be considered, along with more appropriate forms of ownership in 'portfolio undertakings' (the term used in the Regulation for the entities invested in, i.e. the social enterprises), such as non-voting shares.

1.8 The Regulation proposes that the new funds should primarily be targeted at professional investors and high net worth individuals, with a minimum investment of EUR 100 000. The EESC would however stress that such funds should eventually, under secure conditions, be opened up to the general public and to smaller investments.

1.9 The greatest challenge in this proposal is the need to measure and report on the social effects and impact on society of portfolio undertakings. The EESC recommends taking a joint study and work at EU level as a starting point, and developing criteria and indicators at national level in accordance with the form, approach and objectives of the relevant activities in cooperation with all stakeholders.

1.10 The Commission's power to adopt delegated acts to define key terms should be exercised as soon as possible based on broad and open consultation with representatives of stakeholders, i.e. collective investment undertakings, investors and social enterprises.

1.11 Investment readiness programmes and other forms of capacity-building for all parties should be set up in order to build trust and joint structures specifically tailored to such social entrepreneurship funds.

2. Introduction

2.1 Under the Single Market Act ⁽¹⁾, the Commission is committed to taking a number of measures to support the development and growth of social enterprise in Europe. The proposal for a European legal framework for social entrepreneurship funds is one of those measures, and it is also highlighted as a key action in the Social Business Initiative ⁽²⁾.

2.2 Social enterprise is an emerging sector in the EU, and estimates suggest that social investments could grow rapidly to become a market well in excess of EUR 100 billion ⁽³⁾, underlining the potential of this emerging sector. Ensuring that the sector continues to grow would be a valuable contribution to meeting the goals of the Europe 2020 strategy. However, regulatory requirements at the EU and national levels are not designed to facilitate the raising of capital for these kinds of undertakings, as the EESC explicitly pointed out in its exploratory opinion on social entrepreneurship and social enterprise (INT/589) ⁽⁴⁾.

2.3 The aim of the proposal for a Regulation on European Social Entrepreneurship Funds (hereinafter 'the Regulation') is to establish uniform rules and requirements for collective investment undertakings that wish to use the designation 'European Social Entrepreneurship Fund'. The Regulation sets out rules for these funds, with the aim of building trust, certainty and confidence among investors and supporting the growth of social enterprise by improving the effectiveness of

fundraising from private investors. The proposal underwent public consultation and an impact assessment in 2011.

2.4 This opinion identifies priorities and recommends clarifications that need to be taken into account if the proposal on European Social Entrepreneurship Funds is to achieve the intended result.

3. EESC comments on the proposal for a Regulation

3.1 Chapter I - Subject matter, scope and definitions

3.1.1 The EESC welcomes the Commission's intention to support and raise awareness of social enterprise in Europe, and is pleased that access to capital for growth and development is regarded as a priority area. In the Committee's view, the proposal for a Regulation could make it easier for some parts of the social enterprise sector to raise private capital. It is a much-needed initiative, alongside other proposals in the Social Business Initiative that also refer to the need for other funding solutions.

3.1.2 Capital is fundamental to the growth of social enterprise, but some of the capital described in the Regulation is, by its nature, particularly difficult to make accessible to social enterprise, particularly within the social economy. The Regulation should therefore be seen as just one of a number of measures that need to be taken to improve access to development capital for social enterprise.

3.1.3 Of the investment instruments referred to in the Regulation (Article 3(1)(c)), the emphasis should be on loan instruments such as low-interest loans, or 'patient capital', as the equity instruments can be harder for certain stakeholders to access. Many social enterprises in Europe are owned by their members, partners, foundations or non-profit organisations, which in many cases makes external ownership difficult. Other, more appropriate, forms of ownership that already exist in some Member States – such as special shares without voting rights freely transferable and various types of debt instrument – should be regarded as securities and other financial assets in social enterprise. Tax incentives should also be examined more closely as one element of the revenue model.

3.1.4 The investment instruments referred to in the Regulation (Article 3(1)(c)(vi)) should place greater emphasis on the instruments commonly used by social enterprises, which are more appropriate to their characteristics, such as the equity securities, special initiatives within the financial sector (cooperative banks ⁽⁵⁾, ethical and social banks ⁽⁶⁾ and commercial banks with social programmes ⁽⁷⁾), innovative

⁽¹⁾ COM(2011) 206 final.

⁽²⁾ COM(2011) 682 final.

⁽³⁾ See J. P. Morgan, *Impact Investments: An Emerging Asset Class*, 2011.

⁽⁴⁾ OJ C 24, 28.1.2012, p. 1.

⁽⁵⁾ www.eurocoopbanks.coop.

⁽⁶⁾ www.triodos.be.

⁽⁷⁾ www.bancaprossima.com, <https://www.unicredit.it/it/chisiamo/per-le-imprese/per-il-non-profit/universo-non-profit.html> and www.ubibanca.com/page/ubi-comunita.

instruments such as 'social impact bonds' ⁽⁸⁾, and favourable tax-funded solutions. These and other financial assets may form part of the 'hybrid capital', more typically used by social enterprises.

3.1.5 Public participation in these funds, for example using 'fund of funds' approaches or pension funds, should be promoted as a way of ensuring that the investments have a long-term perspective. The EESC would, however, stress that it is important not to combine public commitments with Structural Funds resources that have different political aims.

3.1.6 The definition of 'qualifying portfolio undertaking', as the Regulation calls social enterprises, sets an annual turnover limit of EUR 50 million (Article 3(d)). The Commission should consider removing this ceiling, as it is liable to discourage expansion. Such a ceiling would also exclude certain branches of social enterprise such as health and care, and social housing.

3.1.7 The EESC considers it essential that the definition of social entrepreneurship and social enterprise should be consistent with the definition in the Social Business Initiative. The Regulation proposes a somewhat modified definition for a 'qualifying social portfolio undertaking' (Article 3(1)(d)): the difference is, among other things, the description of its activities (Article 3(1)(d)(i)). The EESC believes that the mission of the organisation serves better, as social enterprise is a complex sector with a variety of activities.

3.1.8 With regard to profits (Article 3(1)(d)(ii)), the EESC refers to its opinion INT/589, which clearly states that social enterprise is 'primarily not-for-profit, with surpluses principally being reinvested and not being distributed to private shareholders or owners'. The statement in the Regulation that profits are permitted and may be distributed to shareholders and owners needs to be clarified by further specifying that the profit must be used to achieve the enterprise's primary social goal and that, in the very rare cases where exceptions to this may be granted, rules must be laid down to ensure that the social goal is not jeopardised. This approach, and the associated rules, should be clarified in the Regulation, in particular to differentiate it from the parallel process relating to the Regulation on venture capital funds, which targets small and medium-sized enterprises ⁽⁹⁾.

3.1.9 The types of services or goods, the methods of production of services or goods, and the target groups of activities with a social objective (Article 3(1)(d)(i) and Article 3(2)) must be defined in consultation with a working group representing social enterprise. It is important for this working group to reflect the diversity of social enterprise in Europe.

3.1.10 A fourth requirement should be applicable to 'qualifying portfolio undertakings'. In the case of dissolution of the social enterprise, the majority of its net assets (for example a minimum of 60-70 %) cannot be distributed amongst partners, shareholders, owners or workers but must be used for social impact objectives.

3.1.11 The Regulation will initially be addressed to professional investors and 'high net worth individuals'. This should also include specialist investors from the public and not-for-profit sectors, such as cooperative banks and socially oriented financial institutions. However, the EESC recommends that the Commission establish, as soon as possible, a timetable for opening the fund up to the general public, as participation of this kind is also of considerable public interest.

3.2 Chapter II – Conditions for the use of the designation 'European Social Entrepreneurship Fund'

3.2.1 In the EESC's view, the proportion of qualifying portfolio undertakings in a fund – which must account for at least 70 % of a fund's assets – is suitable as a first step. However, it is also advisable to regulate what assets are not permitted in the remaining 30 % of the fund's assets, to further highlight the fund's focus on social enterprise. An assessment of whether the acquisition of assets other than qualifying investments is appropriate should always be required (Article 5(1)). Solid, sustainable investments such as government bonds should be encouraged, in order to stabilise the fund. For the same reason, the definition of 'cash equivalents' should be clarified.

3.2.2 There are a number of similarities between the proposal for a Regulation on European Social Entrepreneurship Funds and the UCITS Directive ⁽¹⁰⁾. These similarities and differences should be clarified, particularly with regard to the definition of professional clients (Article 6), the activities of managers (Article 7) and the application of the funds (Article 8). As social enterprises are often small and locally based, it is important to make it easier for smaller funds too to operate in this market. In the longer term, therefore, the minimum investment threshold of EUR 100 000 should be reconsidered (Article 6(a)).

3.2.3 It is important to be able to rapidly identify, prevent, manage, monitor and disclose any conflicts of interest, and measures to avoid conflicts of interest must be in place before the Regulation enters into force. It is important for the Commission to clarify, at this early stage, what steps it has in mind (Article 8(5)), and also to make it clear what rules apply if conflicts of interest arise between portfolio undertakings and investors and/or fund managers (Article 8(2)).

⁽⁸⁾ www.socialfinance.org.uk/sib.

⁽⁹⁾ COM (2011) 860/2 final.

⁽¹⁰⁾ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009.

3.2.4 The Regulation on Social Entrepreneurship Funds is wholly dependent on the ability to quantify social effects and impact on society, which is very difficult. There is currently no one unambiguous method that can readily be applied to the environment in which European Social Entrepreneurship Funds operate. It is important to measure the social impact (in both qualitative and quantitative terms) of activities rather than of the undertakings in the portfolio. Instead of trying to find *a single* uniform method for monitoring and assessing social impact, it would be more helpful to develop an EU framework with criteria and measurable indicators framed at national level. The Commission should clarify, at this stage already, what its intentions are in relation to measuring social effects and impact on society, by launching a study of different measurement methods and experiences in cooperation with social enterprises, researchers and capital providers.

3.2.5 One of the key foundations of social enterprise is independence. The procedures to be put in place by fund managers – which under the Regulation are to include ‘measuring and monitoring ... positive social impacts’ – should therefore be defined more clearly, i.e. as their obligation to report to investors on the social impact in order to ensure that holdings really are in social activities (Article 9(1) and (2)). The lack of clarity here fosters misunderstandings about the role of fund managers, and therefore must be rectified. It is both inappropriate and unrealistic to require fund managers to measure and monitor the social impact, partly because it would reduce the independence of social enterprises and partly because of the lack of appropriate and effective measuring and monitoring methods.

3.2.6 The measurement issue is also reflected in the rules concerning the annual report and the method used to measure social outcomes (Article 12(2)(a)). It must be made clear how this reporting relates to the technical measurement specifications that the Commission intends to produce.

3.2.7 The annual report also provides an opportunity for fund managers to make divestments in relation to portfolio undertakings (Article 12(2)(b)). The Regulation needs to make it clear what rules apply to divestments of assets in qualifying portfolio undertakings. Assets of a social enterprise working with vulnerable target groups cannot be divested in the same way as holdings in commercial undertakings, due to the delicate nature of the work. Investors and fund managers must be made aware of the special nature – and thus sensitivity – of these activities and adjust their behaviour accordingly. The Commission should also indicate how account is to be taken of the secondary market created by such divestments. Many social enterprises depend on long-term, reliable investments to be able to develop their activities.

3.2.8 It is important to clarify how the measurement methods the Commission is intending to develop relate to the method that fund managers are supposed to use for reporting

and the basis for the information they send to investors (Article 13(1)(c) and (d)). It is also important to give a definition of assets other than qualifying portfolio undertakings and to describe the criteria used for selecting these assets. The Regulation should include rules defining non-qualifying assets and investments for this part of the fund as well (Article 13(1)(e)). With regard to a fund’s valuation procedure and pricing methodology (Article 13(1)(g)), the EESC believes that a model needs to be developed that is specifically tailored to the forms and activities of social enterprises.

3.3 Chapter III – Supervision and administrative cooperation

3.3.1 Rules on administrative measures and sanctions applicable to breaches of the provisions of the Regulation must be uniform across the EU, and such rules should therefore be framed at Community level, and not left up to the Member States (Article 20(2)). These rules must be effective, proportional and dissuasive. Measures thus need to be found in addition to a simple ban on using the designation ‘European Social Entrepreneurship Fund’, as the initiative also aims to create trust, and therefore to minimise abuse. Protective mechanisms need to be established for portfolio undertakings within funds, so that they can continue their activities if sanctions are imposed on the fund manager.

3.4 Chapter IV – Transitional and final provisions

3.4.1 The Regulation states in several places that delegated powers are conferred on the Commission for a period of four years after the Regulation enters into force in 2013. The majority of these powers are key to the design of the funds, such as the area of activity (goods, services and production methods), any distribution of profits and conflicts of interest. All stakeholders – i.e. collective investment undertakings, investors and social enterprises – must be involved in the process of defining these delegated acts. The stakeholder group referred to in the Social Business Initiative could play a key role here.

4. Other comments

4.1 It is important for the impact of this Regulation to be monitored on an ongoing basis to ensure that the main target groups of social enterprise (which is often the social economy), do actually have greater access to appropriate capital. The EESC will draw attention to this on an annual basis as part of its ongoing work on social enterprise and the social economy.

4.2 As social funds in a broader sense (private or public) are an unfamiliar and relatively limited concept in most Member States, a strategy needs to be developed to raise their profile. Many countries in Europe do not have any such funds, and in

countries where they do exist there is little public awareness of them. The Commission has a key role to play in gathering and disseminating these innovative and effective tools for generating and developing growth in social enterprise in Europe.

4.3 There is also a real need to provide support and programmes for investment readiness and capacity-building (in terms of structures and understanding) targeted at all parties involved – investors, fund managers and portfolio undertakings – at both EU and Member State level. The ‘intermediaries’ already in place in a number of Member States have a key role to play here, and should be encouraged. It is also worth

mentioning that investments in social enterprise have been identified as low risk in a number of contexts ⁽¹¹⁾, which should be highlighted in these programmes.

4.4 The Regulation talks improperly very often of ‘shareholders’ of social enterprises, implying therefore that the publicly incorporated company by shares is the most usual social enterprise. This is not true and can be misleading. The right thing is to use the term ‘member’ or ‘partners’ of social enterprises, consisting mainly of cooperatives, associations, foundations and limited liability companies (which have no shares but social participations and members).

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹¹⁾ Bank of Italy, 2011, notes a default rate for non-profit institutions of 4.3%, well below the average default rate for all sectors (5.4%), for non-financial firms (7.9%) and for micro-enterprises (10.3%). In addition, Cooperative Banks (BCC) showed a default rate for non-profit institutions of only 0.6% (source: Federcasse, Italian National Association of Cooperative Banks).

Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the Council on a Supplementary Research Programme for the ITER project (2014-2018)'

COM(2011) 931 final — 2011/0460 (NLE)

(2012/C 229/11)

Rapporteur: **Mr WOLF**

On 3 February 2012, the Council decided to consult the European Economic and Social Committee, under Article 7 of the Euratom Treaty, on the

Proposal for a Decision of the Council on a Supplementary Research Programme for the ITER project (2014-2018)

COM(2011) 931 final — 2011/0460 (NLE).

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 8 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 183 votes to seven with nine abstentions.

1. Summary and recommendations

1.1 The Committee repeats its urgent call to invest more in R&D of technologies with the potential for long-term provision of sufficient, sustainable and climate-friendly energy in order to bring about the ambitious adjustment of our energy system that is needed. This includes efforts to develop and exploit fusion energy. Energy is the lifeblood of our present-day civilisation and culture.

1.2 As a major international project based in EU territory, ITER is the decisive, globally unique step forward needed to exploit fusion energy in the future. ITER is therefore an important element of energy research and of the SET-Plan. The Committee reiterates the importance of this project – not just for future energy provision, but also for the competitiveness of European industry in developing the most ambitious new technologies.

1.3 The Committee therefore strongly opposes the Commission's proposal to deviate from previous practice and remove European commitments in constructing ITER from the Multi-annual Financial Framework (MFF), which would retain only the research activity related to ITER. Doing so would not only compromise the project, but also throw into question the reliability of the EU as an international partner. Instead, construction of ITER should be included as a part/project of the EU's Euratom Programme for research, technological development and demonstration activities during the period 2014-2018 – albeit one that is independent and separate from other parts of the programme – and included within the MFF.

1.4 Given that the Commission regrettably did not build ITER into the MFF as a matter of course, the Committee recommends that a way be sought, together with the Council, the Parliament and the EIB, to enable this retroactively without significantly compromising the programme's other elements, particularly those related to energy research.

1.5 In order to achieve this, the Committee recommends drawing on surplus funds from the MFF that would otherwise be returned to the Member States, which is apparently already the approach taken to funding ITER for the period 2012-2013.

1.6 The Committee agrees with initiatives in the European Parliament, according to which surplus MFF funds should not, as a rule, be taken out of the MFF, but rather channelled towards Community programmes as proposed here for ITER specifically.

1.7 Only if these measures prove insufficient or impossible should the existing items in the MFF be cut by no more than around 0.3 % each.

1.8 Strong project leadership, sufficient technical and administrative decision-making power and a streamlined project structure are all now needed to stay on schedule and within budget.

1.9 As far as the period beyond 2018 is concerned, the Committee supports the Commission's well warranted interest in creating a stable planning and legal framework soon for inner-European and especially international planning security.

2. Gist of the Commission proposal and its rationale

2.1 The aim of the Commission's proposal is to determine the funding arrangements for the EU contribution to the ITER project for the period 2014-2018 by way of a **Supplementary Research Programme** in accordance with the Euratom Treaty. The Supplementary Research Programme is to be specially funded separately from the MFF by the Member States (as well as some 'associated third countries'). This funding is to amount to EUR 2.6 billion, or some 0.26 % of the MFF (however, see also points 4.7 and 4.7.1).

2.2 The main purpose of the international ITER project is to build and operate an experimental fusion reactor as a major and decisive step towards demonstrating fusion as a sustainable source of energy. The research programme for ITER has the declared objective of ‘contributing to the long-term decarbonisation of the energy system in a safe, efficient and secure way. The Programme will contribute to the Europe 2020 strategy and to the “Innovation Union” flagship’.

2.3 ITER is part of the Strategic Energy Technology (SET) Plan and will contribute to the Europe 2020 strategy, as the involvement of the European high tech industry should provide the EU with a global competitive advantage in this extremely important and promising sector.

2.4 The ITER project is being carried out under the terms of the international Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (the ‘ITER Agreement’) ⁽¹⁾ between the European Atomic Energy Community (‘Euratom’) and six other Parties: China, India, Japan, Korea, Russia, and the USA.

2.5 The EU contribution to the ITER project is managed through the European Joint Undertaking for ITER and the Development of Fusion Energy (‘Fusion for Energy’), established by Council Decision on 27 March 2007 ⁽²⁾.

2.6 Construction costs for ITER will exceed original estimates ⁽³⁾, which is why additional funds are needed (see point 2.1). In the Commission’s view, this means that the money would have to come from either redeploying funds that had already been earmarked for other priorities or ignoring the limits agreed for the Multi-annual Financial Framework (MFF).

2.7 A different approach is needed, one that provides long-term certainty for this challenging project. For this reason, in its communication of 29 June 2011 on *A Budget for Europe 2020* ⁽⁴⁾, the Commission proposed that the EU contribution to the ITER project be funded outside the MFF after 2013.

2.8 The Euratom Treaty limits the duration of Research Programmes to a maximum of five years. According to the ITER Agreement, the ITER project will have an initial duration of 35 years (i.e. until 2041). Therefore, subsequent Council decisions will be needed to sustain the EU’s financial contribution to this project.

3. Committee remarks on the current situation

3.1 Based on its earlier remarks ⁽⁵⁾ on the importance of nuclear fusion for the low-carbon energy provision of the future, the Committee shares the Commission’s view that ITER ⁽⁶⁾ is the decisive, globally unique step forward needed

to exploit fusion energy in the future. Fusion energy is the only known alternative in the toolbox of technologies not yet available or at least in the testing stages that has the potential to meet the massive challenge of providing sustainable, sufficient and secure energy without adversely affecting the climate. ITER is a key element of energy research and thus also of the Strategic Energy Technology (SET) Plan.

3.2 The JET (Joint European Torus) ⁽⁷⁾ fusion experiment, a global leader at the time in terms of its features and results, already exceeded the possibilities or willingness of individual Member States to carry out and finance the project at national level due to its considerable cost; as a result, a model and testing ground were created for successful common European action within the scope of the Euratom Treaty. Since its creation, JET has been a cornerstone of the European fusion programme.

3.3 Based on the worldwide insights of fusion research and the results of JET in particular, the ITER project substantially exceeds even JET in terms of its scientific and technical ambition, size and cost. Therefore, the idea of international cooperation beyond the EU suggested itself at an early stage. It followed an initiative from Reagan, Gorbachev and Mitterrand that eventually gave rise to the international ITER project. ITER is meant to produce thermal fusion power of 500 megawatts with a net power gain.

3.4 On 26 November 2006, the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project was signed by representatives of the seven parties: the European Atomic Energy Community (Euratom), the People’s Republic of China, the Republic of India, Japan, the Republic of Korea, the Russian Federation and the United States of America. The Commission not only signed on behalf of the EU, it also coordinated both the wider programme within the scope of the European Joint Undertaking for ITER, and the existing fusion programme.

3.5 The decision to locate ITER in the EU (Cadarache in the south of France), taken at the same time, made it possible to base one of the most important research projects within Europe and to enjoy the benefits of attracting top researchers and engineers and the knock-on effects for the most ambitious industry sectors. Following complex preparatory work – never before had a scientific and technical joint initiative of this nature involved so many and such different international partners – it turned out that the original budget, including the share to be contributed via the Euratom Programme, had to be revised upwards for various reasons ⁽⁸⁾. The Committee understands that the Commission was already aware of this situation before the Multi-annual Financial Framework (MFF) was drawn up.

⁽¹⁾ OJ L 358 16.12.2006.

⁽²⁾ OJ L 90, 30.3.2007.

⁽³⁾ OJ C181, 21.06.2012, p. 111, point 5.5.3.

⁽⁴⁾ COM(2011) 500 final, 29.6.2011.

⁽⁵⁾ e.g. OJ C 302, 7.12.2004, p. 27; OJ C 21, 21.1.2011, p. 49; OJ C 218, 23.7.2011, p. 87, OJ C181, 21.06.2012, p. 111.

⁽⁶⁾ See also <http://www.iter.org/>.

⁽⁷⁾ See also www.jet.efda.org.

⁽⁸⁾ OJ C181, 21.06.2012, p. 111, point 5.5.3.

4. Committee remarks on aspects to consider and recommendations

4.1 The Committee generally supports the Commission's intention to boost the R&D budget available for energy research – in this case, available for ITER via Euratom. The Committee already noted in its opinion on the SET Plan⁽⁹⁾ that 'despite the still growing world population with its energy hunger and massive catch-up needs, the finite stocks of fossil primary energy sources and Europe's growing import dependency, clearly the seriousness of the energy and climate problem and the necessary investments are still seriously underestimated by many politicians and other players.' The Committee repeated this warning in its opinion on Horizon 2020 and accordingly recommended that a larger share of the MFF go to energy research⁽¹⁰⁾.

4.1.1 That is why the Committee supports⁽¹¹⁾ the Commission's – unfortunately, not yet successful – efforts to expand the Multi-annual Financial Framework (MFF) to more actively address this and other important Community tasks. However, the Committee believes that the Commission should not try to achieve this through the back door, as it were, by creating an ad hoc, additional research programme outside the MFF in deviation from previous practice, in order to finance the European contribution to building ITER. Instead, ITER should be included as a part – albeit a standalone one – of the EU's Euratom Programme for research, technological development and demonstration activities also during the period 2014–2018 and included within the MFF.

4.2 This is not the only argument against failing to include Europe's commitments in building ITER within the MFF. The Committee is also unable to follow the Commission's arguments in point 2.6. When, with full knowledge of the facts, the Commission deliberately proposes an MFF that excludes the cost of building ITER, it has only itself to blame for creating a situation that, by its own admission, makes it difficult to incorporate these costs within the MFF.

4.3 There are also, however, powerful substantive arguments against excluding ITER from the MFF.

4.3.1 On the one hand, they concern the subsidiarity principle and the question of added value for Europe. What is under discussion here, however, is exactly the sort of scheme that exceeds the capabilities of individual Member States: large-scale scientific and technical infrastructure or projects like Galileo and ITER, which constitute a prototype for joint Community projects within the scope of the MFF, leaving no doubt about their added value for Europe. The RTD Framework Programme was created within the MFF for precisely this purpose.

4.3.2 On the other hand, they concern the impression made on international partners. Given that this partnership also has political significance, the Committee believes that the Commission's proposal sends the wrong signal and will undermine faith in the EU as a partner in international agreements. This not only concerns the fusion programme, but also efforts to forge additional international partnerships or binding agreements on security, energy or climate policy, for example.

4.3.3 They also have to do with another, more general consideration already addressed by the Committee in its opinion⁽¹²⁾ on Horizon 2020: the explicit move towards offloading existing research and innovation support tasks and activities onto agencies, with the Commission restricting itself to dealing with legal matters and financial administration. The Committee has strong reservations about this. For not only does this mean that the Commission abandons its role as provider of expert supervision and reservoir of judgement (including the experts needed for this), it also fails to adequately engage with and identify the actual content and objectives. This engagement is essential, however, to successfully representing the key area of research, development and innovation at policy level with the requisite expertise and commitment. Without it, an important lever of control will be lost in the fragile system of checks and balances, a crucial weight on the policy scale.

4.4 Given that, as already noted, the Committee fully supports the Commission's desire for a stronger MFF on the one hand, but believes that ITER should be financed through, and structurally anchored within, the MFF on the other, it recommends, together with the Council, the Parliament and the EIB, that ways be sought to enable this retroactively without significantly compromising the programme's other elements, particularly those related to energy research.

4.5 In order to achieve this, the Committee recommends that suitable procedures be developed to ensure that the entirety of the budget approved for the MFF actually be available for Community initiatives, and not diminished by the flow of unused funds back to Member States. This recommendation corresponds to an initiative in the European Parliament of 5 July 2010⁽¹³⁾.

4.6 In light of the questions posed therein, the Committee recommends drawing on these surplus funds to plug the gap in funding for ITER (as it seems has already happened for 2012/2013⁽¹⁴⁾). To the extent that this necessitates additional formal or legal measures, the Committee recommends that the issue be discussed with the EIB and then negotiated with the responsible bodies.

⁽¹²⁾ OJ C181, 21.06.2012, p. 111, point 3.12.1.

⁽¹³⁾ A7 – 0254 (2011): European Parliament resolution of 5 July 2011 on Council's position on Draft amending budget No 3/2011 of the European Union for the financial year 2011, Section III – Commission (11630/2011 – C7-0166/2011 – 2011/2075(BUD)).

⁽¹⁴⁾ Council of the European Union (Competition Council), 19.12.2011, Document no. 18807/11, Press: 508.

⁽⁹⁾ OJ C 21, 21.1.2011, p. 49, point 3.1.1.

⁽¹⁰⁾ OJ C181, 21.06.2012, p. 111, point 4.2.1.

⁽¹¹⁾ OJ C 143, 22.5.2012, point 6.

4.7 Only in the event that the solution advocated in point 4.6 proves inadequate or impossible does the Committee recommend that the funds in question, including an appropriate 'contingency' amount (see point 4.7.1), be raised through minor (if a contingency of around 10 % is included, this amounts to a maximum of around 0.3 % rather than 0.26 % each) cuts to all other items in the MFF.

4.7.1 Thus, the Committee urgently recommends that experience with large-scale projects of this nature, that venture into new technological territory, be better taken into account by creating an appropriate 'contingency' of e.g. 10 %; if need be, the Commission's rules should be amended to allow this. This would increase the 0.26 % mentioned in point 2.1 to around 0.3 %. The budget for these contingency funds must be administered separately from the project management, and should only be released according to strict criteria so that they do not simply become part of the overall budget and lose their purpose.

4.7.2 In point 4.1.1, the Committee recommends that construction of the European share of ITER be made a separate part/project of the fusion programme, uncoupled from other parts of the programme. In order to stay on schedule and within the budget of the European share of ITER, strong project leadership, sufficient technical and administrative decision-making power and a streamlined project structure are all now required. The Committee recommends that the Commission follow examples like CERN, ESA or ESO.

4.8 As far as the years beyond the period addressed here (2014-2018) are concerned, the Committee supports the Commission's well warranted interest in creating a stable framework and a secure, long-term basis for the entire duration of the international ITER project – only, the Committee believes that this should be done within the MFF. Doing so ought to provide planning security for inner-European and international projects and show international partners that they can rely on the EU.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings of collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Fund Managers in respect of the excessive reliance on credit ratings’

COM(2011) 746 final — 2011/0360 (COD)

(2012/C 229/12)

Rapporteur: **Jörg Freiherr FRANK VON FÜRSTENWERTH**

On 9 February 2012 the Council decided to consult the European Economic and Social Committee, under Article 53(1) of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings of collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Funds Managers in respect of the excessive reliance on credit ratings

COM(2011) 746 final — 2011/0360 (COD)

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion with 130 votes in favour and four abstentions.

1. Conclusions and recommendations

1.1 This opinion follows on from the EESC's work on the regulation of rating agencies as part of efforts to address the crises of the last few years ⁽¹⁾. The Committee has very recently welcomed the Commission's efforts, through the development of new legal instruments, to rectify major shortcomings in the domains of transparency, independence, conflict of interest, and the quality of procedures and rating methods ⁽²⁾. At the same time, it expressed disappointment that the response to the inadequate regulation of rating agencies has been so tardy and has not gone far enough.

1.2 The proposed directive formally amends the UCITS (Undertakings for Collective Investment in Transferable Securities) Directive and the AIF (Alternative Investment Funds) Directive. The main thrust of the regulation concerns changes to risk management, which are to limit or prevent external ratings being taken on automatically as a matter of course, without being checked. These rules are to be accompanied by a change to the CRA (credit rating agencies) Regulation, on which the EESC has already issued an opinion ⁽³⁾. The content of the two legislative proposals is closely related.

1.3 The Committee welcomes the fact that the proposal tackles the problem of market participants' over-reliance on ratings for UCITS and AIF and attempts to prevent a herd

mentality being triggered amongst financial players by inadequate ratings. These efforts must include the whole body of EU law, national laws and private-law contracts.

1.4 The Committee deems the regulation's approach to specifying provisions for the risk management of UCITS and AIF to be the right one. It points out the problems that small financial institutes could have in building up their own capabilities for risk analysis. It therefore suggests that the legislative instruments – delegated acts – contain rules and regulations on cooperation on the development of external specialist knowledge in order to make small financial institutions less dependent on external rating agencies. The Committee strongly opposes calls for SMEs to be able to outsource the decision on the creditworthiness of an investment.

1.5 The Committee considers that more efforts need to be made to develop procedures and yardsticks in risk management processes, which can be used as an alternative to ratings.

1.6 It would highlight the need for a joint approach to be adopted at G 20 level. The inadequacy of regulations worldwide in this domain can only be solved if there is a minimum of consistency between national legislation on the subject.

1.7 The Committee would reiterate the scepticism it already expressed in its opinion of 12 March 2012 on rating agencies ⁽⁴⁾, to the effect that not even market participants' own risk assessment and less reliance on external rating

⁽¹⁾ See OJ C 277, 17.11.2009, p. 117 and OJ C 54, 19.2.2011, p. 37.

⁽²⁾ OJ C 181, 21.6.2012, p. 68 on the *Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1060/2009 on credit rating agencies* COM(2010) 747 final – 2011/0361 (COD).

⁽³⁾ See footnote 2.

⁽⁴⁾ See footnote 2.

agencies guarantees objectivity in the decisions made by financial market participants or the inclusion of all decisive aspects – in relation to the consequences of the assessment. Furthermore, it believes that one of the fundamental problems of risk assessment lies in the credibility (and independence) of the ratings issued by rating agencies, which have over the last few years repeatedly proven to be wrong or excessively influenced by the interests, ways of thinking and structures particular to domestic markets outside Europe or by the interests of the financial issuing bodies who finance them. Against this background, the Committee urges that it be constantly borne in mind in the further discussion of the regulation of rating agencies that up to the most recent times these agencies have repeatedly, directly or indirectly, caused long-term damage to all sectors of society. The Committee therefore regrets that efforts to set up an independent European rating agency have not yet met with success.

2. Proposal summary and context

2.1 The proposal is part of the measures for monitoring rating agencies to be taken in response to the initial banking crisis which developed into a financial, then a sovereign debt, crisis. Since 7 December 2010, the day when the CRA regulation came fully into force, rating agencies have been bound to keep to certain rules of conduct, which keep conflicts of interest in check and ensure high quality and a certain amount of transparency in ratings and the ratings process. On 11 May 2011, the CRA regulation was amended⁽⁵⁾ to give the European Securities and Markets Authority (ESMA) exclusive supervisory powers over rating agencies registered in the EU.

2.2 The CRA regulation and the May 2011 amendment thereof did not, however solve one problem that was partly responsible for the crises, namely the risk that financial market participants, especially UCITS (Undertakings for Collective Investment in Transferable Securities) and AIF (Alternative Investment Funds), rely overly and automatically on (external) ratings in their risk management systems, and in so doing undertake no risk assessments or due diligence checks of their own. Financial players can be tempted to do so on the basis of cost and simplification considerations. The danger for the public at large, however, resides in the fact that this can create a herd mentality amongst market players⁽⁶⁾. When responses are automated and guided by the same ratings, whenever an investment grade is lost it can lead precisely to a parallel selling-off of debt instruments, potentially endangering financial stability. Pro-cyclicality and 'cliff effects' (a rating downgrade of a security below a given threshold, triggering the selling-off of other securities in a chain reaction) likewise describe the risk. There have been repeated references⁽⁷⁾ to the urgent need to reduce these risks.

⁽⁵⁾ OJ L 145, 31 May 2011, p 30.

⁽⁶⁾ Cf. The Financial Cycle, Factors of Amplification and possible Implications for Financial and Monetary Authorities, Banque de France, Bulletin No 95, November 2001, p. 68.

⁽⁷⁾ COM (2010) 301 fin; European Commission consultation paper on reworking the Credit Rating Agencies (CRAs) regulation, http://ec.europa.eu/internal_market/consultations/2010/cra_en.htm; Council conclusions of 23 October 2011; Principles for Reducing Reliance on CRA Ratings.

2.3 The proposal in hand tackles the problem of market players' excessive reliance on ratings for UCITS and AIF. Other proposals deal with a solution to this same problem for credit institutions, insurance companies and investment firms in a financial conglomerate⁽⁸⁾. The provisions on risk management for UCITS and AIF are laid down in Articles 1 and 2, stipulating that companies may not rely solely or automatically on external ratings. This complements the existing supervisory rules, under which financial players have to use risk management systems which allow them at any time to monitor and measure the risk associated with their investment positions and their contribution to the overall risk profile of their portfolio. At the same time, the Commission's powers are being expanded so it can lay down criteria for assessing the suitability of risk management systems through delegated acts, also to prevent excessive reliance on external ratings.

2.4 The proposal should be seen in conjunction with the proposal presented on the same day, entitled 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation No 1060/2009 (EC) on credit rating agencies'⁽⁹⁾. In that proposal, alongside other points, additional proposals are made with a view to preventing market players relying overly on ratings, while rating agencies are obliged to make comprehensive information available to financial players. This includes information about rating methods, their underlying assumptions and types of rating. On the other hand, issuers of structured financial instruments should make more information available to the market on their products (credit quality, performance of underlying investments, securitisation structure, backed cash flows, etc.). Taken together, the aim of the amendments to the CRA regulation is to make it easier for players to make their own assessment of the credit quality of a financial instrument. Neither proposal can therefore be viewed in isolation from the other.

3. General comments

3.1 The Commission proposal deals with one particular aspect of the inadequate regulation of rating agencies, namely the impact of ratings on the action of financial market players and the consequences thereof for the markets. The proposal is the result of an analysis of the causes of the crises of the last few years. Rating agencies' actions have also contributed to this situation. They issue forecasts about creditors' payment possibilities and willingness to pay, be they private creditors or states. They have a decisive influence on world financial markets, since many financial players (UCITS, AIF, credit institutions and insurance companies) refer to ratings when making investment decisions. The Committee has in the last few years - most

⁽⁸⁾ COM(2011) 453 final.

⁽⁹⁾ COM (2011)747 final – 2011/0361 (COD).

recently in its opinion of 12 March 2012 ⁽¹⁰⁾ specifically on the subject – repeatedly highlighted shortcomings in the regulation of rating agencies, and in so doing has adopted clear stances on the matter, which are also at the root of this opinion and to which it would refer here.

3.2 Most recently, the crises of the last few years have first of all made it clear that incorrect rating assessments have a considerable and damaging effect on the broader economy, and even on whole states and society in general. They have also demonstrated, however, that markets have not been in a position to prevent excesses. There is therefore a need for strict, consistent state regulation of rating agencies. Here, in view of the global G20 context, EU-level regulation must be supported, with the aim of securing a minimum degree of consistency in the rules worldwide. It is absolutely vital ⁽¹¹⁾ that, when ratings are drawn up, a minimum standard is adhered to, whereby the principles of integrity, transparency, responsibility and good corporate management are guaranteed and remain so.

3.3 The Committee confirms that in the last few years, significant – albeit very belated – progress has been made in regulating rating agencies. If from now on, thanks to the proposal of 15 November 2011 to amend the CRA regulation ⁽¹²⁾, problem areas such as ‘rating outlooks’, ‘CRA independence’, ‘disclosure of information’, ‘sovereign ratings’, ‘comparability of credit ratings’, a ‘rotation mechanism’ for credit rating agencies, ‘civil liability’ and ‘use of external ratings’ are tackled in regulatory provisions on rating agencies, this is to be welcomed. The EESC has adopted a stance on this ⁽¹³⁾ and given concrete pointers. It is disappointing, however, that the problems of the market dominance of the major rating agencies and alternative payment models have not been sufficiently discussed.

3.4 The proposal now addresses, through accompanying measures, for UCITS and AIF also, the problem of automatic, unthinking acceptance of external ratings which can – as pointed out in the proposal – lead to a herd mentality developing amongst financial players or – as described in the EESC opinion ⁽¹⁴⁾ – generate a self-fulfilling prophecy. On this point, there is an overlap between this proposal and the amendments to the CRA regulation, proposed on the same day. This twin-track approach is logically consistent. Amongst financial market players, for whom these (external) ratings are intended, use of the automatic approach is to be prevented or in any case limited; in measures for regulating rating agencies, steps should be taken to ensure they are as transparent as necessary and provide the required information to market participants.

3.5 The fact that UCITS and AIF bear some responsibility of their own for preventing the development of a herd mentality and chain reactions should not be overlooked. Insofar as their risk management systems permit that kind of effect, they are part of the problem. The EESC strongly supports the Commission in its assessment of this. For that reason, what matters too in the implementation of this proposal, is above all that the delegated acts also put the legislators’ intentions into practice appropriately. Moreover, any financial regulation is only as good as its ultimate implementation in practice in the course of supervisory activities.

4. Specific comments

4.1 There is no doubt that routine, automatic and unchecked acceptance of external ratings does or can lead to parallel selling-off of equivalent securities and can thus trigger upsets on the market which jeopardise financial stability. This is also the conclusion reached in the Commission’s comprehensive consultation ⁽¹⁵⁾, the non-legislative resolution of the European Parliament of 8 June 2011 ⁽¹⁶⁾ and the principles of the Financial Stability Board, FSB) ⁽¹⁷⁾.

4.2 A series of measures is necessary to put a stop to this automatic approach. First of all, steps have to be taken to ensure that all possibilities are being used and further developed so that different creditworthiness standards are also employed as an alternative to ratings from the big agencies. At the same time the existing supervisory rules have to be checked, which – based on laws or administrative rules – generate an automatic link between an external rating and an assessment, as is the case with credit institutions and insurance companies. Moreover, the same measures should put a stop to the automatic responses in financial players’ risk management systems. In general, it is necessary to ensure that no provisions requiring these automatic responses remain in EU or national law. It should also be ensured that private-law contracts which provide for automatic responses of this kind are deemed invalid. Furthermore, financial players require adequate information to facilitate their own assessments.

4.3 The proposal contains, as a general guideline, the necessary clarification for shaping UCITS’ and AIF’s risk management systems. This approach is essentially the right one. It will in any case only become a reality once the corresponding delegated acts are put in place, which means that the main task of preventing misdirection caused by the automatic acceptance of external ratings still has to be carried out.

⁽¹⁰⁾ See footnote 2.

⁽¹¹⁾ See footnote 2, point 1.2.

⁽¹²⁾ COM (2011)747 final – 2011/0361 (COD).

⁽¹³⁾ See footnote 2.

⁽¹⁴⁾ See footnote 2, point 1.7.

⁽¹⁵⁾ See footnote 6.

⁽¹⁶⁾ Resolution of the European Parliament of 8 June 2011 on credit rating agencies: future perspectives (2010/2302 (INI)).

⁽¹⁷⁾ See footnote 6.

4.4 In practice, a full withdrawal from the use of external ratings will not be feasible. Nowadays, the requisite resources for replacing external ratings, as well as the necessary expertise and experience, are only available to a limited extent. Small financial institutions in particular do not always have the means needed to expand or build up their own analysis departments. In addition to the possibility of carrying out more risk assessments internally and the concomitant independence from external rating agencies, the Committee once again calls for SMEs to have the possibility to farm out such risk analysis. By facilitating access to external information, expertise can certainly be built up on specialist markets by means of cooperation and greater cost efficiency generated. This would put small and medium-sized enterprises in particular in a position to achieve greater independence from credit rating agencies. Measures going in this direction are to be welcomed. The Committee is convinced, however, that the actual decision on the creditworthiness of an investment must always be taken by the company; i.e. it must not be outsourced.

4.5 The EESC understands that implementing this proposal may well raise the cost, sometimes significantly, of regulating this domain by expanding risk management systems, such as through the expansion and development of internal arrangements. In view of the threat that the whole of society might suffer damage, there is in any case no alternative.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council laying down the Union Customs Code (recast)’

COM(2012) 64 final — 2012/0027 (COD)

(2012/C 229/13)

Rapporteur: **Mr PEZZINI**

On 7 March 2012 and 13 March 2012 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 33, 114 and 207 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council laying down the Union Customs Code (recast)

COM(2012) 64 final — 2012/0027 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 135 votes to 3, with 3 abstentions.

1. Conclusions and recommendations

1.1 The Committee considers that an efficient customs union is a vital prerequisite for European integration in order to ensure uniform and EU-wide efficient, safe and transparent free movement of goods with maximum consumer and environmental protection and effective combating of fraud and counterfeiting.

1.2 The Committee therefore calls for a single customs policy, based on uniform, up-to-date, transparent, effective and simplified procedures, which will contribute to the EU's economic competitiveness at global level and protect the intellectual property, rights and safety of European businesses and consumers.

1.3 Accordingly, the Committee welcomes the adoption by the European Commission of the proposal for a regulation recasting Regulation (EC) No 450/2008 of 23 April 2008, and calls for binding timeframes, uniform interpretations and widespread information and training, in addition to appropriate national and EU funding.

1.4 The Committee naturally agrees that the provisions of the code should be **aligned with the Treaty of Lisbon** as regards the delegation of powers and granting of implementing powers, with due respect for the balance between the Parliament and the Council, placing the two institutions on an equal footing as regards delegated acts.

1.5 The Committee also considers that it is vital and important to introduce **modernisation measures such as**

simpler customs legislation and to complete **interoperable computerised customs systems**, which will streamline commercial practices and ensure greater coordination of prevention and prosecution activities.

1.6 The Committee is concerned about the **possibility of differing national interpretations** of the EU customs rules, which would constitute a major bureaucratic burden for businesses (especially small businesses), and thus damage Europe's competitiveness.

1.7 The Committee therefore strongly supports the process of **centralised clearance** with appropriate electronic systems; systematic use of standardised working methods; **business process modelling**; dissemination of all initiatives related to electronic customs; and, as an experiment, the establishment of a European rapid reaction task force to support innovation.

1.8 The Committee acknowledges that the **introduction of the code should be postponed** in order to allow time for the development of harmonised electronic systems and improvements in the organisation of customs procedures at the EU's external borders, and above all to **properly inform and train the workforce**, thus spurring on international trade and the swift movement of people and goods.

1.9 The Committee considers that **closer cooperation** is needed between customs administrations, market surveillance authorities, Commission departments and European agencies in order to ensure better quality control of goods crossing the borders.

1.10 The Committee emphasises the importance of improving the quality of services for economic operators and other stakeholders and recommends that the Commission, by means of incentives and simplified procedures, should encourage operators to apply for **the status of authorised economic operator**.

1.11 The Committee highlights the need to provide appropriate joint information and training for customs officials, economic operators and customs agents, in order to guarantee uniform application and interpretation of rules and a higher level of consumer protection, developing **Jean Monnet Chairs in European customs law** in close cooperation with universities and research centres throughout the EU.

1.12 The Committee firmly believes in the need to develop the capacities and capabilities of individual Member States with the aim of setting up a **European customs training institute** to promote professional excellence in the customs sector and, ultimately, to implement **single European customs**.

2. The current situation

2.1 Customs have a crucial role in guaranteeing safety and security, protecting consumers and the environment, ensuring complete revenue collection, strengthening the fight against fraud and corruption, and ensuring the enforcement of intellectual property rights. The importation into the EU of counterfeit goods leads to a loss in revenue, violates intellectual property rights, and is a serious threat to the health and safety of European consumers.

2.2 The 1992 EU customs code (which is still in force) is implemented by means of procedures which often use paper documents despite the fact that electronic clearance through national computerised systems was launched some time ago, although there is no EU requirement to use it.

2.3 In the meantime, the role of customs has expanded as a result of increasing trade flows, other factors linked to product safety and new IT applications which have made the internal market more competitive, and the changes brought about by the Treaty of Lisbon.

2.4 In 2008 the Modernised Customs Code⁽¹⁾ was adopted in order to cope with heavier trade flows, new risk management and the protection and safety of legitimate trade, and to establish a common IT space for customs and trade.

2.5 The rules of the Modernised Customs Code are already in force, but to be applied in practice they need implementing provisions, scheduled for 24 June 2013. However for technical and practical reasons owing to complex legal, IT and operational issues, this deadline will not be met.

⁽¹⁾ Cf. OJ L 145, 4.6.2008, p. 1.

2.6 In its opinions on this subject, the Committee has already said that it considers 'these deadlines ... to be rather optimistic'⁽²⁾ and has pointed out that 'the lack of an implementing regulation — which the Commission does, moreover, have the power to draw up — leaves room for some uncertainty for the moment as regards a number of provisions'⁽³⁾. However, the Committee still believes that 'it would inevitably be damaging if customs union, which has been the spearhead of European economic integration, were now to fall behind the world of international trade'⁽⁴⁾.

2.7 With regard to financial resources, the Committee reiterates the views set out in its recent opinion on the proposal for an action programme for customs and taxation in the European Union for the period 2014-2020 (**FISCUS**)⁽⁵⁾. However, as the Committee has stated on several occasions⁽⁶⁾, this should be only the first step in structured cooperation between all national and European agencies engaged in combating fraud and financial crime: money laundering, organised crime, terrorism, smuggling, etc.

2.8 Moreover, the Committee considers that since recent years have seen the development of two programmes (**Customs 2013** and **Fiscalis 2013**) which have taken different directions and are now uniting under the FISCUS programme, **it is important to maintain** 'the main positive aspect of such a programme' which is '**the importance given to the human factor**':

- 'It must be ensured that national customs and tax administrations are sufficiently equipped to answer the challenges of the next decade;
- An up to date and efficient IT system must be provided for the taxation and customs sectors. This would include such elements as the Modernised Customs Code (MCC);
- The Committee would like to see more detailed assessments of the impact on the EU and Member States governments' budgets'⁽⁷⁾.

2.9 Modernising the customs sector will require financial resources appropriate to the customs-related procedures and processes, particularly the development of electronic systems and staff training.

⁽²⁾ Cf. OJ C 318, 23.12.2006, p. 47.

⁽³⁾ Cf. OJ C 309, 16.12.2006, p. 22.

⁽⁴⁾ Cf. OJ C 324, 30.12.2006, p. 78.

⁽⁵⁾ Cf. EESC opinion OJ C 143, 22.5.2012, p. 48.

⁽⁶⁾ Cf. EESC opinions *Combating fraud in the field of value added tax*, OJ C 347, 18.12.2010, p. 73; *Promoting good governance in tax matters*, OJ C 255, 22.9.2010, p. 61; *Tax evasion linked to import*, OJ C 277, 17.11.2009, p. 112; *Recovery of claims relating to taxes, duties and other measures* and *Administrative cooperation in the field of taxation*, OJ C 317, 23.12.2009, p. 120.

⁽⁷⁾ Cf. footnote 5, *ibid*.

2.10 The strategic objectives of the new proposal for a regulation are the same as for Regulation (EC) No 450/2008 which is being recast, and are consistent with existing policies on the trade in goods entering and leaving the EU; the Committee has already given its views on these objectives ⁽⁸⁾.

2.11 The European Parliament has already set out its views in the resolution of 1 December 2011 on the modernisation of customs services ⁽⁹⁾, addressing the issues of the customs strategy, instruments for competitiveness and risk management, the single window principle, the harmonisation of control and sanction systems, procedural simplifications, financial interests, intellectual property rights and enhanced cooperation.

2.12 The Commission, in its Report on Progress on the strategy for the evolution of the customs union ⁽¹⁰⁾, has flagged up the need:

- for a broader strategic approach to cooperation with other agencies and international partners in the areas of security, health and the environment;
- to improve and update governance, both in terms of structures and working methods, notably by evolving towards a more business-oriented approach to the customs union processes;
- to share and pool capacities and capabilities between the Member States and the Commission, in order to improve efficiency and uniformity and realise economies of scale, under the FISCUS programme;
- to define a basis for measuring and assessing performance (outcomes as well as outputs) to ensure that the customs union is fulfilling its objectives, and to identify lags or gaps.

2.13 The Council, in its resolution of 13 December 2011 ⁽¹¹⁾, decided to define a strategy for future cooperation with the aim of determining the measures that need to be undertaken in order to further enhance customs cooperation and cooperation with other authorities, to strengthen the role of customs as the leading authority for controlling the movement of goods within the area of freedom, security and justice, and to protect EU citizens more effectively.

3. The Commission proposal

3.1 The Commission proposes to replace Regulation (EC) No 450/2008 (Modernised Customs Code) with a recast regulation which:

- aligns it to the Treaty of Lisbon,

- adjusts it to the practical aspects and developments in customs legislation and in other policy fields relevant to the movement of goods between the EU and third countries, and
- allows sufficient time for the development of supporting IT systems.

3.2 The recasting of Regulation (EC) No 450/2008 provides for better adequacy of legislation with business practices, supported by an optimal architecture for and planning of IT developments, while encompassing all the advantages of the regulation subject to the recast proposal, namely the simplification of administrative procedures for public authorities (EU or national) and private parties.

4. General comments

4.1 The Committee welcomes the adoption by the European Commission of the proposal for a Regulation recasting Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008, establishing the Modernised Customs Code.

4.2 However, while endorsing the new proposal, the Committee considers that the following aspects need to be guaranteed:

- binding timeframes for enacting the implementing provisions in order to avoid further recasts and delays;
- uniform interpretation of the EU's customs rules which must act as a single administration in order to establish **single European customs**;
- the same level of control and uniform treatment of operators throughout the EU customs territory, with standardised control packages, the completion of the single window and easier access to the status of authorised economic operator;
- information disseminated broadly among all interested operators in order to guarantee standardised and uniform application of the new rules and IT procedures based on common standards ensuring full interoperability;
- a high level of training for customs agents and operators based on platforms and European standards with a view to improving professionalism and accountability, with the appropriate monitoring, based on European quality parameters;
- appropriate national and EU financial resources, initiating dedicated programmes such as **FISCUS, EU programmes for continuing vocational training** focusing partly on language skills and ICT and **Jean Monnet Chairs**;

⁽⁸⁾ Cf. footnote 2.

⁽⁹⁾ Cf. EP resolution of 1.12.2011 (2011/2083/INI).

⁽¹⁰⁾ Cf. COM(2011) 922 of 20 December 2011.

⁽¹¹⁾ Cf. OJ C 5, 7.1.2012, p. 1.

— sharing and pooling of capacities and capabilities between the Member States and at European level, leading to the establishment of a **European customs training institute** to promote professional excellence in the customs sector.

4.3 The Committee considers that these points are particularly important as regards training and common IT initiatives with a view to ensuring high levels of interoperability of customs systems, a **single European body** of customs skills and uniform operating standards.

4.4 The substantial investments made in setting up computerised, interoperable customs systems have not yet ironed out differences in rules and data use; the timeframe set by the Commission proposal must be used to press ahead with harmonisation and to establish a European body of customs rules which will act as a basis for the objective advocated by the Committee: the creation of **single European customs**.

4.4.1 With a view to the uniform application of the new regulation, the Committee suggests, as an experiment, setting up a European rapid reaction task force to carry out skilled and burdensome customs work, especially at external borders.

4.5 The Committee reiterates that 'Community customs management should be one of the long-term objectives of the Union; this has advantages in terms of simplicity, reliability and cost, as well as the possibility of interconnecting with other EU and third country systems' ⁽¹²⁾.

4.6 The Committee underscores the importance of up-to-date guidelines for import controls in the field of product safety, and a public database of dangerous goods intercepted at customs.

4.7 The Commission should take into account the remarks made by the Committee in its opinion of 13 December 2007 on a common framework for the marketing of products ⁽¹³⁾ regarding the need to improve coordination and step up market surveillance activities.

4.8 As regards legal protection in the EU market, the rules should move towards a new system for determining the origin and guaranteeing the traceability of products, so as to improve information for consumers and step up prevention of illegal activity and fraud in the customs sector.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹²⁾ OJ C 318, 13.9.2006, p. 47.

⁽¹³⁾ OJ C 120, 16.5.2008, p. 1.

Opinion of the European Economic and Social Committee on the ‘Green Paper on the right to family reunification of third-country nationals living in the European Union (Directive 2003/86/EC)’

COM(2011) 735 final

(2012/C 229/14)

Rapporteur: **Mr PÎRVULESCU**

On 15 November 2011, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Green Paper on the right to family reunification of third-country nationals living in the European Union (Directive 2003/86/EC)

COM(2011) 735 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 18 April 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 131 votes to 5 with 8 abstentions.

1. Introduction

1.1 The Stockholm programme and the European Pact on Immigration and Asylum have both identified family reunification as an area in which EU policies need to evolve on an ongoing basis, particularly as regards integration measures. In 2003, common European immigration rules were adopted to regulate the conditions for exercising the right to family reunification of third-country nationals at EU level.

1.2 The Directive defines the conditions of entry and residence for non-EU family members joining a non-EU citizen already legally residing in a Member State. This Directive does not apply to EU citizens.

1.3 The Commission itself, in its first report on the implementation of the Directive (COM(2008) 610 final), identified its national implementation problems and shortcomings.

1.4 The Commission has considered it necessary to initiate a public debate on family reunification, highlighting certain issues within the remit of the Directive, which is the purpose of this Green Paper. All stakeholders have been invited to reply to different questions on how to apply more effective rules on family reunification at EU level.

1.5 Depending on the outcome of this consultation, the Commission will decide whether any concrete policy follow-up is necessary (e.g. modification of the Directive, interpretative guidelines or status quo).

2. General comments

2.1 The European Economic and Social Committee welcomes the European Commission's efforts to organise a broad public debate on the Directive on family reunification. As the voice of organised civil society, the EESC will offer its support when it comes to organising these consultations and will express its opinion based on the experiences gathered.

2.2 The EESC is concerned to note that, in the current political, economic and social context, the debate on immigration issues has become very sensitive. The financial and economic crisis has affected the solidarity between individuals and opened the door to more radical discourse and political action. It must be emphasised that Europe's demographic and economic outlook makes opening the door to third-country nationals wishing to live in the EU a necessity. European society must continue to be open, regardless of fluctuations in the labour market. Although necessary, the debate on family reunification in the context of immigration policy could call into question existing rules and practices, many of which are important steps towards achieving political objectives.

2.3 The European Economic and Social Committee supports this debate and, above all, will take action to ensure that the voice of organised civil society is instrumental in achieving this agenda. Irrespective of the political and economic challenges that European society faces, it is vital to protect and strengthen the respect for fundamental rights upon which the European venture is built.

2.4 The EESC appreciates the European Commission's openness towards civil society and the academic world, as both sectors have critically evaluated the content and implementation of the Directive on many occasions. In this context, it emphasises the positive role played by the European Integration

Forum, which facilitates structured dialogue between the European institutions and various stakeholders concerned with migration and integration issues.

2.5 The Committee believes that the debate on the Directive and its impact should focus on the practical aspects of implementation and that the way in which action will be taken and the instruments used should be established during a subsequent phase, again with the consultation of stakeholders.

2.6 The Directive should be debated in the light of the many international treaties and conventions protecting private life, the family and family members, particularly children. The right to respect for private and family life is – and should be considered – a fundamental right, regardless of the nationality of the individuals in question. Family reunification is directly and indirectly enshrined in a wide variety of documents: the Universal Declaration of Human Rights (Articles 12, 16 and 25), the Convention on the Rights of the Child, the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 7), the EU Charter of Fundamental Rights (Articles 8, 9, 24 and 25) and the European Social Charter (Article 16).

2.7 The EESC believes that the debate on the Directive is necessary and timely, given the accumulation of empirical data on family reunification and in order to stay abreast of the technological resources which could be used during procedures for granting residence permits (e.g. DNA testing). Another aspect that must be taken into account is the case law of the European Court of Justice.

2.8 Although much data exists on migration, the Committee notes that in highly sensitive areas such as fraud and forced marriages, there is not enough evidence to guide policy-making. The Committee therefore recommends furthering efforts to collect information, particularly qualitative data, in such sensitive and pertinent areas.

3. Specific comments

3.1 *Scope. Who can qualify as a sponsor for the purpose of the Directive?*

Question 1

— Are these criteria (reasonable prospect for the right of permanent residence at the time of application as regulated in Article 3 and a waiting period until reunification can actually take place as regulated in Article 8) the correct approach and the best way to qualify sponsors?

3.1.1 The Committee believes that the existence of the condition of reasonable prospects is much too vague from a legal point of view, and could be interpreted in too restricted a way. Therefore, it is recommended that the condition of possession of a residence permit of at least one year be maintained, but that the second condition of reasonable prospects be removed.

3.1.2 Likewise, the minimum waiting period could be problematic. The right to a family life and to privacy are fundamental rights. The EESC believes that the realisation of this right will enable reunification sponsors under the Directive to have the right to launch family reunification procedures from the time the residence permit is issued, but that the minimum residence period should be removed.

3.1.3 The Committee understands the distinction between highly qualified and less qualified migrants in terms of the status and protection conferred upon them. However, it points out that the European economy needs all of them equally, and unequal treatment in the area of rights and the protection of private and family life on the grounds of qualifications cannot be accepted.

3.2 *Eligible family members. Mandatory provisions - the nuclear family.*

Question 2

— Is it legitimate to have a minimum age for the spouse which differs from the age of majority in a Member State?

— Are there other ways of preventing forced marriages within the context of family reunification and if yes, which?

— Do you have clear evidence of the problem of forced marriages? If yes how big is this problem (statistics) and is it related to the rules on family reunification (to fix a different minimum age than the age of majority)?

3.2.1 The Committee considers that the regulations on minimum age do not go far enough towards combating forced marriages and affect the fundamental right to family life. One possibility would be to assess the type of marriage by means of an investigation or interview after the reunification of a family within the territory of a Member State. In order to increase the chances of identifying forced marriages, which almost exclusively affect women, it is recommended that a system of incentives be devised for people who admit that they have been forced into marriage. One solution (but not the only one) would be to offer these people a residence permit for at least one year. The EESC does not possess any clear evidence of forced marriages and recommends involving the European Commission and other specialists in obtaining the relevant data.

Question 3

— Do you see an interest in maintaining those standstill clauses which are not used by Member States, such as the one concerning children older than 15?

3.2.2 The Committee considers that it is not necessary to maintain those two clauses. The first clause which concerns integration conditions for children over 12 has only been used by one Member State. Moreover, establishing necessary integration conditions could be an inconsistent and arbitrary process which could affect the rights of people in vulnerable situations, such as minors. Meanwhile, the second clause, for minors over 15, is problematic. This clause has not been used by any Member State. To ask a minor about grounds other than family reunification is problematic from an ethical point of view, given that reunification is carried out on the basis of a right established by every international convention on child protection.

3.3 *Optional clause - other family members*

Question 4

- Are the rules on eligible family members adequate and broad enough to take into account the different definitions of family existing other than that of the nuclear family?

3.3.1 These rules are not broad enough, as there is no single definition of family which applies in non-EU and EU countries. The EU does not have a legal basis for defining the family, but it does have instruments to prevent discrimination. The rules on family reunification should be flexible enough to take into account the different types of family structures recognised at national level (including same-sex marriages, single-parent families, civil partnerships, etc.) and the potential inclusion of other types of relationships.

3.3.2 Given that more than half the Member States have used the optional clause and have included the parents-in-law among those eligible for family reunification, the EESC believes that it would be useful to maintain this optional clause. Doing so will enable Member States to extend family reunification to other family members, should they so wish. For example, it could be extended to parents-in-law, who can play a beneficial role in the emotional and intellectual upbringing of their grandchildren.

3.4 *Requirements for the exercise of the right to family reunification - Integration measures*

Question 5

- Do these measures efficiently serve the purpose of integration? How can this be assessed in practice?
- Which integration measures are most effective in that respect?
- Would you consider it useful to further define these measures at EU level?

- Would you recommend pre-entry measures?

- If so, how can safeguards be introduced in order to ensure that they do not de facto lead to undue barriers for family reunification (such as disproportionate fees or requirements) and take into account individual abilities such as age, illiteracy, disability or educational level?

3.4.1 The Committee believes that integration measures are welcome; they should not be conceived or implemented as obstacles to family reintegration but should work in favour of the sponsors and family members. The EESC believes that the integration measures should be taken by EU Member States rather than by non-EU countries.

3.4.2 The European Agenda for the Integration of third-country nationals identifies an integration toolbox that could be used. In the context of this toolbox, the EESC believes that emphasis should be placed on language learning and on formal and non-formal education. The Committee has on many occasions argued that education is a key aspect of integration. The use of these tools must be adapted to suit the demographic and socio-economic characteristics of the family members. It is recommended that minors be included in formal and non-formal learning programmes and adults and seniors in language learning and vocational training programmes, such as programmes for e-inclusion. These measures could help family members contribute to the economy and society in both the host country and the country of origin.

3.4.3 The EESC believes that pre-entry measures should be avoided. Ideally, family members reunited in the EU will have language skills or cultural/educational knowledge which will facilitate their integration. However, this should not be made a condition for reunification, where the people involved do not possess such knowledge. In addition to unjustified obstacles (e.g. fees), the institutional infrastructures of the EU Member States and non-EU countries may not be able to support these pre-entry measures. Establishing integration measures in the territory of the Member State could provide a greater level of protection for family members, greater support from sponsors and a greater chance for integration. NGOs can play a major role in integration, but the key role must be performed by the authorities, who have a legal responsibility and the resources needed for integration.

3.5 *Waiting period in relation to reception capacity*

Question 6

- In view of its application, is it necessary and justified to keep such a derogation in the Directive to provide for a three year waiting period as from the submission of the application?

3.5.1 Given that only one Member State has used this derogation, the EESC believes that there is no justification for maintaining it. Moreover, the decision to grant residence permits should be taken in the light of individual circumstances and not reception capacity. Reception capacity is variable and is the result of some policies that can be changed if need be.

3.6 Entry and residence of family members.

Question 7

- Should specific rules foresee the situation when the remaining validity of the sponsor's residence permit is less than one year, but to be renewed?

3.6.1 The residence permits of the sponsor and the family members must be valid for the same period. Before all permits expire and in order to avoid time differences, a common application for all the members of a family could be submitted.

3.7 Asylum related questions. Exclusion of subsidiary protection.

Question 8

- Should the family reunification of third-country nationals who are beneficiaries of subsidiary protection be subject to the rules of the family reunification Directive?
- Should beneficiaries of subsidiary protection benefit from the more favourable rules of the family reunification Directive which exempt refugees from meeting certain requirements (accommodation, sickness insurance, stable and regular resources)?

3.7.1 The Committee believes that beneficiaries of subsidiary protection should be subject to the more favourable rules of the family reunification Directive and therefore be included in it. Beneficiaries of subsidiary protection come from countries and areas recognised as dangerous for their health and wellbeing. This makes it even more necessary to move towards harmonising the two statutes.

3.8 Other asylum related questions.

Question 9

- Should Member States continue to have the possibility to limit the application of the more favourable provisions of the Directive to refugees whose family relationships predate their entry to the territory of a Member State?
- Should family reunification be ensured for wider categories of family members who are dependent on the refugees, if so to what extent?

- Should refugees continue to be required to provide evidence that they fulfil the requirements regarding accommodation, sickness insurance and resources if the application for family reunification is not submitted within a period of three months after granting the refugee status?

3.8.1 The Committee believes that the definition of the family should not include the criterion of time. Some people found a family not in a third country but within the Member States. A family can be reunited regardless of the time and place in which it was founded. Family reunification should be extended to include more diverse categories, particularly with regard to children who are 18 or over or siblings, taking into account factors of risk in the country of origin together with cultural factors. Secondly, the deadlines for submitting the application for family reunification should be abolished or extended so that it is possible for sponsors to contact family members who might be living in very remote areas, and to prepare all the documents needed for the family reunification process. A time limit could be included relating to the expiry date of the temporary residence permit (e.g. 6 months).

3.9 Fraud, abuse, procedural issues - Interviews and investigations.

Question 10

- Do you have clear evidence of problems of fraud? How big is the problem (statistics)? Do you think rules on interviews and investigations, including DNA testing, can be instrumental in solving them?
- Would you consider it useful to regulate more specifically these interviews or investigations at EU level? If so, which type of rules would you consider?

3.9.1 The EESC does not possess any clear evidence of problems of fraud. It believes that interviews and investigations are legitimate provided that they do not render the right to family reunification nugatory.

- The EESC is against DNA testing. Although it is a valid scientific means of establishing biological links between people, it does not cover the range of emotional, social and cultural links that can be formed between members of the same family, who may not necessarily be related biologically. In the case of adopted people, DNA testing is irrelevant. Moreover, DNA testing can reveal highly delicate family situations such as adoptions that have been kept secret or infidelities. DNA tests clearly infringe the right to privacy and can lead to personal traumas for which the public authority cannot be held liable. Therefore, the EESC believes that there should be rules regarding investigations and interviews, which should cover the full range of legal and technological instruments in existence. It could prove beneficial to involve the European Agency for Fundamental Rights in this context. The Committee is open to

cooperation with the European institutions and other bodies in order to draw up these rules. The Committee also draws attention to the proportionality principle. Family reunification cannot be treated as a matter for criminal law.

3.10 *Marriages of convenience*

Question 11

- Do you have clear evidence of problems of marriages of convenience? Do you have statistics of such marriages (if detected)?
- Are they related to the rules of the Directive?
- Could the provisions in the Directive for checks and inspections be more effectively implemented, and if so, how?

3.10.1 The EESC does not possess any clear evidence of marriages of convenience. The future rules on checks, inspections and interviews could help to restrict this phenomenon. The EESC emphasises that the relevant rules should be drawn up in cooperation with the European agency for Fundamental Rights in order to ensure that there is no impact on the basic rights of those involved.

3.11 *Fees*

Question 12

- Should administrative fees payable in the procedure be regulated?
- If so, should it be in a form of safeguards or should more precise indications be given?

3.11.1 The EESC does not think it would be legitimate to have different levels of fees. It is therefore necessary to set

financial ceilings which should not defeat the basic objective of the Directive. The EESC believes that either a single, minimum ceiling should be imposed or all the fees should be established on the basis of per capita income or another indicator in the third country. As the application is submitted on an individual basis, another, more preferable alternative would be to impose a ceiling relating to the income of each applicant (e.g. proportion of average annual income). Minors should be subject to minimal fees or exempted from them altogether.

3.12 *Length of procedure - deadline for the administrative decision*

Question 13

- Is the administrative deadline laid down by the Directive for examination of the application justified?

3.12.1 The EESC believes that the Directive should be amended so as to align common practices at Member State level. It therefore recommends reducing the deadline from 9 months to 6 months.

3.13 *Horizontal clauses*

Question 14

- How could the application of these horizontal clauses be facilitated and ensured in practice?

3.13.1 The EESC believes that the most reasonable means of implementing the horizontal clauses with regard to both the best interests of minor children and the need for individual examinations, and also in order to resolve other problematic aspects of family reunification, is to draw up specific, harmonised rules on all possible types of examinations, checks and inspections. These rules should be proportional and should comply with basic human rights.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — A renewed EU strategy 2011-14 for Corporate Social Responsibility’

COM(2011) 681 final

(2012/C 229/15)

Rapporteur: **Madi SHARMA**

Co-rapporteur: **Stuart ETHERINGTON**

On 25 October 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — A renewed EU strategy 2011-14 for Corporate Social Responsibility

COM(2011) 681 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 18 April 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 24 May 2012), the European Economic and Social Committee adopted the following opinion by 203 votes to 12, with 12 abstentions.

1. Conclusions and recommendations

1.1 The EESC commends the Commission on its commitment to fostering responsible business practice, through its range of policy initiatives outlined in the responsible business package ⁽¹⁾, as part of the Europe 2020 strategy.

1.2 The EESC notes that the European Commission respects the voluntary nature of CSR (which is different from ‘without engagement’), that it highlights the fact that progress has been made in business awareness of CSR at company level and recognises the need for flexibility to enable companies to be innovative.

1.3 The EESC notes that the new proposal extends the definition of CSR beyond the existing framework. It however leaves many unanswered questions. It does not clarify:

— the definition of ‘enterprise’ – which should include **all private, public and civil society stakeholders** so as to avoid any misunderstanding;

— the different cultural approaches to CSR;

— the differences between ‘social’ responsibility (only in the workplace) and societal responsibility (activities beyond the workplace);

— which voluntary activities will require mandatory reporting, bearing in mind that all CSR activities are voluntary, over and above any legal requirements;

— specific measures for SMEs – the Communication uses a ‘one size fits all’ approach;

— the distinction between CSR and corporate governance - and it is essential to keep these two frameworks separate.

1.4 The Commission's action plan reflects mainly the old (and now abandoned) definition of CSR and reads as a mere continuation of the promotional activities of the past ten years. On the basis of the new definition of CSR, the Committee would rather have expected plans pertaining to what should be new in the ‘renewed strategy’: plans to encourage and help enterprises to take responsibility for their impacts on society and to demonstrate to their stakeholders how they try to do this. In the absence of such plans, the Committee cannot say very much about the ‘renewed strategy’. It can only note the Commission's intention to present a proposal for legislation on the transparency of the social and environmental information provided by enterprises in all sectors by the summer of this year.

1.5 The Committee supports the initiative to revise the 2003 directive ⁽²⁾, and proposes that companies that make CSR a key feature of their strategy or communication produce social and

⁽¹⁾ COM(2011) 685 final.

⁽²⁾ Fourth Directive on annual accounts 2003/51/EC

environmental information each year using transparent and evidence-based methods. The aim is for practices that are now current, using internationally-recognised measurement and evaluation tools, to be introduced across the board.

1.6 The Committee points out that CSR practices must not under any circumstances seek to substitute national legislation or water down the content of conventional agreements reached through social dialogue procedures. To this end, the Committee warmly welcomes the proposal to create a database to analyse and monitor the content of internationally-negotiated agreements (IFA) that are part of the social and environmental regulation of globalisation.

1.7 CSR is a highly important voluntary activity of civil dialogue experimentation in some companies through which the social responsibility of those companies can be evaluated by external stakeholders in terms of their impact on society.

2. Introduction

2.1 On 25 October 2011, the European Commission published a new communication entitled *A renewed EU strategy 2011-2014 for Corporate Social Responsibility* ('CSR'). The strategy outlines an action plan of deliverable objectives for completion between 2011 and 2014.

2.2 To achieve the objective of renewing CSR policy, the communication sets out to:

- develop a new definition for CSR;
- rebuild consumer and citizen trust in European business;
- promote CSR through benefits and market reward;
- improve the regulatory framework;
- further integrate CSR into education, training and research;
- better align European and global approaches to CSR;
- promote social dialogue and transparency; and
- create a database of international framework agreements (IFAs).

2.3 The new extended definition proposes that CSR is 'the responsibility of enterprises for their impacts on society' and considers additional aspects that companies should include in their CSR strategies. It updates the previous definition of 'a concept whereby companies integrate social and environmental

concerns in their business operations and in their interactions with their stakeholders on a voluntary basis'.

2.4 The Commission intends to continue building on internationally recognised principles and guidelines, by cooperating with Member States, partner countries and relevant international forums, and compelling enterprises to make stronger commitments to these frameworks.

3. General comments

3.1 CSR is developed by business as part of their business strategy and as a tool to help companies play a part in dealing with internal and external social, environmental and economic challenges. CSR can contribute to the implementation of the EU 2020 strategy if it is developed by businesses in dialogue with various stakeholders and a non-regulatory approach is retained.

3.2 CSR is a **sustainable development approach** and the benefits of CSR activity should promote the positive role companies play in society, which go beyond purely economic values. In any event, CSR must not be used to replace social rights guaranteed by legislative, national or international instruments, which are primarily the responsibility of States and governments.

3.3 In a difficult economic and political climate, the CSR policy initiative provides an opportunity to positively engage with the business community, as long as it is understood that CSR concerns efforts made by enterprises to promote their positive and to prevent or minimise their negative impacts on society, by means of voluntary actions over and above their legal obligations. The EESC reiterates its 2006 opinion⁽³⁾ according to which CSR must remain a voluntary activity (which is different from 'without engagement'). The EESC believes that the CSR discourse should be constructively reframed to identify enterprises as **community stakeholders**.

3.4 Recognition that all stakeholder groups are struggling in the current economic climate is important in this policy review. The Commission's policy proposals should be complementary to objectives of encouraging growth as an essential requirement for creating quality jobs and prosperity, whilst focusing on **facilitating** more responsible business practice.

3.5 Various **forms and motivations** within current CSR activity affect its societal impact. Policymakers should better understand different motivations, and how these are affected by enterprises' size, capacity, income, sector and activity. Identifying the various tools and support required for different sectors will help to better inform the review of CSR policy

⁽³⁾ OJ C 325/53-60, 30.12.2006.

frameworks. The Committee agrees with the Commission that respect for applicable legislation and for collective agreements between social partners is a prerequisite for meeting the responsibility enterprises have for their impacts on society.

3.6 CSR activity has grown as a result of the increasing attention being paid to environmental issues. This has brought working conditions and social relations into balance with environmental topics. In the light of the current crisis, the Commission must **foster the social chapter of CSR**.

3.7 The role and presence of the **social economy sector, including NGOs**, are overlooked within the CSR agenda. The Commission must acknowledge the value and importance of the sector in terms of engaging with the CSR agenda, both independently and in **partnership with other sectors**, and must assess the **indirect impact** of the proposals on the social economy sector in terms of building links with business.

3.8 In the light of the commitments supported by the EU at the Rio + 20 conference, the Committee stresses the importance of an awareness-raising campaign on extra-financial information through the publication of a periodical report on sustainable development not only by all companies of a certain size (approximately 500 staff), but also by public administrations and large civil society organisations. This perspective would reinforce the importance of research into indicators that go beyond GDP or into the carbon footprint or life cycle. In line with its commitments at Rio, the Committee has already implemented this course of action by publishing its results based on the EMAS diagnostic tool.

3.9 In order to proceed one step at a time, the Committee encourages the Commission to consolidate the European regulatory framework for social and environmental evaluation and information provided for by the 2003 directive that is currently being reviewed. A European framework of this kind, applicable to all large companies, that makes CSR a plank of their strategy or communication policy, must be based on the measurement tools recognised internationally and take its inspiration from the national legislation that already exists in many European countries.

3.10 By means of the increasing number of best practices, including agreements negotiated under the social dialogue framework, CSR provides a practical illustration of the additional contribution made by civil dialogue to studying and resolving societal problems. The contribution made by civil dialogue is crucial to developing good CSR practice in order to build an assessment that is relevant to stakeholders, who require high-quality information on the approach voluntarily adopted by responsible companies or investors.

3.11 The EC Communication gives no recognition to the value of women in the boardroom and CSR and its economic added value for the community. Female representation in the

boardroom and CSR are proven to be linked with gender-inclusive leadership having a positive impact on CSR ⁽⁴⁾.

3.12 Brokerage services maximise growth potential and societal value in CSR activity, by strategically matching the needs and skills of enterprises to form successful partnerships, and should be further promoted as best practice.

3.13 The European Union should be urged to promote and to protect authoritative international frameworks for CSR. Enterprises should respect these instruments, use them for guidance in developing their CSR activities and demonstrate to their stakeholders how they use them.

4. Specific comments

4.1 *Updating the definition of CSR*

4.1.1 The strength of the new proposal lies in the updated definition of CSR. However, the EESC deems it necessary for the Commission to clarify the definition's meanings of 'enterprise' in order to prevent misinterpretations. The Commission must also clarify which new policies will be developed on the basis of the updated definition, including the legislative initiative they have announced. The Commission should also specify its plans to stimulate CSR for the different components of the business community, like e.g. large corporations, SMEs, and enterprises in the social economy.

4.1.2 Furthermore, the EESC notes that the communication is incomplete, as it does not attempt to assess the results of the last ten years of CSR strategy in terms of its impact on enterprises' behaviour, to better inform the proposed initiatives and policies in this strategy.

4.1.3 The proposed EU definition injects the notion of responsibility into the concept of voluntary practice. The new definition accounts for the multi-dimensional nature of CSR, outlined in the communication ⁽⁵⁾. However, the EU should be cautious in attempting to create a new standard that may conflict with ISO 26000. The CSR agenda must be developed by businesses in dialogue with various stakeholders if it is to help Europe 2020 deliver a smart and inclusive growth.

4.1.4 Increasingly, products and services are delivered by different organisations in public services, and across business, public and social economy sectors. The proposed definition includes this aspect of non-commercial organisations. However, further clarification is necessary on the definition and its implications for **all enterprises**, in which CSR should be practiced.

⁽⁴⁾ See: <http://newsforchangingtimes.com/2012/02/17/women-boardroom-csr-un-women-ingrid-kragl/>.

⁽⁵⁾ COM(2011) 681 final, page 7.

4.1.5 Societal consequences of the financial crisis highlight the wider impact of business practice. It is right that enterprises should be held accountable for their activities and should include CSR in their business strategy, in order to encourage more responsible practice, especially in the context of crisis and heightened competition. However, CSR should be reframed to emphasise the **mutual dependency** of business and community.

4.1.6 The **inherent connections between business and the community** must include social dialogue and transparency. Here, the different tasks associated with CSR are numerous:

- *Organisational community (within the company)* – coordinating internal structures to fulfil obligations regarding employees' wellbeing and development.
- *External stakeholder community* – working in the interests of business with shareholders, customers and other partners, including public authorities and communities.
- *Community of place* – assessing and working to improve the impacts of business practices on the surrounding local communities and the environment.

Enterprises should recognise these connections and proactively adopt their CSR as a core business objective, to achieve the maximum financial and social value for all community stakeholders. Reinvigorating local networks ⁽⁶⁾ will provide a channel for all community stakeholders, including public authorities, to engage and collaborate for the benefit of society.

4.1.7 The Commission's approach to SMEs is far from ideal. No link is made between business and the impact that SMEs have on the CSR agenda across the Union. Furthermore, an opportunity has been missed to create a comprehensive policy which reflects the new ways in which business is conducted, such as the use of online trading, and which better informs SMEs about the CSR agenda.

4.1.8 SMEs have been neglected in the agenda's proposals. The communication does not explain what it means by 'business', but the language implies that its point of reference is large companies. SMEs are a major component across the EU in the drive for jobs and growth and the focus on competitiveness embodied in the Lisbon Treaty – a 'one size fits all' approach of CSR for different kinds of business is not acceptable.

4.2 Promoting benefits and incentives for CSR activity

4.2.1 It is important to recognise the economic motivations behind CSR activity. Various benefits are outlined in the communication, and these should be better promoted

alongside good practice examples, to inform and encourage enterprises to make stronger commitments to CSR.

4.2.2 However, the economic benefits of CSR activity must not be overstated. Enterprises have marketing and sales departments dedicated to advertising and understanding consumer needs. **CSR is essentially a sustainable development approach**, including economic growth with social and environmental considerations. Reducing it to purely economic outcomes may cause adverse effects such as policy abandonment in the event that outcomes do not meet financial expectations.

4.2.3 Utilising public procurement as a market reward incentive requires careful consideration and suitable application. Social criteria, including ILO clauses, must remain linked to the subject matter of the contract, in order to prevent purely token CSR activity, and ensure beneficial social value. This may also encourage the pursuit of more appropriate and effective CSR activity within industrial sectors.

4.2.4 It is essential to provide social clauses in the award of contracts with the utmost **transparency**. This is vital to ensure the appropriate procurement of services and compliance with the fair competition principles in the single market. DG Competition must be consulted on public procurement being used as a market incentive.

4.2.5 The Social Business Initiative ('SBI'), which is presented as a distinct complementary policy forming part of the Commission's Responsible Business Package ⁽⁷⁾, has been overlooked in terms of key opportunities it could provide for the CSR agenda. In a harsh economic climate, enterprises are more cautious about unrecoverable expenditure. It is widely accepted that social businesses rely on private capital as part of their financial plans ⁽⁸⁾, and so social investment and offering non-financial pro-bono services to new social businesses is a way for enterprises to make a **financial and social return** ⁽⁹⁾ on their CSR investments. Both initiatives would achieve their objectives, while maximising growth potential and the capacity to create social value.

4.3 Understanding motivations and supporting CSR activity

4.3.1 Current CSR activity comes in **many forms and through a variety of motivations**, which affect its societal impact. This can range from defensive protection of shareholder interests, charitable donations and sponsorship in certain Member States, to more meaningful activity, such as strategically linking activity to core business and transformative efforts to identify and tackle the root causes of societal problems ⁽¹⁰⁾. The EESC points to the fact that new rules could be counter-productive if, in some countries, they bring enterprises to stop activities that require reporting.

⁽⁷⁾ COM(2011) 685 final.

⁽⁸⁾ OJ C 24/1, 28.1.2012.

⁽⁹⁾ COM(2011) 682 final, page 6.

⁽¹⁰⁾ www.csrinternational.org

⁽⁶⁾ OJ C 175/63-72, 28.7.2009.

4.3.2 Policymakers must understand this scale of activity, in order to foster a positive environment for more strategic and transformative CSR undertakings. Requirements should not reduce CSR activity to a **minimum standard**, and should remain voluntary codes **over and above legal requirements**.

4.3.3 Efforts would be better focused on encouraging information and the commitment to civil dialogue throughout an enterprise, from the director to the employees, in order to achieve more effective CSR programmes and foster a more ethical organisational culture. Dedicated steering groups including managerial staff have proved to provide successful strategic guidance and help the implementation of CSR activity.

4.3.4 In principle, self and co-regulation exercises are a good idea, but mechanisms must be put in place to ensure that following requirements does not inadvertently burden SMEs, as a result of contractual arrangements with larger enterprises as subcontractors and supply chain agents. The Commission's proposal to develop a code of good practice should provide guidance for those wishing to engage in CSR activities, with due regard for the nature of self-and co-regulation exercises.

4.4 *Commitment to the employees' role in the CSR agenda*

4.4.1 CSR within an enterprise is ineffective without the commitment of its employees. The CSR agenda should be set in cooperation with management, employees and, where relevant, the social partners, to represent the ethos of the organisation. CSR is beyond a 'team-building' exercise and employee commitment is key to a successful strategy.

4.4.2 The role of the social partners is valuable to any CSR agenda, for disseminating information and enhancing the social dialogue. Platforms to ensure collective agreements, transparency, communication, and participatory inclusion, which are all included in the CSR agenda, should be established in the relevant companies.

4.4.3 Human rights, working conditions and employment practices are important factors within the multi-dimensional nature of CSR. Companies should develop activities over and above international and European regulations and guidelines based upon the eight fundamental human rights Conventions of the ILO on the one hand, and concerning employees' health and well-being, as well as training, on the other. Ethical and fair internal governance structures must be accounted for within all enterprises, and cannot override collective agreements.

4.5 *Knowledge exchange*

4.5.1 Peer learning between Member States on CSR policy is an important exercise (Intention 9). Particular emphasis should be placed on helping **all Member States** to develop and update their national policies on CSR and learning from past national policy exercises in this area.

4.5.2 All statutory bodies - national, regional, local and EU institutions - within the Union must set out and follow a CSR strategy to provide an example for other sectors. This should include robust internal CSR policies, piloting innovative CSR models and activities, facilitating good practice exchange and steering the development of local networks to ensure community commitment.

4.5.3 Multi-stakeholder platforms in certain industrial sectors could help broker serious discussions about business practices between companies and stakeholders and facilitate useful exchanges of best practice and learning experiences within and across sectors, with due regard for the autonomy of the players involved to devise the scope and activities of the platform. However, contentious business practices should also be subject to penalties in a court of law.

4.5.4 It is necessary to ensure that **SMEs are involved in stakeholder platforms**, as participation in past exercises has predominantly consisted of large corporations. All enterprises must be given an opportunity to participate, so that whole sectors and key areas of concern are better represented.

4.5.5 The EESC supports the intention to provide financial support for CSR education and training projects, and raising awareness among education professionals and enterprises on the importance of CSR (Intention 8). This is especially important for SMEs, which are often unaware of opportunities or lack the expertise to undertake CSR ventures.

4.5.6 Using structural funds for CSR initiatives should be considered very carefully. We remind the Commission of the cuts planned for the next structural funding programme, and so any funds granted for CSR initiatives should be used to achieve **clear aims** in combating poverty, social exclusion and regional development. These funds should go exclusively to enterprises of limited capacity and financial resources, such as SMEs and civil society organisations, to help develop CSR policies and commitment.

4.5.7 **Information portals** should be supported and developed to help enterprises, as well as e-commerce companies, connect and provide an accessible platform for the effective exchange of good practice, skills and financial and non-financial resources for the benefit of society.

4.6 CSR and social economy partners

4.6.1 The **civil society sector** has been neglected in the CSR policy initiative. Civil society organisations provide models of responsible business strategy, governance and forums, and often engage in CSR activities. The communication neglects to explore in any detail the relationship between the 'for profit' and the 'not-for-profit' sectors.

4.6.2 There is a long history of sectors working in partnership, which should be further encouraged, as 'corporate social commitment is an important basis for creating and maintaining civil society institutions' ⁽¹¹⁾.

4.6.3 **Mutual benefits of partnership should be promoted**, to encourage more meaningful CSR activity. Matching needs and skills in partnerships stimulates more effective and beneficial social and economic impacts for communities and enterprises. Promoting non-financial support is important in widening the scope of support from other sectors, and assists more strategic thinking about CSR capacities - this includes supporting employee-volunteering; providing pro-bono services; offering donations in kind i.e. premises, equipment.

4.6.4 **Communication** between sectors is key to successful partnership working. Brokerage services ⁽¹²⁾ assist in streamlining and simplifying the way two sectors do business and help bridge cultural differences. These services should be supported and made more readily available to enterprises to help overcome barriers in achieving shared value across sectors and real commitment in CSR undertakings.

4.7 International guidelines and agreements

4.7.1 The ILO has established eight fundamental conventions as a basic foundation of rights at global level. The Member States have already ratified these fundamental conventions. The EU can show its support by ensuring third countries also comply with these agreements.

4.7.2 The EESC strongly supports the Commission's intention to make the promotion of CSR fully consistent with existing global instruments, in particular the revised OECD Guidelines, the ILO Declaration on Multinational Enterprises and Social Policy, ISO 26000, the United Nations' Guiding Principles on Business and Human Rights and the International Framework Agreements (IFAs). We ask the Commission to explain exactly how it hopes to accomplish this.

4.7.3 The OECD guidelines have been adopted by 42 countries, of which 24 are members of the EU. The guidelines have a unique mechanism for follow up, a national contact point, which is responsible for disseminating the guidelines and for handling cases where breaches are alleged to have occurred. The EESC therefore recommends that resources within the renewed EU strategy for CSR be set aside for capacity-building concerning the OECD guidelines. It also recommends that the Commission and the Member States give the social partners a greater role within these national contact points.

4.7.4 The EESC believes that CSR policy should focus on providing strategic direction for enterprises, as monitoring CSR commitments of enterprises with 1 000+ employees (Intention 10) is impractical and will require large financial resources from the EU.

Brussels, 24 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹¹⁾ OJ C 125/44, 27.5.2002.

⁽¹²⁾ Brokerage services are intermediary firms that help connect organisations from across sectors, and broker more effective working relationships, by matching needs, skills and resources. An example of this is Pilot Light - <http://www.pilotlight.org.uk>.

APPENDIX

to the Opinion of the European Economic and Social Committee

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

Point 2.3

Amend as follows:

The new extended definition proposes that CSR is “the responsibility of enterprises for their impacts on society” and ~~consider-prescriptively introduces~~ additional aspects that companies should include in their CSR strategies. It ~~updates~~ departs from the previous definition of “a concept whereby companies integrate social and environmental concerns in their business operations and in their interactions with their stakeholders on a voluntary basis”.

Voting

For: 88

Against: 91

Abstentions: 23

Point 4.1

Amend as follows:

~~Updating~~ Extending the definition of CSR'

Voting

For: 80

Against: 106

Abstentions: 23

Point 4.1.1.

Amend as follows:

~~The strength of the new proposal lies in the updated definition of CSR. However, the~~ *The new extended and prescriptive definition of CSR could undermine progress made in the past decade when the definition was based on the practical approach introduced by its 2006 CSR communication, including CSR Alliance. The EESC deems it necessary for the Commission to clarify the definition's meanings of “enterprise” in order to prevent misinterpretations. The Commission must also clarify which new policies will be developed on the basis of the updated definition, and clearly provide a cost-benefit analysis of the including announced the legislative initiative on disclosure of non-financial information they have announced. The Commission should also specify its plans to stimulate CSR for the different components of the business community, like e.g. large corporations, SMEs, and enterprises in the social economy.'*

Voting

For: 85

Against: 121

Abstentions: 20

Point 4.4.2

Amend as follows:

~~The role of dialogue between workers, stakeholders and management the social partners is valuable to any CSR agenda, as it helps to tailor the CSR-strategy according to the individual needs of each enterprise both for disseminating information and enhancing the social dialogue. Platforms to ensure collective agreements, transparency, communication, and participatory inclusion, which are all included in the CSR agenda, should be established in the relevant companies.'~~

Voting

For: 86

Against: 125

Abstentions: 14

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament and the Council — Towards a stronger European response to drugs'

COM(2011) 689 final

(2012/C 229/16)

Rapporteur: **Ákos TOPOLÁNSZKY**

On 25 October 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament and the Council — Towards a stronger European response to drugs

COM(2011) 689 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 18 April 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 24 May), the European Economic and Social Committee adopted the following opinion by 118 votes to 1 with 2 abstentions.

1. Summary and recommendations

The European Economic and Social Committee (EESC):

1.1 welcomes the proposals in the Commission communication, and agrees that, in the interests of a stronger Europe, more decisive action is needed; and also agrees that there must be a balanced approach to effectively influencing supply and demand for drugs;

1.2 is therefore disappointed that the Communication constitutes a step back compared to the previous balanced and consensus-based approach, with its one-sided emphasis on measures to reduce supply;

1.3 does not feel that a regulatory and criminal law approach suffices, and calls for the development of a new EU-level drug strategy, based on an in-depth evaluation of the current drugs strategy, which will soon expire;

1.4 is concerned about changes in funding policy priorities, and would like to see a return to a balanced approach in this respect too;

1.5 supports further harmonisation of national measures to combat drug trafficking, and recommends that the process of harmonising EU penal law be extended to different forms of drug-related offences;

1.6 recommends developing and using an independent, scientifically based evaluation system on supply reduction measures, and ensuring that adequate resources are available for such instruments;

1.7 agrees with the measures on confiscation and recovery of criminal assets, and recommends that at least some of the assets

acquired from confiscation should be used to support the largely under-funded area of reducing demand;

1.8 emphasises that a regulatory approach is not enough either to deal with new and dangerous drugs, and that such regulation must be implemented as part of an integrated and comprehensive policy framework for action; the effectiveness of such a framework must be continuously monitored and evaluated;

1.9 feels that the section of the Communication on demand reduction is over-generalised and disproportionate, and recommends that the Commission initiate the development of an institutional mechanism to ensure the implementation of successful policy initiatives based on scientific evidence;

1.10 firmly believes that already in the medium term a comprehensive and coordinated policy on addiction to all psychoactive drugs, both 'legal' and 'illegal', is needed to ensure that individual policies do not work against one another;

1.11 supports the work of the EU Civil Society Forum on Drugs and recommends that greater account be taken of this body's expertise of at both EU and national level.

2. General comments

2.1 The European Economic and Social Committee (EESC) welcomes the European Commission's Communication entitled *Towards a stronger European response to drugs* ⁽¹⁾.

⁽¹⁾ COM(2011) 689 final.

2.2 The EESC agrees with the document that following adoption of the Lisbon Treaty 'the European response to drugs needs to be strong and decisive, addressing both drug demand and drug supply'; it welcomes the Commission's commitment to lending fresh impetus to the EU anti-drugs policy, and fully agrees that 'EU action should be focused where it brings more added value'.

2.3 At the same time, the Committee is disappointed that the Communication constitutes a step back compared to the previous consensus-based approach, which struck a balance between supply- and demand-related measures. The Communication places a one-sided emphasis on legal instruments to reduce supply, with only very generalised objectives for reducing demand.

2.4 The Committee is disappointed that a Commission document seems to disregard human rights and broad social policy aspects in relation to drug use; at the same time, the document emphasises regulatory and criminal law instruments which are rarely subject to scientific evaluation procedures, whose effectiveness is questionable based on existing data, and which are not particularly cost-effective ⁽²⁾.

2.5 The Committee believes that measures to reduce supply should be part of a strategic system, and that they make sense as part of that system. It is important to avoid an over-emphasis on law enforcement measures, which should only be used as a last resort (*ultima ratio*). The policy must not be characterised by a possible shift away from previous measures in support of a holistic, multi-instrumental approach, in contrast to the simplistic and punitive approach found in many parts of the world, showing little respect for human rights.

2.6 The EESC calls for EU policy on combating drug-related problems to frame and adopt a new strategy based on an evaluation of the existing strategy followed by a broad societal discussion. This new strategy should be adopted on the basis of consensus, and it should express the shared commitment of Member States to the existing strategic thinking, with its emphasis on balance and the fundamental values of the Lisbon strategy, together with action programmes and funding policies (best mix of policies).

2.7 In line with the basic idea that a State's response to a threat should not cause more harm than the actual threat it wishes to prevent, decision-making mechanisms must be developed in which unfavourable outcomes of independent evaluations would trigger immediate policy changes.

3. Financing

3.1 The EESC is concerned about the shifts and reductions in the number of the European Commission's financing priorities. The current public health programme entitled 'Health for

Growth', within the context of the 3rd multi-annual financing programme for the 2014-2020 period, no longer addresses the issue of drugs and drug demand reduction responses. Neither does it mention the resources needed to implement demand reduction-focused aims and objectives which are in line with the European Drug strategy and its Action Plan.

3.2 At the same time, the support priorities set out in the Commission's proposal for the Justice Programme and the Rights and Citizenship Programme have changed, with the emphasis being placed on crime prevention as a response to drug problems. The EESC strongly urges the Commission to adapt its financing policy in line with the needs of a balanced strategy.

4. Specific content

4.1 *Drug-related offences, drug trafficking*

4.1.1 In its discussion of drug trafficking, the Communication emphasises the constantly changing nature of the drugs market, as well as the innovative methods and new technologies used to smuggle drugs. As an effective response to these unfavourable developments, the Commission draws attention to the importance of improved coordination between initiatives to combat drug trafficking.

4.1.2 The document emphasises that the entry into force of the Lisbon Treaty ⁽³⁾ makes it possible to strengthen the important legal and political instruments combating drug trafficking. It also points out that certain legislative instruments ⁽⁴⁾ have 'scarcely led to any alignment of national measures in the fight against drug trafficking. [They have] not sufficiently contributed to facilitating judicial cooperation in drug trafficking cases' ⁽⁵⁾.

4.1.3 In this connection, the Commission's Communication proposes new legal instruments. Firstly, these would target major cross-border drug-trafficking criminal networks by exploring minimum common aggravating or mitigating circumstances; secondly, they would improve the definition of offences and sanctions, and thirdly, they would introduce stronger reporting obligations for Member States.

4.1.4 Though the Committee basically agrees with the observations set out in the document, it would emphasise that these efforts can only succeed if a system is in place to measure the effectiveness of action to reduce the supply of drugs, with valid indicators. It therefore advocates the development of evaluation and monitoring mechanisms able to measure the real impact

⁽²⁾ In the majority of countries, criminal law instruments impact drug users most heavily; they have only a slight incidence on traffickers.

⁽³⁾ Treaty on the Functioning of the European Union, Article 83(1).

⁽⁴⁾ e.g. Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking.

⁽⁵⁾ COM(2011) 689 final.

and cost-effectiveness of such action, and supports the work which has already begun on developing appropriate indicators ⁽⁶⁾.

4.1.5 The EESC emphasises that in relation to supply reduction measures, disproportionately few resources are allocated to evaluating the efficiency of these instruments compared to the effects they might have on the fundamental human rights of those drug users who, from the legal point of view, are not harming others and are not acting with a view to making a profit.

4.1.6 The EESC recommends that in the spirit of the relevant Commission communication ⁽⁷⁾, efforts to harmonise criminal law are extended to offences in which there are major discrepancies in Member State criminal justice practices (standards, sanctions, enforcement, exemption) relating to particular forms of criminal behaviour. Some of these discrepancies are so large as to definitely undermine human rights and legal certainty; in the EESC's opinion, this currently applies to drug abuse cases ⁽⁸⁾.

4.1.7 The EESC argues that the planned harmonisation of minimum penalties must not mean higher maximum penalties in particular Member States. The Committee also points out that a supply reduction-oriented policy could reflect decision-making inertia; the right balance has therefore to be struck between the necessary penal deterrents and the crucially important treatment and support initiatives.

4.1.8 The EESC feels that new criminal justice strategies must be reshaped in response to the social and health threats presented by drug trafficking. At the same time, a focus on the safety of the individual and the community is needed, instead of an approach based solely on preventing drug trafficking.

4.2 Drug precursors

4.2.1 The EESC agrees with the assessment of the situation in this chapter of the Communication, and also agrees that existing and planned measures to prevent the diversion of drug precursors must strike a balance between ensuring an effective control of diversion without disrupting lawful trade in such substances.

⁽⁶⁾ First European conference on drug supply indicators. A joint initiative to develop sustainable options for monitoring drug markets, crime and supply reduction activities, European Commission, 20–22 October 2010.

⁽⁷⁾ COM(2011) 573 final.

⁽⁸⁾ The same offence (e.g. the sale of small quantities of drugs between consumers) can result in a jail sentence of two to five years in some countries, whereas in other Member States the response involves State or regional support policy instruments (job creation, assistance with housing and welfare benefits, etc.).

4.2.2 The Committee agrees that closer international cooperation is needed in this field, although there are major disparities in terms of access to data, the quality of data and levels of cooperation, particularly in relation to cooperation with the third countries concerned.

4.3 Confiscation and recovery of criminal assets

4.3.1 The EESC approves the Commission's endeavours here, and it feels that the legislative instruments mentioned are proportionate and appropriate as a response to the situation. It is therefore regrettable that for various reasons these have not proved effective.

4.3.2 The Committee is therefore in favour of developing new, more stringent EU legislation, and of extending the process of harmonising Member State legislation to this field.

4.3.3 The EESC recommends that at least some of the assets acquired from confiscations should be used at least partially to support the most effective, but always under-funded areas of demand reduction measures such as the treatment of drug use and its social consequences.

4.4 New psychoactive substances

4.4.1 The EESC essentially agrees on this point with the Commission's Communication. The Committee feels that generic regulation meets the expectations of the public and decision makers in terms of rapid checking of new drugs; however, assessing individual substances without genuine risk analysis could harm legitimate pharmaceutical and industrial interests. At the same time, the EESC notes that risk assessment methods are mainly based on chemical and forensic analysis, rather than a multidisciplinary approach.

4.4.2 The EESC emphasises that a regulatory approach is not sufficient either for dealing with new and dangerous psychoactive substances, and that such regulation must be implemented as part of an integrated and comprehensive policy framework for action; the effectiveness of such a framework must be continuously monitored and evaluated, since regulatory acts applied exclusively might result in unintended risks (conversion to new substances, criminalisation, higher market prices, automatic banning of or controls of useful psychoactive substances, users going underground, the additional risks entailed by an illegal market, etc.). The EESC is disappointed that the proposed regulatory instruments do not take these issues into account.

4.4.3 The EESC feels it is important that when substances are added to the list, decision-makers propose health and health measures relating to the psychoactive substance in question, while possibly looking at regulatory alternatives to direct criminalisation of users. The Committee emphasises that remedying

problems in the area of data collection, improving the interactivity of information flow, training specialists, communicating credibly with the help of modern methods and technologies, developing consumer protection legislation and monitoring, as well as developing and providing the appropriate treatment and support services are all part of this approach.

4.4.4 The EESC points out that legislative responses to new substances should not obscure the problems caused by unlisted 'old' psychoactive substances (alcohol, nicotine, certain industrial hallucinogens, etc.), which are often more serious.

4.5 *Reducing the demand for drugs*

4.5.1 The EESC is disappointed with this section of the Commission's proposal, which basically only offers generalities. The Committee urges the Commission to further develop an approach helping to enforce basic rights to treatment in both qualitative and quantitative terms.

4.5.2 In view of this, the EESC urges the Commission not only to work on drawing up quality standards but also to oblige Member States to develop funding policies reflecting a balanced approach.

4.5.3 Coverage, accessibility, availability and affordability of a broad range of evidence-based services aimed at reducing health-related harm (HIV/AIDS, Hepatitis and overdose) and intended for people with drug-related problems should be guaranteed across Europe. These services include detoxification, residential, out-patient and community-based treatment, rehabilitation, reintegration, substitution treatment and needle-exchange services. The full range of programmes should be available on the same footing in prisons and for minority populations and groups at risk of discrimination.

4.5.4 The EESC considers that EU and Member State drugs policies should give preference to the provision of healthcare and treatment services to people in need, rather than criminalising and punishing people exposed to drug-related problems.

4.5.5 The EESC would like to point out that the European Community currently has no means of disciplining or sanctioning Member States failing to adopt an approach involving the provision of scientifically proven treatment, even when lives are at risk, in violation of human rights.

4.5.6 The EESC would therefore encourage the Commission to begin developing an institutional mechanism to ensure that Member States genuinely implement policy measures based on scientific evidence, and that they operate the requisite financing mechanisms in a balanced and accountable way.

4.6 *International cooperation*

4.6.1 The EESC welcomes the dialogue with production and transit countries and of the policy of providing technical assistance and support; it also suggests stepping up such activities.

4.6.2 It agrees that, at the same time as pursuing a balanced and comprehensive approach with full respect for human rights, the EU must step up its engagement with neighbouring countries, with strategic partners, and along drug supply routes into the EU.

4.6.3 The Committee appreciates the results achieved by the European Monitoring Centre for Drugs and Drug Addiction since it was set up, in terms of monitoring the drugs situation, enhancing data collection discipline and quality, and developing a common technical approach.

4.6.4 The EESC calls on the Commission to make an assessment of the situation as regards societal changes caused by the continuing economic crisis and to pay more particular attention to the pattern relating to drug consumption and trafficking.

4.6.5 Although the Committee acknowledges the importance of the three United Nations drugs conventions⁽⁹⁾ and the results which they have achieved, it would also like to point out that contrary to their declared goals, the conventions have not ensured appropriate and fair legal access to pharmaceutical drugs in most countries, including in Europe. On the other hand, illegal production and use, far from decreasing, have grown significantly, and the systems in place do not always ensure measures which have been scientifically proven to benefit health and well-being.

4.6.6 Provided that there is consensus with the Member States and that scientific evidence is taken closely into account, the Committee therefore proposes that the European Union speaks out in favour of the UN drugs conventions and their implementation, while maintaining a critical guardian. If necessary, it could express an opinion on updating the conventions.

4.6.7 The Committee welcomes and supports the work of the EU Civil Society Forum on Drugs and recommends that the expertise of this body be taken more closely into account by EU decision-making bodies. The EESC would welcome the opportunity to be an observer of this body's activities.

⁽⁹⁾ 1961 Single Convention on Narcotic Drugs amended by 1972 Protocol, 1971 Convention on Psychotropic Substances, 1988 Convention Against Illicit Trafficking in Narcotic and Psychotropic Substances.

5. The way forward

5.1 With Articles 11(3) - 11(4) of the Lisbon Treaty in mind, the EESC recommends that both the Commission and the Member States strengthen genuine social dialogue in the spirit of participatory democracy involving professional groups and, if possible, user organisations in the strategic planning process, so that governmental coordination mechanisms can be directly evaluated by civil society and professionals.

5.2 The Committee feels that a two-pronged approach to policy planning is needed. On the one hand, a more global approach is needed to enable synergies arising from the harmonisation of approaches through closer coordination, while on the other, local approaches are needed to ensure that EU policies can be developed on the basis not of abstract concerns but of the actual needs of local communities, and in cooperation with them.

5.3 The EESC firmly believes that even in the medium term, a comprehensive and coordinated policy on addiction to all

psychoactive drugs - both 'legal' and 'illegal' - is needed. As matters currently stand, for political and legal reasons there is an artificial separation between these policies, which use very different tools tending to work against one another instead of being mutually reinforcing. At the same time, given the need to ensure legal certainty and protect human rights, significant discrepancies in the binding force of such government policies are questionable.

5.4 The EESC recommends that the Commission pave the way towards granting access to controlled medical use of medicinal cannabis and to the full range of substitution treatment modalities.

5.5 The EESC takes a critical view of the EU-level policy approach to alcohol, a substance causing much greater social problems; it therefore maintains the position set out in previous corrective opinions⁽¹⁰⁾, which urged the Commission to act decisively in this respect.

Brussels, 24 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹⁰⁾ OJ C 175, 27.7.2007 p. 78-84.
OJ C 318, 23.12.2009 p. 10-14.

Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)’

COM(2012) 11 final — 2012/011 (COD)

(2012/C 229/17)

Rapporteur-general: **Mr PEGADO LIZ**

On 16 February 2012 and 1 March 2012 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)

COM(2012) 11 final — 2012/011 (COD).

On 21 February 2012, the Committee Bureau instructed the Section for Employment, Social Affairs and Citizenship, to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee decided, at its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), to appoint Mr PEGADO LIZ rapporteur-general and adopted the following opinion by 165 votes to 34, with 12 abstentions.

1. Conclusion and recommendations

1.1 The EESC welcomes the general direction taken by the Commission, endorses the proposed choice of enabling provision and agrees in principle with the objectives of the proposal, which closely reflect a Committee opinion. In terms of the legal position of data protection, the EESC believes that the processing and transmission of data within the single market must comply with the right to protection of personal data as specified in Article 8 of the Charter of Fundamental Rights and Article 16(2) of the Treaty on the Functioning of the European Union.

1.2 The Committee is divided in its views as to whether a regulation is the best choice given the task in hand and calls on the Commission to do more to demonstrate and justify the reasons that make this instrument preferable to a directive, if not indispensable.

1.3 However, the Committee regrets the fact that the stated principles of the right to protection of personal data are qualified by an excessive number of exceptions and restrictions.

1.4 In the new context of the digital economy, the Committee shares the Commission's opinion that, ‘individuals have the right to enjoy effective control over their personal information’ and considers that this right should be extended to cover the various purposes for which individual profiles are drawn up on the basis of data collected by numerous (legal and sometimes illegal) methods and its processing.

1.5 As this is a matter of fundamental rights, harmonisation by means of a regulation to cover specific areas should never-

theless leave Member States free to adopt provisions under national law in areas not covered, as well as provisions that are more favourable than those set out in the regulation.

1.6 Furthermore, when it comes to delegated acts, references to which appear almost everywhere, the Committee cannot accept those that do not fall within the express scope of Article 290 TFEU.

1.7 The Committee nevertheless welcomes the focus on creating a proper institutional framework to ensure that the legal provisions function effectively, both at company level (through data protection officers (DPOs)) and in Member States' public administrations (through independent supervisory authorities) It would, however, have appreciated an approach from the Commission that was more in line with the real needs and expectations of the public and that applied more systematically to certain fields of economic and social activity in accordance with their nature.

1.8 The EESC considers that several improvements and clarifications can be made to the proposed text. It gives some detailed examples in this opinion in relation to a number of articles, helping to provide a better definition of rights, of stronger protection for the public in general and of workers in particular, of the nature of consent, of the lawfulness of processing and, in particular, of the duties of data protection officers and data processing in the context of employment.

1.9 The EESC also considers that some aspects that have not been addressed should be included, not least the need to broaden the scope of the regulation, the processing of sensitive data and collective actions.

1.10 In this respect, the EESC believes that search engines, the majority of whose revenue comes from targeted advertising thanks to their collection of personal data concerning the visitors to their sites, or indeed the profiling of those visitors, should come *expressis verbis* within the scope of the regulation. The same should go for the sites of servers providing storage space and, in some cases, cloud computing software, that can collect data on users for commercial ends.

1.11 The same should also apply to personal information published on social networks, which, in accordance with the right to be forgotten, should allow data subjects to modify or erase such information or to request the deletion of their personal pages as well as links to other high-traffic sites where that information is reproduced or discussed. Article 9 should be amended to that end.

1.12 Lastly, the EESC calls on the Commission to reconsider certain aspects of the proposal that it deems unacceptable, in sensitive areas such as child protection, the right to object, profiling, certain restrictions to the rights granted, the threshold of 250 workers for the appointment of a DPO and the way in which the 'one-stop shop' is organised.

2. Introduction

2.1 The EESC has been asked to issue an opinion on the Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) ⁽¹⁾.

2.2 However, it should be noted that this proposal is part of a 'package', which also includes an introductory communication ⁽²⁾, a proposal for a directive ⁽³⁾ and a report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions based on Article 29(2) of the Council Framework Decision of 27 November 2008 ⁽⁴⁾. The referral to the Committee does not relate to all the legislation proposed, only the draft regulation, whereas the Committee should also have been consulted on the draft directive.

2.3 According to the Commission, the proposal that has been referred to the EESC lies at the intersection of two of the EU's most pivotal legal, political and economic strategies.

2.3.1 On the one hand, Article 8 of the Charter of Fundamental Rights of the European Union and Article 16(1) of the Treaty on the Functioning of the European Union (TFEU) enshrine data protection as a fundamental right, to be defended as such. This is the basis for the European Commis-

sion's communications on the Stockholm Programme and the Stockholm Action Plan ⁽⁵⁾.

2.3.2 On the other hand, the Digital Agenda for Europe and, more generally, the Europe 2020 strategy promote the consolidation of the 'single market' dimension of data protection and the reduction of administrative burdens on companies.

2.4 The Commission's intention is to update and modernise the principles set out in Directive 95/46/EC on data protection (as amended) so as to guarantee privacy rights in the future within the digital society and its networks. The objective is to reinforce individuals' rights, consolidate the EU internal market, secure a high level of data protection in all areas (including judicial cooperation in criminal matters), ensure proper enforcement of the rules adopted for this purpose, facilitate international transfers of personal data and set universal data protection standards.

3. General comments

3.1 In the new context of the digital economy, the Committee shares the Commission's opinion that, 'individuals have the right to enjoy effective control over their personal information' and considers that this right should be extended to cover the other purposes for which individual profiles are drawn up on the basis of numerous (legal and sometimes illegal) methods of data collection and the processing of the data thus obtained. The Committee also considers that the processing and transfer of data in the context of the single market should be subject to the right to protection under Article 8 of the Charter of Fundamental Rights. This is a fundamental right, guaranteed in the EU's institutional law and in the national law of most Member States.

3.2 All EU citizens and residents, in their capacity as such, have fundamental rights that are guaranteed in the Charter and in the treaties. These rights are also recognised in the law of the Member States, sometimes even in constitutional law. Other rights, such as image rights and the right to protection of privacy, complement and reinforce the right to the protection of data relating to them. The means must be available to ensure that these rights are respected, by asking for a website to change or remove a personal profile or data file from the server, and obtaining a court injunction to this end in the event of failure to comply.

3.3 Files containing individual data need to be kept by public authorities ⁽⁶⁾, by businesses for the purpose of staff management, by commercial services, by associations, trade unions and political parties and by social websites and search engines on the Internet. However, in order to protect the private

⁽¹⁾ COM(2012) 11 final.

⁽²⁾ COM(2012) 9 final.

⁽³⁾ COM(2012) 10 final.

⁽⁴⁾ COM(2012) 12 final.

⁽⁵⁾ These communications stress the need for the EU to 'establish a comprehensive personal data protection scheme covering all areas of EU competence' and 'ensure that the fundamental right to data protection is consistently applied' so that individuals have the right to enjoy effective control over their data.

⁽⁶⁾ See EESC opinion on the re-use of public sector information, OJ C 191, 29.6.2012, p. 129.

lives of the individuals whose data is registered legally in these filing systems, each of which has a different purpose, such files should collect only such information as is essential for their respective purposes and should not be interconnected via ICT when there is no need and no legal protection. The existence of an authority with unlimited access to all data would undermine both civil liberties and privacy.

3.4 When such data files are held by private law bodies, the individuals in question must have a right to access, edit and even remove the files, both in records used for market research and those held by social sites.

3.5 For data files held by public or private administrations in compliance with legal obligations, data subjects must have the right to access data and rectify them in the event of error, or have them removed if their inclusion is no longer warranted, as in the case of criminal record amnesties, the end of employment contracts or cases where record-keeping requirements have been met.

3.6 The EESC welcomes the general direction taken by the Commission, acknowledging that while the objectives of Directive 95/46/EC (as amended) remain relevant, a thorough review had become indispensable owing to all the technological and social changes that have taken place in the digital environment in the seventeen years since it was introduced. For example, certain aspects of international exchanges of information and data between administrations responsible for prosecuting crimes and enforcing judgments in the framework of police and judicial cooperation were not addressed in Directive 95/46/EC. This issue is addressed in the draft directive which forms part of the data protection package on which the Committee has not been consulted.

3.7 The EESC agrees in principle with the proposal's objectives, which tie in with the protection of fundamental rights and follow the Committee opinion ⁽⁷⁾ closely, particularly:

- the establishment of a single set of data protection rules, giving the highest possible level of protection and valid throughout the Union;
- the express reaffirmation of the free movement of personal data within the EU;
- the abolition of a number of unnecessary administrative requirements, which would, according to the Commission, represent savings to business of around EUR 2,3 billion a year;
- the introduction of a new requirement for companies and organisations to notify the national supervisory authority of any serious personal data breaches without delay (if possible within 24 hours);

- the possibility for individuals to deal with their own country's data protection authority, even when their data is processed by a company established outside the EU;
- the moves to facilitate individuals' access to their own data and the transfer of personal data from one service provider to another (right to data portability);
- the introduction of a 'right to be forgotten in the on-line environment', to enable individuals to manage the risks connected with the protection of online data as effectively as possible, including the entitlement to have any personal data relating to them erased if there is no legitimate reason for retaining it;
- the strengthening of the role of the independent national authorities responsible for data protection compared to the current situation, to enable them to ensure that the EU rules are applied and upheld more effectively within their own State's territory, in particular by granting them the power to impose fines on companies that breach the rules, up to a sum of EUR 1 million or 2 % of the company's annual turnover;
- technology neutrality and application to all data processing, whether automated or manual;
- the obligation to perform data protection impact assessments.

3.8 The EESC welcomes the focus on the protection of fundamental rights and fully endorses the proposed choice of legal basis, which is to be used for the first time in this legislation. It also draws attention to the utmost importance of this proposal for achieving the single market and its positive impact in the context of the Europe 2020 strategy. With regard to the choice of a regulation, a number EESC members, irrespective of Group, agree with the Commission and consider that it is the legal instrument best suited to guarantee uniform application with the same high level of protection in all Member States; others believe that a directive would be best placed to safeguard the principle of subsidiarity and protect data, particularly in Member States where there is already a higher level of protection than that set out in the Commission proposal. The EESC is also aware that the Member States are themselves divided on this matter. The EESC therefore calls on the Commission to do more to back up its proposal by clearly demonstrating that it is compatible with the principle of subsidiarity and setting out the reasons for which a regulation is essential in the light of the objectives set.

3.8.1 As regulations are applicable immediately and in full in all Member States without the need for transposition, the EESC draws the Commission's attention to the need to ensure consistency between the translations into all languages – which is not the case with the proposal.

3.9 The EESC considers, on the one hand, that the proposal could have gone further in increasing the protection offered by certain rights that have been rendered almost void of content by a multitude of exceptions and limitations and, on the other, that it should have established a better balance between the rights

⁽⁷⁾ See EESC opinion, OJ C 248, 25.8.2011, p. 123.

of the various parties concerned. There is therefore a risk of an imbalance between the aims of the fundamental right to data protection and those of the single market, to the detriment of the former. The EESC endorses for the most part the opinion expressed by the European Data Protection Supervisor ⁽⁸⁾.

3.10 The EESC would have liked to see the Commission adopt an approach that was more in line with the needs and expectations of the public and that applied more systematically to certain fields of economic and social activity such as, for example, e-commerce, direct marketing, employment relationships, public authorities, surveillance and security, DNA etc., by differentiating the legal regimes for these very different aspects of data processing according to their nature.

3.11 With regard to various provisions set out in the proposal (all of which are listed in Article 86), some crucial aspects of the legal instrument and of the functioning of the system are left to future delegated acts (there are 26 delegations of power for an indefinite period). The EESC considers that this goes far beyond the limits laid down in Article 290 of the Treaty and defined in the Commission Communication on the Implementation of Article 290 of the Treaty on the Functioning of the European Union ⁽⁹⁾, with consequences for the instrument's legal security and certainty. The EESC considers that a certain number of delegations of power could be directly regulated by the European legislator. Others could fall within the remit of national supervisory authorities or their European-level association ⁽¹⁰⁾. This would reinforce implementation of the principles of subsidiarity and contribute to greater legal security and certainty.

3.12 The EESC understands why the Commission has only addressed the rights of individuals in this proposal, given its specific legal character, but calls on the Commission to turn its attention to data concerning legal persons as well, particularly those which have legal personality.

4. Specific comments

Positive aspects

4.1 Importantly, the proposal still complies with the purpose and objectives of Directive 95/46/EC, in particular as regards a number of definitions, the thrust of the principles relating to data quality and justifications for data processing, the processing of special categories of data and various specific rights concerning information and access to data.

4.2 The proposal also introduces positive innovations in key areas. These include: new definitions, clearer conditions for consent, particularly where children are concerned, and the classification of new rights, such as the rights of rectification and erasure and, in particular, the 'right to be forgotten in the digital environment', and the right to object and not be subject

to profiling, together with extremely detailed obligations for data controllers and processors, and measures to strengthen data security and the general framework for sanctions, principally of an administrative nature.

4.3 The Committee also welcomes the proposal's focus on creating a proper institutional framework to ensure that the legal provisions function effectively, both at company level (through data protection officers) and in Member States' public administrations (through independent supervisory authorities), as well as the further cooperation both between these authorities and with the Commission (through the creation of the European Data Protection Board). However, it points out that the competences of national, and to some extent regional, data protection officers in the Member States must be retained.

4.4 Lastly, the Committee sees the encouragement to draw up codes of conduct and the role accorded to certification mechanisms and data protection seals and marks as positive steps.

What could be improved:

4.5 Article 3 – Territorial scope

4.5.1 The conditions for application of the regulation set out in paragraph 2 are too restrictive: consider the case of pharmaceutical companies based outside Europe which wish to have access to clinical data of data subjects resident in the EU for the purposes of clinical tests.

4.6 Article 4 – Definitions

4.6.1 The elements of 'consent', which is the basis for the whole system of data protection, should be defined more precisely, particularly as to the nature of 'clear affirmative action' (particularly in the French version).

4.6.2 The concept of 'transfer of data' is not defined anywhere: it should be defined in Article 4.

4.6.3 The concept of 'fairness', mentioned in Article 5(a), should be defined.

4.6.4 The concept of data which are 'manifestly made public' (Article 9(2)(e)) should also be clearly defined.

4.6.5 The concept of profiling, used throughout the proposal, also requires a definition.

4.7 Article 6 – Lawfulness of processing

4.7.1 In sub-paragraph (f), the concept of 'legitimate interests pursued by a controller', which are not covered by any of the preceding sub-paragraphs, seems vague and subjective. This concept should be explained more clearly in the text itself, not left to a delegated act (see paragraph 5), particularly since

⁽⁸⁾ Opinion of the European Data Protection Supervisor on the Data Protection Package, 7 March 2012.

⁽⁹⁾ COM(2009) 673 final, 9.12.2009.

⁽¹⁰⁾ See the objections on grounds of subsidiarity raised by the French Senate.

sub-paragraph (f) is not mentioned in paragraph 4, (this is important, for example, for postal services and direct marketing ⁽¹¹⁾).

4.8 Article 7 – Consent

Paragraph 3 should state that withdrawal of consent prevents any further processing, and that it affects the lawfulness of processing only from the time of withdrawal of consent.

4.9 Article 14 – Information

4.9.1 A maximum time limit should be given in paragraph 4(b).

4.10 Article 31 – Notification of breaches to the supervisory authority

4.10.1 Notification of all breaches may compromise the operation of the system and may ultimately be an obstacle to ensuring that those responsible are held to account.

4.11 Article 35 – Data protection officers

4.11.1 The conditions related to the role of data protection officers should be set out in more detail, particularly in relation to protection against dismissal, which should be clearly defined and extend beyond the period during which the individual concerned holds the post; basic conditions and clear requirements for performing this activity; exemption of DPOs from liability where they have reported irregularities to their employer or to the national data protection authority; the right for employee representatives to be directly involved in the appointment of the DPO and to be regularly informed ⁽¹²⁾ about problems that arise and how they are resolved. The issue of the resources allocated to the function must also be clarified.

4.12 Article 39 – Certification

4.12.1 Certification should be the responsibility of the Commission.

4.13 Articles 82 and 33 – Data processing in the employment context

4.13.1 There is no explicit reference in Article 82 to performance appraisals (which are not mentioned in Article 20 on 'profiling' either). Furthermore, it is not indicated whether this authorisation also applies to the wording of the provisions on DPOs. The prohibition against 'profiling' in the context of employment should also be mentioned explicitly in relation to data protection impact assessments (Article 33).

⁽¹¹⁾ More clarity should be given as to marketing by way of letters addressed to individuals, since as it stands the regulation would ban this practice despite the fact that it is a targeted and relatively unintrusive way of seeking new customers.

⁽¹²⁾ For example, a periodic report on the activities of the DPO could be sent to staff representatives or to the elected worker representatives on the Management Board or on the national and/or European Supervisory Board, where they exist.

4.14 Articles 81, 82, 83 and 84

4.14.1 The words: '*Within the limits of this Regulation ...*' should be replaced with: '*... On the basis of this Regulation ...*'.

What is missing and should be included:

4.15 Scope

4.15.1 As this is a matter of fundamental rights, harmonisation in specific areas should leave Member States free to adopt provisions under national law in areas not covered, as well as provisions that are more favourable than those set out in the regulation, as is already the case for the areas covered by Articles 80 to 85.

4.15.2 Individuals' Internet Protocol addresses should be mentioned explicitly in the body of the regulation among personal data to be protected and not just in the recitals.

4.15.3 Search engines, most of whose revenue comes from advertising and which collect their users' personal data and make commercial use of such data, should be included in the scope of the regulation and not just in the recitals.

4.15.4 Specific mention should be made of the fact that social networks fall within the scope of the regulation, not only when they are involved in profiling for commercial purposes.

4.15.5 Certain Internet monitoring and filtering systems, whose purpose is ostensibly that of combating counterfeiting and which have the effect of profiling certain users, keeping files on them and monitoring all their movements without specific judicial authorisation, should also fall within the scope of the regulation.

4.15.6 The EU's institutions and bodies should also be covered by the obligations set out in the regulation.

4.16 Article 9 – Special categories of data

4.16.1 The best way to proceed would be to create special regimes to match the circumstances, situation and purpose of the processing of data. 'Profiling' should also be prohibited in these areas.

4.16.2 The principle of non-discrimination should be introduced in relation to the processing of sensitive data for statistical purposes.

4.17 Opportunities – so far untapped – should be found within the following areas:

— involvement of employee representatives at all national and European levels in drawing up 'binding corporate rules', which should henceforth be accepted as a prerequisite for international data transfers (Article 43);

— briefing and consultation of European Works Councils for international data transfers, particularly to third countries;

— briefing and involvement of European social partners and European consumer and human rights NGOs in the appointment of the members of the European Data Protection Board, which is to replace the Article 29 Working Party;

— briefing and involvement of national level partners and NGOs in the appointment of the members of national data protection authorities, for which there is no provision either.

4.18 Articles 74 to 77 – Collective actions in relation to illegal files and for damages

4.18.1 When violations of data protection rights occur, most are collective in nature: it is not single individuals who are concerned, but a group or all those whose data has been stored. Traditional individual legal remedies are therefore inappropriate for responding to this type of violation. However, although Article 76 permits any body, organisation or association which aims to protect data subjects' rights to launch the procedures set out in Articles 74 and 75 on behalf of one or more data subjects, the same does not apply to claims for compensation or damages, since Article 77 only provides that possibility for individuals, and does not set out a procedure covering collective representation or collective actions.

4.18.2 In this regard, the EESC wishes to renew the call it has made in a number of opinions over many years, concerning the urgent need for the EU to have a harmonised judicial instrument for European-level group action, which is necessary in many areas of EU law and which already exists in several Member States.

What is unacceptable:

4.19 Article 8 – Children

4.19.1 Having defined a 'child' as any person below the age of 18 years (Article 4(18)), in accordance with the UN Convention on the Rights of the Child, it is unacceptable to allow 13-year-old children to 'consent' to processing of personal data under Article 8(1).

4.19.2 Although the Committee understands the need to have specific rules for SMEs, it is unacceptable that the Commission can simply exempt SMEs from the duty to respect children's rights by way of a delegated act.

4.20 Article 9 – Special categories

4.20.1 Similarly, in Article 9(2)(a) there is no reason why children should be able to give their 'consent' to processing

of data concerning their national origin, political opinions, religion, health, sex life or criminal convictions.

4.20.2 Data provided voluntarily by individuals, for instance on Facebook, should not be excluded from protection, as might be inferred from Article 9(e), but should benefit at least from the right to be forgotten.

4.21 Article 13 – Rights in relation to recipients

4.21.1 The exception at the end ('unless this proves impossible or involves a disproportionate effort') is unjustifiable and unacceptable.

4.22 Article 14 – Information

4.22.1 The same exception in paragraph 5(b) is also unacceptable.

4.23 Article 19(1) – Right to object

4.23.1 The vague wording of the exception ('compelling legitimate grounds') is unacceptable and renders the right to object meaningless.

4.24 Article 20 – Profiling

4.24.1 The prohibition of profiling should not be limited to 'automated' processing ⁽¹³⁾.

4.24.2 In paragraph 2(a), the expression '... have been adduced ...' should be replaced by '... have been taken ...'

4.25 Article 21 – Restrictions

4.25.1 The wording of paragraph 1(c) is completely unacceptable, since it contains vague, undefined terms, such as 'economic or financial interest', 'monetary, budgetary and taxation matters' and even 'market stability and integrity', the latter phrase having been added to Directive 95/46.

4.26 Articles 25, 28 and 35 – threshold of 250 workers

4.26.1 The threshold of 250 workers determining the applicability of some protection provisions, such as the obligation to appoint a Data Protection Officer, would mean that only slightly under 40 % of employees would be protected under this provision. With regard to the obligation to provide documentation, the same restriction would mean that a substantial majority of employees would have no opportunity to monitor the use of their personal data and that there would no longer be

⁽¹³⁾ See Recommendation CM/Rec(2010)13 of the Council of Ministers of the Council of Europe, 23 November 2010.

any controls. The Committee would suggest possibly making the threshold lower, using for instance the number of workers applied in general by Member States for the establishment of workplace representation of employee interests. An alternative approach based on objective criteria could be envisaged, to be based, for instance, on the number of data protection files processed within a time period to be determined, irrespective of the size of the enterprise or service concerned.

4.27 Article 51 – The ‘one-stop shop’

4.27.1 While the ‘one-stop shop’ principle is designed to make life easier for companies and to make data protection mechanisms more effective, it could nevertheless lead to a

marked deterioration in data protection for the public in general, and in the protection of the personal data of workers in particular, making the current obligation to ensure that transfers of personal data are subject to a company-level agreement and are approved by a national commission for data protection⁽¹⁴⁾ redundant.

4.27.2 In addition, this system seems to conflict with the aim of locally-based management and to threaten to prevent individuals from having their requests dealt with by the closest and most accessible supervisory authority.

4.27.3 There are therefore reasons in favour of jurisdiction remaining with the authority in the complainant’s Member State of residence.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹⁴⁾ Specifically, the independent administrative authorities responsible for authorising and supervising the constitution of personal data files; on the contrary, their powers should be extended to cover the digital society and social networks, especially in view of the value of exchanges of personal profiles for marketing purposes.

APPENDIX

to the Opinion of the European Economic and Social Committee

The following amendment, which received at least a quarter of the votes cast, was rejected in the course of the debate (Rule 54(3) of the Rules of Procedure):

Delete points 4.25 and 4.25.1:

~~4.25 Articles 25, 28 and 35 — threshold of 250 workers~~

~~4.25.1 The threshold of 250 workers determining the applicability of some protection provisions, such as the obligation to appoint a Data Protection Officer, would mean that only slightly under 40 % of employees would be protected under this provision. With regard to the obligation to provide documentation, the same restriction would mean that a substantial majority of employees would have no opportunity to monitor the use of their personal data and that there would no longer be any controls. The Committee would suggest possibly making the threshold lower, using for instance the number of workers applied in general by Member States for the establishment of a works council, an works committee or a supervisory board. An alternative approach based on objective criteria could be envisaged, to be based, for instance, on the number of data protection files processed within a time period to be determined, irrespective of the size of the enterprise or service concerned.~~

Voting

For: 87

Against: 89

Abstentions: 26

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: A Quality Framework for Services of General Interest in Europe’

COM(2011) 900 final

(2012/C 229/18)

Rapporteur: **Mr SIMONS**

On 20 December 2011, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Quality Framework for Services of General Interest in Europe

COM(2011) 900 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 145 votes to 2 with 7 abstentions.

1. Conclusions and recommendations

1.1 The Committee is unhappy with the title of the communication, which is confusing and promises more than the content delivers. The confusion arises because the term ‘quality framework’ apparently means something different from the common value entitled ‘quality’, as recognised in Article 14 TFEU and in Protocol 26; quality in the latter sense is not dealt with at all in the communication, either per se or from a sectoral point of view.

1.2 The Committee agrees that there is a need to publish this explanatory memo on services of general interest. To the extent that this Commission communication provides that explanation, the Committee endorses it, subject to certain comments. Over the years, the Committee has repeatedly insisted on the need for high-quality, efficient and modern services of general interest.

1.3 The Committee still believes that it is essential to translate the new primary law provisions on SGIs into derived sectoral and, where appropriate, cross-sectoral law.

1.4 The current financial and economic crisis provides a stark reminder of the central role that services of general interest play in ensuring social and territorial cohesion. Here, the pressure that political decisions have put on public sector funds must be borne in mind. The Committee agrees that there is an urgent need to take appropriate action to maintain services and improve their quality.

1.5 The Committee deems the institutional framework (Article 14 TFEU, Protocol No 26 and Article 36 of the

Charter of Fundamental Rights) to provide a good basis for further development, but does not believe that the communication provides the coherent, specific approach to services of general interest that is needed.

1.6 The Committee considers that providing, commissioning and funding services of general economic interest is, and will remain, a matter for the Member States to deal with by means of sectoral legislation that allows for tailor-made solutions, whereas the EU's legislative competence mainly relates to establishing the economic and financial framework conditions and checking for manifest error.

1.7 The Committee believes that, when revising sectoral legislation which includes universal service obligations, continuous review is necessary, on the basis of the new provisions of primary law, the changing needs of users and technological and economic change, in cooperation with stakeholders and civil society. It considers that such revision should be approached in a way that takes account of employment and social and territorial cohesion, aspects that have so far been neglected.

1.8 Protocol No 26 emphasises that providing, commissioning and organising non-economic services of general interest is a competence belonging to the Member States. The Committee therefore believes that it is the Member States that are primarily responsible for the evaluation of such services at national, regional or local level, while the role of the European Commission is simply to share best practices and to monitor compliance of those services with the general principles set out in the EU treaties.

1.9 The Committee welcomes the Commission's attempt in the communication to explain basic concepts used in the debate on services of general interest, which directly affect customers and users – in other words, the public in general. Unfortunately, those explanations are not complete. The Committee considers that the definition of SGI should do more than just refer to the existence of a market. It could, for example, make reference to democratically legitimised political decision-making in the Member States. The Committee recommends that there be broad consultation on this matter and that a new glossary be produced which leaves no room for interpretation among the various language versions, in order to prevent any misinterpretation.

1.10 The Committee supports the introduction of greater clarity and legal certainty on the EU rules that apply to services of general economic interest. This also applies to the Commission's publication of the 'guides', which are intended to improve understanding and application of the EU rules on services of general economic interest, particularly if they are appropriately drafted with the help of experts.

1.11 Regarding the permanent guarantee of access to essential services such as postal services, basic banking services, public transport, energy and electronic communications, the Committee believes that there should be a universal right of access, particularly for vulnerable customers such as people with disabilities and those living below the poverty line. Member States will need to make a continuous, fully substantiated assessment, on the basis of the legal regime in force and subject to review by the Commission, of whether to keep these services in public ownership (or bring them into such ownership), or hand them over, in whole or in part and under strict conditions, to the market.

1.12 The Committee feels that more attention should have been given in the communication to social, health and labour market services of general interest. It also calls on the Commission to step up its work on the definition of social services of general interest. The Committee also considers, as does the Commission, that social services of general interest play a key role in the EU, in sectors such as healthcare, childcare, care of the elderly, assistance to disabled persons, social housing and labour market services.

1.13 The Committee calls on the Commission to put forward proposals to promote quality initiatives without delay, particularly for social services of general interest, since they receive very little attention in the communication and because demand for these services is growing while funding them is becoming increasingly problematic. In addition, the Commission should follow up on the implementation of the Voluntary European Quality Framework for Social Services at Member State level.

2. Introduction

2.1 With the entry into force of the Lisbon Treaty, new provisions have been introduced on services of general

interest, namely Article 14 of the Treaty on the Functioning of the European Union (TFEU) and Protocol No 26 on the interpretation of the term 'common values' in Article 14 TFEU and on non-economic services of general interest. Article 36 of the Charter of Fundamental Rights has also acquired the same legal value as the treaties.

2.2 In addition, the continuing financial and economic crisis provides a reminder of the central role that services of general interest play in guaranteeing social and territorial cohesion and of the effect of the crisis on the public sector. Studies show that 'public services', a concept that is much broader than just SGIs, account for more than 26 % of the GDP of the 27 EU countries and employ 30 % of the European workforce.

2.3 These are therefore the main reasons why the Commission has decided to present this communication.

3. Content of the Commission document

3.1 According to the Commission, the quality framework is to ensure that the regulatory environment at EU level continues to strengthen the social dimension of the single market, that better account is taken of the specific nature of these services, and that the challenge is met of delivering them in a way which incorporates the values recognised in the protocol: quality, safety and affordability, equal treatment, universal access and users' rights.

3.2 The Commission notes that, over the years, both the demand for services of general interest and the way they are provided have changed significantly. According to the Commission, services previously provided by central government are now to a large extent outsourced to lower-level public bodies or to the private sector through related regulations.

3.3 The trend mentioned in point 3.2 is bolstered by the process of liberalisation, new priorities in government policies and the changing needs and expectations of users. Since many of these services are economic in nature, the internal market and competition rules apply to them 'in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them'.

3.4 Despite the fact that there are some concerns about the impact of those rules, in particular on social services, the Commission believes that they can be applied in a way that takes account of specific needs and enhances the provision of services while, of course, applying the necessary degree of flexibility.

3.5 The 'quality framework' presented by the Commission consists of three strands of action, which the Commission has not developed into concrete proposals.

4. General observations

4.1 The Committee is unhappy with the title of the communication, which is confusing and promises more than the content delivers. The confusion arises because the term 'quality framework' is apparently to be understood differently from the common value entitled 'quality', as recognised in Article 14 TFEU and in Protocol 26; 'quality' in the latter sense is not dealt with at all in the communication, either *per se* or from a sectoral point of view. This also applies to the other values, such as safety, affordability, equal treatment, promotion of universal access and user rights.

4.2 The absence of an impact assessment alongside the communication is also very serious, because the Commission's assertions and observations, as set out in point 3.2, are open to a good deal of debate. For example, according to the Committee and experts in the field, these services have always been provided at regional and local level.

4.3 The Committee agrees that there is a need to publish this explanatory memo on services of general interest. It has mentioned in previous opinions ⁽¹⁾ that efficient, modern, accessible and affordable services of general interest, which form one of the pillars of the European social model and the social market economy, are necessary and should be given constant attention, particularly now that Europe is suffering from the financial and economic crisis.

4.4 To this extent, the Committee supports the Commission's approach and urges it to continue working to ensure that account is taken of the special features of social services of general interest, in areas such as the law on state aid and on labour market services.

4.5 The Committee still believes that it is essential to translate the new primary law provisions on SGIs into derived sectoral and, where appropriate, cross-sectoral law.

4.6 The Committee feels that more attention should have been given in the communication to social and health services of general interest. It also calls on the Commission to step up its work on the definition of social services of general interest. It notes, moreover, that there may be other services of general interest not mentioned by the Commission, for example in culture, education and public broadcasting. The Committee also considers, as does the Commission, that social services of general interest play a key role in the EU, in sectors such as healthcare, childcare, care of the elderly, assistance to disabled persons, social housing and labour market services.

4.7 The introduction of new provisions as a result of the entry into force of the Lisbon Treaty (Article 14 of the Treaty

on the Functioning of the European Union (TFEU) and Protocol No 26 on services of general interest, as well as Article 36 of the Charter of Fundamental Rights, which has acquired the same legal value as the treaties) has given the Commission the opportunity to bring together all the initiatives it has taken in relation to services of general interest. The Committee considers this a valuable initiative, although it notes that the communication does not yet provide the coherent, specific approach to services of general interest that is needed, for example as regards access. It therefore calls on the Commission to put forward concrete proposals.

4.8 Article 14 TFEU has given the EU legislative competence in the field of services of general economic interest; in particular it can use regulations to determine the principles and conditions relating to such services, especially economic and financial conditions, to enable these services to carry out their tasks. In the Committee's view, it is clear from the context of this article that this refers to framework and sectoral conditions in the areas of EU competence and not to the conditions of the service itself, since the latter are established by the national authorities (in this context, 'national authorities' means central, regional and local government).

4.9 That article also makes clear that providing, commissioning and funding such services is and will remain a competence of the national and sub-national authorities of the Member States. The Committee has repeatedly argued this in the past. The Commission should also continue to build up its knowledge of these services at national level, so that it is in a position to assess compliance with EU rules.

4.10 The Commission proposes to keep under review the need to revise existing sectoral legislation, including universal service obligations. The Committee wishes to note that it considers it essential for this continuous review to be carried out on the basis of the new provisions of primary law, the changing needs of users and technological and economic change, in conjunction with stakeholders and civil society. That is particularly the case when the need for new universal service obligations in other sectors is being investigated. The Committee has already set out its views on the subject in an earlier opinion ⁽²⁾.

4.11 Article 1 of Protocol No 26 sets out the basic principles that apply to services of general economic interest and Article 2 describes the competence of the Member States to provide, commission and organise non-economic services of general interest. The Committee therefore believes that it is the Member States that are primarily responsible for evaluating the services referred to in Article 2 at national, regional or local level; the role of the European Commission is, within the framework of checking for manifest error, just to monitor those services' compliance with the general principles of the EU treaties.

⁽¹⁾ OJ C 48 – 15/02/2011, pp. 77-80; OJ C 128 – 18/05/2010, pp. 65-68; OJ C 162 – 25/06/2008, pp. 42-45; OJ C 309 – 16/12/2006, pp. 135-141.

⁽²⁾ OJ C 48 – 15/02/2011, pp. 77-80.

4.12 The Committee welcomes the Commission's attempt to explain various concepts used in the debate on services of general interest. Unfortunately, those explanations are neither complete nor always correct. Among other things, the meaning of 'essential services' and its place in the general scheme is not covered, and it is not clear in the Dutch version whether 'onmisbaar' (p.3, second bullet point) is the same as 'essentieel' (both rendered as 'essential' in the English version). In addition, the list of specific universal service obligations is incomplete. The Commission communication itself provides an example of this confusion: the heading and the first sentence of Strand 2 refer to 'essential', but the whole of the subsequent text under that heading deals with 'universal service obligations'. The Commission should not hesitate to enlist the help of recognised experts in the field in giving a clear formulation of the basic concepts used in connection with SGIs.

4.13 The Committee also notes that there is room for interpretation among the different language versions, going beyond the list of basic concepts. For example, the question arises whether concepts such as 'universal access' used alongside 'universal service', and 'utilities' used alongside 'public service obligations' and 'public service mission', mean something different in each case. It is typical of this confusion that the Commission states in the box dealing with the basic concepts that it will not use the term 'public services' in the remainder of the Communication, but four paragraphs later states '... which enable specific *public services* to fulfil their missions ...'.

4.14 The Committee also recommends, therefore, that broad consultation take place on all these issues and that a new glossary be produced, so as to prevent any misinterpretation. In doing so, it should take into account the different social systems in the Member States.

5. Specific comments

5.1 The Commission's approach in preparing this communication, using the three strands of action mentioned in point 3.5, seems to the Committee to offer a good framework as a basis for future development.

5.2 The first strand of action relates to the introduction of greater clarity and legal certainty as regards the EU rules applying to services of general economic interest. The Committee naturally sees this in a positive light, having argued for it for many years. Unfortunately, the Committee notes that it is not backed up by any new, concrete proposals.

5.3 Regarding the revision of the state aid rules for services of general interest, the Commission has already adopted or proposed the following changes:

5.3.1 A new communication addressing in more detail the problems of interpretation arising at national, regional and local level;

5.3.2 An increase in the number of social services exempted from the requirement of ex ante notification to and assessment by the Commission, provided that they fulfil certain conditions. As well as hospitals and social housing, the list now includes services of general economic interest meeting social needs relating to health and long term care, childcare, access to and reintegration into the job market, and the care and social inclusion of vulnerable groups;

5.3.3 More thorough and more focused scrutiny of large-scale aid measures that may have a major impact on the operation of the internal market; and

5.3.4 A proposal for a new de minimis rule, intended specifically for services of general economic interest, 'which will exclude the existence of aid' for amounts of aid up to EUR 500 000 per annum over a three-year period. For certain sectors (the Commission refers here to transport and public broadcasting), sectoral rules continue to apply.

5.4 The following points are relevant in the Commission's proposal on the revision of the rules on public procurement and concessions, aimed at improving the quality of provision of services of general economic interest:

5.4.1 There will be a separate, lighter regime for social services and healthcare services, which will take account of their particular role and specific characteristics. Higher thresholds will apply and these services will only have to comply with transparency and equal treatment obligations. Use of the 'most economically advantageous tender' criterion will be encouraged (according to the Commission, this concept also covers social and environmental aspects).

5.4.2 There will be greater legal certainty on the question of how EU public procurement rules apply to relations between public authorities. We refer in this respect to the Committee's recent opinion on Public procurement and concession contracts.

5.5 The Committee also warmly welcomes the publication of the Commission's 'guides', which aim to improve understanding and application of the EU rules on services of general economic interest, particularly if they are put together with the help of recognised experts.

5.6 The second strand of action relates to the guarantee of permanent access to essential services. The Commission seeks to maintain a balance in this respect between, on the one hand, taking into account the need to increase competition and, on the other, securing access to high-quality and affordable essential services for all members of the public, as also set out in the 2004 white paper on this subject.

5.7 In this context, the Commission gives the following examples of essential services: postal services, basic banking services, public (passenger) transport, energy and electronic communications. With reference to point 4.6, the Committee assumes that this list is not exhaustive. The Committee also considers the examples mentioned above to be essential services, which should be affordable and for which there should be a universal right of access, particularly for vulnerable customers and those who are in need of support, such as people with disabilities and people affected by poverty and exclusion. In the event of conflict with competition rules, the general interest prevails.

5.8 The third strand of action relates to quality initiatives, particularly for social services of general interest, for which social demand is increasing and funding is becoming increasingly problematic, due to the financial and economic crisis and the ageing population.

5.9 On this point, the Committee recalls in particular that it is still awaiting a communication from the Commission on

health services, as promised in connection with social services of general interest.

5.10 The Commission gives four examples of such initiatives in relation to the third strand of action. In this connection, the Committee wishes to point out that three of the four examples relate to initiatives that have already begun. The planned support from the PROGRESS programme for new transnational projects should therefore not only cover implementation of the Voluntary Quality Framework, but should also take into account the results of these projects.

5.11 The Committee welcomes the Commission's emphasis on the fact that public procurement contracts are awarded at the 'least cost to the community' and not necessarily to the lowest bid. This is particularly important for the best mix of social policy and labour market services, which have a marked influence on one another. However, the social aspect of procurement has to be strengthened throughout society as a whole.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a Council Regulation establishing an Instrument for Nuclear Safety Cooperation’

COM(2011) 841 final

(2012/C 229/19)

Rapporteur: **Richard ADAMS**

On 7 December 2011 the European Commission decided to consult the European Economic and Social Committee, under Article 203 of the Treaty on the European Atomic Energy Community, on the

Proposal for a Council Regulation establishing an Instrument for Nuclear Safety Cooperation

COM(2011) 841 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 146 votes to 5 with 6 abstentions.

1. Conclusions and recommendations

1.1 The Committee welcomes the proposed regulation and conditionally supports the wider application of the EU's expertise in nuclear safety to third countries.

1.2 The Committee notes that oversight of the substantial financial reference amount of EUR 631 million over the period 2014-2020 rest with EuropeAid – Development and Cooperation DG and will be governed by rules and procedures common to all aid and development policies. The Committee expects this to enhance accountability, transparency and consistency with other aid programmes.

1.3 The Committee notes that it will be receiving a report from the Commission on the implementation, results, main outcomes and impacts of this programme in the Union's external financial assistance every two years, commencing in 2016, and looks forward to full engagement with this process of scrutiny and review. Timely planning of the mid-term reviews of the programmes should maximise capacity to show results and no doubt will take place in collaboration with the geographical programmes/EU Delegations in partner countries.

1.4 It is noted that the views of European civil society about the development of nuclear energy in general vary considerably across the Member States and recognition of this should be more evident in certain aspects of the regulation.

1.5 In particular it should be clarified for the European citizen as tax payers, that the majority of programme expenditure will be directed towards remediation with only a small minority of expenditure applied to safety advisory programmes in emerging economies where political and civil stability can be assured.

1.6 For giving assistance to emerging countries the Commission should propose an international convention on criteria and conditionality relating to nuclear safety advisory work to be developed between the small number of states capable of delivering such advice. Irrespective of such a convention, clear criteria should be implemented in the INSC to enable a decision on whether an emerging country:

— meets minimum criteria of national and international stability

— is capable and prepared to guarantee the installation of the administrative, scientific and technical structure that is needed to realise the nuclear option

— can sustainably make available the financial, technical and industrial resources needed to ensure a high level of regulatory competence, to ensure all means for safe operations and provide for a long term safe waste management programme.

1.7 These criteria should not be part of the annex of the regulation but included in the main text because they comprise general principles related to international nuclear safety, the safety of international relations and international security of high significance.

1.8 Assistance projects should only be implemented in an emerging country if it is a party to the Non-Proliferation Treaty and its Protocols, the Convention on Nuclear Safety and the Joint Convention on the Safe Management of Radioactive Waste.

1.9 Only under exceptional circumstances relating to safety assurance should resources be supplied for the acquisition of technical equipment. Criteria should be developed by the Commission and be reported. Assistance should not be given to operators.

1.10 As an aid to transparency it is recommended that case studies from the current programme are made available as well as improving presentation and inter-referencing on the EuropeAid website.

1.11 The Instrument for Nuclear Safety Cooperation (INSC) programme should encourage and evaluate the capacity for mandatory instruments to be placed into law in each country of activity in circumstances where they would implement or enhance International Atomic Energy Agency (IAEA) treaties, conventions and agreements.

1.12 We particularly recommend the inclusion of support for independent civil society organisations within or adjacent to beneficiary states who wish to improve accountability and transparency of the nuclear safety culture through specific actions.

2. Introduction

2.1 From time to time issues of nuclear safety and security beyond Europe are brought into very sharp focus, most notably through Three Mile Island in 1979, Chernobyl in 1986 and Fukushima in 2011. Such accidents have global impact and highlight the catastrophic consequences arising from deficient design, poor safety culture and an inadequate operational safety and regulatory framework.

2.2 441 commercial nuclear reactors were operating in 30 countries around the world in 2010, many were built in the 1970s and 1980s, with an average lifespan of around 35 years. 56 countries also operate some 250 civil research reactors. Over 60 further nuclear power reactors are under construction, while over 150 are planned. New reactors will be built principally in China, India and Russia, but possibly also in South-east Asia, South America and the Middle East. The demand for electricity is inexorably rising and states may also seek to expand their exports of nuclear generated power.

2.3 Irrespective of whether a nuclear 'renaissance' develops, significant nuclear safety issues, potentially with global impact, will always be present as long as nuclear power plants are operating. The EU therefore determines that aspects of international nuclear safety are a legitimate area of its concern and involvement, particularly as, from the 1957 Euratom Treaty onwards, the Union has developed research, technical, operational and regulatory expertise in this area. With about a third of the world's installed nuclear capacity and the widest

experience in diverse and dynamic regulatory and safety regimes, Europe contains a significant knowledge pool in this area. The Chernobyl disaster then stimulated a dynamic and proactive approach on nuclear safety cooperation and dissemination as the potential weaknesses in third country safety regimes were tragically illustrated.

2.4 From 1991 onwards, as part of the EU's TACIS programme (Technical Assistance to the Commonwealth Independent States) significant support has been provided in the area of nuclear safety to non-member states. Support was directed to safety analysis; on-site assistance to nuclear power plants (NPPs) and in some cases supply of equipment to improve the control of the plants operation; regulatory and licensing activities; and waste management. Contributions were also made to wider international initiatives, particularly action at Chernobyl. Some EUR 1.3 billion was allocated for nuclear safety assistance particularly in Russia and Ukraine and, to a much lesser extent, in Armenia and Kazakhstan.

2.5 From 2007 the INSC ⁽¹⁾, being specifically dedicated to the promotion and development of nuclear safety, succeeded TACIS and was no longer limited to states created as a result of the break-up of the Soviet Union. INSC has a budget of EUR 524 million for the period 2007-2013 and finances actions on improving nuclear safety, the safe transport, treatment and disposal of radioactive waste, the remediation of former nuclear sites and the protection against ionising radiation given off by radioactive materials, emergency preparedness and the promotion of international cooperation in the field of nuclear safety.

2.6 The EU works closely with the IAEA, often providing implementation finance for recommended programmes which would otherwise be unfunded.

2.7 A new challenge arises from the intention of third countries to build up a nuclear power capacity. Some of those emerging countries may not always have stable political structures and may lack separation of powers, democratic control, experienced administrative structures and expertise in managing high risk technologies. Indirectly encouraging such countries to develop nuclear technology by giving their nuclear programme a veneer of credibility from EU assistance could create new risks for nuclear safety.

2.8 Apart from that and irrespective of any intentions of third countries to build up nuclear power capacity the EESC is conscious of the fact that the civil use of nuclear power is linked with the production of plutonium, or other radioactive materials and with the development of technical knowhow that could produce international nuclear threats and increase international tensions. Those risks could be increased in unstable third countries.

⁽¹⁾ OJ L 81, 22.3.2007, p. 1.

3. Summary of the proposed regulation

3.1 The current proposed regulation, a recasting of the 2007 INSC Regulation, provides, inter alia, for a revision of the geographical scope to include all third countries worldwide and specifies the priorities and criteria for cooperation. Responsibility for implementation of the actions rests with EuropeAid - Development and Cooperation DG (DEVCO), with the collaboration of External Action DG, the Energy DG and the Joint Research Centre. In particular the regulation will be subject to the *Common rules and procedures for the implementation of the Union's instruments for external action* (COM(2011) 842 final). This also provides for a simplified implementing approach to the Development Cooperation Instrument ('DCI'), the European Instrument for Democracy and Human Rights (EIDHR), the European Neighbourhood Instrument (ENI), the Instrument for Stability (IfS), the Instrument for Pre-accession Assistance (IPA) and the Partnership Instrument (PI).

3.2 The regulation supports the promotion of a high level of nuclear safety, radiation protection and the application of efficient and effective safeguards of nuclear material in third countries. This covers mining for fuel, new build, operating, decommissioning and waste disposal issues – a comprehensive approach. In the view of the Commission, progress will be assessed through IAEA peer review, the status of development of the spent fuel, nuclear waste and decommissioning strategies, the respective legislative and regulatory framework and the implementation of projects and the number and importance of issues identified in relevant IAEA nuclear safeguards reports.

3.3 The regulation seeks to ensure consistency towards EU policy objectives and other third country development measures through the formulation of strategy papers followed by multi-annual indicative programmes covering an initial period of four years, followed by a subsequent three years.

3.4 An annex defines the specific supported measures and the criteria for cooperation, including the priorities, under which the budget of 631 million Euros will be spent over seven years.

4. General comments

4.1 The Committee notes the process by which the nuclear safety assistance and cooperation programmes have developed over the last 20 years. The present proposed regulation continues that trend and tries to make it clear that safety and not the promotion of nuclear energy is the overriding aim (COM(2011) 841 final; Annex – Criteria – final point). The Committee understands that the aim of the programme is not to encourage emerging countries to implement nuclear technology. To this end a more detailed elaboration of the balance of expenditure under previous and proposed INSC programmes should be more prominent. In particular it would help alleviate some concerns if it could be clarified that the majority of programme expenditure will be directed

towards remediation and a small minority of expenditure applied to safety advisory programmes in merging economies.

4.2 This would also recognise the possibility that in previous phases of the programme the dominant safety rationale for supporting certain operational measures, which also necessarily contribute to the extended as well as the safe running of NPPs, has not been fully apparent or explained. The exploitation of nuclear energy remains an issue on which European public opinion is divided whereas encouraging the highest safety standards is universally supported.

4.3 The Committee believes that the question of whether the engagement of the EU through INSC offers tacit support and encouragement for a nascent nuclear programme, particularly in an unstable emerging economy, has not been fully addressed. The Committee understands that specific project funding under INSC will only occur under rigorous conditions however it would support initial dialogue and debate on nuclear energy issues with any third country, free from all conditionality.

4.4 It must be an objective of the EU not to contribute to the development of a nuclear capacity in a third country that could create new risks for nuclear safety or nuclear threats that could affect international security. Qualifying criteria are suggested in paragraph 1.6. By the application of the highest nuclear safety standards within the Union the EU could claim leadership for the most safe and the most secure civil use of nuclear energy worldwide.

4.5 The contribution of the INSC programme to countries with a more limited industrial, scientific and research base and which either have or are intending to undertake commercial nuclear generation programmes and fulfil the minimum stability criteria is also considered of value and in the EU's public interest. In association with the IAEA it is quite possible that best practice support has strengthened technical and regulatory regimes in third countries with more limited resources. However, obtaining a clear view of how the current and future INSC programmes achieve these benefits can be difficult.

4.6 Therefore it is suggested that the Commission take further steps to clarify the paramount role of safety in the forthcoming INSC programme. This could involve publishing accessible case studies from the current programme, improving presentation and inter-referencing on the EuropeAid website and generally seeking a higher profile for what is a substantial programme. Such an approach would

also aid transparency and encourage accountability. As the regulation supports the promotion of a high level of nuclear safety it is suggested that exemplary references to such high standards are made, for example the WENRA Statement on Safety Objectives for New Nuclear Plants.

5. Specific comments

5.1 It should be noted that European directives on nuclear safety, contrary to the impression that might be given in the proposed regulation, do not contain technical safety standards and similarly the regulatory framework obligations only comprise some general requirements in line with the Convention on Nuclear Safety.

5.2 The proposal also states that there is a comprehensive safety assessment within the EU. However, the ongoing 'stress tests' are only a complementary safety assessment without underlying safety criteria that try to answer the question 'what happens when the safety systems fail'. It is also recognised that the process is limited because of the extremely short time scale imposed. Despite those limitations, the strengths of the EU approach to nuclear safety is based on the intention to take the 'stress tests' as the first step to further evolve and improve safety culture and to realise highest standards of nuclear safety. Interim conclusions from the current 'stress tests' of European NPPs reveal that further changes, improvements and statutory action will need to be undertaken. These should be reflected into the implementation and advisory work of the INSC programme with maximum speed.

5.3 It should be considered that the EU, institutionally, has very limited expertise in nuclear matters and the projects of the INSC are mostly performed by organisations of the member states. The Commission may be well placed to offer valuable critical analysis and reflection on the diversity of European standards and practices but should also seek to build up its own internal capacity and independent expertise.

5.4 The INSC proposal states that the goal of INSC is to eliminate nuclear risk but it should be noted that, technically, as with the elimination of risk in any complex industrial process, achieving this goal cannot be guaranteed, especially not the prevention of catastrophic nuclear accident. It should be clarified that the goal is the prevention of incidents and accidents according to the best known standards. It should also be noted that a belief that risk has been eliminated in any process does not encourage a high-level safety culture.

5.5 The Commission proposes Integrated Regulatory Review Service (IRRS) and Operational Safety Team (OSART) missions as indicators but both provide only limited value as they are not meant for supervisory purposes. E.g., they gave no protection against the Fukushima accident. Additionally both types of missions do not aim at the nuclear safety status of Nuclear

Power Plants (NPPs). The international supervision of NPPs remains a complex and contentious issue.

5.6 INSC programmes should also consider, where appropriate, the encouragement of mandatory instruments to be placed into law in each country of activity in circumstances where they would enhance IAEA treaties, conventions and agreements.

5.7 The explanatory memorandum to the regulation notes that in the public consultation on external action the overwhelming majority of respondents supported a stronger focus on monitoring and evaluations systems in the future instruments and in the implementation of projects/programmes. The Committee recognises that, though newly established, EuropeAid - Development and Cooperation DG draws on extensive experience and expertise in this area which, no doubt, will be fully applied.

5.8 However, we note that the list of specific supported measures does not include support for independent civil society organisations within or external to beneficiary states who wish to improve accountability and transparency of the nuclear safety culture through specific actions. This is allowable under the Instrument for Stability and also the European Instrument for Democracy and Human Rights and the Committee very strongly recommends that the INSC programme includes such support in its allowable measures.

5.9 The Committee notes the flexibility which is created by grouping the supported measures and cooperation criteria in the Annex, which itself may be modified in accordance with the examination procedure provided for the Common Implementing Regulation. However, consideration should be given as to whether key issues of principle relating to international nuclear safety and security should be included in the main body of the regulation.

5.10 Cooperation criteria are drawn with some latitude. This is welcomed by the Committee for all countries having operating nuclear power plants. It may also be appropriate to engage at an exploratory and preliminary stage with a very wide range of third countries. Placing further restrictive criteria on which states may be INSC beneficiaries is not in the best interests of the safety of the European public. In respect of countries which are determined to take the first steps into nuclear electricity production we believe that EU access, expertise, analysis and advice can and should be applied where strengths are to be found in an active, independent and organised civil society. However, the most careful attention should be paid to the question of long-term political stability and the capacity to ensure civil security in partner countries.

5.11 The Committee therefore suggests defining minimum conditions for assistance in the frame of the INSC and that an international convention on conditionality relating to nuclear safety advisory work be developed between the EU and the small number of states in a position to provide such advice (the discussions of the Nuclear Safety Working Group of the G8 and similar discussions within the IAEA and also the EU would form a starting point).

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the European Union Strategy for the Protection and Welfare of Animals 2012-2015’

COM(2012) 6 final

(2012/C 229/20)

Rapporteur: **José María ESPUNY MOYANO**

On 19 January 2012 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the European Union Strategy for the Protection and Welfare of Animals 2012-2015

COM(2012) 6 final.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 146 votes to three with nine abstentions.

1. Conclusions

1.1 In general terms, the EESC agrees with the animal welfare strategy presented by the Commission, thereby supporting consumers' legitimate aspiration for food safety and a European production strategy geared towards quality.

1.2 The EESC notes that there are difficulties in the implementation of the existing legislation due to lack of support for their application and the loss of competitiveness suffered by EU products.

1.2.1 Instruments are needed to compensate for the loss of competitiveness faced by EU livestock production, since the additional costs resulting from the EU's animal welfare policy (EUPAW) are not absorbed by the market. There are reasons to fear an even greater loss of market share in both the internal market and export markets. There has been no consideration of the labour market or of working conditions.

1.2.2 The EESC would again insist that all imported products should meet the same production standards as EU products, taking a reciprocity approach in trade agreements.

1.3 On-going animal welfare training for operators, workers and authorities is a crucial element of the strategy. The EESC would also draw attention to the importance of allocating a proportion of cooperation funds to the training of third-country authorities, employers and workers regarding welfare in animal production.

1.4 The implementation of EU regulations requires adjustment of financial resources so that producers can make

the necessary investments and in order to compensate for additional costs. The CAP must complement this strategy, attaching the necessary importance to it.

1.5 A communication strategy must be drawn up to address society's concerns, taking account of scientific studies and progress in this field and the various points of view of producers, workers and consumers. Communication must not be based solely on obligatory labelling. There must be coherent consumer information programmes, which help consumers to make decisions based on the greatest possible number of factors. Funds to promote agri-food products have a key role to play, ensuring that production sectors play an active part in this work.

1.6 The EESC believes that all social actors and consumers must participate in the European network of reference centres, and that it has a crucial role to play in the development of the animal welfare strategy:

- a. coordinating the various research centres in the EU,
- b. facilitating the implementation of the legislation (the development of practical indicators, training of operators, workers and authorities),
- c. helping to assess the impact of the regulations in socio-economic and competitiveness terms,
- d. supporting information and communication activities.

1.7 Strengthening the weakest links in the food chain will lead to a fairer distribution of the additional costs resulting from the implementation of animal welfare standards, thereby maintaining the productive fabric and the development of rural areas.

1.8 The Commission's laudable efforts towards simplification are at odds with the Commission's intention to extend the scope of application to more species and further develop existing provisions.

2. Gist of the Communication

2.1 The purpose of this Communication from the Commission is to set out lines for advancing the EUPAW, in continuation of the 2006-2010 Action Plan.

2.2 The document states that the EU has made significant efforts to support animal welfare. It points out that the EUPAW is not applied uniformly in all Member States and that the mandatory requirements have not been established within the set timeframes. Nevertheless, we need to reflect on whether a 'one size fits all' approach can lead to better animal welfare.

2.3 The evaluation of EU animal welfare policy concludes that welfare standards have imposed additional costs on the livestock and experimental sectors.

2.4 It also notes that consumer decisions are driven mainly by price and that animal welfare is only one of the factors affecting consumer choice.

2.5 The Communication mentions the need to simplify legislation, but also the need to look at the competence requirements for animal handlers for specific species or production systems and the training of inspectors and technicians in Member States. It also notes that welfare requirements cover some species but not others.

2.6 In view of the above, it puts forward two strands of strategic actions, namely to:

— simplify legislation and facilitate its application; and to

— strengthen actions the Commission has already taken.

3. General comments

3.1 The EESC welcomes the strategy paper under consideration and the Commission's intention to improve factors liable to contribute to achieving the EU's objectives in this area.

3.2 The EESC supports consumers' legitimate aspiration for food safety and also supports a European production strategy geared towards quality. However, it would call upon the Commission to bear in mind that the increased cost for producers resulting from the animal welfare strategy is seldom offset by higher sale prices. Furthermore, the European livestock sector suffers from the lack of reciprocity in trade agreements with third countries.

3.3 The EESC regrets that the Commission's Communication does not explicitly mention the employment conditions of workers, the people who ultimately handle the animals. Significant emphasis must also be placed on ongoing training and the acquisition of the new skills required as a result of the changes proposed.

3.4 The EESC welcomes the objective of simplifying EU animal welfare legislation and enhancing the competitiveness of EU agriculture. However, the strategy does not adequately address a number of important points which are highlighted in the evaluation report on EU animal welfare policy, and which should be priorities for 2012-2015.

3.5 The Commission recognises a number of shortcomings in the outcomes of the action plan and the EUPAW, involving what it describes as 'the main common drivers affecting the welfare status of animals in the Union'. Nevertheless, it does not analyse their causes in detail and, as a result, the strategy put forward does not offer adequate solutions to the problems identified.

3.5.1 It notes that the Member States do not fully enforce the provisions despite long transitional periods and support. However, there is no critical analysis of the socioeconomic and productive situation in the various EU Member States, but merely a reference to the 'cultural appreciation of animal welfare aspects' as a factor that sets Member States apart. The Commission fails to mention the differences in livestock production systems, consumer demand, and the commercial advantages of applying minimum animal welfare standards or support for adaptation, which are not uniform across the EU.

3.5.2 EU animal welfare policy should be much better geared towards the market as well as consumer safety. It is essential that producers are compensated for additional production costs and that consumers are aware of the improvements and efforts of producers, as well as the higher added value of food produced according to the EU model. There must also be a balance in the food chain, which is currently absent.

3.5.3 The Communication's stated intention of simplifying animal welfare legislation is at odds with the reference to the need to extend its scope of application to more species and for more detail in the existing legislation. The strategy does not include the EUPAW evaluation report's recommendation to explore non-legislative routes to complement existing legislation, such as agreements between sector bodies, parties in the value chain, social actors and consumer organisations and governmental bodies, which might achieve the intended objectives without resorting to further legislative burdens.

4. Specific comments

4.1 The EU animal welfare budget (EUR 70 million per year) is in clear contrast to the investment required for its implementation, and all the more so if we add the livestock sector's

legislative costs (EUR 2 800 million, according to the EUPAW evaluation). The strategy does not contain specific and realistic proposals for tackling the increased costs and the lack of support for implementation.

4.2 In order to improve the competitiveness of producers, synergies between the EUPAW and the common agricultural policy must be optimised. In the post-2013 CAP, the EU must adopt a balanced approach to welfare. Livestock farmers and operators must be guaranteed access to aid measures with a sufficient budget to apply the EUPAW. Account must be taken of the financial impact of additional costs on producers and sufficient income support must be provided through price and market policies and/or direct aid.

4.3 The EESC agrees that legislative simplification is needed. If appropriately deployed, it will contribute to the implementation of the EUPAW. To achieve this, the impact of measures developed to carry out future actions in the EUPAW framework will have to be studied, as will, where appropriate, the risks to the productive fabric entailed by each measure and the compensation needed if they are implemented, also influencing the value attached to consumer health and safety in the EU.

4.4 Introducing science-based indicators based on animal welfare outcomes and not on inputs will make the simplification and flexibility required to improve the competitiveness of EU livestock farmers possible, provided that the socio-economic implications are taken into account and that it reflects the general situation in the livestock sector as opposed to specific cases. Measures have to be developed in cooperation with operators and should be straightforward, practical and easy to apply. They should not incur additional costs for livestock farmers. It should be possible to apply them to all species and production systems. They should be easy to interpret and replicate (not subjective human perceptions of animal welfare).

4.5 The work of the Welfare Quality project is an interesting reference point. However, the animal welfare indicators need to be improved and simplified before they can be applied to the livestock sector. The interpretation and application of criteria must be harmonised in the various Member States in order to ensure their validity and the viability of their application in all cases.

4.6 One challenge that this strategy must address is to improve coordination, traceability, transparency and communication in relation to animal welfare in the EU, allowing administrations, socioeconomic actors and consumers to participate. This would lead to better understanding, adequate information and the correct application of requirements. Reference centres

could and should play a vital role in meeting this objective. In addition to the activities mentioned in the Communication (support for the authorities, training and dissemination), they should also coordinate, monitor and share information. They should make the most of existing structures to avoid additional costs.

4.7 Reference centres could also provide advice and carry out assessments regarding the practical application of welfare laws. Scientific research should be added to applied research with a view to making recommendations. In light of the work carried out by DG SANCO's scientific committee and the European Food Safety Authority's panel on Animal Health and Welfare (AHAW), this network should coordinate the testing of new techniques and assess the impact of animal welfare standards. The sector's operators make a great contribution to applied research. They should play a prominent role regarding the legislative and research priorities with EU funding for animal welfare.

4.8 The EUPAW evaluation report recommends: 'Developing a stakeholder engagement plan for each aspect of EU animal welfare policy ...' and 'in consultation with stakeholder groups, assessing the need to develop new modes of engagement over time ...'. Roadmaps need to be agreed between the relevant authorities and affected operators, to ensure the gradual application of laws by the mandatory deadline and to facilitate ex-ante coordination and problem solving. Ex-post inspection and monitoring activities should also be included, as well as training and information for operators and the Member States' authorities to ensure the adequate implementation of legislation.

4.9 Support for international cooperation is crucial in terms of improving the competitiveness of EU production. To this end, concrete actions must be provided for within the 2012-2015 strategy in order to ensure that animal welfare is included in bilateral trade agreements negotiated by the EU and within the WTO. Meanwhile, the points mentioned below need to be taken into account.

4.9.1 The evaluation report points to the need to find ways to assist EU sectors which are most vulnerable to third-country imports or to likely loss of market share, in particular in the eggs and egg products sector. The strategy does not propose solutions for the loss of competitiveness in the face of third-country imports which do not meet EU production standards.

4.9.2 The EU must allocate a proportion of cooperation funds to the training of authorities, employers and workers regarding animal welfare.

4.10 A communication strategy covering the points raised in the EUPAW evaluation needs to be developed. It should include a serious and objective training, information and communication campaign, from school upwards, to ensure that current

and future consumers are aware of the high animal welfare standards required by the EUPAW, starting with the existing legislation. This will allow them to make consumer choices based on accurate animal welfare information.

4.10.1 It is essential that rigorous and reputable sources (such as the network of reference centres) cooperate in this work in order to ensure that consumers understand and appreciate the advantages of the EUPAW, as well as the production costs under the European model.

4.10.2 Consumer information regarding animal welfare must not be restricted to labelling and product advertising, but must also be the subject of publicity campaigns by sectoral organisations and institutions with a view to communicating the efforts made and the impact on production costs. Mechanisms and funds for promoting agri-food products in the internal market are ideal ways to provide information regarding the EUPAW.

4.11 In addition to the measures mentioned in the Commission's proposal, we need to consider other equally important measures mentioned in the EUPAW evaluation report, which recommends: 'Ensuring adequate growth in funding for the EUPAW over the next action plan period, in line with the growing needs of the policy, and in order to meet increasing needs identified in this evaluation. These include support for implementation and enforcement of new legislation'.

4.11.1 The animal welfare policy's negative impact on competitiveness is one of the major obstacles to the legislation's application, and to maintaining and creating jobs in rural areas, particularly given the difficulty faced by producers in transferring the additional production costs (and added value) to the subsequent links in the food chain. The strategy does not consider how to overcome the dysfunctions in the food chain, nor the anti-competitive impact of the legislation on channels and markets other than retail (catering, industry, export).

4.11.2 These are the key points concerning rural development funding:

— more funding for animal welfare under rural development programmes (for investments as well as increased operating costs); and

— facilitating support for the implementation of mandatory welfare requirements, with EU support under the CAP, and also binding on Member States.

4.11.3 Furthermore, there must be consistency between animal welfare policy and other areas such as the environment, animal health and sustainability, including competitiveness, which need to be strictly interrelated, as well as advantages for consumers, workers and employers. These points must be included in the strategy.

4.12 Since simplification is one of the 2012-2015 strategy's purported aims, as is the framing of a law that incorporates all animal welfare standards for all species and production systems, it is not appropriate to embark on new legislative strands or to further develop existing ones at a time when there is no decision on what course to take and on whether the established course should cover aquatic or other species.

4.13 With regard to the sensitive issue of ritual slaughter, the Committee wishes to take this opportunity to reiterate its view expressed in its opinion⁽¹⁾, which stated that a derogation on ritual slaughter is inconsistent with the overall objective [improving the protection of animals]. Innovative technology such as the stun assurance monitor allows those who wish to slaughter with prior electrical stunning in compliance with Halal rules to accurately monitor how much electrical charge is given to an animal. This ensures that it is properly stunned but still alive prior to slaughter. The monitor records each stun carried out and the voltage given to the animal. It has a real contribution to make to animal welfare. Furthermore the introduction of a labelling system indicating the method of slaughter would encourage the use of the stun assurance monitor. It is important for the Commission actively to support research into systems which would convince religious groups to make use of stunning.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹⁾ OJ C 218 du 11.09.2009. p. 65

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on certain measures in relation to countries allowing non-sustainable fishing for the purpose of the conservation of fish stocks'

COM(2011) 888 final — 2011/0434 (COD)

(2012/C 229/21)

Rapporteur: **Mr SARRÓ IPARRAGUIRRE**

On 17 January 2012 and 19 January 2012 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council on certain measures in relation to countries allowing non-sustainable fishing for the purpose of the conservation of fish stocks

COM(2011) 888 final — 2011/0434 (COD).

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 11 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May 2012), the European Economic and Social Committee adopted the following opinion by 149 votes, with 11 abstentions.

1. Conclusions

1.1 The EESC fully endorses the proposal for a Regulation. It commends the Commission for its decision to submit the proposal and calls for it to be strictly implemented.

1.2 The EESC believes that the countries allowing non-sustainable fishing are clearly defined. However, it considers that the condition set down in the second paragraph of Article 3(1)(b) should state 'lead to fishing activities which would lead the stock below the levels that can produce maximum sustainable yield, **or prevent the stock from reaching those levels**'.

2. Background

2.1 The United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS) and the United Nations Agreement for the Implementation of the Provisions of the UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 August 1995, known as the UN Fish Stocks Agreement, require the cooperation of all the countries whose fleets exploit that stock.

2.2 Cooperation may be established in the framework of regional fisheries management organisations (RFMOs).

2.3 Where RFMOs have no competence for the stock in question, cooperation may be established by means of ad-hoc arrangements among the countries having an interest in the fishery.

3. Introduction

3.1 The proposal for a Regulation is aimed at third countries which, having an interest in a fishery involving stocks of

common interest to that country and the Union, conduct, without due regard to existing fishing patterns and/or the rights, duties and interests of other States and those of the Union, fisheries activities that jeopardise the sustainability of the stock, failing to cooperate with the Union in its management.

3.2 In order to promote the contribution of those countries to the conservation of the stock, the proposal sets down the specific measures to be adopted by the Union.

3.3 The framework for the adoption of these measures is established with the aim of ensuring long-term sustainability of fish stocks of common interest between the European Union and those third countries.

3.4 When it comes to implementing these measures, the proposal defines the conditions under which a country can allow non-sustainable fishing, the right to be heard and the opportunity to adopt corrective action, evaluation of the expected environmental, trade, economic and social effects, and the swift cessation of these measures once the country has adopted the necessary measures to contribute to the conservation of the stock of common interest.

3.5 The EU being a lucrative market of destination for fisheries products, it has a particular responsibility in ensuring that these countries' obligation of cooperation is respected, and the proposal therefore sets down swift, effective measures against States responsible for measures and practices that lead to over-exploitation of stocks.

3.6 To this end, it proposes restricting imports of fish products caught by vessels conducting fisheries on a stock of common interest under the responsibility of a country allowing

non-sustainable fishing and proposes restricting the provision of port services to those vessels, except in cases of imperative urgency. It also proposes avoiding that Union fishing vessels or Union fishing equipment be used for fishing the stock of common interest under the responsibility of the country allowing non-sustainable fishing.

3.7 The proposal defines the type of measures that may be taken and establishes general conditions for their adoption, so they are based on objective criteria, equitable, cost-effective and compatible with international law, in particular the Agreement establishing the World Trade Organisation.

3.8 Moreover, in order to ensure effective and coherent Union action, it takes into account the measures set out in Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.

3.9 Lastly, in order to ensure uniform conditions for the implementation of the Regulation, the Commission considers that implementing powers should be conferred upon it, and that these should be exercised by implementing acts providing for the examination procedure in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

3.10 For reasons of urgency, the decisions whether the measures would cease to apply should be adopted as immediately applicable implementing acts in accordance with the abovementioned Regulation.

3.11 The EESC fully endorses the measures for action set down in the proposal for a Regulation.

4. Analysis of the proposal and the Committee's observations

4.1 Subject matter and scope

4.1.1 The proposal for a Regulation lays down the framework for the adoption of certain measures regarding fisheries-related activities and policies by third countries with the aim of ensuring long-term sustainability of fish stocks of common interest between the European Union and those third countries.

4.1.2 Therefore, in accordance with the UNCLOS, it applies to any fish stocks whose long-term sustainability is of common interest between the European Union and those third countries and whose management is ensured through their joint action.

4.1.3 The measures adopted pursuant to the Regulation may apply in all cases where cooperation with the Union is required in the joint management of the stocks of common interest, including where that cooperation takes place in the context of an RFMO or similar body.

4.2 Countries allowing non-sustainable fishing

4.2.1 A third country may be identified as a country allowing non-sustainable fishing where:

4.2.1.1 it fails to cooperate with the Union in the management of a stock of common interest in full accordance with the provisions of the UNCLOS set out in point 2.1 hereof, and

4.2.1.2 it has failed to adopt any fishery management measures, or

4.2.1.3 it has adopted such measures without due regard to the rights, interests and duties of others including the European Union, and those fishery management measures lead to fishing activities which would lead the stock below the levels that can produce maximum sustainable yield, when considered in conjunction with measures taken by the Union either autonomously or in cooperation with other countries.

4.2.1.4 The stock levels that can produce maximum sustainable yield shall be determined on the basis of best available scientific advice.

4.2.2 The EESC believes that the countries allowing non-sustainable fishing are clearly defined. However, it considers that the condition set down in the second paragraph of Article 3(1)(b) should state 'lead to fishing activities which would lead the stock below the levels that can produce maximum sustainable yield, **or prevent the stock from reaching those levels**'.

4.3 Measures which may be adopted in respect to countries allowing non-sustainable fishing

4.3.1 The Commission may adopt, by means of implementing acts, the following measures in respect to these countries:

4.3.1.1 identify the countries allowing non-sustainable fishing;

4.3.1.2 identify, where necessary, the specific vessels or fleets to which certain measures apply;

4.3.1.3 impose quantitative restrictions on importation into the Union of fish and fishery products made of or containing such fish, from the stock of common interest and caught while

under the control of the country allowing non-sustainable fishing; this ban includes importation into the Union from any other country of fish or fishery products from the stock of common interest;

4.3.1.4 impose quantitative restrictions on importation into the Union of fish of any associated species, and fishery products made of or containing such fish, when caught under the conditions laid out in the previous point; moreover, the ban on importation of associated species caught while conducting fisheries on the stock of common interest by the country allowing non-sustainable fishing is extended to any other country;

4.3.1.5 impose restrictions on the use of Union ports by vessels flying the flag of the country allowing non-sustainable fishing that fish the stock of common interest and by vessels transporting fish and fishery products stemming from the stock of common interest that had been caught either by vessels flying the flag of the country allowing non-sustainable fishing or by vessels authorised by it while flying another flag; such restrictions shall not apply in cases of force majeure or distress within the meaning of the UNCLOS for services strictly necessary to remedy those situations;

4.3.1.6 prohibit the purchase by Union economic operators of any fishing vessel flying the flag of those countries;

4.3.1.7 prohibit Union fishing vessels from changing their flag to that of one of those countries;

4.3.1.8 prohibit Member States from authorising chartering agreements with economic operators from those countries;

4.3.1.9 prohibit the exportation to those countries of fishing vessels flying the flag of a Member State or of fishing equipment and supplies needed to fish on the stock of common interest;

4.3.1.10 prohibit private trade arrangements between nationals of a Member State and countries allowing non-sustainable fishing in order for a fishing vessel flying the flag of that Member State to use the fishing possibilities of such countries; and

4.3.1.11 prohibit joint fishing operations involving fishing vessels of a Member State and fishing vessels flying the flag of a country allowing non-sustainable fishing.

4.3.2 The Committee believes that together these measures must ensure that those countries allowing non-sustainable fishing stop doing so. Moreover, the Committee considers these measures to be the most effective that the EU can adopt. Therefore, while it congratulates the Commission on

its decision to submit this proposal for a Regulation, which broadens and develops the measures set down in the Regulation on illegal fishing, the Committee urges the Commission to ensure that it is strictly enforced and fairly monitored. The Committee also warns that, even if requests are made to the World Trade Organisation, there should be no question as to its continued application, for it is through this Regulation that the long-term sustainability of the fish stocks of common interest to the EU and third countries can be guaranteed.

4.4 *General requirements concerning the measures adopted pursuant to the proposal for a Regulation*

4.4.1 The general requirements are:

4.4.1.1 that the measures adopted are always related to the conservation of the stock of common interest, in conjunction with restrictions on fishing by Union vessels or on production or consumption within the Union applicable to fish, and fishery products made of or containing such fish, of the species for which measures have been adopted pursuant to the proposed Regulation; these restrictions, in the case of associated species, may apply only when these are caught while conducting fisheries on the stock of common interest;

4.4.1.2 that the measures adopted are compatible with the obligations imposed by international agreements to which the Union is a party and any other relevant norms of international law;

4.4.1.3 that the measures take into account measures already taken pursuant to Regulation (EC) No 1005/2008 on illegal fishing;

4.4.1.4 that the measures adopted do not discriminate between countries where the same conditions prevail, and do not constitute a disguised restriction on international trade; and

4.4.1.5 that on their adoption the Commission will evaluate the environmental, trade, economic and social effects of these measures.

4.4.1.6 The measures adopted must foresee an appropriate system for their enforcement by competent authorities.

4.4.2 The EESC deems these requirements logical, and therefore endorses them.

4.5 *Requirements prior to the adoption of measures*

4.5.1 When it is necessary to adopt measures in line with the proposal, the Commission will notify the country in question in advance, informing it of the reasons and describing

the measures that could be taken in accordance with the Regulation. Before measures are taken, the country will be given a reasonable opportunity to respond to the notification in writing and to remedy the situation.

4.6 *Implementation period for the measures*

4.6.1 The measures adopted will cease to apply upon adoption by the country in question of appropriate corrective measures that (a) have been agreed with the Union and, where applicable, other countries concerned, or (b) do not undermine the effect of measures taken by the EU either autonomously or in cooperation with other countries on the conservation of the fish stocks concerned.

4.6.2 The Commission will, by means of implementing acts, determine whether the conditions previously agreed with the

country have been complied with and, where necessary, decide that the corrective measures adopted cease to apply.

4.6.3 On duly justified imperative grounds of urgency relating to unforeseen economic or social disruption, the Commission will adopt immediately applicable implementing acts to decide that the measures adopted cease to apply.

4.6.4 To ensure that the Regulation is implemented correctly, the Commission will be assisted by a committee in accordance with Regulation (EU) No 182/2011 concerning mechanisms for control by the Member States.

4.6.5 The EESC endorses the planned means of ceasing adopted measures and considers that immediate implementation would be logical for reasons of urgency, particularly when it comes to developing countries.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy'

COM(2011) 876 final — 2011/0429 (COD)

(2012/C 229/22)

Rapporteur: **Ms LE NOUAIL MARLIÈRE**

On 14 February and 22 February 2012, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 192(1) of the Treaty on the Functioning of the European Union (TFEU), on the:

Proposal for a Directive of the European Parliament and of the Council amending Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy

COM(2011) 876 final — 2011/0429 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 135 votes to 15 with 14 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the current draft directive inasmuch as it extends the list of priority substances and priority hazardous substances, applying the most comprehensive option proposed in the impact analysis ⁽¹⁾.

1.2 The EESC welcomes the new mechanism proposed by the Commission to supply it with targeted, high-quality monitoring information on the concentration of substances in the aquatic environment, with a focus on emerging pollutants and substances for which available monitoring data are not of sufficient quality for the purpose of risk assessment. The EESC considers that the new mechanism should facilitate the gathering of that information across EU river basins and maintain monitoring costs at reasonable levels.

1.3 The EESC nevertheless recommends that the draft directive include, if only on a trial basis, specific analyses of the following areas that are not yet fully understood:

i. nanoparticles and, more specifically, their interaction with the priority substances, as there are an increasing number of questions surrounding this subject – raised by the European Environment Agency ⁽²⁾;

ii. the effects of chemical combinations of substances present in inland waters, as these combinations can have a significant

impact on the aquatic environment even in very weak concentrations.

1.4 The EESC suggests that, in the interests of implementing the Water Framework Directive effectively, the draft directive should refer to best practice regarding river basin management.

1.5 The EESC considers that lead and nickel, being persistent and bioaccumulative substances, should be classified as priority hazardous substances (PHS) with the aim of eliminating all releases within 20 years, even if it is estimated that this will be very costly.

1.6 The EESC believes that public support and involvement are a precondition for the protection of water resources, and for the identification of both the problems and the most appropriate solutions, not least regarding costs. Without popular backing, regulatory measures will not succeed. Civil society has a key role to play in the implementation of a proper water framework directive (WFD), and in helping governments to balance the social, environmental and economic dimensions to be taken into account ⁽³⁾.

1.7 The EESC insists that a sound ecological and chemical state must be achieved for water resources, so as to protect human health, water supply, natural ecosystems and biodiversity ⁽⁴⁾.

⁽¹⁾ SEC(2011) 1547 final.

⁽²⁾ European Environment Agency, EEA Technical Report No 8/2011 – Hazardous substances in Europe's fresh and marine waters - An overview.

⁽³⁾ OJ C 224, 30.8.2008, p. 67 and OJ C 97, 28/4/2007, p. 3.

⁽⁴⁾ OJ C 248, 25.08.2011, p. 1.

1.8 The EESC notes that the new directive should simplify and streamline reporting obligations for the Member States.

2. Introduction

2.1 The draft directive under discussion aims to amend Directives 2000/60/EC and 2008/105/EC regarding priority substances in the field of water (excluding the marine environment), in accordance with the provisions of the Water Framework Directive:

- i. establishing a review of the list of priority substances at least every four years, listing new priority substances (PS) and new priority hazardous substances (PHS) if necessary;
- ii. setting environmental quality standards (EQS) for surface water, sediment or biota as appropriate, on the basis of the latest information.

2.2 The review was conducted with the assistance of a study group and following a broad consultation among European Commission and Member State experts, stakeholders (industry associations and NGOs) and the Scientific Committee on Health and Environmental Risks (SCHER).

2.3 As a result of that work and the impact analysis (SEC(2011) 1547 final) conducted for the purpose, the current draft directive extends the list of 33 priority substances to 48, applying the most comprehensive option proposed by the impact analysis.

2.4 The draft directive's aim is to ensure that inland waters are brought to a sound chemical state, i.e. into line with the environmental quality standards set out in the annex to the draft directive:

- i. by reducing the concentration of priority substances;
- ii. and by eliminating the release of priority hazardous substances within 20 years of the adoption of the daughter directive.

3. General comments

3.1 The EESC firmly believes that water is not merely a consumer product but also a precious natural resource, vital to future generations as well as our own. Because of this and because many substances that cause pollution are used across the EU, harmonised environmental quality standards (EQS) for these substances must be set at EU level.

3.2 Persistent, bioaccumulative and toxic substances (PBTs) pose a particular problem owing to their ubiquitous nature, their capacity to be carried over long distances, their near omnipresence in the environment and their persistence. These

substances are generally classified as priority hazardous substances (PHS). Since their presence can mask improvements in water quality obtained for other substances, Member States are allowed to present their impact on the chemical state of water separately.

3.3 The implementation of the directive is based on river basin management plans and falls, ultimately, to the Member States. In this context, although the Commission provides examples and notes a general improvement in monitoring and the sharing of information, it is also clear that not all Member States are at the same level⁽⁵⁾. The directive could be more effective in this respect.

4. Specific comments

4.1 The European Commission bases the legislative framework on the notion of hazard rather than on that of risk; as a result, the directive includes substances with set concentration limits, but not the risks of interaction between substances present in the aquatic environment even at low concentration levels.

- i. These risks of interaction may concern combinations of chemicals or of nanoparticles.
- ii. Little is yet known about these phenomena from a scientific point of view, but the suspicions of toxicity are sufficiently strong to have led the European Environment Agency to produce a report on the subject recently⁽⁶⁾.
- iii. Although it may seem difficult to legislate on areas in which there is still much to learn, it would nevertheless seem essential for the future of aquatic ecosystems that a European directive on priority substances in the field of water prepare Member States to examine these phenomena.

4.2 Nickel and lead are on the list of priority substances but have not been included as priority hazardous substances (PHS).

- i. These substances are, however, persistent (nickel in particular shows ubiquitous persistence) and bioaccumulative, which makes them eligible to be on this list according to the European Commission's definition of priority hazardous substances.
- ii. The REACH regulation refers to these substances as being of very high concern and subject to authorisation given that they can be carcinogenic, toxic to reproduction (CMR 1 and 2) and/or persistent and bioaccumulative.

⁽⁵⁾ Communication from the Commission to the European Parliament and to the Council – Towards sustainable water management in the European Union, COM(2007) 128 final; Report from the Commission to the European Parliament and the Council, COM(2009) 156 final.

⁽⁶⁾ EEA Technical report, No 8/2011.

- iii. To be consistent with the definition given for PHS and with the REACH regulation, these substances should be classified as PHS, with the objective of stemming their release into water within 20 years.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on the non-commercial movement of pet animals’

COM(2012) 89 final — 2012/0039 (COD)

and the ‘Proposal for a Directive of the European Parliament and of the Council amending Council Directive 92/65/EEC as regards the animal health requirements governing intra-Union trade in and imports into the Union of dogs, cats and ferrets’

COM(2012) 90 final — 2012/0040 (COD)

(2012/C 229/23)

Rapporteur: **Nikolaos LIOLIOS**

On 16 March 2012 the Council and on 13 March 2012 the European Parliament decided to consult the European Economic and Social Committee, under Articles 43(2), 168(4) and 304 of the Treaty on the Functioning of the European Union on the

Proposal for a Regulation of the European Parliament and of the Council on the non-commercial movement of pet animals

COM(2012) 89 final — 2012/0039 (COD)

and the

Proposal for a Directive of the European Parliament and of the Council amending Council Directive 92/65/EEC as regards the animal health requirements governing intra-Union trade in and imports into the Union of dogs, cats and ferrets

COM(2012) 90 final — 2012/0040 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 155 votes to 2 with 9 abstentions.

1. Conclusions

The EESC recognises the need to repeal and replace Regulation (EC) No 998/2003 governing matters relating to the non-commercial movement of pet animals, for the following reasons.

1.1 Protection of public health is a goal of paramount importance, and establishing rules on activities such as the non-commercial movement of pet animals helps to realise this objective. The European Commission's proposal to repeal and replace Regulation (EC) No 998/2003 provides for animal health requirements and rules on marking, checks and precautionary measures during the movement of animals, while also bringing the Regulation into line with Articles 290 and 291 of the Treaty on the Functioning of the European Union to permit derogations, by granting the Commission power to adopt delegated acts, which remove any unjustified obstacles to non-commercial movements of animals.

1.2 The need to repeal and replace Regulation (EC) No 998/2003 is borne out by the amendments that had to

be made to the animal health requirements it laid down and by the fact that the Regulation on the non-commercial movement of pet animals had to be sufficiently clear and accessible to the general public.

1.3 Another important point is the expiry of the eight-year transitional period provided for in Article 4(1) concerning the method for identifying pet animals. It is necessary now to make it clear for the ordinary citizen what regime will apply in future, which is a further reason to replace Regulation (EC) No 998/2003.

1.4 The EESC considers that the European Commission's proposal to repeal and replace Regulation (EC) No 998/2003 sets out in full the framework for the non-commercial movements of pet animals. Movements of people who decide to be accompanied by pets will take place on clearer terms, compliance with which will ensure such movements pose no risk to public health.

1.5 The EESC agrees that, in the interest of consistency, Council Directive 92/65/EEC needs to be amended by replacing the references to Regulation (EC) No 998/2003 with references to the proposed act.

2. Background

2.1 Regulation (EC) No 998/2003 set the date when the transitional period for the system of identifying a pet dog, cat or ferret would expire. The European Commission's proposal to repeal and replace Regulation (EC) No 998/2003 was the result of this period expiring and of the need to bring Regulation (EC) No 998/2003 fully into line with the Treaty on the Functioning of the European Union, together with developments in health data and new requirements for non-commercial movements directly relating to the need to facilitate the movement of pets and people they accompany, as well as the effort to frame legislation that would be sufficiently clear and accessible to such people.

2.2 The Commission has also submitted a proposal to amend Council Directive 92/65/EEC in order to replace the references to Regulation (EC) No 998/2003 with references to the proposed act.

3. General comments

3.1 Since pet animals may have diseases that can be transmitted to humans, checks had to be implemented and conditions imposed on the movement of animals to ensure the necessary protection of public health. The system governing non-commercial movements of pets was revised owing to the improvement in the rabies situation in the Union. The proposal for a Regulation clarifies the regime and the procedures to be followed.

3.2 The use of anti-rabies vaccination has significantly changed the epidemiology of rabies. Taking into account scientific opinions on the immunisation of pet animals, the Regulation provides for safeguard measures to allow movements of pet animals – including by way of derogation from the conditions so as to facilitate movements – having firstly set the conditions under which such derogations may be applied and the safeguard measures that must be taken.

3.3 The lists of animals drawn up include all animals that can be moved with the exception of those whose movement is covered by the provisions of EU directives. National rules must allow animals classified as pets to be moved more easily than those moved for commercial purposes.

3.4 Diseases other than rabies are also a threat to public health. The requirement to provide identification documents limits the risk of disease transmission, since the procedure means that experts examine animals. This enables their health to be certified and documentation to be provided establishing whether they can be moved safely within or into the EU.

3.5 It is important that implantation of a transponder is to be kept as the sole method of identifying dogs, cats and ferrets and that identification using a tattoo is to be discontinued, meaning that it is only acceptable as a form of identification for animals that have already been marked using this method.

3.6 Animals that have been marked can more easily be checked in order to ensure compliance with preventive health measures to stop disease. These measures are framed in the Member States in accordance with the subsidiarity and proportionality principles or, after categorisation and subject to specific conditions, in groups of Member States, based on validated scientific information. This establishes a joint effort to address risks to public health.

4. Specific comments

4.1 Even if the level of scientific training of people handling pet animals is currently adequate and the services provided can protect the health of pets and therefore public health, there is a need for constant vigilance to prevent any transmission of disease. By establishing the terms for non-commercial movement of pets, the Regulation ensures protection against the risk of various diseases.

4.2 However, the Regulation also introduces the possibility of derogations to facilitate movements of pets, proposing that Regulation (EC) No 998/2003 be amended in particular regarding the power to adopt delegated acts and implementing acts. The EESC endorses the removal of unjustified obstacles to movements of pet animals, provided that validated scientific information is taken into account and that the Commission conducts appropriate consultations with experts before granting derogations so as to address the specific circumstances of non-commercial movements of pet animals and in accordance with health requirements and rules and the form of the accompanying documents.

4.3 However, it must be considered whether the validity periods are respected. The proposal sets out how a delegation of power can be revoked after an objection is expressed by the European Parliament and the Council within a period of two months, or a further two months if the deadline is extended. Given that public health issues are important, however, the duration of the delegation of powers should be clearly established, as provided for in the Treaty on the Functioning of the European Union, so that Commission surveillance is more effective and the right to revoke a delegation of power represents an additional safeguard.

4.4 When compiling the list of third countries and territories for which that derogations can be allowed because they

apply rules equivalent to those applied by the Member States, the Commission should base its decision on guarantees from the health authorities of those countries. Although it is legitimate for pet animals to be moved easily and without obstacles and complicated procedures, protection of public health is a priority.

4.5 If the procedures for granting a derogation from the normal rules to third countries, or parts of them, subject to their making the necessary guarantees, prove to be complicated to administer, time-consuming or costly, it would be preferable to keep to the established guidelines and avoid using derogations, since this would not be proportionate to the risk arising from moving the animal.

4.6 Likewise, movement of unvaccinated animals between Member States of the EU entails risks. The Regulation establishes procedures here, and the EESC considers it essential that these be observed so as to avoid any possibility of disease transmission. When exercising the power to adopt delegated acts under the terms fixed in the Regulation, the Commission must bear in mind that the administrative burden and effects achieved should be in proportion to the risk entailed in moving the animal.

4.7 The issuing of identification documents for non-commercial movements of pets is of crucial importance. Introducing the method of marking animals by implanting a transponder is also important in improving the system for registering and monitoring animals.

4.8 The transponder must be implanted by a veterinarian, as the scientific training of the people performing implants

provides an opportunity to detect and identify diseases in animals having a transponder implanted and for the identification document to be completed accordingly. The information to be entered in the identification documents is such that it requires the scientific knowledge of a veterinarian authorised by the relevant authority to perform this task.

4.9 Consistent implementation by the Member States of the marking and description procedure will allow databases to be updated, providing important information on a country's epidemiological status, the progress of vaccination programmes and the density and distribution of animals, as well as their movements.

4.10 Documentary, identity and physical checks to be carried out on non-commercial movements of pet animals into a Member State from another Member State or a third country or territory are critically important and should be performed in every instance and by personnel who are properly informed about the procedure and its significance.

4.11 In the event of non-compliance with the procedures relating to health requirements and rules on the movement of pet animals, it is important that, in addition to the procedures laid down in the proposal for a Regulation, the health authorities of the territory of dispatch should be informed with a view to examining the possibility of non-compliance with the Regulation in the case in question and other cases.

4.12 Putting an animal down on the basis of an informed opinion that it cannot be returned or isolated could also be a measure recommended by specialists who consider that return or isolation is not only difficult but also entails additional risks.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament and the Council — A European vision for passengers: communication on passenger rights in all transport modes’

COM(2011) 898 final

(2012/C 229/24)

Rapporteur: **Raymond HENCKS**

On 19 January 2012 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament and the Council — A European vision for passengers: communication on passenger rights in all transport modes

COM(2011) 898 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 135 votes to 1, with 2 abstentions.

1. Conclusions and recommendations

1.1 The EESC broadly endorses the EU's policy guaranteeing all rail, air, sea, river, coach and bus passengers common, comparable rights and conditions on all these modes of public transport, and supports all the proposed measures to remove the obstacles preventing people from exercising their rights effectively, as part of an intermodal approach.

1.2 The Committee feels that three additional rights should be added to the ten specific rights listed in the communication: the right to safety and security, including both the technical safety of the transport equipment and the physical safety of passengers; and the right to minimum standards of service quality, comfort, environmental protection and accessibility.

1.3 On the basis of these 13 rights, the relevant legislation currently in force should be re-examined with a view to improving and strengthening it if necessary.

1.4 This re-examination should pay particular attention to improving the information provided to passengers, to the rights and conditions of disabled passengers and passengers with reduced mobility, to compensating passengers in the event of disruption to or cancellation of a journey or loss of baggage, to clarifying the elements making up the final price, to the transfer of a travel contract and the conditions for complaints and options for redress, and to defining the rights of passenger organisations, which are best placed to provide citizens with information and support in exercising their rights.

1.5 To make it easier to monitor the effectiveness and efficiency of transport services, their responsiveness to changing

needs and compliance with passenger rights, the EESC suggests establishing an independent evaluation procedure, in line with the subsidiarity principle. This would involve drawing up a harmonised evaluation methodology at EU level on the basis of common indicators, in dialogue with stakeholder representatives, in particular organisations representing passengers (including disabled passengers and passengers with reduced mobility).

1.6 With regard to complaints, the EESC suggests that all carriers should use a standard e-mail address for this purpose (complaints@...), alongside other methods of filing complaints, and that time limits should be set for responding to them.

1.7 Finally, the EESC proposes that procedures for alternative dispute resolution be expanded, without depriving passengers of their right to institute legal proceedings. It also recommends that the option of an EU collective legal redress mechanism be clearly set out in a legislative text and that the scheme be duly defined.

2. Introduction

2.1 It should first be noted that the communication in question relates to passenger rights in all modes of collective transport by public and private carriers, and that individual transport by professional carriers (taxis, minibuses for fewer than 12 passengers, etc.) is outside the scope of the provisions discussed below. This is particularly regrettable given that the action plan on urban mobility (COM(2009) 490 final), which relates to both collective and individual professional transport, states that attention should be paid to pricing, quality, accessibility for people with reduced mobility, information, and passenger rights.

2.2 The European Union's sustainable development goals entail promoting and developing public transport in order to reduce individual journeys, as far as this is possible.

2.3 Recognising and safeguarding passengers' rights, and thus rebalancing the relationship between users and carriers, is therefore a prerequisite for developing and promoting public transport.

2.4 The European Union has been working hard since 2001 to protect passengers and strengthen their rights with regard to the various modes of transport, and to this end has gradually developed legislation ensuring a high level of protection so that users of rail, air, sea, river, bus and coach transport – including disabled passengers and passengers with reduced mobility – have comparable rights and conditions throughout the EU. However, the rules on waterborne and bus/coach transport will not come into force until December 2012 and March 2013, respectively.

2.5 In 2010, the Commission launched a huge two-year campaign called *Your passenger rights at hand*, which included developing a website (<http://ec.europa.eu/passenger-rights>) summarising passengers' rights for each mode of transport, in all the EU official languages. Free brochures reminding travellers of their rights have also been distributed, and posters have been put up in all railway stations and airports in the Member States. The Commission has recently decided to extend this campaign to 2014.

2.6 However, public transport is still rife with asymmetries between passengers and carriers in terms of information, responsibilities and situation. The Committee has the impression that many travellers are still not fully aware of their rights, or do not know how to exercise or make proper use of them. The Commission's studies and surveys show that, for disputes worth less than EUR 1 000, only one in five European consumers would go to court for compensation, due to the costs involved and the length and complexity of proceedings.

2.7 Moreover, according to the Commission, national authorities still apply national legislation in different ways, which confuses passengers and carriers alike and creates distortions in the market.

2.8 The Commission therefore intends to reinforce the implementation of current rules, improving them where necessary, and to this end has just launched a public consultation on a possible revision of the air passenger rights regulation.

3. Content of the Communication

3.1 The communication summarises the rights and principles which apply to all modes of public transport; it also identifies loopholes that can be filled and aims to remove obstacles which prevent citizens from effectively exercising their rights under EU law.

3.2 The communication sets out three key principles – non-discrimination; accurate, timely and accessible information; and immediate and proportionate assistance – and derives from them ten specific rights that, with a view to a more intermodal approach, apply to all modes of transport:

- 1) right to non-discrimination in access to transport;
- 2) right to mobility: accessibility and assistance at no additional cost for disabled passengers and passengers with reduced mobility (PRM);
- 3) right to information before purchase and at the various stages of travel, notably in case of disruption;
- 4) right to renounce travelling (reimbursement of the full cost of the ticket) when the trip is not carried out as planned;
- 5) right to the fulfilment of the transport contract in the event of disruption (rerouting and rebooking);
- 6) right to get assistance in case of long delays at departure or at connecting points;
- 7) right to compensation under certain circumstances;
- 8) right to carrier liability towards passengers and their baggage;
- 9) right to a quick and accessible system of complaint handling;
- 10) right to full application and effective enforcement of EU law.

3.3 Although conditions and arrangements for application vary and evolve depending on the specific features of the various modes of transport, the main objective now is to make these rules easily understandable and to consolidate their implementation and enforcement in all modes of transport to ensure a convergent approach in this area.

3.4 To improve passenger protection beyond EU borders, passenger rights issues will be addressed in bilateral and international agreements.

4. General comments

4.1 The Commission is to be congratulated on having developed a policy guaranteeing a common or comparable set of passenger rights and conditions for all modes of public transport that meets both the objectives of the treaties with regard to consumer protection (Title XV, Article 169 of the Treaty on the Functioning of the European Union) and the guidelines in the Charter of Fundamental Rights and the case-law of the Court of Justice of the European Union.

4.2 Although the EESC welcomes the fact that the communication brings together in a single document all the rules and regulations currently in place with regard to public transport passengers' rights, it finds it regrettable that it contains no data concerning the obstacles mentioned.

4.3 The EESC supports any action to remove obstacles that prevent citizens from effectively exercising their rights, and congratulates the Commission on its proposed action to ensure that all users of rail, air, sea, river, bus and coach transport have comparable rights and conditions, irrespective of the transport mode(s) used.

4.4 One of these obstacles is often non-existent, incomplete or incomprehensible information on passengers' rights and obligations when purchasing tickets, before the journey, and during the journey in the event of disruption.

4.5 The EESC proposes that, in order to provide all passengers with clear information on their rights, passengers should be told (via a link to a relevant website, and information printed on each ticket in clear, concise, accessible language that is easy to understand, including for people with disabilities), each time they book a journey or buy a ticket, where to find the relevant information, either in brochures distributed at points of sale or on the Internet. The passenger information campaign launched by the Commission in 2010 should be continued in close cooperation with consumer organisations.

4.6 Moreover, there are substantial differences between the various modes of transport, which disadvantage users. This is particularly true of air transport, with regard to which the EESC has previously noted (in its exploratory opinion on the subject ⁽¹⁾) that certain aspects of air passengers' rights were deteriorating in relation to provisions in other modes of transport, and called for:

- the extent of the right to assistance to be determined;
- information to passengers to be improved, including during journeys;
- the right to information to be extended to boarding areas;
- the scope of the term 'extraordinary circumstance' to be clarified;

- guidelines to be drawn up, in cooperation with representatives of people with reduced mobility, to clarify the definitions in Regulation No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility and to improve the implementation thereof;
- the elements forming the final price to be specified;
- an obligation to be established to compensate passengers if an airline goes bankrupt, the principle of 'joint and several liability' on the part of other companies to repatriate passengers to be implemented, and a passenger compensation fund to be established;
- the option to be provided of transferring a travel contract to a third party at no cost.

All these provisions should also apply to other modes of transport where they do not already exist.

4.7 The ten specific rights set out in the communication in question are a sound basis for helping passengers towards a better understanding of what they can legitimately expect in terms of minimum service quality when travelling, and for helping carriers towards more coherent and effective application of EU law.

4.8 The EESC nonetheless feels that three additional rights should be added to the ten specific rights listed in the communication:

- 1) the right to safety and security, including both the technical safety of the transport equipment and the physical safety of passengers;
- 2) the right to minimum standards of service quality, comfort and accessibility and to advance warning from the carrier in the event of overbooking. The EESC notes that, in communication COM(2009) 490 on the Action Plan on Urban Mobility, the Commission stated that it wanted to complement its regulatory approach with common quality indicators to protect the rights of travellers and of persons with reduced mobility;
- 3) the right to compliance, by the carriers, with the principles of maintaining, protecting and improving the quality of the environment, as laid down in the Treaty.

4.9 On the basis of these 13 rights, the relevant legislation currently in force should be re-examined. This should include analysing and resolving known issues such as the obstacles for disabled people and people with reduced mobility, the opacity of fare structures, inadequate or incomprehensible information, unclear and complicated options for seeking redress, inappropriate financial compensation, excessive delays in processing complaints, etc.

⁽¹⁾ OJ C 24, 28.1.2012, p. 125-130.

4.10 Given that the Commission itself recognises in its communication that the publication of operator performance reviews and passenger satisfaction surveys would facilitate uniform monitoring and enforcement by the national enforcement bodies, the EESC advocates undertaking such reviews, and considers that representatives of all stakeholders should be involved in a requirements analysis and a review of performance and respect for passenger rights.

4.11 The EESC therefore suggests that a regular evaluation system should be set up in order to improve the efficiency and effectiveness of transport services and their alignment with the changing needs of passengers, and to check that passenger rights are being respected. This would involve laying down, at Community level, the procedures for exchange, comparison and coordination, and stimulating the independent evaluation process, while respecting the subsidiarity principle, by defining harmonised evaluation methodology at European level based on common indicators, in dialogue with stakeholder representatives, in particular organisations representing passengers (including disabled passengers and passengers with reduced mobility).

4.12 The EESC endorses the Commission's intention not to restrict itself to sectoral measures, as has been the case to date, but to try to develop an intermodal approach that takes account of users' mobility and travel needs regardless of which modes of transport they are using or combining, in order to provide intermodal continuity. The only way of avoiding distortions of competition between different transport modes is to improve the harmonisation of passenger rights.

4.13 The communication refers, in response to most of the shortcomings and loopholes it raises, either to the impact assessment for the revision of the air regulation, which will suggest possible binding measures, or to voluntary agreements by carriers. The EESC would have liked to see a more decisive attitude focusing on binding measures.

4.14 The EESC regrets that the communication makes no mention of the rights and powers of organisations that represent passengers, particularly as it is such organisations – including those representing the interests of disabled people and people with reduced mobility – that are best placed to provide people with information and support in exercising their rights.

4.15 Passengers must be provided with clearly-worded information on who to contact to submit complaints and how to do so, and on the avenues for redress available to them. The EESC suggests that all carriers should use a standard email address for complaints (complaints@...), with the proviso that all alternative ways of submitting complaints (post, submission at a point of sale, etc.) must be available. Mandatory time limits for responding should also be established.

4.16 The EESC calls for further details to be added to the communication concerning passengers' options for appealing to Member-State and European-level bodies with decision-making powers and powers of constraint, should their complaints and claims be rejected. Under no circumstances must the right to redress be linked to the price paid for the journey.

4.17 The EESC points out that, particularly where there are small, scattered claims, the right to compensation is often purely theoretical because of the obstacles to exercising it in practice. It is important to ensure that procedures for redress are not so complex and expensive that they discourage complainants, and the EESC would therefore advocate expanding procedures for alternative dispute resolution (ADR), without depriving passengers of their right to institute legal proceedings.

4.18 The EESC has previously taken note (in opinion CESE 803/2012) that it is now possible for ADR procedures to cover collective disputes, as a first step towards establishing an EU collective legal redress mechanism, but recommends that this possibility be clearly stated in a legislative text and the scheme duly defined.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Energy Roadmap 2050’

COM(2011) 885 final

(2012/C 229/25)

Rapporteur: **Mr COULON**

Co-rapporteur: **Mr ADAMS**

On 15 December 2011, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Energy Roadmap 2050

COM(2011) 885 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 137 votes to 6 with 9 abstentions.

1. Conclusions and recommendations

1.1 The EESC notes with great interest the Energy Roadmap 2050 and its objective of providing a framework for the agreed policy of the substantial decarbonisation of the energy sector in Europe by 2050 (European Council October 2009). The challenge is not only to achieve a sustainable and secure low carbon energy mix in a competitive market but to convince civil society that this is an attainable objective.

1.2 EU Member States have different energy resources and infrastructure and the decarbonisation goal is a much bigger challenge for some countries than for others. The Roadmap offers considerable flexibility in its approach which enables countries to develop appropriate action plans. This will involve considerable burden sharing in order to achieve the decarbonisation goal.

1.3 This is an ambitious but vital goal if Europe is to play its part in combating climate change and to achieve greater energy security. The widest possible debate among the European public will be necessary and the Committee believes the Roadmap can be effective in launching this dialogue. But it must promote engagement at every level – personal, community, regional, national, at EU level and, in particular, with complementary global action.

1.4 The Roadmap concludes with ten conditions or priorities for immediate action. The EESC agrees with all these and in particular with the last one which recommends the establishment of concrete and specific milestones to guide progress over the next few years. The Committee agrees also that the creation of a policy framework for 2030 is now becoming

important so as to provide a reliable guide for investment decisions over the next few years that will have to look well beyond 2020 in calculating their benefits and returns.

1.5 Preliminary to that the EESC recommends carrying out an urgent review of the Energy 2020 Strategy. This is essential in adjusting the final course towards 2030 or 2050. The Committee would like to see country-by-country and sector by sector reports on the three main objectives set for the current decade.

1.6 It is important to obtain an early indication of whether the challenging goals of the Roadmap can be achieved and to review their impact on the EU's economy including global competitiveness, employment and social security.

1.7 The involvement of the public in energy transition issues is essential. A European civil society forum and active steps towards establishing a European Energy Community will both be constructive steps in achieving the desired goal of a sustainable energy future.

2. Introduction

2.1 The Energy Roadmap 2050 is the concluding policy framework proposal in a series produced by the European Commission to underpin European energy and climate change policies (see particularly the Low Carbon Roadmap 2050 – COM(2011) 112 final). The Roadmap provides a framework

in which the three aims of decarbonisation, security of supply and competitiveness in European energy policy could be realised. The Roadmap itself does not make specific recommendations on policy actions or intermediate targets and the scenarios presented should not be regarded as policy proposals.

2.1.1 Globally, on present trends and present policies the primary demand for energy is expected to increase by one-third between 2010 and 2035, an increase which will only be marginally affected by lower economic growth. The share of fossil fuels in global primary energy consumption will only fall slightly (from 81 % in 2010 to 75 % in 2035) so energy-related CO₂ emissions will increase by a further 20 % in this period, indicating a long-term rise in the average global temperature in excess of 3.5 °C (IEA World Energy Outlook November 2011).

2.1.2 Although the Roadmap focuses on the decarbonisation of the energy system it recognises two major vulnerabilities. Energy imports comprise some 55 % of the EU energy mix, and the international energy market is highly competitive and volatile. Ultimately only coordinated global action can resolve what is a global problem. Europe could play a leading role by demonstrating how the energy transformation can be managed in one major region of the world, possibly gaining first mover benefits in the process and reducing import dependency.

2.2 The challenge is urgent. Typically, energy investments last 40 years or more. To achieve the type of energy transition deemed necessary, with significant changes in supply and demand, we need to start now and avoid locking-in carbon-intensive investment. Political, technical and economic uncertainties mean that the Roadmap does not offer a single development path to 2050. It explores possible transition routes and recognises the need for flexibility in a changing and uncertain world. Although the Lisbon Treaty extended the powers of the Commission with respect to energy policy, it specifically reserved the energy mix to national governments and any action at European level must accept that division of responsibility. The Roadmap does, however, point to the need for a new spirit of practical cooperation to emerge to achieve the optimum result and the Committee strongly supports this pragmatic approach, for example the development of a European Energy Community.

3. Summary of the Energy Roadmap 2050

3.1 Up to 2020 the way forward on energy is largely already committed by existing plans and the policies put in place to deliver the 20-20-20 strategy. The Roadmap now highlights the urgent need to develop energy strategies for the years beyond 2020. Governments need to act now to provide continuity of supply, investor certainty and minimise lock-in effects. Delay will both increase costs and the subsequent carbon minimisation effort.

3.2 Recognising the difficulty of predicting energy futures with certainty, seven alternative illustrative scenarios have been developed. The first two present the likely outcome of doing no more than continuing with existing policies and current policy initiatives – both would fail to deliver the 2050 carbon reduction goals. The other five offer alternative pathways to the 2050 goal, based on different technology and policy options:

- very firm energy efficiency measures;
- strong use of carbon pricing to drive a variety of low carbon solutions to compete in the market place;
- extensive support measures for the development of renewable energies;
- more nuclear and less carbon capture and storage (CCS);
- more carbon capture and less nuclear.

3.3 The Commission derives ten conclusions about structural change to the energy system from the scenario modelling. The picture that they paint is that decarbonisation is possible and should be less costly than current policies in the long-run. This will be in the context of an energy mix where electricity plays an increasing role, with prices rising in real terms and as a proportion of household expenditure until 2030. There will be higher capital expenditure but lower fuel costs and very significant energy savings throughout the system will be crucial. The share of renewables will rise substantially in all scenarios and it is assumed that carbon capture and storage plays a vital and significant role in system transformation, whilst nuclear energy will continue to provide an important contribution, with decentralised and centralised systems increasingly interacting as options widen.

3.4 The Roadmap notes that energy security needs a specifically **European** policy on security of energy supply and the development of infrastructures and relations with transit and producing third countries. Policies for the development of new technologies, the integration of renewable energy in the market, energy efficiency and savings and infrastructure development will be more efficient if coordinated at European level.

3.5 All scenarios will involve change and adaptation by energy users and the Commission notes the need for public engagement and involvement and recognition of social impact. Higher levels of investment in R&D and technological innovation will be required and outstanding single market and

regulatory issues dealt with. The energy infrastructure needs significant upgrading and new capacity whilst member states and investors need concrete milestones. The Commission plans to issue further relevant Communications – on renewable energy, the internal market, CCS, nuclear safety, and energy technologies. These will shape the 2030 policy framework.

4. General comments

4.1 Given the many technical and political uncertainties about the future the Committee agrees that the Roadmap's method of modelling alternative scenarios for 2050 is an appropriate approach, which enables the impact of different technical developments, different policy mixes and different external events to be compared and evaluated.

4.2 There is some lack of transparency about the modelling methodology and the assumptions built into it. More information about this needs to be made available so that other experts can test the approach and develop other scenarios on different input assumptions. Nevertheless the Committee believes that the information included in the Roadmap annexes are a positive step and supports the Roadmap's main conclusion that substantial decarbonisation by 2050 is feasible, and that that outcome would, in the long term, provide Europe with a more secure and sustainable energy base going forward than continuing with existing policies, and at a broadly comparable cost over the 40 years to 2050. However, although feasible, the decarbonisation challenges of the Roadmap are very substantial and currently face many obstacles.

4.3 The Roadmap shows that there are different ways in which decarbonisation may be achieved. All of them have some key elements in common – a major push on energy efficiency, a big expansion of renewables, a greater reliance on electricity in the fuel mix, a more extensive and smarter grid, and new arrangements for storing electricity or back-up capacity. Other elements are more dependent on technical developments yet to be fully proven or on the resource base and choices of individual countries (clean coal, nuclear energy etc). Public acceptance and cost variation are both significant underlying factors in all options, and no route is without risk.

4.4 The Committee agrees with this analysis and the implicit conclusion that the EU should focus its primary collective effort on pushing forward the common elements which will be needed throughout Europe as quickly, coherently and efficiently as possible.

4.5 The Committee also agrees with the Roadmap's analysis of the main challenges and opportunities that need to be addressed at European level to transform the energy system, rethink the energy markets, mobilise investors, engage the public and drive change at international level. With due regard for the objections and comments set out below, the Committee can recognise the soundness of the suggested priorities, in particular the final section which identifies ten key conditions or issues that must be taken up urgently to drive progress forward.

4.6 The Committee is, however, dismayed about the extent to which progress in the EU and some of its Member States is already falling behind existing targets. The Committee urges recognition that the extent of this shortfall is disguised by the decline of high carbon-emitting production processes in the EU, their expansion in other parts of the world, and the subsequent import into the EU.

4.7 Technological development takes time to become fully available at competitive prices. Energy investments have a particularly long cycle, typically 40 years, making it necessary for the EU and Member States to urgently establish indicative targets for 2030, together with supporting policies, to avoid the lock-in of carbon-intensive plants. It is the very timescale of these investment cycles which may determine the pace of progress towards the final 2050 goal – and whether this can realistically be achieved. Converging political and business goodwill translated into practical action through supportive programmes and legislation will be necessary.

4.8 At present, energy efficiency and savings are not being driven forward fast enough, in particular in the light of inter-institutional negotiations on the current proposal for the Energy Efficiency Directive. The Commission's forthcoming review of national programmes for energy efficiency should stimulate additional action but be aware that a reduction in demand may also affect energy investment. Progress on renewables is held back by fluctuating Government support and in some cases by local resistance. Modernisation of the grid and energy storage is proceeding too slowly. A truly flexible 'smart' grid carries additional investment costs but the Committee considers that the benefits in providing what will be the foundation of a mutually beneficial European energy community are predominant. We have commented further on this in the Opinion on Infrastructure Regulation ⁽¹⁾.

4.9 The price for carbon emissions that was meant to be established by the ETS is much too low and volatile to give a useful signal to investors. However, the consequences attached to assumptions about high ETS unit prices in the future (200-300 euros/tonne in 2040-2050) require further analysis. These, and other unresolved issues, create barriers to fulfilling the ten conditions for progress identified by the Roadmap. A first priority must be to examine these problems openly and honestly and to fix them promptly so that further progress can be made.

4.10 In the longer term this will make the European economy more resilient and competitive in the world than just continuing with present policies. But in the shorter term the investment needed will inevitably lead to energy price increases and extra costs for consumers, business

⁽¹⁾ Guidelines for trans-European energy infrastructure - OJ C 143 of 22.5.2012, p. 125.

or governments (or probably some mixture of all three). It is also likely to have different impacts in different Member States, which differ substantially at present in their degree of reliance on fossil fuels, their current levels of energy efficiency and in their potential for development of renewables.

4.11 In this connection the likely continued reliance on coal in power generation in many parts of Europe, coupled with the growing interest in the potential of shale gas will need collaborative research and financing efforts to implement complementary CCS programmes. Shale gas, though useful in reducing third country energy supply dependency, carries significant environmental risks which must be fully evaluated. Establishing burden-sharing principles and cost allocation of large infrastructure programmes between countries are necessary requirements. Countries that are dependent on coal for energy production need sympathetic encouragement and incentives to make the maximum decarbonisation effort.

4.12 In the EESC's view it is vital that all these impacts be fully costed, debated and accepted by all concerned, and that measures be taken to share the burden of adjustment according to capacity and in a spirit of solidarity at both European and Member state level. Experience shows that communities can be brought to accept the need for change and the costs involved in such transformations – but only if they are fully engaged, do not believe themselves to be unfairly disadvantaged and can see and accept for themselves the reasons. National governments need to give their citizens the tools to participate in these expected changes, clearly set the objectives as well as explain why these steps are needed.

4.13 It is also essential that vulnerable consumers should be protected from the impact of higher energy prices, that vulnerable businesses should be protected from unfair competition from regions outside the EU not subject to the same constraints. Member States or regions with special problems in making the energy transformation may also need extra support through the structural funds or other mechanisms but different support schemes should not create unequal competition between countries and regions. Rather, harmonisation of justified support schemes as well as of cost allocation principles of large infrastructure projects between countries should be dealt with. The concomitant risks inherent in the central planning processes, which all this requires, need to be noted.

4.14 The European Commission should effectively monitor the strategies of the EU Member States to guarantee that consumers' interests are assured and the implementation of smart & low-carbon technologies are based on cost-efficiency. In particular a well functioning internal market, the reinforcement of the powers and independence of energy regulators, and a broad universal service obligation should all be set in a context of transparency, accountability and public information about sustainable consumption.

4.15 Further expansion of renewables is also facing some problems at present. On the technical side plans and investment have not yet been put in place to accommodate further expansion of variable and widely distributed sources of supply into the grid and storage system. On the economic side, although the average unit cost of renewables is continuing to decline, this so far remains a more expensive option for power generation than conventional methods (particularly gas-fired power stations). On the consumer side there is some local opposition to certain types of installation (particularly wind power). So although from a 2050 standpoint the high renewables scenario looks the most attractive option with the greatest security of supply, and virtually zero costs of the fuel used (sun, wind etc) the problems of getting there look the hardest from where we are now, and will require very determined and consistent political leadership to achieve. Even so, the preceding arguments are only valid in as much as carbon-free energy storage systems or back-up power stations will be available to compensate for the fluctuating nature of most renewable sources.

4.16 Managing the transformation will require determined and co-ordinated efforts at all levels. Strong European action is needed to establish common standards for energy efficiency in all sectors, to drive forward innovation in key technologies, to integrate the market and harmonise fiscal measures and incentive systems, to reform the ETS, to co-ordinate plans for an integrated Europe-wide smart grid and energy storage systems, etc. An early review of the Energy 2020 Strategy is regarded as essential before setting Europe on a final course towards 2030 or 2050. The Committee would like to see country-by-country and sector by sector reports on the three main objectives set for the current decade.

4.17 The Committee considers it to be essential that Commission and Member States establish effective mechanism for driving the transformation forward co-operatively. The Committee favours the early establishment of an integrated European Energy Community; and meanwhile they urge the Commission and member States together with the regulators and energy operators to establish co-operative mechanism that can enable them to work together almost as though there were an Energy Community already in place.

5. Specific comments

5.1 Energy Mix

5.1.1 The decarbonisation of Europe's energy system could be a real asset for Europe's competitiveness in the medium term. It will entail sweeping changes in the energy production mix of Member States and involve a gradual move away from fossil fuels (oil, gas, coal) which still account for 80 % of the European energy mix. Such fossil fuels are largely imported, which puts the European Union in a situation of financial and economic dependence (almost 55 % of our energy comes from sources outside Europe). The EU's annual purchases of oil and gas amount to EUR 270 and 40 billion respectively and the cost of obtaining these fuels risks rising even further in the years ahead due to the volatility of oil and gas prices.

5.1.2 The transition to local sources of low-carbon energy will be less costly for Europe than the maintenance of an energy system which is dependent on imported primary energy, particularly in the context of constantly growing global demand. A system of dispersed energy sources stimulates the local economy and job creation and makes the public more energy-conscious. Its development could make a major contribution to achieving the EU's energy and climate goals. Progress in introducing a system of local, low-carbon energy sources depends on the energy and financial policies of Member States. The Commission is expected to take more decisive action to support national policies for the development of local energy sources.

5.1.3 In this sense, renewable energy should be encouraged along with any technologies that can help achieve the goal of decarbonisation at a lower cost. Biomass may also have a part to play though it will be important to ensure that the methods chosen contribute to carbon reduction on a full life-cycle analysis and do not contribute to food insecurity. Across Europe, there is concern about nuclear energy and opposition to its development. However, nuclear energy might help bring about this transformation in the energy system and reduce CO₂ emissions in those countries choosing the nuclear option, by making it possible to lower the costs of the electricity system and prices, though questions remain about whether some costs, for example those ones related to safety, waste storage, decommissioning and liability issues, remain externalised or socialised.

5.1.4 Electricity must play a more important role than it does today, as it can make a large contribution to the decarbonisation of transport and heating/cooling. The planned doubling of its share of final energy consumption must be accompanied by sweeping changes in electricity production methods and arrangements for trading it between European countries and by increased and actual competition between power generators and sellers.

5.1.5 Oil should continue to be primarily used for freight and long-distance passenger transport; as for gas, it can be used as a temporary substitute for the most polluting sources of energy (such as coal or oil), yet its primary role in the period up to 2050 should be to act as a transition fuel on the road towards low-carbon energy sources. In this light, there should be a detailed stock-taking of the EU's internal gas resources, as they can help boost the EU's energy independence.

5.1.6 With regard to fossil fuels in general, Europe should urgently carry out further research into the location and economic factors relating to carbon capture and storage, in combination with the assignment of a realistic value to carbon and greater public awareness.

5.1.7 Three sectors of activity in particular will need to make radical changes to their organisation. Electricity production must reduce its emissions by at least 95 %; each Member State will have the freedom to strike its own balance between renewable energy, nuclear energy and carbon capture and

storage. Residential and commercial buildings will also need to adapt, with reduction targets of 90 % based on more stringent standards for the construction of new buildings and the energy consumption of new appliances, as well as the renovation of existing buildings. Industry will need to reduce its own emissions by 85 % and monitor the potential risk of carbon leakage – through relocation of production to countries that apply less restrictive emissions standards.

5.2 *Industrial and financial commitment*

5.2.1 Energy transition will provide an opportunity to breathe new life into European industry, generate activity and comprehensively review our modes of production and consumption. Europe's competitiveness must be underpinned by research, innovation and a capacity to bring clean technologies to market. With this in mind, the EU and its Member States must prioritise large-scale projects involving European operators, to serve industry generally but with a particular concern for SMEs and the role of localised energy production also needs to be considered and evaluated.

5.2.2 The transition towards a low-carbon economy must promote employment in the internal market. In tandem with the transformation of the energy industry, the right conditions must be created for the development of new jobs. The construction and renewable energy sectors should be able to create some 1.5 million additional jobs by 2020.

5.2.3 The EESC agrees with the Commission's assessment that the additional investment (EUR 270 billion per year during the period up to 2050, or 1.5 % of EU GDP), will help Europe to boost growth. As much as EUR 175 to 320 billion per year could be saved on hydrocarbon imports alone. However, the investment community is demanding a coherent and consistent market framework across Europe and greater collaboration between Member States. Innovative financial investment instruments should be developed in particular to support SMEs in the energy field.

5.2.4 There is a need to pool the necessary financial resources and to go beyond national-level support systems which are ineffective and stifle competition. The planned 2013 review of the environmental state aid framework should make it possible to support the promotion of all technologies that can help reduce CO₂ emissions.

5.3 *Improving and reducing our consumption: more energy efficiency and energy trading among Member States*

5.3.1 A major European drive is needed to reduce energy consumption, improve how we use it – by promoting energy-saving behaviour and less energy-intensive technologies – and trade energy efficiently. Buildings (39 % of all final energy consumption in Europe), transport (30 %) and industry (25 %) all need a common framework of binding rules. There is huge scope for saving energy: the industrial sector could reduce its energy consumption by 19 % and the transport sector by 20 %.

5.3.2 The EESC recommends pursuing the action committed to under the Climate and Energy Package in a rational manner, taking into account the need to support the countries of Central and Eastern Europe.

5.3.3 The massive growth of renewable energies in the North Sea, and potentially, but to a lesser extent, in the Baltic Sea region, and of solar and wind energy in southern Europe will require new, 'smarter' infrastructure to improve trading between European regions and countries. The development of such 'smart grids' could make it possible to cut consumption by 9 % and CO₂ emissions by between 9 and 15 %. This will entail priority investment in such strategic infrastructure, estimated at between EUR 1.5 and 2.2 trillion in the period to 2050, to modernise and develop European electricity and gas networks.

5.3.4 It could be useful for groups of Member States from a particular geographical region to coordinate their energy mixes, infrastructure and market rules in order to share the benefits of the various sources of energy at their disposal. Being more inter-connected and harmonised, their markets would be more resilient to fluctuations in production and consumption and together better placed to ensure security of supply for the EU's energy needs.

5.4 *Involving the public in energy transition*

5.4.1 Public acceptance of energy choices (nuclear, CCS storage, wind farms, high-voltage power lines etc.) is a challenge for Europe's democracies today. The EESC, as well as the national ESCs, consumer organisations and other NGOs have a central role to play in promoting clear and transparent information about these policies and involving the public more

effectively. The Roadmap is an opportunity to develop participatory democracy in relation to an issue which affects every citizen.

5.4.2 The EESC suggests launching a broad information and awareness-raising campaign to inform the European public about the various energy transition options, the central role of infrastructure and the new consumption behaviour expected of people in Europe.

5.4.3 The EESC considers that the creation of a European civil society forum would boost the flow of information within the EU, by bringing together all local, regional, national and European stakeholders on a regular basis to jointly discuss the main issues of the energy transition for the period up to 2050.

5.4.4 The creation of a *European Energy Community* would also focus attention on the vital and strategic dimension of energy (accessibility, affordable tariffs and prices, regularity, reliability etc) and the changes that need to be made over the next 40 years. It would embody the idea of a Europe which listens to the people, and which addresses issues that are of direct concern to them. This project would involve greater social harmonisation, which is needed to strengthen and give new meaning to the European project.

5.4.5 The EESC recommends giving firmer support to local and regional initiatives which are in the front line when it comes to issues of smart mobility, infrastructure and transport, new construction and renovation projects, heating and cooling networks and urban planning. The EESC considers that their initiatives should be encouraged as they often promote energy policies that are innovative, devolved and democratic.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

APPENDIX

to the Opinion of the European Economic and Social Committee

The following section opinion texts were rejected in favour of amendments or compromises adopted by the assembly but obtained at least one-quarter of the votes cast:

- '1.1 The EESC welcomes the Energy Roadmap 2050 and its objective of providing a framework for the agreed policy of the substantial decarbonisation of the energy sector in Europe by 2050 (European Council October 2009). The challenge is not only to achieve a sustainable and secure low carbon energy mix in a competitive market but to convince civil society that this is an attainable objective.'

Outcome of the vote on the amendment: 88 votes in favour, 41 votes against and 13 abstentions.

- '4.5 The Committee also agrees with the Roadmap's analysis of the main challenges and opportunities that need to be addressed at European level to transform the energy system, rethink the energy markets, mobilise investors, engage the public and drive change at international level. Subject to the more detailed comments below the Committee supports the priorities suggested, and in particular the final section which identifies ten key conditions or issues that must be taken up urgently to drive progress forward.'

Outcome of the vote on the amendment: 75 votes in favour, 51 votes against and 24 abstentions.

- '5.1.3 In this sense, renewable energy should be encouraged along with any technologies that can help achieve the goal of decarbonisation at a lower cost. Biomass may also have a part to play though it will be important to ensure that the methods chosen contribute to carbon reduction on a full life-cycle analysis and do not contribute to food insecurity. Nuclear energy might help bring about this transformation in the energy system and reduce CO₂ emissions in those countries choosing the nuclear option, by making it possible to lower the costs of the electricity system and prices, though questions remain about whether some costs, for example those ones related to safety, waste storage, decommissioning and liability issues, remain externalised or socialised.'

Outcome of the vote on the compromise: 89 votes in favour, 53 against and 8 abstentions.

Opinion of the European Economic and Social Committee on 'Increasing the impact of EU Development Policy: an Agenda for Change/The future approach to EU Budget Support to third countries'

COM(2011) 637 final and COM(2011) 638 final

(2012/C 229/26)

Rapporteur: **Ms LE NOUAIL MARLIÈRE**

On 30 October 2011 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the document entitled:

Increasing the impact of EU Development Policy: an Agenda for Change/The future approach to EU Budget Support to third countries

COM(2011) 637 final and COM(2011) 638 final.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 April 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 24 May), the European Economic and Social Committee adopted the following opinion by 146 votes in favour, 60 against and 30 abstentions.

1. Conclusions and recommendations

The Committee approves and supports the two proposals but would urge that priority be given to putting the objectives into practice to improve the everyday situation of the people for whom the aid is, in the end, intended.

To this end it suggests the following:

1.1 Involving civil society organisations CSOs, which include trade unions, cooperatives, NGOs and employers' organisations, each with their own specific features) not only in setting the general guidelines, but throughout the whole process of project selection, implementation and result assessment, so as to support and complement the administrative, diplomatic and legal procedures for monitoring and evaluating the provision of EU funds.

1.2 Involving, instead of simply consulting, the social partners and the other civil society organisations would be beneficial because of the expertise derived from the social, economic and environmental experience and commitment of the volunteers concerned in improving standards relating to representativeness and democracy - openness, expansion, transparency and independence (ownership objective).

1.3 In this regard, economic and social councils - where they exist - are a valuable resource. The EESC, with its various partners (tertiary sector organisations, trade unions and employers' organisations), has consistently been involved, whatever the obstacles. It has been a negotiating partner alongside the European public authorities in contacts with the delegations with which it has had dealings, both in bridging the gap between institutions and civil, social and economic organisations and in recommending, in many circumstances, that greater vigilance be exercised by the EU authorities as regards human rights.

1.4 **There should be a better balance during the procedures for consultations with CSOs** in the EU and the recipient countries. Particular attention should be paid to a cross-consultation of non-state players⁽¹⁾, in order to avoid European development policy being used as a tool.

1.5 The Decent Work Agenda, contributing to inclusive and sustainable growth, must be included when it comes to concentration of sectors at country level. Social partners must be included from the start in policy dialogue to ensure democratic ownership of development policies which goes beyond government's involvement.

1.6 Differentiation between countries or group of countries must be based on relevant indicators such as UN Human Development Index, responding to the poverty reduction. In any case a gradual phasing out strategy of the so called 'emerging economies' countries should be established.

1.7 The EU support to good governance and human rights (pillar of the agenda for change) should be aimed at promoting a human rights based approach to development whose features are: participation in political processes, democratic ownership and empowerment of right holders; human rights compliance systems on internationally agreed commitments; policy coherence between human rights, aid, and economic policies.

⁽¹⁾ OJ C 211, 19.8.2008, pp. 77–81, rapporteur Mr Moreno Preciado: *Freedom of association in the Euromed partner countries.*

1.8 The Committee suggests paying special attention to the following improvements to allow **public and private aid to be redeployed more efficiently**:

- seeing that the countries where aid is most needed often are also those where the most severe forms of corruption are found, to provide special attention to anti-corruption measures and in case of budget support payments, non-state actors, social partners, and associations active in the areas of human rights and European networks should be consulted and involved in priority setting, monitoring etc.;
- sectoral themes should be at the heart of the strategic reorientation of aid objectives. Here the Committee would give priority to the Millennium development goals. Special attention shall be provided to social sectors, education (including continuing vocational training), health, the development of NICTs and access to them, the rights of persons with disabilities, human rights and labour rights, all rights concerning women at work and in life in general and their participation in public life;
- public sector aid remains essential and necessary for the development of the targeted countries, but for a better coordination of direct aid from the Member States and the EU, aid from the NGOs and private sector should be taken into account in the coordination process and be subject to the same principles regarding consistency of objectives and accounting;
- the Committee remains concerned by the downward trend in official development aid from most Member States, and stresses the need of involving civil society more in the decisions of budgetary support.

1.9 The Committee believes that **the Commission should boost the direct involvement of civil society in the EU and the recipient countries as much as possible**, aiming at a partnership. This shall aim to have a positive impact on human rights, anti-corruption, decrease the risk of ineffective aid or social problems.

1.10 The Member States should commit to coordinating their aid within the Community framework. In the current severe economic crisis for the EU, European taxpayers should be made more aware of aid objectives, be informed, have something to say about them and, in order to give them greater support, have access to relevant information through training courses for the general public and volunteers and professionals from CSOs.

1.11 The EU should also be able to seriously improve the performance of its aid by assessing the impact of agreements on economic, industrial and agricultural matters *before* concluding them and as part of the process of following them up.

2. Introduction

2.1 The Commission presented the two proposals under consideration as a follow-up to its Green Paper of 10 November 2010 on EU development policy in support of inclusive growth and sustainable development/Increasing the impact of EU development policy (COM(2010) 629 final).

2.2 Facing new global challenges, close to the 2015 target for achieving the Millennium Development Goals (MDGs) and in the midst of preparations for the next Multiannual Financial Framework (MFF), the EU is searching for the right mix of policies, tools and resources to be effective and efficient in the fight against poverty in the context of sustainable development. The Commission is proposing an Agenda for Change to strengthen Europe's solidarity with the world's developing nations in this fight.

2.3 The EU has already done much to help reduce poverty and in particular to support the achievement of the MDGs. Yet severe poverty persists in many parts of the world. Meanwhile, popular movements in North Africa and the Middle East have highlighted that sound progress on the MDGs is essential. According to the European Commission, EU development policy must take into account the increased differentiation between developing countries. The EU also has the opportunity to work more closely with the private sector, foundations, civil society organisations and local and regional authorities, as their role in development is crucial. The EU and its Member States should speak with one voice and act in concert so as to achieve better results and improve the EU's visibility.

2.4 In view of the present economic and budgetary times, it is essential to ensure that aid is spent effectively, delivers the best possible results and is used to leverage further financing for development.

2.5 Development strategies led by the partner country will continue to frame EU development cooperation in line with the principles of ownership and partnership. The EU is seeking greater reciprocal engagement with its partner countries, including mutual accountability for results. Dialogue at country level within a coordinated donor framework should determine exactly where and how the EU intervenes. More effective collaboration within the multilateral system will also be pursued.

2.6 On 7 December 2011 the Commission also adopted a Proposal for a Regulation of the European Parliament and of the Council establishing a financing instrument for development cooperation⁽²⁾, which formalises the guidelines proposed in the Green Paper and the two Communications examined below.

⁽²⁾ COM(2011) 840 final of 7 December 2011, SEC (2011) 1469 and 1470.

3. General comments

3.1 The Committee would point out that it has made a number of remarks in previous opinions, which still remain relevant. These include:

— *The Development Cooperation Instrument of the European Union* ⁽³⁾; and

— *The European Instrument for Democracy and Human Rights* ⁽⁴⁾, in which it: '... calls for the institutions to reflect upon the role of civil society in the Union's foreign policy regarding human rights and the possibility of involving it more directly in the shaping and implementation of such policy. There must be systematic consultation of organised civil society before any strategy document is drafted, including those of individual [...] Countries ...'

3.2 The Committee is particularly keen to support human rights objectives, especially in the areas of human rights at work, gender equality, protection and promotion of children's rights, including the eradication of child labour, and informal work with no social security cover (decent work and ILO conventions).

3.3 Although the achievement of MDG 1 (Eradicate Extreme Hunger and Poverty) is supported by the Commission, the Committee notes that too little importance is still given to achieving the other objectives, as this would have an interactive effect. For example, if something was done to achieve MDG 7 (Ensure Environmental Sustainability), this would help reduce poverty.

3.4 The Committee underlines the need to specifically allocate financial resources in development cooperation to gender issues (MDG 3). Most importantly it regrets the absence of information and data and no systematic monitoring that makes it very difficult to identify any positive or negative impact on gender equality. This places a severe constraint on informed policy-making and the formulation of appropriate strategies and interventions to reduce inequalities. In order to be effective, gender mainstreaming needs to be operationalised and supported through predictable funding and allocations, otherwise it runs the risk of being sidelined at the expense of other seemingly more urgent goals ⁽⁵⁾.

⁽³⁾ EESC opinion on *The Development Cooperation Instrument of the European Union: the role of organised civil society and the social partners* OJ C 44, 11.2.2011, rapporteur: Mr Iuliano.

⁽⁴⁾ EESC opinion on *The European Instrument for Democracy and Human Rights* OJ C 182, 4.8.2009, rapporteur: Mr Iuliano.

⁽⁵⁾ Report of the Parliamentary Committee on Women's Rights on the Multiannual Framework 2014-2020 - Assessing Gender relevance of EU External Actions.

3.5 As regards decentralisation and trust placed in EU representations, each time that the EESC has had the opportunity to do so it has met with European delegations through its contact and follow-up groups and participation in the EU's 'Round Tables' (India, Brazil, ACP, etc.), as well as the processes involving the Mediterranean and the Eastern neighbourhood. The Committee notes that the support by the European delegations should be extended towards European CSOs on the ground, as this would make European aid more transparent.

3.6 The EESC supports the aim of the proposals but has some suggestions for the instrument of 'budget support' because of the lack of support it has among the general public. The recommendations of civil society organisations and the social partners and others should be more taken into consideration when designing and monitoring the programmes: democracy, transparency and traceability in order to combat waste, corruption, tax avoidance and the abuse of political, police or military power and authority ⁽⁶⁾ and others.

3.7 Firstly, any assessment must cover everything properly if we are to avoid coming to the same conclusion in eight years' time (Financial Perspectives 2014-2020), namely that the Commission has indeed rightly judged that the results are disappointing and tried to rectify the situation, taking into account the missions set out by the new Treaty, but in the end has just come up with the same thing: consultation after the event and moves to step up checks by making them excessively detailed, without increasing human resources or checking that they are properly targeted, be it on organised networks or individuals. Priority for aid should be given to the most vulnerable groups in society who face problems of access, including those in rural areas and in the most remote regions.

3.8 Secondly, more emphasis is put on the appearance of efficiency at the expense of sustainable human investment by promoting the biggest economic players on both sides of the aid equation (donors/recipients).

3.9 Finally, in assessing the objectives of aid the Commission needs to be clear – and state clearly – how its aid programme ties in with – and is differentiated from – both its Economic Partnership Agreements (EPAs) and its Free Trade Agreements (FTAs) negotiating aims. A lack of clarity here not only leads to confusion and misunderstanding but can lead to a failure of recognition that so far ODA has provided insufficient stimulation to achieve the Millennium Goals due to a lack of consistency between the objectives of aid and the rest of EU external policy, particularly trade policy.

⁽⁶⁾ EESC opinion on *Regional integration for development in ACP countries*, OJ C 317, 23.12.2009, pp. 126-131, rapporteur: Mr Dantin and co-rapporteur: Mr Jahier.

3.10 Thus, the EU might provide more and better encouragement for the development of inclusive growth oriented towards the transition to a 'green' economy, based on human development and the sharing and transfer of the necessary knowledge and technology. It might improve the effectiveness of its aid by assessing the impact of the economic agreements which it concludes, and beef up the performance of *The European Instrument for Democracy and Human Rights* ⁽⁷⁾.

3.11 We must remember that the Paris Declaration's objective of 0.7 % of Member States' GNI remains the goal in terms of volume, but even before the 2008 financial crisis many states took refuge behind the slogan 'less but better-quality aid' (Monterrey 2002, Johannesburg 2002). The EU Member States all contribute to European or international aid programmes but, over time, large sections of society are excluded from the benefits announced, both economic and environmental. It is therefore necessary to restore trust in the field of aid as much as in the economic sphere between civil society and its political and economic governors, both in the North and in the South.

3.12 For aid to be coordinated and effective, the Member States and the European Commission must work towards common goals. The EU institutions are too weak when faced with the special interests of each contributing Member State. Governments in the recipient countries have thus been able to take advantage of the often diverging economic interests of the EU Member States, and play on the rivalry or competition between different types of funding and between continents (EU, G20, OECD, etc.).

3.13 It is important to take measures to support the democratic process. A balance should always be sought between consultation of the social partners and of other civil society organisations, so as to strike a positive chord and achieve thematic goals.

3.14 One cannot reason as if the EU had not itself suffered the social consequences of a financial crisis that has spread to the economic, budgetary, social and political spheres. The EU must, through its development aid and cooperation, encourage a reduction in the consumption of raw materials, facilitate technology transfer and promote processing industries in countries that are net exporters of natural resources so as to reduce its environmental footprint, while helping to reduce the effects of climate change.

Business environment, regional integration, world markets

3.15 In this area, the results of the Busan conference have not shown that the EU has maintained any particular or firm belief in supporting technology transfer, improving living conditions in response to climate change or strengthening public services. Its efforts are, it has to be said, dwarfed by

the profusion of private funding and sponsorship from multinational or transnational economic interests (which is a sign of the strong private sector commitment to development) even though its share and its public contribution still represent approximately half of ODA (official development aid).

3.16 Internationally, some large companies, to be found especially in infrastructure sectors: construction, water, agri-food, energy etc., provide preliminary feasibility studies to the governments receiving aid which are used to convince prospective donors and take advantage of the obligation of the beneficiary states to comply with basic rights and implement them positively by suggesting that major works be undertaken. But it has happened that the funds obtained for aid have been placed on the financial markets by members of the beneficiary local or national governments, without always being used to carry out the projects for which they were originally intended, by being redirected to European financial centres 'in a safe haven' into private accounts.

3.17 The Committee therefore approves of the objectives of combating tax avoidance and corruption, which must include combating the laundering of money obtained from criminal activities or tax avoidance and the exploitation of forced, informal or child labour. The EU would thus better achieve the objective of consistency with other donors.

3.18 The EU therefore must (i) encourage its Member States to increase their contribution, but in a coordinated and integrated manner, (ii) consult its own civil society on the relevance of its objectives in order to convince Member States that development aid is not just a question of image and market share, and (iii) promote and facilitate dialogue between the different civil society organisations, social partners and the Member States, and involving local and regional authorities both inside and outside the EU.

4. Specific comments

4.1 In the wake of the support provided by the Accra Forum in September 2010, the Civil Society Organisations adopted the Istanbul CSO Development Effectiveness Principles, which were the outcome of a lengthy consultation process in more than 70 countries and sectors. These principles form the basis of the International Framework on CSO Development Effectiveness, which was concluded in June 2011, and set standards for interpreting and aligning CSO practices with the Istanbul Principles, adjusting them to local and sector-specific conditions. In the light of this, the Committee has been asked by the Commission for an exploratory opinion to define how civil society could be

⁽⁷⁾ See footnote 4.

involved in development policy and development cooperation as part of the structured dialogue⁽⁸⁾.

4.2 The Committee attaches great importance to the context of the preparations for the UN Conference on Sustainable Development, which will be held in Rio de Janeiro in June 2012.

4.3 With this in mind it recalls the conclusions and recommendations set out in the EESC opinion on *Rio+20: towards the green economy and better governance – The contribution of European organised civil society*⁽⁹⁾ and the message contained in its recent additional opinion on *The EESC position on the preparation of the United Nations Conference on Sustainable Development (Rio+20)*⁽¹⁰⁾.

4.4 At the Rio+20 UN Conference, world leaders have to commit to a concrete action plan leading to verification of the achievement of the millennium goals, sustainable development and poverty eradication (goal 1) within the limitations of the planet.

4.5 The Committee particularly emphasises that eradicating poverty and ensuring access for all to adequate food, drinking water and sustainable energy must be key priorities on the agenda for Rio+20. Promoting local agriculture that respects the environment in developing countries plays a crucial role in combating poverty and improving food safety, and is a driving force in the development of economically prosperous rural regions.

4.6 As regards the private sector, the recognition of social partners (employers' and workers' organisations) and social dialogue in many partner countries should be supported. Social dialogue is essential to ensure broad-based democratic ownership of economic, social and environmental development objectives, as recommended by the UNDP and the UNEP (transition to a green economy), as well as respect for core labour standards and the promotion of social justice. Through social justice and dialogue, employers' and workers' representatives help to shape effective social, economic and environmental development strategies and enhance conflict prevention and social stability.

4.7 Through encouraging widespread use of the principles of corporate social responsibility and similar initiatives, it is important that all private-sector actors involved should apply the principles and labour standards set out in the ILO Conventions and monitored by the ILO supervisory system.

More particularly, transnational companies, especially where these gain at some stage or other through the concomitant use of public sector support, must take active steps to be seen to observe the 'Guiding Principles on Business and Human Rights' in the United Nations' 'Protect, Respect and Remedy' Framework, the ILO Tripartite Declaration on Multinational Enterprises and Social Policy, the OECD Guidelines for Multinational Enterprises and the UN Global Compact. They also have the possibility of complying with the best practice of the IFC (World Bank)-ILO cooperation on promoting core labour standards throughout the production chain.

4.8 Private-sector support can be beneficial for development, but Official Development Assistance should not be used to guarantee private-sector risk or to substitute public services. Private-Public Partnerships (PPP), based on a thorough analysis of real needs over the long term, must enable and ensure fair risk-sharing for the community, accessibility and the affordability, both economic and environmental, of the services and goods produced. They should genuinely respect a multi-stakeholder approach and not be used as a tool for privatisation where existing public services are performing well or just need to be improved.

4.9 As key actors for sustainable development in the target countries, social economy enterprises and organisations (including cooperatives) must be consulted and involved in setting goals and supported in achieving them, thus developing their potential as actors for aid and the use of aid.

4.10 Poverty has still a long way to go before it has disappeared from many African, Asian and Latin American countries now classed as middle income countries, in view of the widening gap between rich and poor. In particular, 75 % of the poor still live in middle-income countries. This means that building up democratic and equitable societies, with strong social partners, should still be a relevant objective for the geographic programmes.

4.11 In any case, all developing countries should stay eligible under the thematic programmes, which will consequently need to be more robust. In this respect the intention of having a maximum of three themes per country should be toned down, in close consultation with both the governments of the beneficiary states and with private economic and social actors and other civil society organisations.

4.12 The policy choice to phase out the 'wealthier developing countries' should therefore be made on the basis of relevant UN human and social development indicators, and be conducted within the framework of the international consensus of the OECD in order to reduce internal disparities.

⁽⁸⁾ EESC opinion on 'Civil society involvement in the EU's development policies and in development cooperation' CESE OJ C 181, 21.6.2012, p. 28.

⁽⁹⁾ OJ C 376, 22.12.2011, p. 102

⁽¹⁰⁾ OJ C 143, 22.05.2012, p. 39.

4.13 The Committee supports the goal of giving national players a greater say in partner countries' budgetary processes and considers that, if done effectively, the publishing of factual, verifiable information on budget support operations could enable major advances to be made in achieving millennium and aid goals. It therefore supports the Commission's efforts in this direction.

Brussels, 24 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

APPENDIX

to the Opinion of the European Economic and Social Committee

The following amendments, which received at least a quarter of the votes cast, were rejected:

Amendment 14: Point 3.16

~~Internationally, the cash flow of very large companies (to be found especially in infrastructure sectors: construction, water, agri-food, energy etc.) (1), sometimes depends too much on ODA. The preliminary feasibility studies provided to the governments receiving aid are used to convince prospective donors and take advantage of the obligation of the beneficiary states to comply with basic rights and implement them positively by suggesting that major works be undertaken. But it has happened that the funds obtained for aid have been placed on the financial markets by members of the beneficiary local or national governments, without always being used to carry out the projects for which they were originally intended, by being redirected to European financial centres 'in a safe haven' into private accounts.~~

Reason

The paragraph does not seem to be clear and/or add any value to the opinion. The last sentence does not seem to show an overall problem but a single criminal act of one or several persons. The added value of it is more than unclear.

Voting

For: 57

Against: 137

Abstentions: 29

Amendment 10: Point 4.8

~~Private-sector support is a key factor in promoting can be beneficial for development, but Official Development Assistance should not be used to guarantee private sector risk or to substitute public services. Private-Public Partnerships (PPP), based on a thorough analysis of real needs over the long term, must enable and ensure fair risk-sharing for the community, accessibility and the affordability, both economic and environmental, of the services and goods produced. They should genuinely respect a multi-stakeholder approach and not be used as a tool for privatisation where existing public services are performing well or just need to be improved.~~

Reason

To maintain a balanced approach.

Voting

For: 96

Against: 126

Abstentions: 11

(1) Up until the reform of the World Bank and EIB eligibility criteria and even up until now, despite the reforms.

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators as regards the placing on the market of portable batteries and accumulators containing cadmium intended for use in cordless power tools'

COM(2012) 136 final — 2012/0066 (COD)

(2012/C 229/27)

Rapporteur-general: **Mr ZBOŘIL**

On 16 April 2012, the Council decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators as regards the placing on the market of portable batteries and accumulators containing cadmium intended for use in cordless power tools

COM(2012) 136 final — 2012/0066 (COD).

On 24 April 2012, the Bureau of the European Economic and Social Committee instructed the Section for Agriculture, Rural Development and the Environment to prepare the Committee's work on the subject.

In view of the urgency of the matter, the European Economic and Social Committee, at its 481st plenary session, held on 23 and 24 of May 2012 (meeting of 24 of May), appointed Mr ZBOŘIL as rapporteur-general and adopted the following opinion by 121 votes to 6 with 5 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators as regards the placing on the market of portable batteries and accumulators containing cadmium intended for use in cordless power tools (COM(2012) 136 final) of 26 March 2012 and the accompanying Impact Assessment (SWD(2012) 66 final).

1.2 The Committee does not consider that the Impact Assessment provides sufficiently reliable evidence on which to base the Commissions proposals on nickel cadmium batteries. The Committee notes that Nickel Metal Hydride batteries will not be used in power tools by 2015 and so are not a commercially viable alternative battery technology. Accordingly, only one battery technology, lithium ion, will be available once the exemption for nickel cadmium batteries is removed and this presents a potential commercial risk to the power tool industry.

1.3 The Committee recommends that the proposal for a directive be adopted, with the proviso that the date until which batteries containing more than 0,002 % of cadmium by weight can be placed on the market be set at 31 December 2018 and that provision be made for spare nickel cadmium battery packs to be allowed on the market for five years thereafter. Thereafter, it will only be possible to put on the market emergency and alarm systems and special medical equipment using batteries containing cadmium.

1.4 The Committee welcomes the application of the proportionality principle in this very specific decision-making process and supports the Commission's proposals. It therefore recommends that the European Parliament and the Council adopt the proposal for a directive (COM(2012) 136 final) with the amendments proposed in 1.3.

1.5 Accordingly, the Committee also recommends the proposed conferral of implementing powers on the Commission in the terms and scope set out in the proposal for a directive. The conferral of powers in line with the proposal for a directive of the European Parliament and of the Council (COM(2012) 136 final) must ensure transparency of procedures and complete accountability of those exercising the Commission's implementing powers. The Committee calls for the departments involved to operate transparently and be accountable for their decisions.

2. Gist of the Commission document

2.1 Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC prohibits the placing on the market of portable batteries and accumulators, including those incorporated into appliances, that contain more than 0,002 % of cadmium by weight therein. However, portable batteries and accumulators intended for use in cordless power tools have been exempt from that ban.

2.2 The Commission has presented this proposal because Article 4(4) of the Batteries Directive requires it to review the

exemption from the cadmium ban provided for portable batteries and accumulators intended for use in CPT (Article 4(3)(c)) and to submit a report – together, if appropriate, with relevant proposals – with a view to the prohibition of cadmium in batteries and accumulators.

2.3 A Commission Report was submitted to the European Parliament and to the Council in December 2010. It concluded that it was not then appropriate to bring forward proposals concerning the exemption for cadmium-containing portable batteries intended for use in cordless power tools (CPT) because not all the technical information (notably costs and benefits of cadmium and its substitutes) was available to support such a decision.

2.4 Some stakeholders favoured withdrawal of the exemption for the use of nickel-cadmium (NiCd) batteries in cordless power tools, since they viewed the economic costs as minimal and the environmental benefits as substantial in the long term. Others opposed withdrawal of the exemption and underlined the fact that the data on the economic, environmental and social impact did not justify withdrawal.

2.5 Overall, the stakeholder consultation confirmed the need for a comparative life-cycle assessment in order to provide a firm basis for the cost-benefit analysis. The life cycle analysis was inconclusive on the relative merits and disadvantages of the currently available battery chemistries. The Commission's impact assessment concludes that compared to the baseline scenario the other policy options related to a withdrawal of the exemption (immediate withdrawal or withdrawal in 2016) would lead to a lower overall environmental impact, both in terms of avoiding releases of cadmium to the environment and in terms of aggregated environmental impacts based on six environmental indicators.

2.6 The Commission argues that, in the case of delayed withdrawal of the exemption (in 2016), the environmental benefits would be slightly lower than under the option of immediate withdrawal, but the costs would be much lower compared to this option. Some recyclers and cordless power tool manufacturers have given cost estimates for both policy options related to the withdrawal of the exemption (in the range of EUR 40-60 million in the case of immediate withdrawal and EUR 33 million in the case of withdrawal by 2016). It is doubtful, however, whether all these costs should be attributed to the cases of withdrawal of the exemption, given that the amounts of cadmium batteries used in cordless power tools will decrease by 50 % between 2013 and 2025 under the baseline scenario.

2.7 The Commission states that over the period 2013–2025, cordless power tools with alternative battery chemistry will, depending on the alternative battery chemistry chosen (nickel metal hydride or lithium-ion), cost EUR 0,8 and EUR 2,1 more respectively if the exemption is immediately withdrawn and an additional EUR 0,4 and EUR 0,9 respectively in the case of withdrawal in 2016. This data is inaccurate. The costs differentials are significantly higher.

2.8 The social impacts and administrative burden are limited for all policy options and they should not lead to compliance issues.

2.9 The impact assessment concludes that if the exemption is withdrawn in 2016, the environmental benefits would be slightly lower than in the case of immediate withdrawal, but the costs would be much lower compared to an immediate withdrawal. As withdrawal of the exemption in 2016 would have almost the same level of effectiveness at a higher efficiency compared to an immediate withdrawal, this option is the preferred one. The existing exemption for use in cordless power tools should continue to apply until 31 December 2015 in order to enable industry to further adapt the relevant technologies.

3. General and specific remarks

3.1 Drawing on analysis bringing in a range of aspects, sectors and facts, the Commission proposes to retain batteries containing more than 0,002 % of cadmium by weight for cordless power tools in production and use to the end of 2015.

3.2 The analysis carried out demonstrates that this is a solution that will not lead to any noticeable environmental deterioration or jeopardise the health of the population. It is disappointing that the Commission proposal makes no mention of the Targeted Risk Assessment (TRAR) undertaken by the EU on cadmium or the subsequent Risk Reduction Strategy which concluded that no further measures are needed for nickel cadmium batteries in power tools.

3.3 Of course, in terms of consumer protection, the system will remain in force for labelling such items containing batteries with cadmium content fully complying with current legislation. The same is true for the protection of workers manufacturing batteries and for labour law provisions. Moreover, the manufacture of batteries containing cadmium will continue for special medical equipment and electrical emergency systems. According to the impact study, this covers the risks undoubtedly associated with postponing the date for banning the use of accumulators containing more than 0,002 % of cadmium by weight.

3.4 The Committee therefore recommends that the ban be imposed on 31 December 2018.

3.5 The Committee also recommends conferring implementing powers on the Commission in the terms and scope set out in the proposal for a directive. The conferring of these powers under Directive of the European Parliament and of the Council (COM(2012) 136 final) must ensure transparency of procedures and the full accountability of those exercising the Commission's implementing powers.

3.6 The Committee notes that the battery packs in power tools are now primarily supplied by third countries but that many branded power tools are manufactured in the EU. Nevertheless, it takes on board the principle that it is not desirable to disproportionately increase the costs to the consumer of acquiring this equipment, including cordless power tools with incorporated or connected batteries containing more than 0,002 % of cadmium.

Brussels, 24 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a regulation of the European Parliament and of the Council amending Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission’

COM(2012) 150 final — 2012/0075 (COD)

(2012/C 229/28)

On 18 April 2012 the European Parliament and on 30 April the Council decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the

Proposal for a regulation of the European Parliament and of the Council amending Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission

COM(2012) 150 final — 2012/0075 (COD).

Since the Committee endorses the contents of the proposal, it decided, at its 481st plenary session of 23 and 24 May 2012 (meeting of 23 May 2012), by 149 votes to 5 with 11 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for an amended proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1760/2000 as regards electronic identification of bovine animals and deleting the provisions on voluntary beef labelling'

COM(2012) 162 final — 2011/0229 (COD)

(2012/C 229/29)

On 10 May 2012 the European Parliament and on 26 April the Council decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the

Proposal for an amended proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1760/2000 as regards electronic identification of bovine animals and deleting the provisions on voluntary beef labelling

COM(2012) 162 final — 2011/0229 (COD).

Since the Committee endorses the contents of the proposal, it decided, at its 481st plenary session of 23 and 24 May 2012 (meeting of 23 May 2012), by 154 votes to 1 with 7 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Proposal for a Council directive laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption’

COM(2012) 147 final — 2012/0074 (NLE)

(2012/C 229/30)

On 17 April 2012 the Commission decided to consult the European Economic and Social Committee, under Article 31 of the Treaty on the Functioning of the European Union, on the

Proposal for a Council directive laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption.

COM(2012) 147 final — 2012/0074 (NLE)

Since the Committee endorses the contents of the proposal, it decided, at its 481st plenary session of 23 and 24 May 2012 (meeting of 23 May 2012), by 159 votes to 7 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

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