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(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

401st PLENARY SESSION, 16 AND 17 JULY 2003

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on the harmonisation of the laws, regulations and administrative provisions of the Member States concerning credit for consumers'

(COM(2002) 443 final — 2002/0222 (COD))

(2003/C 234/01)

On 8 October 2002 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 25 June 2003. The rapporteur was Mr Pegado Liz.

At its 401st Plenary Session of 16 and 17 July 2003 (meeting of 17 July), the European Economic and Social Committee adopted the following opinion by 91 votes to one with one abstention.

SUMMARY

While recognising that a Commission initiative to review the directive on consumer credit is appropriate — and, indeed, overdue — and while agreeing that it is necessary, given the changes which have occurred in the fields it sets out to regulate and in the objectives set, the European Economic and Social Committee cannot support adoption of the proposal as it stands: it must firstly be radically amended, principally on account of the need to:

— ensure it is compatible with the provisions of other Community legislative instruments dealing with related matters;

— carry out a detailed simulation of the impact of every aspect of the proposed measures, especially regarding progress in completing the single market in financial services and boosting consumer confidence;

— fine-tune several of the suggested provisions in the light of the principles of proportionality and necessity, ensuring that opting for total harmonisation does not lead to a potential fall in the level of consumer protection, presently guarded against by retaining a minimum clause.

The most important aspects which, in the EESC's view, need to be adjusted to meet the proposal's aims, concern:

— the legal basis on which the directive is to be adopted;

— its scope, with regard both to what is included and what is excluded;

— the way in which the total harmonisation method is used without guaranteeing maintenance of a high level of consumer protection;

— the failure to take account of over-indebtedness, assuming that matters can be resolved with an inappropriate and at times disproportionate list of information obligations, leaving aside others which are effectively essential;

— the need to flesh out the structure, functioning and guarantees concerning the use of centralised databases;

as well as a series of technical legal issues which are examined (albeit non-exhaustively) in the relevant points below.

1. **Introduction: purpose of the directive**

1.1. The proposal submitted by the Commission to the European Parliament and the Council, and for which referral to the Committee for an opinion is mandatory under Article 95 of the Treaty, arises from the need to revise Directive 87/102/EEC of 22 December 1986, subsequently amended by Directives 90/68/EEC of 22 February 1990 and 98/7/EC of 16 February 1998.

1.1.1. Civil society and the Member State authorities have long pointed to a series of reasons by the 1987 directive needs to be revised [1]. Some of these reasons are acknowledged in the explanatory memorandum of the proposal itself, while others have been set out in a number of ESC reports and opinions [2].

1.1.2. The Commission points, in particular, to the following:

a) the need to include new forms of consumer credit which did not exist in 1987;

b) the need for a realignment of the rights and obligations of both consumers and credit providers;

c) technical problems in penetrating other markets.

1.1.3. The Committee, for its part, has identified:

a) the increase in the volume of consumer credit;

b) the rising level of over-indebtedness;

c) discrepancies between national regulations and practices in applying the 1987 directive and its modifications;

d) the inability of the directive's provisions to ensure that real consumer credit costs (APR) can be effectively compared;

e) the lack of Community-level definition of parameters for identifying usury and possible means of preventing and combating it on a uniform basis;

f) the need to make the rules compatible with recent directives on cross-border transfers (Directive 97/5/EC of 27 January 1997), electronic commerce (Directive 2000/31/EC of 8 June 2000) and distance selling of financial services (Directive 2002/65/EC of 23 September 2002).

1.1.4. These shortcomings, together with others in the Community arrangements for consumer credit, have been considered as giving grounds for concern by the Member States and civil society, because they:

a) result in glaring differences in the level of consumer protection, and undermine consumer confidence in the single market in financial services;

b) distort competition and destabilise the European credit market;

c) are an obstacle to the smooth operation of the internal market in financial services .

1.2. The EESC therefore agrees with the proposal's primary aim of 'paving the way for a more transparent market, a more effective market and to offer such a degree of protection that the free movement of offers of credit can occur under the best possible conditions both for those who offer credit and those who require it'.

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(1) Occasions on which the need for revision were stated include:
- — Hearings with government experts and with consumer organisations on 4 and 5 July 2001 respectively, Brussels (Borschette Centre);
- — Hearing promoted by the ESC, Stockholm, 18 July 2001;
- — Conference held by the Italian Consiglio Nazionale dei Consumatori e degli Utenti, Milan, 2 July 2001;
- — Colloquium on Consumer Credit and Community Harmonisation held by the Belgian EU Presidency, Charleroi, 13 and 14 November 2001.

(2) Among the most important:
- — Information Report on Household over-indebtedness;
- — Opinion on Household over-indebtedness, (OJ C 149 of 21.6.2002);
- — Opinion on the Proposal for a Directive amending Directive 87/102/EEC (OJ C 337 of 31.12.1988);
- — Opinion on the Green Paper – Financial services: meeting consumers' expectations (OJ C 56 of 24.2.1997);
- — Opinion on the Proposal for a Directive on certain legal aspects of electronic commerce (OJ C 169 of 16.6.1999);
- — Opinion on the Report on the operation of Directive 90/88 and the Proposal for a Directive amending Directive 87/102/EEC (as modified by Directive 90/88/EEC) [COM(96) 79 final], (OJ C 30 of 30.1.1997);
- — Opinion on the Proposal for a Directive on the distance marketing of consumer financial services (OJ C 169 of 16.6.1999).

Consumer credit's importance to developing the internal market requires firstly, that rules of conduct for the various players be devised, based on fairness and transparency and secondly, that correct and full mutual information requirements be introduced for both sellers and consumers.

1.3. The Committee also agrees with the fundamental guidelines set out in the initiative, which can be summarised as follows:

a) better definition of the directive's scope;

b) minimisation of risk for credit providers;

c) better information for consumers and their guarantors;

d) fair sharing of responsibilities between consumers and professionals;

e) establishment of common rules on recovery of unpaid debts.

1.4. The Commission proposes that the following principal innovations, reflecting the above guidelines, be introduced to the existing arrangements with a view to achieving the objective set:

a) the aim of total harmonisation guaranteeing a high level of protection for consumers and ensuring an identical scheme in the different Member States (Articles 1 and 30);

b) an extension of the scope of the provisions to guarantors and credit intermediaries (Article 2(d) and (f) and Articles 10, 23, 28 and 29);

c) an extension of the scope to include all forms of consumer credit and surety, whether personal or real, including agreements promising to grant credit and credit for the supply of services, but excepting mortgage credit for the purchase of private housing (Article 2(b) and (e) and Articles 3 and 5);

d) the concept of 'responsible lending' (Article 9) to make financial institutions responsible for assessing the consumer-borrower's ability to meet their commitments, and for informing consumers, or their guarantors, of the assessment;

e) an explicit ban on negotiating credit agreements outside business premises (Article 5);

f) a new formula for calculating the APR (Article 12), fully covering the total cost of the credit, in order to ensure transparency and comparability;

g) more detailed information for consumers both prior to, and at the time of, concluding a contract, bringing it into line with the provisions of Directives 2000/31/EC of 8 June 2000 on electronic commerce and 2002/65/EC of 23 September 2002 on distance marketing of consumer financial services (Articles 6, 10 and 21);

h) a ban on the use of securities (bills of exchange, promissory notes or pre-dated cheques) to underpin the credit (Article 18);

i) a duty to provide advice to consumers on the different types of credit available (Article 6(3));

j) a right of withdrawal within fourteen days, from the day on which a copy of the credit agreement is transmitted to the consumer (Article 11);

k) compulsory existence of, and access to, a central database in all the Member States recording payment defaults, and the subsequent obligation upon credit institutions to consult the database before granting credit (Article 8);

l) liability on the part of the creditor for non-supply, partial supply or failure to supply in conformity with the relevant contract, whenever the supplier of goods is also a credit intermediary (Article 19);

m) the establishment of a list of unfair terms specific to consumer credit agreements (Article 15), as previously recommended by the EESC [1].

2. General comments

2.1. The Committee agrees with the innovations to the consumer credit system in the areas listed above, which represent:

2.1.1. progress in comparison with the arrangements under Directive 87/102/EEC, even following the amendments made by Directives 90/88/EEC and 98/7/EC;

2.1.2. a significant improvement in the way instruments and means of conveying information to creditors, borrowers and guarantors are defined;

[1] Opinion on the Report from the Commission on the implementation of Directive 93/13/EEC of 5 April 1993 (OJ C 116 of 20.4.2001), and the Opinion on Consumers in the insurance market (OJ C 95 of 30.3.1998).

2.1.3. special care taken in identifying and incorporating the different types of credit now available to consumers, although these could be improved;

2.1.4. great accuracy with which key concepts such as 'total lending rate', 'borrowing rate' and 'sums levied by the creditor' have been defined, although the large number of concepts may confuse consumers and be detrimental to transparency of information;

2.1.5. efforts made to establish a method for calculating the APR making it effectively transparent and comparable between all the Member States;

2.1.6. a curb on exclusions from the established scheme;

2.1.7. clearer establishment of a duty on the part of the creditor to provide information for the consumer and guarantor;

2.1.8. a decision to completely ban the use of bills of exchange, promissory notes or cheques as a form of surety in credit agreements.

2.2. However, the Committee regrets that the Commission has failed to take the opportunity to go further in achieving its objective and implementing its own guidelines, in areas which it considers to be equally vital, such as:

2.2.1. more detailed definition of the nature and operating methods of the databases for payment defaults, establishing uniform rules guaranteeing consumers' rights — right of consultation, right of correction, clear and unequivocal individual authorisation, limitations on the scope for the use of data, etc.;

2.2.2. an explicit obligation for all forms of commercial communication regarding consumer credit to indicate the APR and other essential features defining the type of credit granted;

2.2.3. an attempt to classify some consumer credit agreements, harmonising all the different arrangements for granting credit, and covering certain methods such as the direct debit system, combining consumer credit with authorisation for standing orders;

2.2.4. determining EU-level criteria for defining maximum interest rates and what constitutes usury, using identical variables but not necessarily the same absolute amounts.

This is an important question which merits further examination, for the reasons set out below.

2.2.4.1. Usury means an interest rate which is abnormally higher than the legally established rate, or is incompatible with the principles of honesty and fairness in commercial affairs or of public policy and good practice, or which is imposed by exploiting the difficult situation of the person requesting the loan.

2.2.4.2. As a constituent part of the legal structures governing the organisation of the market economy, regulation of usury is considered to be a matter of public policy by the Member States. It also forms an integral part of the general Community interest. Ultimately, creditors must comply with the current law of usury of the country where the consumer resides, particularly in the case of cross-border contracts. In view of the public policy nature of rules governing usury, conflicts between the law of the various Member States could arise.

2.2.4.3. Opponents of moves to harmonise the rules governing usury argue that compliance with the duty of information on the part of creditors, particularly regarding information on the rate of interest actually applied, is adequate since it puts consumers in a position to make a choice. In practice, however, usury occurs in cases where consumers do not enjoy freedom of choice. It is also argued that regulating usury may constitute a market restriction, depriving those consumers who most require it of credit. Nevertheless, consumers in difficulty must be protected from dishonest creditors.

2.2.4.4. Moreover, the gap between different interest rates has tended to narrow with the introduction of the single currency, facilitating harmonisation of legislation in this area.

2.2.4.5. The EESC therefore believes that this aspect of the market should be regulated through action at Community level, in order to prevent distortions and restrictions affecting competition. It considers that setting interest rates ceilings for the various types of consumer credit may be the most effective means of achieving this.

2.2.5. Lastly, the EESC recalls the need for special conditions to be provided for disabled consumers in an integrated fashion.

2.3. The EESC would take this opportunity to alert the Commission to the need to introduce robust consumer protection measures in the area of mortgage credit for the purchase of private housing for long-term residence, which accounts for more than 70 % of the volume of consumer credit.

2.4. In addition, the EESC must voice its disagreement with the form in which certain solutions are presented and situations are envisaged, as these do not match the original objective.

This applies in the following cases.

2.4.1. Firstly, the legal basis for the adoption of the proposal (Treaty Article 95). The proposal, by its nature, is not exclusively concerned with the completion of the single market, and the basis should rather be the current Article 153 of the Treaty which, while including measures for the completion of the internal market, extends to the protection of consumers' economic interests.

2.4.2. Also the way in which complete — meaning full and binding — harmonisation is to be achieved, without use of a regulation and without ensuring the highest possible level of protection for consumers, leaving the Member States the option of whether or not to take implementing measures in key areas such as:

a) inversion of the burden of proof (Articles 30(1)(b) and 33);

b) inclusion in advertising material of borrowing rates, total lending rates and APR (Article 4);

c) penalty provisions (Article 31);

d) the content of the central databases (Articles 8(4) and 30(1)(a));

e) compulsory provision of a copy of the credit agreement for the consumer as a condition of its validity (Article 10(1));

thereby creating the conditions for real disparities between national legal systems, which could lead to market distortions and varying levels of consumer protection.

2.4.3. Moreover, the general thinking behind the proposal is that 'consumer protection' is the same thing as 'consumer information', in contrast with the EESC's consistent view that while consumer information is essential, it must be accompanied by active forms of protection and defence for consumers. This means that unless such measures are explicitly included, proper consumer protection can only be achieved by retaining minimum clauses, possibly in relation to certain as yet unspecified aspects of the directive.

2.4.4. More robust advice measures are needed, providing proper means for less literate or financially-astute consumers.

2.4.5. There is also insufficient mention of over-indebtedness ([1]), as if it was entirely unconnected with consumer credit and could be resolved purely by fulfilling the information requirements imposed by the proposal. However, it is known that the Commission's persistent unwillingness to press forward with proposals for legislative harmonisation in this field is aggravating disparities between national systems, and this hampers effective completion of the internal market. Such disparities will become all the more obvious with the accession of new Member States, where the phenomenon is on the rise.

2.4.6. The continued possibility of imposing an early repayment indemnity is similarly unacceptable, with no precise definition of the terms under which such an indemnity may be determined, and the Member States left to specify what constitutes a 'fair and objective [indemnity] calculated on the basis of actuarial principles' (Article 16). As well as widely differing treatment of consumers, this may even result in a distorted credit market between different countries.

2.4.7. The EESC cannot accept the definition in general of parameters which, since total harmonisation is involved, cannot be exceeded by the Member States, and which set levels of consumer protection lower than those already practised by certain Member States — as, for example, with the obligation to return the sum with interest in the event of exercise of the right of withdrawal, or with the lifting of the obligation to mention the APR in advertising material.

2.4.8. Furthermore, the proposal contains some provisions aiming at making credit intermediaries liable in certain situations: it does so, however, in a haphazard and unsystematic manner.

2.4.8.1. The EESC considers that regulation of credit intermediaries is a priority, and should be accomplished in the same way as has been done for insurance intermediaries ([2]).

([1]) The subject of the EESC opinions referred to in footnote 2.

([2]) Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 (OJ L 9 of 15.1.2003, p. 3). The EESC drew up an opinion on the proposal for this directive (OJ C 221 of 7.8.2001).

2.4.8.2. There are a number of reasons for this position. The first is the fact that intermediaries occupy an important place in the consumption process, since they mediate relations between the creditor and the consumer. Another is that the way credit intermediaries are regulated varies widely between the Member States' legal systems.

Moreover, there is no consensus in the case-law of Europe's national courts regarding the liability of intermediaries, particularly in the area of electronic commerce and distance sales.

2.4.9. Turning to the scope of the directive, the removal of the minimum threshold below which credit would not be subject to the proposed rules is unacceptable, since this could act as a deterrent to granting consumer micro-credit for essential goods or services. The directive's requirements are out of proportion to the interests involved.

2.4.9.1. The Committee therefore suggests that the principle set out in Article 1(2) of the previous directive be reinstated, establishing EUR 500 as the limit below which the directive would not apply.

2.4.10. If the contractual arrangements governing some types of consumer credit, such as leasing contracts, are to be retained in the directive, they require a provision enabling certain effects flowing from the proposed regime to be adjusted in line with their specific legal nature. This concerns areas such as the right of withdrawal, calculation of the APR, the amortisation table, early repayment or repossession in the event of non-compliance with the contract.

2.5. Lastly, there are solid grounds for believing that some of the proposal's provisions, or at least possible interpretations of them, may be incompatible with the provisions of other directives, particularly those concerning data protection, distance selling, electronic commerce, distance marketing of financial services and unfair terms. This aspect requires detailed and specialist legal analysis.

3. **Specific comments**

3.1. *Definitions*

3.1.1. Definition of credit intermediary (Article 2(d))

The definition of a credit intermediary under this article should be worded as follows:

> '"credit intermediary" means a natural or legal person who, for a fee, habitually acts as an intermediary by presenting or offering credit agreements, undertaking other preparatory work for such agreements, or concluding such agreements'.

3.1.2. Definition of surety agreement (Article 2(e))

It should be made clear that the surety agreement may be incorporated into the credit agreement itself. This is not at present clear.

3.1.3. Definition of drawdown (Article 2(m))

The concept of drawdown should apply to the moment at which the amount of credit is actually drawn down, not the moment the credit is made available to the consumer.

3.2. *Scope (agreements excluded)*

3.2.1. Delete the expression 'in a single payment' from Article 2(2)(c).

3.2.2. Article 3(2)(d) should be deleted, or should state explicitly that the conditions set out under (i), (ii) and (iii) are cumulative.

3.3. *Information prior to the agreement*

3.3.1. Advertising (Article 4)

This should include an obligation to indicate the APR and total lending rate in all forms of commercial communication regarding consumer credit.

3.3.2. Ban on negotiation of credit agreements outside business premises (Article 5)

This should specify that the prohibition refers exclusively to unsolicited offers.

3.3.3. Prior information (Article 6)

3.3.3.1. The exception contained in Article 6(4) should be deleted. At the very least, the ambiguous expression 'in an ancillary capacity' should be clarified.

3.3.3.2. In Article 6(1) and (2), replace 'se necessário' with 'se for caso disso' (applies to the Portuguese version, not to the English version).

3.3.3.3. In the second paragraph of Article 6(2), replace the expression 'its advantages, and any drawbacks' with 'and its important and characteristic aspects'.

3.3.3.4. In Article 6(3), replace 'eventualmente' with 'se for casso disso' (applies to the Portuguese version, not to the English version).

3.3.3.5. The words 'advantages and disadvantages associated with the product' should be replaced with 'relevant aspects and characteristics of the product' (Article 6(3)).

3.4. *Consultation of the central database (Article 8)*

3.4.1. The directive must clearly set out the consequences of failure to consult or take account of the data contained in the database, in terms of the creditor's liability ([1]), in order to guarantee that the consultation is effectively compulsory.

3.4.2. The existence of micro-credit should also be acknowledged by defining a minimum threshold for compulsory consultation of the database as an alternative in the event that the minimum threshold recommended in point 2.4.9.1 above is not accepted.

3.4.3. The obligation to inform the consumer of the result of any consultation should be accompanied by the right of correction by the consumer, with appropriate sanctions in the event of non-compliance.

3.4.4. Immediate and automatic destruction of the data received may hamper the definition of customer profiles and make it impossible to suggest the most appropriate products.

3.4.4.1. The EESC suggests that this provision be brought into line with the revised Basle Agreement, setting down a time-limit for keeping data, except where the consumer expresses a wish for data to be destroyed immediately.

3.5. *Responsible lending (Article 9)*

3.5.1. The expression 'parte-se do princípio de' is not legally precise and should be replaced with 'presume-se', reversing the burden of proof (applies to the Portuguese version, not to the English version).

3.5.2. The following sentence should be added:

'It is also assumed that both the consumer and the guarantor have accurately portrayed their financial situation'.

3.6. *Information that must be included in credit and surety agreements (Article 10)*

3.6.1. Compulsory supply of a copy of the contract to the consumer should be established as a condition for the contract's validity.

3.7. *Right of withdrawal (Article 11)*

3.7.1. In Article 11(1), the expression 'transmitted to the consumer' should be replaced with 'received by the consumer'.

The period should only be counted from the confirmed date of receipt.

3.7.2. The wording of Article 11(3) must be clarified, particularly regarding the possibility of returning the goods: this only seems to make sense in terms of credit linked to the sale of goods.

3.7.2.1. The rule under which the purchase contract must not be subject to the effects of withdrawal from the credit agreement is accepted in principle, but there must be safeguards against fraud by bogus consumers.

3.7.2.2. The decision to retain ownership of the goods being financed until the withdrawal period has elapsed, regardless of the transfer of physical possession to the consumer, is prejudicial to the rule of transfer of ownership because of the bilateral nature of the contract and is not in keeping with the principle of subsidiarity which governs this matter.

([1]) Cf. in this regard Bernd Stauder, 'La consécration légale d'un devoir de diligence du donneur de crédit' ['Enshrining credit providers' duty of care in law'], in 'La responsabilité du donneur de crédit aux particuliers', Observatoire du Crédit et de l'Endettement, Belgium, October 1996, and 'La prévention du surendettement du consommateur: la nouvelle approche de la LCC 2001' in 'La nouvelle loi fédérale sur le crédit à la consommation', Ed. CEDIDAC No 51, Lausanne, 2002.

It would be preferable to make exercise of the right of withdrawal from the credit agreement subject to proof of prior payment of the object in question or of effective reimbursement of the credit if it was provided directly to the purchaser-consumer of the object.

3.8. *Early repayment (Article 16)*

3.8.1. Under the proposal, consumers may still be required to pay an indemnity, which is not defined with the necessary clarity and objectivity.

3.8.1.1. The Committee's preferred solution is to remove the possibility of demanding any indemnity whatsoever.

3.8.1.2. If this does not occur, it must be stipulated that the possibility of demanding an indemnity for early repayment be stated in advance in the credit contract, and must relate exclusively to the cost of setting up and management credit, spread over all the repayments, the risks on the lender's refinancing rate and the risk of having to reinvest capital at a lower rate, in addition to stipulating only low penalties where a new credit is drawn up for the purposes of repaying a previous credit.

3.9. *Joint and several liability (Article 19)*

3.9.1. The provisions of the article should be supplemented with those of the current Article 11(2) of Directive 87/102/EEC ([1]).

3.9.2. In Article 19(2), replace 'compensar' with 'indemnizar' (applies to the Portuguese version, not to the English version).

3.10. *Performance of a surety agreement (Article 23)*

3.10.1. It is necessary to make it clearer that the expression 'take action' means to request a court order. The deadline should also be reduced to 30 days.

3.10.2. Neither are there grounds in the third paragraph for limiting the amount guaranteed to the outstanding balance and arrears: it should be possible for the surety to cover any amount which the consumer may have to face as a consequence of failure to comply with the contract (e.g. costs of enforcing an order).

3.11. *Total harmonisation (Article 30)*

3.11.1. The issue of total harmonisation and the conditions under which the EESC could agree to this approach were addressed in the general comments above.

3.11.2. The Committee would simply point out that, in accordance with point 3.13 below regarding Article 33, Article 30(1)(b) should be deleted.

3.12. *Penalties (Article 31)*

3.12.1. The question of penalties was discussed in the general comments above.

3.12.2. However, the following:

> 'These penalties must be effective, proportionate and constitute a deterrent. They may provide for the loss of interest and charges ...'

should be replaced with the following:

> 'These penalties must be effective, proportionate and constitute a deterrent, and they must provide for the loss of interest and charges ...'.

3.13. *Burden of proof (Article 33)*

3.13.1. In Article 33,

> 'Member States may provide that the burden of proof ...'

should be replaced with

> 'Member States must provide that the burden of proof ...'.

([1]) '2 The consumer shall have the right to pursue remedies against the grantor of credit where:
a) in order to buy goods or obtain services the consumer enters into a credit agreement with a person other than the supplier of them; and
b) the grantor of the credit and the supplier of the goods or services have a pre-existing agreement whereunder credit is made available exclusively by that grantor of credit to customers of that supplier for the acquisition of goods or services from that supplier; and
c) the consumer referred to in subparagraph (a) obtains his credit pursuant to that pre-existing agreement; and
d) the goods or services covered by the credit agreement are not supplied, or are supplied only in part, or are not in conformity with the contract for supply of them;
e) the consumer has pursued his remedies against the supplier but has failed to obtain the satisfaction to which he is entitled'.

4. **Conclusions**

4.1. The proposal for a directive comes in response to a series of expectations and needs relating to consumer protection, including an extension of the scope to cover surety agreements, the supply of new forms of credit, together with clarification of key concepts in credit, which it is believed can help boost consumer confidence in the single financial services market.

4.2. The EESC regrets, however, that the revision was not preceded by a simulation to gauge its impact in market terms (volume of transactions, amounts and types of credit, etc.), on both the demand and supply sides.

4.3. Neither does the EESC agree that the proposal, like Directive 87/102/EEC, should view the completion of the single market as its main concern, envisaging consumer protection only insofar as it can foster free movement of credit supply, and not taking it as an end in itself but merely a means of developing the internal market.

4.3.1. The EESC therefore suggests that Treaty Article 153 be taken as the legal basis for the proposal.

4.4. At the same time, a number of individual measures are welcomed. They concern over-indebtedness, particularly the principle of responsible lending, the duty to provide advice, regulation of the right of withdrawal, the duty to provide an amortisation table, and regulation of out-of-court recovery procedures.

4.5. An opportunity has, however, been missed to go further: practical measures could have been introduced to handle declared cases of over-indebtedness.

4.6. The proposal continues to leave a large area of credit unregulated; it lays down no rules on usury, leaves types of contract undefined, and credit intermediaries remain free of liability.

4.7. Certain aspects even represent a step back from the previous arrangements, particularly the lifting of the obligation to state the APR in advertising, which prevents consumers from comparing credit costs before beginning negotiations. Moreover, many aspects of the proposed arrangements as a whole offer less protection than current practice in some Member States.

4.8. It is unacceptable that the information obligations imposed upon credit providers should relieve them of liability towards consumers: the duty of information does not represent the full extent of consumer protection.

4.9. The EESC recommends that implementation in the single market of the arrangements contained in the draft directive be backed by a commitment to training, specially geared to credit intermediaries in general and traders in particular. However, it should also relate to consumers, especially those with a lower level of awareness; here, personalised advice and education from the earliest school years are crucial to understanding the mechanisms and consequences of using consumer credit, especially in terms of prudent management of household budgets.

4.10. It also recommends that the impact study outlined in point 4.2 above be extended to the accession countries. It suggests that the study, to be carried by the Commission and submitted to the EESC and the European Parliament, comprise the following aspects:

— the economic impact of the proposed arrangements on the banking sector, trade and industry;

— the impact on consumers, especially from disadvantaged groups;

— an examination of the impact of the proposal on the possible development of cross-border trade.

4.11. The decision to seek full harmonisation only merits support if it entails effective alignment with the highest possible level of consumer protection and does not lead to a real reduction in consumer safeguards; in other words, in contrast to the present proposal.

4.12. The EESC also suggests that the minimum clause be retained, accompanied by a precise definition of the areas where the Member States can provide more effective protection of consumers in credit agreements.

4.13. In brief, it is recommended that the Council and the Member States do not accept the proposal for a directive as it currently stands. The Commission must firstly respond adequately to the suggested solutions, and especially in the light of the EESC's comments, ensure that the provisions

contained in the proposal are compatible with those of other Community instruments dealing with related matters, and assess in detail the impact of every aspect of the proposed measures. This applies in particular to progress in completing the single market in financial services and to significantly boosting consumer confidence in cross-border transactions.

Brussels, 17 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council relating to the protection of pedestrians and other vulnerable road users in the event of a collision with a motor vehicle and amending Directive 70/156/EEC'

(COM(2003) 67 final — 2003/0033 (COD))

(2003/C 234/02)

On 7 March 2003 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 25 June 2003. The rapporteur was Mr Levaux.

At its 401st Plenary Session, held on 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion by 109 votes to four.

1. **Introduction**

1.1. *Aim of the proposal*

1.1.1. This proposal aims to reduce the number of deaths and injuries that occur in accidents involving pedestrians and cyclists, through changes to the front of passenger cars and light vans of less than 2,5 tonnes.

1.1.2. The need for the directive can be seen from the sheer number of accidents — 8 000 pedestrians and cyclists killed and a further 300 000 injured in the Community each year in road accidents — and from the fact that the harmonised technical requirements for the type-approval of motor vehicles laid down in Directive 70/156/EEC are in need of modification.

1.1.3. In 2001 the Commission successfully concluded negotiations with the associations representing the European car manufacturers (including American vehicles sold in Europe) and Japanese and Korean car manufacturers (ACEA, JAMA and KAMA) obtaining a commitment by the industry to introduce measures to increase pedestrian protection. This commitment was the subject of a Communication to the Council and the Parliament on 11 July 2001. In the light of the opinions received, the Commission proposed either to accept the manufacturers' commitment by means of a recommendation, or to put forward a directive based on the contents of the commitment. The latter option was selected in the end.

1.1.4. Thus the proposed directive gives a formal framework to the relevant parts of the commitment undertaken by the industry, thereby ensuring legal certainty concerning the implementation of the relevant measures. In addition, the new requirements will be part of the EC type-approval system, thus involving the Member States in the application of the legal provisions.

1.2. *Content of the directive*

1.2.1. Most accidents occur in urban areas, and it is accepted that at speeds below about 40 km/h it is possible to reduce significantly the seriousness of injuries in collisions between pedestrians and motor vehicles by improving the frontal structures of the vehicles.

1.2.2. The prescriptions chosen are based on the work of Working Group 17 of the European Enhanced-safety Vehicle Committee (EEVC) and the Joint Research Centre of the European Commission.

1.2.3. In order to comply with the proposed limit values, motor vehicles (cars and light vans) will have to pass a number of tests:

— from 1 October 2005 new types of vehicles must comply with two tests (protection of the head and legs);

— from 1 September 2010 four stricter tests will be required for new types of vehicles;

— within the five following years, all new vehicles will have to comply with these test requirements.

1.2.4. It is recognised that the application to heavier vehicles (lorries and buses) of the criteria selected for passenger cars and light vans would be of limited value. They are therefore not covered by the directive.

1.2.5. The Commission points out that the technical requirements laid down by the directive will mean substantial changes in vehicle design, but that the lead-time allowed and the phased introduction mean that these changes can be made during the development of new vehicles without having to make costly changes to vehicles already in production.

1.2.6. The Commission anticipates probable technological changes by allowing for the development of alternative measures to the requirements laid down in the draft directive. A feasibility assessment will therefore be carried out by 1 July 2004 on the proposed technical test provisions, and a possible amendment of this directive will be considered.

1.2.7. Finally, the Commission points out in the explanatory memorandum that car manufacturers have undertaken to introduce the following active and passive safety measures to improve protection of pedestrians:

— from 1 July 2004, to equip all new motor vehicles with anti-lock braking systems (ABS), which are currently in use and are monitored separately;

— from 1 October 2003, to equip all new motor vehicles with Daytime Running Lights (DRL). The Commission has decided not to recommend the introduction of DRL by the industry until a harmonised approach to it has been achieved at Community level;

— to study the possibility of non-rigid bull-bars on new vehicles, and to ban the sale of rigid bull-bars as soon as possible. The Commission intends to propose a directive containing a test procedure for all bull-bars and similar devices placed on the market;

— gradually to introduce information and communication technology (ICT) elements on vehicles, to improve active safety.

2. **General comments**

2.1. The Committee approves and supports the Commission's approach, since all useful measures should be taken to seek to reduce the consequences of road accidents involving pedestrians and cyclists. It welcomes the fact that the draft directive has an annexed impact assessment making possible better measurement of the future effects of the proposed text. On the other hand, the Committee wishes to point out that protection of pedestrians and cyclists from road accidents must form part of an overall approach. While it is obviously necessary to take all the necessary measures to reduce the consequences of an accidental collision with a motor vehicle, everything possible must also be done to minimise the risk of collision.

2.2. In particular, three aspects of preventing collisions between pedestrians or cyclists and motor vehicles should be systematically borne in mind and developed:

2.2.1. Increasing the sense of responsibility of those involved, by stressing that carelessness by pedestrians, cyclists and vehicle drivers very often causes collisions and by pointing out that vehicle drivers are sometimes not solely responsible for accidents; responsible behaviour by other road users could thus be encouraged.

2.2.2. Education and information, which must involve constant training sessions from primary school onwards and repeated communication campaigns to ensure more respect for the highway code and encourage people to act correctly.

2.2.3. The physical separation of road and street users, which is undoubtedly the most effective way of preventing pedestrians, cyclists and vehicles from colliding when in

motion. To that end, it would be advisable to initiate widespread studies on redesigning streets in cities where users' coexistence is most dense and constant. The resulting works to install protected pedestrian crossings, footbridges, cycle-tracks, dedicated traffic lanes, suitable lighting, beacons etc., will need to be accompanied by public funding arrangements. As well as the direct contribution these works will make to reducing the number of accidents, they will help to create an urban environment better suited to special circumstances, such as those of disabled people, and will contribute to city-dwellers' quality of life.

2.3. The Committee is well aware that the aim of the proposed directive is a technical one and relates to a precise aspect — modifying the frontal parts of motor vehicles. It sees some merit in the practice of solving the problems on a case-by-case basis, but wishes to see a reminder both of the objectives and of the overall strategy for achieving them, so as to encourage those involved to adopt the new measures more readily. The Committee would therefore ask the Commission to supplement its explanatory memorandum with a reminder that the directive is part of an overall policy, three of the main aspects of which are recalled under point 2.2 above.

2.4. The proposed directive amends Directive 70/156/EEC of 6 February 1970 which sets out the system of EC type-approval for motor vehicles. Over the last 33 years, this directive has been rectified, amended or supplemented about thirty times, which shows that the Council seeks to take account of all new factors which can improve its effectiveness. Given that the directive is so old and that so many amendments have been made, the Committee would like the Commission to consider reviewing it in its entirety, reworking it and if necessary updating it in the form of a new directive. That would be an opportunity to clarify once again the content of the overall prevention policy for road users — pedestrians, cyclists, motorcyclists (who are curiously omitted) and vehicle drivers. At the same time, the statistical and evaluation tools on the causes and consequences of accidents could be supplemented to make it possible at last to identify clearly the origin of and responsibility for road accidents.

2.5. The proposed directive states in paragraph (3) of its preamble:

> '... this Directive presents tests and limit values based on the EEVC recommendations.'

The Committee suggests that this paragraph be supplemented by:

> '..., which constitute the final objective of the Directive if by 1 July 2004 new alternative measures with the same effects have not been formulated.'

3. **Specific comments**

3.1. The draft directive was drawn up in consultation with the car manufacturing industry, particularly the ACEA, and essentially recapitulates the commitments presented in a Commission Communication of 11 July 2001.

3.2. Without waiting, European manufacturers have begun to implement the directive's provisions. They hope it will be rapidly adopted to provide them with legal certainty. The Committee supports this request, since any delay could compromise the investments made and compliance with the deadlines laid down for the various phases (July 2004, September 2010 etc.).

3.3. The Committee also supports the Commission and the manufacturers in their shared approach (Article 5(1)) of assessing the progress made in the field of pedestrian protection on the basis of independent information and studies. Similarly, it approves the principle of a feasibility study, planned for July 2004, which should make possible a set of new, alternative measures with at least the same effects in terms of protection as the recommendations envisaged in the tests advocated by the EEVC.

3.4. Noting that the studies have already been started in this context, without waiting, thanks to the anticipated application of the planned measures, the Committee emphasises the need for the directive to be adopted as soon as possible in order to respect the already generous deadlines.

3.5. Finally, the Committee wonders what will become of the old vehicles, not covered by the directive, which will still be in circulation after 2015. The Committee hopes that the Commission will propose, for 2010 onwards, withdrawal or adaptation arrangements spread over five years, to avoid a situation where vehicles meeting the new requirements and vehicles not meeting them are circulating together for several years. For the new Member States, however, there should be a transitional phase ending in 2020.

4. **Conclusions**

4.1. The Committee is in favour of this directive and hopes that it will be adopted very quickly. It takes the view that it will make it possible to minimise the effects of accidents on pedestrians and cyclists who collide with a motor vehicle (passenger car or light van) of less than 2,5 tonnes.

4.2. The Committee stresses that the content of the draft directive is the result of considerable preparatory work carried out with car manufacturers. From 2001 onwards, to improve the safety of users, they have worked out and applied certain commitments, which are shown in the technical part of the directive's text.

4.3. The Committee asks the Commission to include a reminder, in the explanatory statement to this directive, that this overall prevention policy has three main aspects:

— Increasing the sense of responsibility of all road and street users (pedestrians, cyclists, motorcyclists, vehicle drivers etc.).

— Education and information in the form of repeated training to encourage respect for the highway code.

— Redesigning roads and streets to give priority to the physical separation of different user categories, as the best form of prevention is to avoid collisions whenever possible between vehicles, pedestrians, cyclists etc. The design changes must be made systematically when road repairs are being carried out, and must be supported by appropriate financial incentives available to local authorities.

4.4. The Committee is pleased that the Commission has undertaken a review of the whole of Directive 70/156/EEC, which has been amended about thirty times since it was first issued. This updating must be co-ordinated with the car manufacturing industry, users' associations and others. The Committee takes the view that this would be an opportunity to clarify the content of an overall policy on accident prevention for road and street users.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, to the Council and to the European Economic and Social Committee on Life Sciences and Biotechnology — A strategy for Europe Progress report and future orientations'

(COM(2003) 96 final)

(2003/C 234/03)

On 6 March 2003 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

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 25 June 2003. The rapporteur was Mr Braghin.

At its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion by 111 votes to one, with two abstentions.

1. **Introduction**

1.1. In January 2002 the Commission presented a Strategy for Europe on life sciences and biotechnology, consisting of two parts — policy orientations and a 30-point plan to transform policy into action.

1.2. The European institutions have supported the integrated approach proposed by the Commission, and the EESC has commented in depth on the documents it received ([1]).

1.2.1. In its Opinion on the Communication on Life sciences and biotechnology — A Strategy for Europe, the EESC put forward a series of proposals, including the call for the precautionary principle to prevail — also in the context of biomonitoring — and to be applied at every stage; for the

([1]) EESC opinions: OJ C 96 of 18.4.2002 and OJ C 61 of 14.3.2003.

principle of liability for the cost of damage/inconvenience resulting from the use of such technology to be clearly stated; for the action plan to be fleshed out to include aspects such as educating all young Europeans to be aware of these sciences; for a precise definition of the responsibilities of each of the players; for transparency at every stage of research; for traceability and clear and understandable labelling; for consumer expectations to be recognised at international level by adopting risk-benefit criteria in all negotiating fora; for a continuous debate to be conducted to ensure proper assessment of scientific advances; for a communication strategy to be defined and for information to be objective.

1.3. The Barcelona European Council examined the strategy and stressed the importance of frontier technology as a key factor for future growth. It also called for appropriate measures and a timetable to be developed to enable Community businesses to exploit the potential of biotechnology while taking account of the precautionary principle and addressing ethical and social concerns.

1.4. The Competitiveness Council of 26 November 2002 adopted a series of important conclusions covering a vast array of measures, including the development of human resources, greater resources for research, intellectual property protection, the creation of online platforms available on the Internet, the pro-active role for public authorities, the participation of society and social dialogue, the regulatory framework and international cooperation.

1.5. The Communication in question is the first report on this matter. It sets out the results achieved in policy development and on the ground, and anticipates a number of emerging issues which are fundamental to the success of the Action Plan.

1.6. Some Member States have not yet been able to transform the aims of the European Council conclusions into action in areas which are vital to the development of biotechnology and life sciences.

1.7. The biotech industry, considered one of the sectors of the economy with the greatest potential for medium to long-term growth, groups together various technologies where innovation and competitiveness play a key role. Biotech enterprises largely grow out of the spin-off from universities or large businesses (following mergers or acquisitions) and operate with venture capital or 'business angel' type arrangements (local networks of private investment providing funding and consultancy to young enterprises).

1.8. Biotech enterprises are predominantly SMEs, typically widely inter-disciplinary and highly specialised, although very diverse, with great capacity for invention and a high rate of growth (despite the crisis faced by the biotech food business). It has been found [1] that a high concentration of such businesses are located in clusters where it is easier to build a technological basis and a critical mass of knowledge, and interact in terms of exchanging expertise and selecting staff with high potential.

1.9. Breaking new ground in the field of molecular biology and biotechnology has driven the sector into rapid expansion throughout the world over the past thirty years, with substantial growth recorded both in R&D activity and in terms of employment. The motor for such progress in knowledge and business partly lies in the inter-disciplinary nature of the industry and cooperation between academia and business, forging particularly effective synergies.

1.10. The features of the industry as detailed above provide insight into the concerns raised in the Communication with regard to some strategically-important areas, such as research, securing funding and a system for protecting intellectual property, since negligence and delays risk jeopardising the long-term success of biotechnology in the EU.

2. **Comments on the main aspects of the strategy and on the proposals**

2.1. *European research*

2.1.1. European research, including research in life sciences and biotechnology, suffers from insufficient resources and from fragmentation, and cooperation between Community and national programmes, science and industry is still underdeveloped, with resources trailing behind those in the main competing nations.

2.1.1.1. The amount of Community resources allocated appears inadequate when compared to the amount invested annually by the main American research centres and the level of national investments is not high enough to compensate for this shortfall. In addition, national research activities lack the coordination needed to improve efficiency.

[1] Innovation and competitiveness in European biotechnology, (Various authors), Enterprise Papers No 7, 2002, European Commission.

2.1.1.2. It is also true that in the life sciences and biotechnology industry, research and development generally do not require large, centralised European infrastructures or major projects, and progress is often the product of a variety of approaches and procedures, which may also involve SMEs and smaller research institutes. On the other hand, the process of transforming promising research ideas into competitive and marketable results is often long and very risky (especially when complex authorisation procedures are required, such as for medicinal products). Therefore, for this approach to be successful, enterprises must have solid financial support, plenty of flexibility and the ability to absorb risks.

2.1.1.3. Funding policy must be better designed for interaction and complementarity between SMEs and large enterprises. This is the only way to accelerate the process of translating knowledge into products, which otherwise lack the coherence and resources needed for development.

2.1.1.4. The fragmentation of funding for research is not only due to the large number of funds of insufficient size, but also to an organisational problem. Thus far there has been a lack of a coordinated strategy to combine different skills and roles and to properly coordinate the range and spread of activity. There is also a need for close, effective, interdisciplinary cooperation between research institutes and industry and, in addition, to improve mobility and cooperation between industry and research institutes.

2.1.1.5. Research and education must be better integrated in order to enrich the scientific basis, but in this respect, Europe is hampered by institutional and organisational barriers including limited mobility of researchers and excessive bureaucracy. It would be useful to examine specific initiatives to attract academic researchers to industrial projects by developing science parks and providing ad hoc venture capital.

2.1.2. The Sixth Framework Programme (FP6) is a useful starting point, provided that the topics laid down and the selection criteria take account of the diversification of this sector of research and ensure long-term programming can be secured. However, the level of private sector spending needed to reach the objective of 3 % of annual GDP by 2010 is only realistic if a range of suitable policies is developed swiftly and coherently and if the conditions (political, institutional, infrastructure etc.) are created to encourage private investment in research and development (R&D).

2.1.3. The EESC considers that priority should be given to putting together a complete package of regulatory, entrepreneurial, fiscal and financial measures to encourage both dedicated businesses and universities and public research centres to take on the business risk. Notably, this implies simplifying access to public funding, flexibility within a clear framework (due to the long timeframes of research, which must however show flexibility in adapting to the rapid, unpredictable pace of scientific development), fiscal and financial support for innovative businesses and capital markets that encourage access to venture capital and support start-up companies as they grow, with funding to help during economic downturns and the inevitable periods of crisis.

2.1.4. Recent experience has shown that the financial world tends to target short-term profitability, without considering that research in the biotech industry demands long timeframes, often in excess of ten years. This makes it difficult to build assets which could become profitable given more time for their development. Moreover, the fact that biotech businesses may produce services as well as products is often neglected. These businesses present less of a risk but capital gains and investment returns are slower to materialise. An overly speculative approach penalises biotech service providers, which nonetheless represent a European business asset.

2.1.4.1. The EESC believes that the European Union should take steps to introduce the concept of long-term support for entrepreneurship, of development strategies hand in hand with the assessment of intermediate objectives and staff training plans, including business training, in order for the concept of investment to be translated into tangible action. This approach is all the more necessary given that venture capital often abandons new initiatives as soon as they become listed or if they are not extremely profitable, which harms SMEs that may have the potential to grow given financial support which is better suited to the needs of the industry.

2.1.5. The EESC is aware that these policies are a matter for the Member States, but the EU should play an active role in promoting an open method of cooperation with a view to developing a method to assess successful policies (benchmarking in various sectors), creating the means to set up a more coherent, harmonised and stimulating environment for research and innovation, as well as encouraging public funding to address this need and providing Community policies with the indirect mechanisms that can promote research.

2.1.6. The Commission should take a more robust approach in ensuring Member States apply the principles and adopted policy choices across the board. It should play the role of 'facilitator' in finding appropriate solutions and should promote fora, conferences and high-level meetings to exchange ideas and solutions.

2.2. *Science and society*

2.2.1. In its Communication, the Commission states that it is committed to ensuring that the ethical, legal, social and wider cultural aspects, as well as the different schools of thought, are taken into account and form part of the research and development process. It also states that it will take steps to make the ethical and social debate an integral part of the research and development process.

2.2.2. This approach stems from the fact that the swift development of the life sciences industry has given rise to great expectations for curing disease and improving quality of life, which at the same time raises concern over the ethical and social repercussions.

2.2.3. The EESC endorses the approach and shares the view that public authorities, research institutes and businesses must take on board concerns over the conditions in which key decisions are made in this industry, otherwise the concerns of a poorly or misinformed public will provoke delays and crises in the development of new technologies.

2.2.4. The EESC considers education and training procedures crucial to foster proper understanding of the life sciences and biotechnology. Equally crucial are integrated Community policies in the field of education, as previous opinions have discussed in detail [1].

2.2.5. The EESC endorses the ban on human cloning as laid down in Article 3 of the Charter of Fundamental Rights of the EU, reaffirmed by the European Group on Ethics in Sciences and New Technologies (EGE), and calls for the European institutions to support the initiatives under way to set up a world convention on this issue.

2.2.6. The EESC also supports the cautious approach taken in limiting FP6 funding for research on human embryonic stem cells and calls for the Commission's draft proposals to strike a fair balance between ethical concerns and research needs.

2.2.6.1. Opinions remain divided over this issue, addressed in the inter-institutional seminar of 24 April 2003, not only amongst the institutions, but also within the scientific community. Although Member States agree on the use of adult stem cells, some do not permit research to be carried out on embryonic stem cells.

2.2.6.2. In fact, over and above the ethical concerns involved, there is no consensus on the benefits and risks of using embryonic rather than adult stem cells. As a result, the precautionary principle favours maintaining the moratorium on European funding for research on embryonic stem cells until a consensus is reached on the document that the Commission is preparing on this matter.

2.2.6.3. However it should be noted that the research techniques practised by biotech enterprises do not make practical use of human embryonic cells due to the problems of rejection and the risks of developing undesired cells and contamination with animal matter, despite the increased difficulties of isolating, cultivating and differentiating adult stem cells.

2.3. *Intellectual property*

2.3.1. The Commission states that a clear, equitable, affordable and effective patent regime applied consistently across the EU is crucial to fully exploit the potential of biotechnology and regrets the delay in transposing Directive 98/44/EC on the legal protection of biotech inventions.

2.3.2. The EESC shares this view and therefore supports the Commission's efforts to speed up implementation of this directive and calls for the political agreement reached on 3 March 2003 on the Community patent to lead to the swift adoption of the respective regulation.

2.3.3. Although it does not fully take on board the recommendations put forward by the EESC in its opinion on the Community patent [2], the compromise reached must rapidly close the current legislative loophole and provide an essential boost to European competitiveness.

2.3.4. The EESC emphatically urges the Commission to take steps to ensure the biopatent Directive is swiftly transposed, as the biotech industry needs the legal protection of a patent regime for biotech inventions.

[1] On this issue, see the Opinion on the consultation document submitted in 2002, published in OJ C 61 of 14.3.2003

[2] EESC opinion OJ C 155 of 29.5.2001.

2.4. *Genetically Modified Organisms (GMOs)*

2.4.1. The Communication welcomes the significant progress made on the regulatory framework for GMOs, including the political agreement reached on the two Commission proposals establishing a comprehensive Community system to trace and label GMOs, and the steps towards implementing the Cartagena Protocol.

2.4.2. The EESC welcomes the two proposals on tracing and labelling GMOs, which it supported in its recent opinions, and the progress made in implementing and transposing the Cartagena Protocol, which grants all signatory countries the freedom to carry out a risk assessment prior to authorising import of a new GMO.

2.4.3. The EESC however regrets that so far only a few countries have transposed Directive 2001/18/EC, which provides for a more comprehensive authorisation procedure for GMOs. It calls on the Commission to take decisive action to make the directive operational, which may include initiating proceedings against those Member States in default.

2.4.4. The EESC welcomes the creation of the European Network of GMO Laboratories (ENGL) on 4 December 2002 in Brussels, which acts as a scientific and technical EU network of excellence with regard to Community GMO regulation. It particularly endorses the fact that the Commission's Joint Research Centre (JRC) will coordinate ENGL's activities and act as the EU reference laboratory.

2.4.5. However the EESC does not support the statement made in the Communication (paragraph 3(d), page 17) declaring that openly explaining and documenting the benefits of the use of GMOs is, first and foremost, a task for the biotech industry. This is a cultural and educational problem that can only be properly tackled by public authorities, whether at national, local or Community level, jointly and in cooperation with stakeholders. Failure to do this will lead to a lack of credibility, fragmentation and unsatisfactory efforts, as well as an economic burden for SMEs that would jeopardise the balance and competitiveness of the sector.

2.5. *International issues*

2.5.1. The Communication states that the debate on biotechnology and related issues is being extended in an array of international fora and new initiatives led by several international organisations. Moreover it notes that, despite the fact that they play a key role in specific sectors, there is no appropriate platform to promote open and transparent dialogue between interested parties.

2.5.2. The EESC would like to see the Commission carry out an active role in setting up a multilateral consultative forum to foster dialogue between parties that currently represent widely-ranging positions and to promote greater coherence between the agreements reached in different fora. This would provide a proper context for the new EU regulations that have been approved or are in the pipeline, and overcome the existing differences of opinion, notably in the Word Trade Organisation (WTO).

2.5.3. The EESC supports such initiatives, and is convinced that in order to manage innovation in the biotech industry, common standards and principles must be identified at international level, whilst respecting the legitimately diverse approaches adopted in different parts of the world.

2.6. *Competitiveness*

2.6.1. Uncoordinated and contrasting initiatives have hitherto reduced the impact, efficacy and coherence of the European strategy in this industry, and have led to the persistence if not the widening of the existing gap between Europe and its main international competitors. The European biotech industry is still lagging behind in terms of size of enterprise, direct and indirect employment, profitability and product distribution networks.

2.6.1.1. Public authorities, both at national and Community level, must be aware of the importance of a coherent set of actions providing clear and transparent information, training, a clear reference framework and appropriate incentives in order to achieve more rapid growth in this industry which represents great potential for sustainable development.

2.6.2. The study carried out on 'Innovation and competitiveness in European biotechnology' [1] begins by noting that the competitiveness of the industry does not only concern enterprises, but also the wider complement of institutions, infrastructure and policies which have a dynamic impact on business activity. It goes on to identify situations and methods that should be backed up through long-term public action. The EESC invites the Commission and the Member States to discuss the content and the proposals listed herein, and use them as a launch pad for more robust policies, to be implemented according to a set timetable.

[1] Enterprise Papers No 7, 2002, European Commission.

3. **Recommendations**

3.1. The competitiveness of the biotech industry is a key element in achieving the Lisbon objectives. The EESC considers it a matter of top priority that the EU and Member States take on board this objective and identify all appropriate means by which to achieve it, working together to eliminate all barriers to competitiveness.

3.2. The 'cluster' and 'biotech incubator' models represent a yardstick to assess competitiveness, synergies, technological transfer and the most useful approaches for funding. Cooperation between Member States and the Commission and learning and sharing best practices should be particularly strong in this sector, in order to find ways to trigger a more accelerated process of growth.

3.3. The innovative biotech industry is predominantly made up of a large number of SMEs, which form the grassroots of innovation. However, the existing tools to stimulate research, technological transfer and finance are not always designed with SMEs in mind. More effort should be made to understand the types of businesses that compose the industry (products and services) and the specific needs for funding. This especially implies simplifying access to European funding, and to funding for technological processes instead of just research in the strict sense (notably by ensuring the quality of processes as well as products, potential for industrial replication, building capacities and fine-tuning tested methods).

3.4. Taking on board such details would involve revising the very concept of risk capital in order for it to adapt to the specificities of the industry, and in order to ensure that aspects such as the duration of research, the professionalism of staff and the requirements of regulatory bodies are taken into account.

3.5. The EESC notes with a degree of pessimism that, on the one hand, the Member States have not taken sufficient steps to swiftly achieve the goals laid down in the conclusions adopted by the Competitiveness Council on 26 November 2002, and on the other hand, that the Commission report does not specifically address the delays and the difficulties encountered in developing the 30-point plan (European Commission working document SEC(2003) 248). The Committee therefore hopes that the next annual report will include a detailed analysis of the achievements, failings and delays with respect to the approved plan.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on passenger hand-holds on two-wheel motor vehicles (codified version)'

(COM(2003) 145 final — 2003/0058 (COD))

(2003/C 234/04)

On 9 April 2003 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 25 June 2003. The rapporteur was Mr Pesci.

At its 401st Plenary Session, on 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion by a majority of 112 votes, with three abstentions.

1. The purpose of the proposal is to codifying in a single text all legislative instruments adopted since 1993 on passenger hand-holds on two-wheel motor vehicles.

2. The Committee considers the codification of all texts in a single directive to be very useful. Simplification is of great importance in the context of the single market: failure to simplify could hamper industrial development as a whole, and certainly in the motor vehicle sector. It has been assured that this codification contains no substantial change and its sole purpose is to render Community legislation clear and transparent. The Committee fully endorses this objective and, having received the above-mentioned assurance, welcomes the proposal.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on stands for two-wheel motor vehicles (codified version)'

(COM(2003) 147 final — 2003/0059 (COD))

(2003/C 234/05)

On 9 April 2003 the Council decided to consult the Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 25 June 2003. The rapporteur was Mr Pesci.

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Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a European Parliament and Council Regulation on the negotiation and implementation of air service agreements between Member States and third countries' [1]

(COM(2003) 94 final — 2003/0044 (COD))

(2003/C 234/06)

On 14 March 2003 the Council decided to consult the European Economic and Social Committee under Article 80(2) of the Treaty establishing the European Community on the above-mentioned proposal.

The 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 26 June 2003. The rapporteur was Mr Ghigonis.

At its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July) the European Economic and Social Committee adopted the following opinion by 119 votes with one abstention.

1. Introduction and context

1.1. Over the last fifteen years, the European Union has completed an impressive liberalisation and integration programme for the air transport sector. The Community has merged the various aviation traffic markets into a single 'internal' area. By adopting measures to liberalise air transport — measures known as the 'third package' — it has applied the principles underpinning the single market programme to this industry.

1.2. Nevertheless, international flights departing from and arriving in the EU remain subject to conventional bilateral agreements on air transport. In other words, the EU does not yet have a coherent international air traffic policy. In its White Paper entitled 'European transport policy for 2010: time to decide', the Commission highlighted external action in aviation as being a key priority, in view of the impact that the fragmented approach to this subject matter has had on the European air transport industry. The Commission has always believed that such agreements generated distortions in competition between European airlines and interfered with the development of the single market by limiting the possibilities for investment and consolidation between European air transport companies; such agreements stipulate that more than 50 % of these companies must be owned by nationals of the country of origin of the airline concerned, otherwise the airline risks losing its international traffic rights. In December 1998, the Commission launched infringement proceedings against eight states, criticising agreements which allocated traffic rights to American airlines for flights from, to and within the EU in exchange for a similar, but strictly limited right granted to national airlines from these eight countries (the 'nationality clause'). In its judgement of 5 November 2002, the Court of Justice criticised these states on the grounds that, in concluding these 'open skies' agreements with the United States, they had encroached upon the European Commission's external powers in respect of air tariffs on intra-Community routes and computer reservation systems (CRS). The Court also found that the clauses on the ownership and control of airlines flouted the principle of the right of establishment. This amounts to discrimination which prevents air transporters from other Member States which have not concluded such agreements from benefiting from the same treatment as the national airline in the European country concerned, although Community rules on the right of establishment ban such conduct.

1.3. Now drawing the conclusions from these judgements, the Commission has taken stock of the Community's external relations in matters of air transport and is presenting the broad lines and basic principles of the Community's external policy in this sphere. It considers that the Court's rulings also have immediate legal effects which the Union will need to take into account in the short term. Such is the case, firstly, with the provisions of each agreement which henceforth fall within the exclusive external competence of the Community. Secondly, the nationality clauses inserted in nearly all the above-mentioned agreements violate Community law since they constitute discrimination on grounds of nationality.

[1] The Commission also calls for other measures, namely that authorisation be given to start up negotiations:
— between the Community and the United States on the creation of an Open Aviation Area; and
— at Community level on the designation of Community carriers on international routes to and from third countries and on matters within Community exclusive competence.

2. **Gist of the proposal**

Within their own areas of responsibility (area of responsibility particular to Member States; bilateral agreements contravene Community law and must be adjusted, given the absence of negotiations carried out at Community level), Member States may continue to conclude or amend agreements with third countries in accordance with Community law. Since one of the nubs of the problem concerns deciding who is responsible in any given area, the countries of the Union must cooperate closely with the Community institutions. The proposal in hand therefore lays down the arrangements and obligations with which Member States must comply when concluding agreements. Given that Member States have to take general Community interests into account, an efficient, transparent verification procedure must be established to this end. Each Member State has clear obligations to inform and update other Member States on the start-up and conclusion of negotiations on an agreement. Insofar as the airlines are involved in the negotiations, all Community airlines should be dealt with on an equal footing in order to avoid any discrimination and ensure that none of the countries involved receive preferential treatment. Generally speaking, there should be a ban on any rule which might create distortions in the EU's single market in air transport. Moreover, it is up to Member States to set up non-discriminatory, transparent procedures for distributing traffic rights between Community carriers.

3. **Preliminary comment**

Noting that the Council of Ministers reached a political agreement on this subject on 5 June, the EESC very much regrets the fact that such an agreement was adopted without waiting for the opinion of the EESC.

4. **General comments**

4.1. Following the above-mentioned Court of Justice judgement, the European air transport sector is in a precarious legal situation. Member States have concluded a considerable number of bilateral air agreements with third countries; some provisions of these contravene Community law. This said, the Commission has no mandate to carry out negotiations with third countries on matters falling within the competence of the Union and is consequently submitting a request to obtain one (see inter alia point 2).

4.2. It is becoming urgent for this matter of legal uncertainty to be settled quickly, due to the pressure being exerted by the air transport sector; it is vitally important for this sector to be able to rely on legally sound agreements, since traffic rights make up part of air transport companies' goodwill. The EESC therefore advocates prompt efforts to establish a clear legal framework for negotiating international air agreements. Such a framework must ensure that bilateral air agreements comply with Community law, while retaining the benefits (traffic rights) negotiated under these agreements.

4.3. Given the way that responsibilities have been distributed between the Member States and the Commission as regards negotiating international air agreements in the wake of the Court of Justice's judgments of 5 November 2002, it seems appropriate to set up a simple, clear, transparent and effective information procedure. A procedure of this type would mean that negotiations on aviation issues between the Member States or the Community and third countries could proceed in a coordinated fashion.

4.4. Under these conditions, it would seem wise to simplify as far as possible the administrative procedures by which Member States inform the Commission before entering into negotiations with third countries. Moreover, although it would appear desirable for the Commission to have the option of alerting a Member State if it seems that negotiations by that state are likely to jeopardize the Community's objectives, a procedure of this type should do no more than what is necessary for securing effective coordination between Member States and the Commission in negotiations carried out in their respective areas of responsibility.

5. **Specific comments on the current proposal**

Given that powers and responsibilities in the air transport sector are still shared, the EESC supports the principle underlying the Commission's initiative aimed at creating, by means of a regulation, an effective mechanism for cooperation and consultation between Member States and the Community, so that problems and diverging approaches can be brought to light from the outset.

5.1. *Article 1 (2)*

Administrative procedures should be kept to a minimum (it seems somewhat excessive to require notification of all details of a new agreement, within the meaning of Article 1 (1), as early as one calendar month before contact is established with the third country concerned).

5.2. *Article 4 (2)*

The possibility given to the Commission to object to the conclusion of the agreement seems to go significantly beyond its legitimate prerogatives as regards information, notification and transparency. The EESC feels it is preferable to replace this with a provision whereby the Commission has the option of alerting a Member State if it appears that negotiations by that state are likely to jeopardise the Community's objectives.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks'

(COM(2003) 220 final — 2003/0086 (COD))

(2003/C 234/07)

On 20 May 2003 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 June 2003. The rapporteur was Mr Simons.

At its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July), the Committee adopted the following opinion unanimously.

1. **Introduction**

eTEN is at the heart of the eEurope 2005 Action Plan, which in turn is a key element of the Lisbon Strategy to make the European Union the most competitive and dynamic economy in the world by 2010. eTEN has been adapted to become a key implementing tool for eEurope 2005: its main focus will be the practical implementation of eEurope services in the general interest. The reorientation in terms of actual programme content must now be complemented by an overhaul of the financing structure. The current ceiling on Community aid is 10 % of the total investment cost, while 50 % funding of the total cost of project studies is possible. However, the Commission's experience shows that this funding percentage is clearly insufficient to stimulate the deployment of services and to provide a real incentive to continue. The Commission therefore proposes that the funding ceiling for projects be raised from 10 % to 30 %. This increase is only to apply to projects for the deployment of services and applications. The revision does not affect the overall financial framework for eTEN.

2. **General comments**

2.1. In the chapter of the eEurope Action Plan 2005 [1] on financing, the Commission announced that it would be presenting a proposal on raising the funding ceiling for the implementation phase of eTEN projects from 10 % to 30 % without prejudice to the other TEN programmes.

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[1] The EESC has also drawn up an opinion on the eEurope 2002 Final Report.

2.2. The Committee has been asked to give its opinion on this proposal, which contains just one substantive article.

2.3. The Committee has no objections to the amendment to Article 5(3) (adding the sentence 'In the case of projects of common interest identified in Annex I to Decision No 1336/97/EC, the total amount of Community aid granted under this regulation may reach 30 % of the total investment cost'), since it can readily understand the following arguments.

2.3.1. The new orientation of eTEN places the focus of the eEurope Action Plan 2005 on the practical implementation of eEurope services of general interest.

2.3.2. However, experience to date with the project portfolio has shown that with the current funding rules services are hardly implemented on the market.

2.3.3. Because the study phase for a new telecommunications service is expensive and the corresponding ceiling on funding is normally set at 50 % of study costs, there is very little funding left for the deployment phase.

2.3.4. The Commission gives a ratio between study, or market validation, projects and market deployment projects of 95 % vs 5 %. It wants to at least achieve a ratio of 50/50. Comparison with the experience of IST [1] in the 5th Framework Programme indicates that a funding ceiling of 30-40 % is required in practice for the deployment of services.

2.3.5. In order to ensure that the funding made available also actually helps to achieve the objective of eEurope 2005, the number of projects is to be reduced, but with the likelihood of them being implemented and having a tangible and visible impact on the market.

2.4. The Committee notes that the ceiling of 30 % diverges from the corresponding new 20 % ceilings set for the TEN transport and energy projects [2]. The reason for this is given in point 2.3.4 above, which the Committee considers an adequate explanation.

2.5. The Committee also thinks that this measure, and the TEN transport and energy projects, should be evaluated before too long, so that if they are found not to be sufficiently effective, major new policy decisions can be considered for all the TENs. This would mean discontinuing the present TEN funding system and adopting a more radical updated approach that safeguards the future.

3. **Conclusion**

The Committee supports the options for increasing the total support for Community telecommunications projects, which make a substantial contribution to the objectives of the trans-European networks, from 10 % to 30 % of total investment costs and hopes that this will make it possible to achieve the objectives sooner. If this turns out not to be the case, then more radical updated funding measures that safeguard the future should be considered.

(1) IST — Information Society Technologies of the 5th and 6th EU framework programmes for research and technological development (2002-2006). Decision No 1513/2002/EC, OJ L 232 of 29.8.2002, p. 1.

(2) TEN energy networks/guidelines of 18.7.2002, OJ C 241 of 7.10.2002; Guidelines for trans-European telecommunications networks of 29.5.2002, OJ C 221 of 17.9.2002; General rules for Community aid/TENs of 20.3.2002, OJ C 125 of 21.3.2002; Community guidelines for the development of a trans-European transport network of 21.3.2002, OJ C 125 of 27.5.2002.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on official feed and food controls'

(COM(2003) 52 final — 2003/0030 (COD))

(2003/C 234/08)

On 28 February 2003 the Council decided to consult the European Economic and Social Committee, under Articles 37, 95 and 152 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 27 June 2003. The rapporteur was Mr Chiriaco.

At its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion unanimously.

1. Introduction

1.1. The White Paper on Food Safety [1], published by the Commission in 2000, listed deficiencies, contradictions and loopholes in current European regulations among the causes of the repeated food crises over the last few decades. It pointed in particular to the limitations of a sector-based approach and the significant differences in the way Member States applied the regulations and organised their control systems.

1.2. The new regulations being adopted by the EU, in line with the contents of the White Paper, are based on the priority of an integrated approach to food safety.

1.3. Regulation (EC) No 178/2002, laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety [2], is an essential reference point for the current proposal. It also has to be seen in conjunction with the Proposal for a Regulation on the hygiene of foodstuffs [3], which is being adopted by the European Parliament and the Council, and the Proposal for a Regulation laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption, which was adopted by the Commission on 11 July 2002 [4]. This package has now been completed by the new proposal on feed hygiene, on which the EESC will issue an opinion in the near future [5].

1.4. The proposal substantiates the fundamental principle of the priority of food safety through a comprehensive and integrated approach to controlling the feed and food production system. The production process is considered in its entirety, both as a production chain and in terms of the various components making up the product (feed, additives, food) in order to control the entire production cycle from farm (or sea) to table.

1.5. Moreover, it clearly lays out the Member States' responsibility to ensure that business operators apply Community legislation correctly by implementing an adequate system of controls. It also outlines methods and timescales for Commission services to conduct inspections and audits to assess Member States' capacity to face up to this responsibility.

1.6. The system of controls and related activities are already adapting to the priority of food safety. Some Member States have implemented new institutional and procedural solutions, or established Agencies, while at European level the European Food Safety Authority was set up. However, the competences and characteristics of the national Agencies vary, while the EFSA only has scientific consultative powers to evaluate risks and inform the public. Monitoring and control activities are left to the Commission's services, and in particular the Food and Veterinary Office.

1.7. Building on the basic principles of Regulation (EC) No 178/2002, under the new strategy the Commission will draw up common guidelines for the organisation of control systems and carry out audits in each Member State to check their effectiveness and efficiency as well as their consistency with national control plans.

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(1) COM(1999) 719 final, EESC Opinion in OJ C 204 of 18.7.2000.
(2) OJ L 31 of 1.2.2002.
(3) EESC Opinion in OJ C 155 of 29.5.2001.
(4) COM(2002) 377 final, OJ C 262 of 29.10.2002, OJ C 95 of 23.4.2003.
(5) COM(2003) 180 final.

1.8. Each Member State will be required, within six months of the entry into force of the Regulation, to prepare a multiannual integrated control plan. Each Member State will also present an annual report on controls carried out and results achieved. The reports by all the Member States will form the basis of the annual report presented by the Commission to the European Parliament and the Council.

1.9. To be effective, this system of controls should be applied not only to Member States and applicant countries (which will be full members by the time it enters into force), but also to imports from countries which have bilateral agreements with the EU in veterinary and phytosanitary fields, those with special agreements (Norway, Iceland and the Faeroe Islands) and other third countries. Besides the European dimension, there is also an international dimension to harmonising controls.

1.10. For countries which have bilateral agreements with the EU in veterinary and phytosanitary fields, the measures negotiated should guarantee an equivalent level of consumer protection and animal health. The Commission is, however, planning special treatment for the less developed countries. They will not receive dispensations but provision will be made for assisting their control programmes, training and if necessary missions of Community experts to the area.

1.11. The implementation of the proposal's initiatives to improve the level of food safety control requires a significant increase in financial support — from 3 to 16 million EUR.

1.12. There should be 'effective, proportionate and dissuasive' sanctions for infringements, based on a minimum safety standard. Criminal sanctions (Article 55) should be used for serious infringements (defined as criminal offences in Annex VI if they are committed intentionally or through gross negligence).

1.13. In the case of serious default by a Member State (e.g. inefficiency or inadequacy of the system of controls), the safeguard measures laid down by Regulation (EC) No 178/2002 will be reinforced, if need be by implementing protective measures such as suspending product marketing.

1.14. Lastly, it must be stressed that the system of controls will be implemented in a Union of 25 members, as the regulation will also apply to the 10 new Member States. This will require a great deal of harmonisation work in order to ensure free movement in the internal market with all the necessary food safety guarantees.

1.15. The Committee is aware of the inspections currently being carried out with the help of experts at European and national level, both by Member States and applicant countries. This comprehensive survey of the situation should allow appropriate measures to be identified.

2. **General comments**

2.1. The Committee approves the proposal's approach, which is appropriate as regards the Internal Market and the need for improved planning and harmonisation of control systems within the Community, in the interests of consumer protection.

2.2. The focus on food safety and the integrated approach respond to the need to revive and strengthen consumer confidence, which has been shaken by the repeated food crises. It is therefore vital to establish effective and permanent relations with the European Food Authority to draw up control priorities on the basis of risk evaluation, as well as consolidating the European Food and Veterinary Office's operational and coordination capacity. A transparent approach based on partnership is also essential, so as to spread information to consumers.

2.2.1. The Food Authority will become fully operational during the first half of 2003, while the Food and Veterinary Office still needs to be given adequate resources to increase the incisiveness of its actions, as the Committee has pointed out several times. The Committee also stresses the need to establish a strong synergy and communication capacity between Community bodies and the competent national authorities.

2.3. The proposal includes a number of welcome innovations and features that should make the system more effective:

a) Better definition of the responsibilities of Member States regarding their direct competence as 'controllers', both as 'holders of control powers' and as 'guarantors of public health', in the context of business operator responsibility, as set down in the hygiene regulations.

b) Operator and importer responsibility as a means of simplifying control procedures, encouraging effective 'self-regulation' of respect for hygiene and safety regulations combined with adequate sanctions for non-compliance, as well as incentives in cases where voluntary certification systems can ease the burden on the competent authorities.

c) Training of control staff — a principle that should underpin all new legislation on foodstuffs, and other areas too.

d) Standardisation of roles, principles and measures adopted.

e) Establishing the principle of 'support control' for the control capacity and feasibility of national plans. This method makes the 'subsidiarity' principle more acceptable by providing practical 'instructive' guidance.

f) Optimising the existing system of controls and harmonising national systems.

g) Formalising the role of inspectors (this already exists but has not been formally defined) and clarifying training areas in Annex II.

h) Quantifying resources and identifying Community budget items and sources of finance (financial record sheet and Articles 26-29).

i) The principle of programming through national multi-annual control plans and annual reports (Title V, Articles 42-44).

j) A single definition of crimes justifying criminal sanctions (Annex VI), as current systems of sanctions, which are primarily administrative, have not always been able to ensure compliance with regulations (Recital 44).

2.4. The adaptation of national control systems to their new functions will vary according to the efficiency and operative equipment of the existing systems, the existence of an effective partnership system with the players in the sector, as well as their different levels of integrated approach; some Member States designate control competences to different authorities, which are not always well coordinated. It is therefore essential to carry out a preliminary audit with the various Member States in order to examine the current system of controls and identify areas where adjustments are necessary in good time.

2.5. Particular attention and adequate resources must be dedicated to the situation in the new Member States, which have had to adapt their systems to the *acquis communautaire*. At the end of the monitoring work being carried out in these countries, the Committee invites the Commission to identify key points in the system of controls requiring specific measures, in particular regarding staff provision and training, the quality and quantity of laboratories and their level of resources.

2.5.1. Specific measures will also have to be considered for small businesses operating at local and craft level, to promote conformity to standards.

2.6. As regards crisis management and contingency plans (Article 13), working methods need to be updated in view of recent crises. Moreover, control methods, in particular for feed, must also take account of natural disasters. Disasters such as fires, floods, volcanic eruptions or earthquakes can have a serious effect on foodstuffs. At the same time, these events are responsible for a series of complications, mainly due to the ensuing state of emergency, making it easy to avoid even the most basic protection guidelines.

2.7. As regards controls on imports from third countries (Title II, Chapter V), international cooperation needs to be reinforced in the light of the Codex Alimentarius and the WTO/SPS Code. A distinction must also be made between third countries depending on their level of development, paying particular attention to technical and scientific assistance to the least developed countries in order to facilitate respect for Community rules while taking care not to create new barriers. The methods identified in point 34 of the Explanatory Memorandum and spelt out in the body of the regulation are important for avoiding imports of contaminated raw materials and guaranteeing the safety of European consumers. However, these countries have often not mastered the use of pesticides, chemical fertilisers, anabolic substances, etc., in particular as regards cereals, feed and livestock products, and need technical and scientific assistance to implement controls.

2.7.1. Contamination may also be due to subsequent illegal tampering (feed being 'cut') outside the country of origin. If objections over the cargo's conformity to European health and hygiene regulations are raised following checks at the destination, the supplying country could suffer serious consequences.

2.7.2. As part of cooperation with developing countries, support structures are needed to check the required conformity at the point of origin, and if need be useful procedures and solutions should be suggested in order to encourage the development of fragile local production structures. Forms of control specifically identifying the responsibilities of the various parties, including importers, should also be provided for.

2.8. The Committee believes that the public control system should cooperate with quality, safety and traceability certification systems implemented voluntarily by operators in the sector. This means that multidisciplinary safety and quality training must not only cover inspection staff (Article 51 and Annex 2), but also all the actors involved in the food chain. Besides business operators, this includes processing, distribution and storage staff, as reflected in the proposed regulations on hygiene. A preventative approach and the attribution of responsibility are vital to increasing the effectiveness of the public control system, reducing costs and allowing the competent authorities to concentrate on priority risks.

2.8.1. To ensure better consumer protection, synergy between public control systems, self-regulation and traceability procedures implemented by food operators should be encouraged, particularly if these are combined with voluntary certification systems. Interesting experiences are under way in some Member States concerning the negotiation of sector agreements (traceability) on food safety and quality, and these can be benchmarked ([1]). However, these national voluntary systems do not benefit from the same 'mutual recognition' as official controls. This problem should be addressed with a view to harmonising criteria at European level, so that consumers in other Member States can also benefit from these schemes.

2.8.2. Socio-occupational organisations in the sector and consumer associations can make a useful contribution to training operators and spreading information on the implemented system of controls. However, transparency of the schemes remains essential, as well as the involvement of players in the sector in dialogue and partnership.

2.9. A useful synergy could be established by including food safety and quality criteria in the review of the CAP, even though the proposed Regulation delegates COM controls to the existing specific system. The Committee notes that the 'cross-compliance' provisions in the Proposal for a Regulation on direct support schemes under the Common Agricultural Policy ([2]) should play a preventative role and reduce ex-post evaluations, as they make eligibility for aid dependant on conformity to the main regulations regarding public, animal and plant health and animal welfare, with help from an ad hoc farm advisory service. In its opinion the EESC recommends making farm controls voluntary and extending them to cover 'not only compliance with the statutory standards, but also continuous improvement of the economic, environmental and social situation of farms', by providing appropriate incentives ([3]). To establish a useful synergy, communication and cooperation should be established between the different responsible authorities and the various players.

2.10. The Committee welcomes the guidelines for coordination procedures when more than one organisation is involved in controls and above all in cases of delegation (Recitals 15 and 16 and Article 5), as well as the harmonisation of reference laboratories, particularly when controls are delegated to non-governmental organisations (Recitals 17-21), which must be duly accredited and must have their operations monitored.

2.10.1. It is essential to harmonise the conditions and rules regulating the bodies carrying out the controls at Community level, as well as standardising sampling and analysis methods and rates. This means stepping up the role of Community reference laboratories and the Joint Research Centre, and increasing the resources earmarked for this in the sixth framework programme.

2.11. In particular in the light of the forthcoming enlargement to a Europe with 25 members, careful attention should be given to administrative assistance and cooperation between Member States (Title IV), intensifying exchanges of experiences and 'best practices' among control staff. The aim of the proposal is not to reinforce the central EU body — the Food and Veterinary Office — numerically, but to consolidate its capacity to operate in a network, coordinating and harmonising control practices.

2.12. As the financing of official controls is a matter of subsidiarity, we need to avoid distortions to competition by establishing joint principles, particularly concerning the inspection fees that will be levied on operators. The provisions in Article 28 regarding fees are very general; the Committee therefore recommends monitoring the fees applied in the Member States to check that they are compatible and to identify more precise harmonisation methods. Checks also need to be carried out on the costs affecting different operators

([1]) Cf. for example the National Agreement on Food Safety and Quality signed by agricultural, trade union, employers' and trade organisations and the Italian Minister for Agriculture and Forestry, at the CNEL (Italian Economic and Labour Council), on 8.7.2002.

([2]) COM(2003) 23 final — 2003/0006 (CNS).

([3]) Ibid 4.3.2.

in the sector, from primary production to final distribution, to avoid forms of discrimination. It is clear however that the costs of controls in cases of non-conformity should normally fall on those responsible, while incentive schemes should also be considered if voluntary conformity certification is carried out.

2.13. As regards the organisation of local public control systems, reference laboratories should be designated at regional level for local services and initially co-financed by Community and national funds.

2.14. The Committee takes note of the repeal of a series of directives (Article 61) which are incorporated in or completed by the present regulation; it nevertheless recommends checking thoroughly whether the measures correspond, particularly as regards the directive on the financing of veterinary controls (96/43/EC), to avoid distortions to competition due to different application by Member States.

3. **Conclusions**

3.1. The Committee supports the integrated approach of the Commission proposal and considers the proposal a useful contribution to making food safety a more tangible priority of the official system of controls for feed and foodstuffs.

3.2. The Committee considers that to guarantee the success of the integrated approach, a strong partnership between the various players in the sector should be promoted, based on mutual trust and transparency, and an appropriate balance between official control systems and self-regulation, responsibility and voluntary certification on the part of producers.

3.3. The Committee considers that food safety in the European Union cannot be guaranteed without promoting and strengthening cooperation with third countries through agreements and specific measures, in line with their level of development, as well as international cooperation with regard to the Codex Alimentarius, by strengthening the EU's presence in this field, and the WTO.

3.4. The Committee recommends paying particular attention to harmonising controls in the applicant countries and promoting training and information activities, not only for control staff, but also for the players in the various sectors and the general public.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council and the European Parliament on pan-European environmental cooperation after the 2003 Kiev conference'

(COM(2003) 62 final)

(2003/C 234/09)

On 6 February 2003 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 27 June 2003. The rapporteur was Mr Ribbe.

At its 401st Plenary Session of 16 and 17 July 2003 (meeting of 16 July), the Committee adopted the following opinion by 119 votes to one, with one abstention.

1. Content of the Commission communication

1.1. The Commission presents its ideas for pan-European environmental cooperation in the wake of the fifth conference of European environment ministers in Kiev on 21 to 23 May 2003, and describes the main challenges facing Europe today in the field of environmental protection, especially with regard to the countries to the east and south-east of the EU's current external frontiers. The sweeping political changes in recent years have paved the way for the joint discussion of measures to reduce environmental damage.

1.2. The first conference of European environment ministers was held in Dobris in 1991. The aim at that time was to create a framework for joint action and to support the new democratic societies in their endeavours to provide more environmental protection and sustainable development. In addition, however, the conference also established the 'Environment for Europe' process, and the continuation of this process was discussed in Kiev.

1.3. The Commission praises the cooperation to date and a series of concrete results and developments which have led in part to appreciable reductions in environmental damage. On the other hand, however, it also makes it clear that a great deal must still be done. It talks about the serious neglect of the environment in some countries and points to the adverse effects on the health of those countries' populations, and especially their children. The Commission states that it is necessary to develop and implement more efficient environmental strategies as a matter of urgency.

1.4. According to the Commission, the aim of the phase in the 'Environment for Europe' process now being addressed is — in a nutshell — to bring the relevant countries' environmental laws into line with EU standards and to implement the sustainable development objectives laid down at the Johannesburg summit. This is to be achieved by implementing international agreements and also with the aid of actions and investments. EU funding is also to be used for this purpose in order to implement concrete projects and carry the political decision-making processes forward.

1.5. Civil society and, in particular, environmental NGOs are mentioned as a part of this process, but no vital role is assigned to them.

1.6. The Commission divides the countries in question into four distinct groups, depending on the closeness of their political ties with the EU:

— the 10 accession countries and the three further candidate countries (Bulgaria, Romania, Turkey),

— the five Western Balkan countries,

— the Western NIS and the Caucasus, and

— the NIS countries of Central Asia, which participate in pan-European cooperation as members of the UN European region and the Organisation for Security and Cooperation in Europe (OSCE).

2. General comments

2.1. Because of the short space of time between the publication of the Commission communication, the Council of Ministers' discussion on the matter (with resolution) and the conference itself the EESC refrained from adopting an opinion prior to the Kiev conference. Instead it would like to assess in this opinion not only the communication but also the conference proceedings and outcome.

The 'Environment for Europe' process and the Kiev conference

2.2. It was in Dobris back in 1991 that 'Environment for Europe' was chosen as the name for the process described in the Commission communication. This name gives the impression that the process still involves an overall strategy for environmental protection and sustainable development in the whole of Europe. However, this is not the case (any longer), even though ideas to that effect were expressed at the time in Dobris.

2.3. The EESC underlines the importance thus far of the 'Environment for Europe' process for the development of environmental policy within the EU, too. One of the positive effects of this process is, for example, the 1998 Åarhus Convention which triggered an important step towards the involvement of society in environmental policymaking.

2.4. The efforts to date of the Commission and all the countries involved in the 'Environment for Europe' process are welcomed by the Committee. This commitment emphasises the importance of environmental protection and sustainable development for the future of Europe. The high attendance at the Kiev conference (about 4 000 participants) is indicative of the great importance attached to environmental protection and sustainable development in society.

2.5. In the EESC's view, one particularly positive sign to emerge from the conference — apart from the agreements [1] concluded — was that ministers held extensive talks with NGO representatives.

2.6. However, the Committee would criticise the fact that no detailed assessment was presented either in the run-up to the conference or at the conference itself indicating which elements in the 'Environment for Europe' process have been particularly effective so far and where particular difficulties have arisen. Given the continuing drastic state of the environment in some areas (cf. 'Europe's Environment: the third assessment' presented at the Kiev conference by the European Environment Agency), such an assessment would certainly be appropriate after 12 years of the 'Environment for Europe' process and also helpful if 'more efficient environmental strategies' (cf. point 1.3) really are to be developed as required.

The new challenge in the field of environmental protection to the east and south-east of the EU's current external frontiers

2.7. The communication and the document issued at the end of the Kiev conference make it clear that the main concern now within the process is to protect the environment in the east and south-east European countries in question. Even if the initial situations and opportunities for making progress in the regions in question are extremely disparate, the main aim everywhere — according to the conference participants — is to bring environmental standards into line with EU standards. This objective is expressly welcomed and supported by the EESC, for the comprehensive adoption and application of environmental law would undoubtedly bring about important reductions in environmental damage.

2.8. However, it is also necessary not to overlook the fact that the EU itself has made it clear in many documents that it is not because of the all too frequent infringements of EU environmental legislation that there are environmental problems in Europe. The vast majority of the activities which cause undue damage to the environment are within the law (in Europe), i.e. more far-reaching initiatives in and beyond the EU are an absolute necessity. The EESC has already pointed this out on several occasions. However, this also means that the EU standards to be applied in the countries in question can therefore only be regarded as an intermediate step on the road towards sustainability. The laws must be tightened up further, and both businesses and private individuals must give the utmost consideration in the way they behave to environmental protection and sustainable development.

2.9. The Commission communication divides up the countries to which the future process is to apply into four regions (cf. point 1.6). The Committee thinks that this breakdown makes sense, for both the initial situations and opportunities for future action in these countries differ enormously. For example, the accession countries — unlike the other regions — will be adopting the EU's environmental provisions and will also be able to profit from Structural Fund, Cohesion Fund and rural development monies.

The role of civil society

2.10. The EESC praises the efforts made so far to solve the environmental problems in some of the countries in question, but agrees with the Commission that awareness of the need for more environmental protection and the political will to do more can and must be strengthened considerably.

2.11. The vast proportion of the money to be invested on environmental protection and sustainable development in the future will have to come from the budgets of the countries themselves or from businesses and private individuals. Only if there is a high sense of environmental awareness will politicians be ready to make the funds available. This will require the development of a society which regards environmental protection and sustainable development as offering the prospect of a better society and not as rivals for the funds to be spent on the expansion of general infrastructure or, for example, the health, educational or social sectors. There is an urgent need to work on the creation of such an awareness.

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[1] Protocols on strategic environmental assessment, pollutant release and transfer registers and civil liability and compensation of damages caused by transboundary effects of industrial accidents.

2.12. Organised civil society plays a very decisive role here. The EESC has stressed on several occasions that environmental protection and sustainable development cannot be imposed from above and that a bottom-up approach must be sought and found. The Commission refers in part to civil society in its communication, which, for example, describes the important role played by the Regional Environment Centres (RECs) that it co-finances.

2.13. Despite all the high regard for the work of the RECs, however, one criticism which must be made is that a properly functioning environmental network system has not yet been built in the individual countries. The many groups which exist there are frequently very poorly organised nationally so that in many cases they play only a secondary role in political decision-making.

2.14. In this context it is necessary to discuss the role to be played by the RECs in supporting the creation of integrated and not only decentralised structures, the involvement of organised civil society in the 'Environment for Europe' process, and the strengthening of environmental NGOs.

2.15. The EESC thinks that one important concern should be to involve business associations and trade union organisations more closely in this process. Environmental mainstreaming must permeate all sections of society and start at a very young age. Only if education and training include environmental issues will it be possible to push through the aforementioned bottom-up approach. In the EESC's opinion, the 'Environment for Europe' process has not taken account of this aspect, and has not progressed far enough in the desired direction.

3. **Specific comments**

3.1. The EESC notes the outcome of the Kiev conference, including the final declaration. It underlines the point made in the declaration that foreseeable developments could create many new problems. However, neither the Commission communication nor the Kiev conference's final declaration describes clearly how new environmental problems, which are hardly known or unknown at present but which are wholly predictable, can be avoided in future in the countries in question.

3.2. One example which the EESC would point to and was also mentioned by the environment ministers is the growth in traffic especially on the roads already evident in those countries, and in particular in the countries with high economic growth and noticeable rises in living standards. A further example is the intensification of agricultural production. The export of old technology (such as motor vehicles with no or little exhaust-gas pollution control) or the transfer of old processes from the EU to these countries exacerbates the problem in part.

3.3. The EESC would therefore welcome it if future Commission documents — after taking a detailed description of the problems as their starting point — were to give a much clearer description of the strategies for remedying the resultant damage. In this respect the EESC regards both the Commission paper and the final declaration as being too general and imprecise. The aim is not only to clear up the environmental disasters inherited from the old regimes but also to provide sustainable development for the future, for which significant progress still has to be made in the present EU Member States, too. Seen in these terms, the failure of the Commission document and the Kiev conference's final declaration to commit themselves leaves a nasty aftertaste.

3.4. The EESC would like to recommend to the Commission and the UNECE as the co-hosts of the Kiev conference that they carry out a separate assessment on the successes and failures to date and the resultant strategy for integrating civil society into the 'Environment for Europe' process.

3.5. The EESC thinks that the role to be played by civil society within the 'Environment for Europe' process is still not adequately recognised. Especially in countries still lagging a long way behind in terms of prosperity, it will not be possible to establish sustainable development unless all groups give their support or even demand the appropriate initiatives from their governments. Notwithstanding its high regard for the RECs' serious and devoted work, the EESC doubts whether the establishment and promotion of such centres is enough.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on maximum residue levels of pesticides in products of plant and animal origin'

(COM(2003) 117 final — 2003/0052 (COD))

(2003/C 234/10)

On 26 March 2003 the Council decided to consult the European Economic and Social Committee, under Articles 37, 95 and 152 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 27 June 2003. The rapporteur was Mrs Cassina.

At its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion by 110 votes to one with five abstentions.

1. Introduction and objectives of the proposal

1.1. The main objectives of the draft regulation are to minimise the health and environmental risks arising from the use of pesticides, and to carry forward the process of harmonising maximum residue levels (MRLs) at Community level for all plant-protection products. Under the current legislation, the Member States can set different levels in their individual national laws.

1.2. In the broader context of the Sixth Environment Action Programme, the proposal should also be read in the light of the Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee Towards a thematic strategy on the sustainable use of pesticides ([1]). The Committee essentially welcomed this communication in its opinion ([2]), in which a more detailed analysis is provided.

1.3. The proposal takes the form of a single regulation replacing the four directives which currently govern the issue at Community level ([3]). In preparing the draft regulation, the Commission has taken account of (i) problems occurring in transposing the above-mentioned directives, (ii) the suggestions on implementation made in the SLIM V (simpler legislation for the internal market) exercise, (iii) the relevant guideline comments made at the Agriculture Council of 20 November 2001 and the Environment Council of 12 December 2001, and (iv) the resolution of the European Parliament of 30 May 2002.

1.4. Under the proposed regulation, the Commission will be mainly responsible for risk management connected with the use of pesticides, with an important role in risk assessment being assigned to the European Food Safety Authority (EFSA). The EFSA would work through a network of experts in each of the Member States in order to provide the information required for risk assessments and independent scientific advice on the subject, in accordance with the provisions of the White Paper on Food Safety ([4]).

1.5. In moving from the present procedure to the new one under the draft regulation, data which have not yet been harmonised concerning both existing and new substances — for which MRLs have so far been set at national level — will be compiled by the EFSA, assessed according to safety criteria, and introduced as temporary MRLs. They will subsequently be assessed individually on the basis of Directive 91/414/EEC on the placing of plant-protection products on the market. This directive remains the basic reference for Community legislation, although it is shortly to be updated.

1.5.1. The proposal which, once finally adopted, will prevent the Member States from setting MRLs themselves, comes in the run-up to the deadline for withdrawing a series of more than 400 plant-protection products, use of which will be completely prohibited by 2004 in accordance with the current legislation.

1.5.2. The proposal opens up the possibility of using monitoring data to set MRLs in special cases where there are no authorised uses for environmentally persistent substances which can give rise to residue problems or substances in use for minor commodities such as spices.

([1]) COM(2002) 349 final of 1.7.2002.
([2]) OJ C 85 of 28.4.2003.
([3]) Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC.
([4]) COM(1999) 719 final, OJ C 204 of 18.7.2000.

1.5.3. Account will also be taken of the Commission's Proposal for a Regulation of the European Parliament and of the Council on official feed and food controls.

1.6. With a view to achieving the highest possible level of consumer protection, the regulation as a whole is based on the principle of a default MRL of 0,01 mg/kg of residues which may not be exceeded. The only exception to the default limit will be if this limit might pose a risk for consumers, in which case a lower MRL will be set.

1.7. The Commission believes that implementation of the draft regulation's provisions following the transitional period will constitute a major step forward in consolidating and simplifying the existing legislation, by removing non-tariff barriers to trade within the single market and with third countries, and directly helping to safeguard human and animal health as well as the environment.

2. **General comments**

2.1. The EESC considers that the proposal for a single regulation to replace the existing four directives represents a major contribution to implementing the strategy for sustainable use of pesticides, insofar as the regulation successfully dovetails the safeguarding of human health with the protection that crops need. It also believes that the regulation could remove the potential for distortion of competition on the internal market.

2.2. On this basis, the Committee once again states its general support for the sustainable use of pesticides, reducing the use and/or the risk posed by the use of chemical substances in agriculture so as to respect as far as possible the natural processes governing agricultural production, and consequently endorses this Community strategy. The proposed EC regulation represents a vital advance in harmonisation and health protection and is fully in keeping with the communication on a thematic strategy on the sustainable use of pesticides ([1]). The EESC is pleased to note that the comments made in its opinion on the communication have largely been addressed in the present proposal.

2.3. The EESC considers the legal basis selected (third subparagraph of Article 37(2), Article 95(1) and Article 152(4)(b)) to be both appropriate and effective, covering all the interconnected issues contained in the proposal. In particular, it welcomes the compulsory nature of the proposal, to apply directly in all the Member States from 1 January 2005 for fresh products and 1 July 2005 for stored products.

2.4. In putting forward these initial, general views, the EESC wishes to acknowledge, as it has done in the past, that intelligent use of plant-protection products can still play an important role as part of a broad spectrum of applications, mainly in agriculture, focusing on protection of plants and plant products, generating significant economic benefits. At the same time, it believes that the objective of progressively replacing such products with safer, alternative substances and/or methods should be consistently and clearly upheld ([2]) against a backdrop of scientific and technological progress.

2.5. In view of the subject's strategic importance, the EESC stresses that funds and scientific skills must be brought to bear on Community research projects to identify and apply alternative substances and production methods which can maintain high levels of crop production and produce perceptible benefits in terms of environmental and health protection in general. This should be done on the basis of the relevant provisions of the sixth Framework Programme for research and technology development.

2.6. The Committee is convinced that more careful and responsible management of the use of chemical products in the Community can offer an important benchmark for the accession countries and, in particular, for developing countries, whose focus on staple crops in combating hunger could be based, from the outset, on a high level of protection for the environment and both human and animal health.

3. **Specific comments**

3.1. The EESC welcomes the proposal to set the maximum residue level, in accordance with convention, at 0,01 mg/kg, and notes that this MRL is already used in the legislation covering babyfood which must by its nature entail almost complete safeguards, according to the assessment of the Scientific Committee on Food.

3.1.1. Although 'zero' risk, however desirable, cannot be identified using present-day analysis methods, a clear trend should be established towards progressive reduction of the maximum levels for certain potentially hazardous substances, by constantly updating analytical methods — as is already, in part, the case — in line with technological and scientific advances and consistently applying the precautionary principle.

([1]) COM(2002) 349 final of 1.7.2002.

([2]) See also opinion NAT/156, OJ C 85 of 28.4.2003.

3.2. The EESC urges that the EFSA start work as soon as possible in order to provide a broad, representative scientific basis, given that the agency is entrusted with important scientific support and coordination functions. The EESC hopes that the EFSA, although not yet operating at full capacity, will view the pesticides issue as one of its priorities.

3.3. The EESC is pleased to note that the draft regulation retains a number of tried and tested procedures, such as the committee procedure, believing that under the proposal these implementing mechanisms, although incurring some costs for certain actors, will bring about significant simplification of the existing legislation and that this can only serve to make the internal market operate more smoothly.

3.4. The EESC is concerned at the possible risks of monitoring being carried out by the Member States, in the event of significant differences between national implementing criteria. It therefore urges the Commission to indicate how such risks can be avoided. It is particularly important that specific tests be introduced to detect the presence of any prohibited substances in the period immediately following the withdrawal of products under Directive 91/414/EEC.

3.4.1. The Member States should also be obliged to provide documentation attesting the sustainable disposal of stocks of obsolete products.

3.4.2. The EESC calls for appropriate information and occupational training measures to be taken during the period of transition from one regulatory regime to the other (the last six months of 2003 and the whole of 2004), so that operators at all levels can adjust promptly to the framework changes in the new legislation.

3.4.3. Similarly, national laboratories must adjust their analysis methods and criteria to a new common reference framework.

3.5. Careful attention must also remain focused on safety conditions for users most exposed to risk (workers), on their training, on clear and comprehensible instructions on products, and on the definition of responsibilities in this area. These matters are in part defined in Directive 91/414/EEC, but the Committee would draw attention to the urgent need to strengthen and update the directive in response to the concerns set out above.

3.6. Assuming that the indications set out in the two preceding points are duly implemented, it will then become necessary to establish a clear, transparent set of rules on penalties ensuring certainty and uniformity in all the Member States. In this way they can be effective, proportionate and act as a real deterrent, preventing any subsequent opportunities for distorting competition.

3.7. The EESC considers that, in order to move as rapidly as possible from temporary to final MRLs, the regulation must be adopted at the same time as Directive 91/414/EEC is reviewed, and that the two must be fully compatible. The EESC will take a close interest in the review proposal which should be presented in the second half of the year, and which should be referred to it.

3.8. Food products imported into the Community from third countries must meet the same health, quality and food safety requirements as Community products. For this reason, the Committee is concerned that Article 29 (authorising imports from third countries) might allow MRLs different from those in the Community, due to the possibility of differing agricultural good practices. It is only acceptable for MRLs to be set for imported products which are not produced in the EU.

3.9. The new Member States are required to comply with the *acquis communautaire* in this area. However, since the methods and products used in agriculture in these countries have been, until very recently, significantly different from those in the EU, the EESC suggests that they be provided with specific assistance (consultancy and know-how) in adjusting to the proposed regulation and the thematic strategy on the sustainable use of pesticides within the deadlines set. In particular, the EESC would point to the huge amounts of pesticides in central and eastern Europe which are obsolete or which it will no longer be possible to use. The new Member States must be helped to dispose of these products in a sustainable manner.

3.10. As argued above, the EESC is of the view that the proposal for a regulation may be of major significance to third countries, especially developing nations, and views the pesticides initiative launched under the cooperation arrangements with the ACP countries [1] as exemplary. It is essential to continue with such initiatives — and with adequate funding — and to extend them to other partners, within frameworks such as Euromed or cooperation with Mercosur.

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[1] Pesticides Initiative Programme (PIP): for information on the programme, see www.coleacp.org.

3.11. When setting new harmonised limits, the Commission should strive to respect the Codex MRLs under the WTO rules introduced in the late 1990s. Many of these are not acceptable to the Community, and each of them must be subject to individual critical examination. The EESC would stress that these international requirements should not force the Community into making its own requirements flexible, and calls upon the European Commission to strive to maintain the existing high level of health protection.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee On 'Healthcare'

(2003/C 234/11)

On 21 January 2003, in accordance with Rule 29(2) of the Rules of Procedure, the Economic and Social Committee decided to draft an opinion on 'Healthcare'.

The Section for Employment, Social Affairs and Citizenship, responsible for preparing the Committee's work on the subject, adopted its opinion on 30 June 2003. The rapporteur was Mr Bedossa.

At its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted this opinion by 61 votes in favour, 5 votes against and 6 abstentions.

1. **Introduction**

1.1. The Commission Communication of December 2001 ([1]), the follow-up to the initiative approved at the Lisbon European Council of March 2000, and the initial report for the 2002 European Council boldly address one of the most difficult aspects, after pensions, involved in building a social Europe in accordance with the values enshrined in the Charter of Fundamental Rights.

1.1.1. Health is often defined as a fundamental asset for society. This is equally applicable to each individual citizen, family, and nation.

— Naturally, the approach taken by each individual differs, as does the approach taken by EU Member States, both in terms of organising healthcare and in terms of responsibility.

— However, the EU as a whole must tackle a series of challenges. A solid basis of understanding is needed to find common, appropriate responses to such challenges, whilst respecting existing diversity.

— The definition given by the World Health Organisation (WHO) states that health is a state of complete physical, mental and social well-being of each individual.

— Healthcare is not limited to treating pathologies, but must more generally encompass individual and collective efforts at prevention and promotion of aptitudes and conditions.

— Being a fundamental asset, health cannot be considered solely in terms of social expenditure and latent economic difficulties.

([1]) COM(2001) 723 final on the Future of healthcare and care for the elderly: guaranteeing accessibility, quality and financial viability.

It is an investment and represents a vital, efficient and constructive sector of the economy generating significant value added in societal development, as well as fostering growth.

1.1.2. Access without discrimination, quality and the financial viability of healthcare systems — especially those intended for the elderly and socially disadvantaged groups — present a series of challenges and problems common to all EU Member States, pre- and post-enlargement (a fortiori). Their responses to these have differed, but the principles of solidarity, equality and universality have been upheld by all of them.

1.1.3. It is true that the demand in Europe on healthcare systems and available services has continued to grow over the last two decades. Responding to this demand has always been a matter for each individual country, acting against an increasingly and at times overly sensitive political backdrop. Whilst the challenges to develop healthcare systems apply to all Member States, they will be even more pronounced in the candidate countries in 2004. Undoubtedly, the issues at stake are considerable for all Member States and, more importantly, have become inter-connected.

1.2. This draft opinion aims to achieve several objectives:

— to promote initiatives to boost knowledge, exchanges and comparison between the various European healthcare systems;

— to support the steps taken by the EU institutions, notably by the European Commission, to pursue specific, more effective initiatives in the field of healthcare;

— to encourage initiatives by EU socio-professional interest groups and to enhance their joint policies.

At all events, this draft opinion is intended to support and complement the action taken by the European Commission in its 2003-2008 public health programme.

1.3. Since the Treaty of Rome, the proportion of healthcare consumption expressed in terms of national wealth has risen at an annual average of 2,2 % more than GNP in the developed countries as a whole, especially in the European Union, increasing from 4 % of GDP in 1960 to over 8 % of GDP today (Source: OECD, 2002), even if this rise appears to have slowed down recently.

1.3.1. However, it should be noted that whilst the rate of growth of the health expenditure/GNP ratio has slowed down, the budget for this sector remains high and continues to rise. Public opinion has forced an examination into whether this continuous growth tallies with actual results for consumers, i.e. whether it translates into the benefits of better public and individual health that they expect. The continued increase in spending is nowhere accompanied by a reduction in inequalities, especially socio-occupational, with respect to quality of life and life expectancy. The objective of reducing these inequalities should become the main indicator for healthcare policies in Europe and the stimulus for the changes in strategy that it will require.

1.4. At present, there are many key factors determining health, which vary between the Member States.

Approximately ten essential factors exert a decisive influence on policy:

1.4.1. Demographic effects

1.4.1.1. Age and the ageing population inevitably impact on health expenditure.

1.4.1.2. Many recent studies carried out in seven industrialised countries appear to confirm that, over the last decade, demographics have had an impact on the trend in spending equivalent to 1 % in volume terms. This rise is due to in equal measure to the overall increase in population and ageing.

1.4.1.3. Therefore, although the breakdown of this impact differs between countries, its influence is clear. However, traditional demographic values should not be the only aspects to be taken into account.

1.4.1.4. Consideration should be given to factors such as that dubbed the 'generation effect' by experts, whereby recent generations of healthcare users are accustomed to higher levels of healthcare provision than previous generations who did not always have access to healthcare equivalent to that on offer today.

1.4.1.5. It is quite conceivable that these factors may lead to a multiplier effect on healthcare expenditure occurring as these generations get older if people begin life with proper access to healthcare and continue to benefit from it throughout their active life .

1.4.2. Perceptions of healthcare

1.4.2.1. Different attitudes to health exert a considerable influence on the expectations and behaviour of healthcare users. Health is perceived as an absolute good, a citizen's right which the relevant authorities must safeguard, and this entails a rise in costs to meet these expectations, and the risk of losing political consensus whenever it is planned to reduce the scope of free or almost free healthcare for budgetary reasons.

1.4.3. Epidemiology

1.4.3.1. Healthcare is currently facing new challenges associated in part with new pandemics of certain contagious diseases and new manifestations of known illnesses that are no less difficult to treat. The impact of these on costs and healthcare organisation is not easy to quantify.

1.4.4. Economic growth

1.4.4.1. Several studies have demonstrated the link between economic growth and healthcare expenditure, i.e. the disproportionate increase in healthcare expenditure that accompanies rising income levels. This correlation at macroeconomic level is not matched where cyclical trends are concerned: there has not been a significant decrease in healthcare expenditure, even at times of economic slowdown.

1.4.4.2. This shows a degree of disassociation between demand for healthcare provision and the state of the economy. It contributes to the difficulties in reducing health spending encountered by countries that are seeking to place greater responsibility on the medical profession and consumers.

1.4.5. Social organisation

1.4.5.1. Changing lifestyles, the organisation of family life, changes in the workplace and the increase in precarious employment are drastically changing the shape of traditional healthcare systems.

1.4.5.2. Thus, there has been a growing trend to treat social problems as medical problems. Whilst the approach to this factor is complex and necessitates further examination, it should not be overlooked, especially since European society is increasingly demanding the use of the precautionary principle. All types of social insecurity (unemployment, precarious situations, stress, discrimination, pollution etc.) increasingly affect the state of health and healthcare spending, and create a growing demand to apply the precautionary principle.

1.4.6. Environmental and dietary needs

1.4.6.1. The key role played by the environment, in the broadest sense of the term, on health expenditure is no longer questioned.

1.4.6.2. However, it is already clear from a Europe-wide study carried out as part of the programme on atmospheric pollution and health that even a very modest reduction in atmospheric pollution levels has a beneficial effect upon public health and justifies implementing preventive measures.

1.4.6.3. Similarly, the effects of consuming high-risk products, such as tobacco, drugs and alcohol, must be taken into account.

1.4.6.4. The quality of food is a crucial factor — poor eating habits are at the root of a series of processes that lead to increased sickness and even mortality rates; they are for instance the prime cause of death from cancer. This is of particular concern since it affects the whole population, especially young people (obesity).

1.4.7. Technical progress

1.4.7.1. Technical progress is an ambivalent factor, as it can have positive or negative effects on healthcare expenditure. Nonetheless, technical progress is an inescapable fact.

1.4.7.2. It should be noted that new treatments often highlight ailments which were previously 'unheard of' because no treatment was available.

1.4.7.3. This phenomenon occurs especially with innovations, whether in drugs or examination techniques.

1.4.7.4. Of course, it is important to ensure that new diagnostic or treatment techniques do not duplicate old techniques.

1.4.7.5. Therefore the use of appropriate techniques and replacement of old techniques should be encouraged, whilst noting that this is often hindered by socio-cultural considerations, sometimes generated by restrictive behaviour on the part of the healthcare profession.

1.4.7.6. Radiology techniques can be taken as an example. At present, traditional radiography is still used alongside scans, MRI (magnetic resonance imaging) and, most recently, PET (position emission tomography).

1.4.8. Socio-cultural behaviour patterns

1.4.8.1. Socio-cultural behaviour patterns have a considerable influence on healthcare expenditure.

1.4.8.2. Collective and individual actions in this domain mostly concern primary prevention.

1.4.8.3. The results, while undoubtedly leaving room for improvement, have been much better in recent years, in line with progress in evaluation procedures.

1.4.8.4. Besides smoking, drugs, excessive alcohol consumption and excess weight, traffic accidents, domestic accidents and suicide among young people are significant factors, as are accidents at work and employment-related diseases.

1.4.8.5. Such behaviour patterns are linked to a combination of individual, family and social factors. They often cause a degree of premature mortality and therefore are particularly important to identify so that strategies can be adopted to eliminate risk factors and costs that can easily be avoided.

1.4.8.6. Education and prevention are essential areas for investment. If work in these areas is conducted with the full involvement of target groups, especially the most sensitive groups and the groups most exposed to risks, the benefits in economic and health terms are proven.

1.4.9. Healthcare supply and demand

1.4.9.1. These are undoubtedly influential factors, but their impact varies between Member States.

1.4.9.2. Moreover, whilst the demand for healthcare continues to grow, it does not always represent objective need and is influenced by the quality and quantity of healthcare supply.

1.4.10. The impact of social welfare

1.4.10.1. The increasing demand for social and medical cover puts constant pressure on social welfare systems. This factor, closely linked with the previous one is concerned more with healthcare demand, which it more or less meets, than healthcare supply.

1.4.10.2. Each Member State organises its welfare system according to its own criteria.

1.4.10.3. The increase in internal EU travel raises questions which require in-depth knowledge of each welfare system and which, like it or not, inevitably lead to comparisons.

1.4.10.4. Many questions have arisen as a result of the free movement of patients. First we need to know what the present situation is and how it might evolve.

2. **General comments**

2.1. On the basis of the points raised in the previous section, the European Economic and Social Committee calls for an urgent and serious debate on the various aspects of healthcare policy. It considers that the need to boost knowledge and find common aims in this field should supplement the debate on the European Convention and take into account the enlargement of the Union.

2.2. The Committee is in favour of an ambitious and necessary work programme on the following broad-based topics:

— assessment of the impact of various factors on health;

— health in the candidate countries;

— inequalities in access to healthcare;

— ageing and health;

— promoting good practices and efficiency in the health sector.

To this end, the Committee supports the approach taken by the European Commission.

2.3. The topics raised by the Commission and the public health programme are of particular interest for the forthcoming debates on inter-sectoral policy, patient mobility and the future of healthcare for the elderly.

2.4. The Committee notes that a comparative analysis of healthcare systems involves complex strategic considerations, such as the issue of ageing. In all Member States, this issue is tackled according to family structure, the mobility of elderly persons, the typology of medical consumption and the increased costs of technology.

2.5. Safeguards must be put in place to ensure the quality of healthcare systems, their universal accessibility as far as possible and their financial sustainability.

2.6. The Committee also considers that all policy areas are affected, especially economic and social policies, where particular attention must focus on the link between health and employability as well as age and pensions, and that expectations are not always met.

These expectations are threefold: the support of a well informed organised civil society, the principle of solidarity — an essential European value — and an intelligent and effective prevention policy.

2.7. Coordination of healthcare policies like pension and retirement policies raises several questions:

— definition of healthcare system;

— the role and importance of supplementary healthcare schemes;

— the need to differentiate between care, health and comfort.

2.8. The Committee also lists the following reasons:

— Some people feel that the issue of healthcare, which involves services of general interest, inevitably entails a debate on whether healthcare should be defined as a 'service of general interest' and to identify the practical consequences of this.

— Healthcare provision requires trained staff with high qualifications. The importance of care work, especially for the elderly, necessitates the introduction of life-long training programmes.

— The financial viability of such healthcare policies is an issue that inevitably means expanding the scope of the debate, on an ongoing or regular basis, over the coming years, particularly on resource allocation and provision.

2.9. Each country experiences these issues in different ways, according to their social, cultural and political traditions. Recognising that these differences exist does not detract from the scale of the challenge faced by all Member States and the need to find common approaches involving exchanges, knowledge and solutions.

3. **Challenges and problems**

It is worth stressing the importance of the subject — 'Healthcare and care for the elderly; supporting national strategies for ensuring a high level of social protection'.

It is clearly very topical and therefore merits strategic discussion by EU institutions.

3.1. The case for engaging in such discussion now is supported by several strategic needs:

— The recurring difficulties faced by national public authorities in reducing inequalities in healthcare between the different population groups and in coping with health expenditure, whatever the nature, organisation or operation of healthcare systems.

— The lack of any actual Community competence as regards the social security systems (except for coordination regulations (EEC) No 1408/71 and follow-ups) and healthcare policies conducted in each Member State does not mean that the Community should remain indifferent to conceptual and policy debate on these issues, bearing in mind the abovementioned comments.

— The prospect of enlargement in 2004 to take in 10 new Member States should encourage the 15 existing members to further analyse and monitor healthcare problems.

— The development of EC Court of Justice case law has over time encouraged wider access to healthcare under supranational criteria.

— The increase in the free movement of people, patients and professionals due to economic development and the increasing integration of national markets into the European Single Market also justifies this discussion.

3.2. New Article 137 of the EC Treaty (Treaty of Nice) only authorises EU bodies to adopt Community directives setting minimum requirements in the field of health and social protection, and requires unanimity.

In the face of the crucial issues which health problems raise for the European Union, its cohesion and its ability to become the most competitive knowledge-based economy in the world, it is the role of the European Economic and Social Committee to promote increased awareness of these issues.

3.2.1. Concerning the problem of the free movement of patients, CoJ case law has made significant progress over time in paving the way for practical implementation of the right of free movement of patients and the sick based on the fundamental freedoms listed in the Community Treaties, and overcoming the major differences between national healthcare and health-insurance systems.

3.2.2. This rationale is illustrated by the fact that more than three years ago, the European Community launched a review of Regulation (EC) No 1408/71 (Article 22) with a view to including health in Articles 49 and 50 of the EC Treaty on the freedom to provide services.

3.2.3. Another example of this new state of affairs is the recent judgement of the EC CoJ (case C-326/00 IKA v Vasileios Ionnidis). This concerned a Member State's duty to pay the medical expenses of a pensioner visiting another Member State, without payment being made subject to authorisation and conditions. The reasons adduced for this judgement are clear: a patient suffering from even a chronic illness must be able to receive care whilst visiting another Member State.

3.3. Mobility applies not only to patients but also to health professionals. As healthcare systems develop, there is the threat of a shortfall of medical and paramedical health professionals.

3.3.1. This threat is growing. Some Member States manage to maintain healthcare provision by relying increasingly on professionals (doctors, nurses) from countries where there is still a surplus of such labour.

3.3.2. Current developments suggest that the balance is precarious and that a crisis is looming in the present EU as regards the number of healthcare professionals. So far, the question of how things will stand in this respect in an enlarged 25-member Europe has hardly been touched upon.

3.4. Against this backdrop, there is an urgent need for a concerted and organised strategy to examine and pre-empt the problems and to promote the mobility of such professionals without destabilising the national systems of the new Member States.

However, under no circumstances will it be possible to make up for the anticipated shortage of qualified healthcare staff just by promoting cross-border mobility. In order to meet labour demand in the health sector on a sustainable basis, flanking measures are needed to make the caring professions more attractive and to make it possible for people to stay in such professions, including job quality, training and promoting the interchangeability of career paths.

3.4.1. There is a risk that EU enlargement may lead to healthcare problems if certain Member States do not treat developing their healthcare systems as a national priority.

3.4.2. There is also a risk that social and healthcare guarantees will be eroded. This could lead to an exodus of professionals and patients to those Member States with the best organised healthcare systems. Examples of this abound; without standing in the way of the principle of free movement, Member States with the least developed or efficient healthcare systems should make the budgetary, organisational and qualitative commitments needed to ensure that their national health policy meets the general standards set by the rest of the Community.

3.5. Faced with such challenges, public authorities and healthcare managers seem overcome by the enormous complexity of the issues at stake and the financial pressures.

3.5.1. No EU country can claim that it has resolved these problems. All Member States must pursue the common aim of defining a method of managing and assessing healthcare needs based on consistent principles making use of flexible methodologies.

3.5.2. It is an irreversible fact that the population is ageing. According to experts, it accounts for an unavoidable annual rise in health expenditure of between 0,7 and 1,5 % depending upon national situations and the provisions for healthcare for the elderly. Specific policies must be formed to tackle the risk of sections of the population becoming incapacitated and dependent.

3.6. The consumption of medical products and services will gradually increase placing an ever-greater financial burden on aggregate costs.

This is why future healthcare reforms must focus on prevention, promoting good health and developing community medicine.

3.6.1. In view of these complex and costly organisational and economic problems, efforts must focus on a more rational use of resources and on new approaches to healthcare. Multifunctional and coordinated local services must be promoted in all regions. A culture of coordination between healthcare players and operators is essential. Home care (nursing care, geriatrics, home hospitals) should also be one of the priorities.

3.6.2. Traditional hospital structures must be reformed. A graded spectrum of services should be promoted, ranging from general hospitals to more specialised care. To this end, interregional and cross-border cooperation are essential. Pilot schemes are already underway and should be encouraged.

3.6.3. Lastly, skills and professions are another aspect in the development of healthcare systems. A rationalisation of medical disciplines and an assessment of paramedical professions must take place before new medical specialities can be recognised.

3.7. Concerning the problem of the financial viability of healthcare systems, it should be noted that there continue to be significant differences in the design, quantity and quality of systems.

3.7.1. Framing and applying the concept of a guaranteed core of medical goods and care is gradually becoming a reality in the policies of EU Member States.

3.7.2. As a result, a European approach could be promoted to identify the services, healthcare products and standard treatments linked to the main known illnesses with a view to forming assessments and mutual recognition. This would be a way of prioritising public funding and making healthcare systems more effective.

3.7.2.1. The need to guarantee broad access to healthcare for all citizens, a core of rights and services implies going beyond a simple reform of the minimum standards currently referred to by European legislation. It has implications for the credibility of the development of the EU, its enlargement and the stability of national systems.

3.7.3. This method of assessment for healthcare provision would be compatible with the principle of solidarity and would demand a greater degree of direct responsibility of professionals and patients.

3.7.4. Concerning lower priority forms of care which are not matters for public health policy, there has been a rise in supplementary insurance schemes ([1]).

3.8. We believe that the European Economic and Social Committee should recommend establishing a method of observation, analysis and exchange on national health policies in view of the multitude of challenges that healthcare systems face. This approach fully respects the fundamental principles laid down in the Treaties, in particular the principles of subsidiarity and national competence. This would supplement the initiative recently unveiled by the European Commission.

3.9. Benchmarking could be a valid approach to improving the quality of healthcare. The majority of reforms carried out within the EU reveal the concern of public authorities and managers to boost efficiency in hospitals and to set up procedures to accredit and certify the quality of care.

3.9.1. This approach transcends the conceptual and organisational differences in national healthcare systems.

3.9.2. The use of Community tools for labelling, measures to improve quality and the promotion of innovative technology and treatments on the basis of medico-economic criteria could be encouraged.

3.9.3. Equally, the Union must be able to ensure its citizens have access to centres of health and hospital excellence, which are not simply the privilege of the richer nations.

([1]) See EESC Opinion on supplementary health insurance, OJ C 204 of 18.7.2000.

4. **Political responsibilities**

4.1. Although the organisation and funding of healthcare systems are a matter for the domestic policies of Member States, three issues are apparent at EU level:

4.2. Article 152 of the EC Treaty on public health ensures a high level of public health protection. However, despite the fact that this Article concerns public health and in particular all questions of prevention, it is weak in policy terms.

4.3. Although the internal market rules oblige national policies to respect internal rules, there are restrictions, often justified, in those Member States that have not yet recognised the free movement of people, goods and services in this domain.

4.4. The viability of public finances and the impact of healthcare expenditure on national public spending are covered in the stability and convergence pact.

5. **EESC proposals**

5.1. With due regard for the respective competences of the Member States and of the EU, the problems raised and the contributions made by numerous players, the European Economic and Social Committee proposes a series of measures which are the result of using the Open Method of Coordination, detailing the objectives and principles in an approach to healthcare and long-term care for the elderly:

5.1.1. Ongoing exchange of information and keeping tables of the activities, objectives and principles of all the EU Member States.

5.1.2. A strong and sustained employment policy: medical professionals are unevenly distributed, therefore initiatives must be taken at local and national level to boost supply without waiting for demand. In particular there is an urgent need to complete the final draft of the directive on the mutual recognition of diplomas and skills.

5.1.3. General promotion of healthcare quality indicators: good practices in techniques, staff certification and accreditation of facilities.

5.1.4. Support for a general information and communication policy on existing systems, available facilities and the policies currently pursued.

5.1.5. Establishing a European health insurance card to ensure free movement and promote awareness of established rights, aimed in particular at disadvantaged persons and the elderly ([1]).

5.2. In this case, the Open Method of Coordination is not yet provided for in the field of healthcare.

5.2.1. It must be put in place as a matter of urgency, and could have the following objectives:

— to modernise national systems by developing a quality healthcare programme;

— to improve cooperation between Member States.

Cooperation must enable common objectives to be identified, if possible for healthcare and care for the elderly. These objectives could then form part of national action plans, and regular updates could be produced.

5.2.2. In this context, relevant indicators should be selected to assess policies. The challenges posed in 2001 — accessibility, quality and financial viability — must take into account demographic forecasts, the increase in the number of the elderly and the progressive reduction in working time.

5.2.3. If the Open Method of Coordination is well organised, it should respond to the impact of Community legislation on national health insurance systems, and in particular take into account new advances in case-law which may be handed down by the European Court of Justice on a day-to-day basis with regard to pending cases.

5.2.4. The Open Method of Coordination will have to provide answers to the following questions:

a) How to proceed in this process in the field of health insurance?

b) Is it feasible to set up an exchange of good practices in accreditations, evaluations or prescriptions, defining quality standards, defining the conditions for truly equivalent skills and mutual recognition of practices?

([1]) See the Commission Communication concerning the introduction of a European health insurance card — COM(2003) 73 final.

c) Concerning cost reduction, what benefits could be reaped from exchanging good practices, given the diversity of national systems?

d) What progress has been made on identifying a quality indicator for structures and practices?

e) How can policies governing the provision of healthcare products be improved, giving greater emphasis to the need for innovation, preventing wastage and the need to give developing countries access to vital products to combat diseases such as AIDS (see future WTO discussions and implementation of the Doha Agreements)?

f) Coordination of national provisions governing cross-border trade in medicinal products must not lead to a reduction in standards of distribution and advice in the individual Member States.

In order to establish this Open Method of Coordination, to make it visible and credible and to give it a solid basis, the Committee considers it essential to set up a simple, flexible, efficient structure responsible for a series of priority actions as set out in this opinion.

6. **Conclusion**

The European Economic and Social Committee intends to make healthcare issues an area for action, whilst respecting the existing Community political and legal framework. The Committee feels there is a need to develop tools at European level which draw on the collective European intelligence beyond discussions on the future of national social security systems. The Committee perceives a need for political will to promote awareness of the realities of healthcare and to foster excellence in innovative practice in the medical and social domain. This is why it proposes creating effective bodies to guarantee EU citizens the fundamental right of access to better health for all.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Second progress report on economic and social cohesion'

(COM(2003) 34 final)

(2003/C 234/12)

On 30 January 2003 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 23 June 2003. The rapporteur was Mr Barros Vale.

At its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion by 114 votes to one, with three abstentions.

1. **Introduction**

1.1. *General comments*

1.1.1. On 30 January last, the Commission published the Second progress report on economic and social cohesion containing an extensive and interesting set of statistics that provide an overview of the situation in Europe, particularly in respect of the relevant indicators for analysing this important subject.

1.1.2. The report is part of preparations for the Commission's proposals for the future of cohesion policy after 2006. The first part of it contains an update of the analysis of the cohesion situation set out in the Second Report on Economic and Social Cohesion and in the First Progress Report; the second part summarises the debate to date in the EU on the future of cohesion policy.

1.1.3. In addition to the data compiled and processed for this second report and set out in an appendix thereto, the Commission has taken a look at the current developments in the debate on cohesion now and in the future; this is particularly important at the moment, in the run-up to the post-2006 regional policy reform.

1.1.4. Recently a whole raft of contributions have been made by a variety of parties on ways to put together this regional policy of the future; these include papers from the Council, Parliament, European Economic and Social Committee and the Committee of the Regions. There have also been seminars on the Union's regional priorities, priorities relating to employment and social cohesion, mountain areas and urban areas.

1.2. *Economic and social cohesion: current situation and trends in an enlarged Europe*

1.2.1. Despite the progress achieved towards greater cohesion over the last few years, the report notes that the disparities between Member States and, essentially, between regions remain considerable and that these will markedly deteriorate in an enlarged Europe of 25 Member States.

1.2.2. The data provided in the report indicate that the disparities in income levels between the most and least prosperous regions will double. In fact, the ratio between the per capita income of the richest 10 % of regions (defined as those with a higher income, accounting for 10 % of the population) and that of the poorest 10 % of regions (defined as those with a lower income, accounting for 10 % of the population) stands at 2.6 in the EU of 15, rising to 4.4 in an EU of 25 and to 6 in an EU of 27.

1.2.3. According to the report, 48 regions in the current Member States (accounting for 18 % of the EU's population) have a per capita income (in PPS) below the threshold of 75 % of the EU 15 average (data for 2000). Once Europe is enlarged to 25 Member States, a total of 67 regions (accounting for 26 % of the population) will have a per capita income level below the 75 % threshold, and only 30 regions in the current Member States (12 % of the current EU 15's population) will be eligible for Objective 1 support.

1.2.4. In an enlarged Europe, the regional disparities in employment will also worsen. The average unemployment rate will be 2,4 % for the 10 % of the population living in the richest regions and 22,6 % for the 10 % living in the poorest regions.

1.2.5. The fact that the population is ageing in some European countries will introduce even more changes in the new circumstances generated by an enlarged Europe.

1.2.6. Incorporating the acceding countries into the EU will have the effect of depressing the EU's employment rate and will have a significant impact on the sectoral composition of employment. The relative size of agricultural employment will climb from 4,4 % in the EU of 15 to 5,5 % in an EU of 25 (7,6 % in an EU of 27), while the relative size of the services sector will fall and that of the industrial sector will remain the same.

1.2.7. The report also notes the persistent divergences between countries and regions in terms of various factors determining real convergence and it shows up the markedly disadvantageous situation of the current cohesion countries.

1.2.8. Thus a lower per capita income is linked to lower levels of education and training and fewer research, development and innovation activities. Data on the number of patents, applications for patents in high tech sectors and the level of R&D expenditure reveal huge disparities between the various Member States, to the detriment of the southern European countries, for which the indicators are lower in a variety of areas; the disparities are even more marked at regional level.

1.2.9. On the other hand, the report highlights the economic potential of an enlarged Europe, due to the fact that the acceding countries generally have a higher growth rate than current Member States and overall will help raise the average level of education in the Union.

1.3. *The debate on the future of cohesion policy*

1.3.1. The summary of the discussions in the second part of the report highlights the importance of the debate on the future of cohesion policy.

1.3.2. The discussions have mainly dealt with the objectives of cohesion policy and the contribution of other Community policies to cohesion.

1.3.3. There seems at present to be general agreement that priority should be given to helping the less developed regions by earmarking most of the financial resources available under this policy for them. This priority is all the more important given that after enlargement, a large majority of the new regions will fall within the category of 'regions whose development is lagging behind'. According to the current criteria (in place since 1989) which most parties seem to want to retain, to qualify for this category these regions' per capita GDP must be below 75 % of the EU average, calculated on the basis of purchasing power parity. In the meantime, a number of suggestions and ideas have been put forward aimed at supplementing those criteria with others relating to the employment situation, how quickly population levels are falling, productivity and the actual level of financial implementation, as well as the peripheral nature of the region in question.

1.3.4. Nevertheless, the general view is that implementing this priority should not mean dropping the actions the EU has been carrying out to date in non-lagging regions. There has been much talk in these regions about the need to focus efforts on problem areas such as crisis-hit urban areas, certain more depressed rural areas and other areas requiring help because of inadequate employment, innovation, education, training or research, among other factors.

1.3.5. The EESC feels that continuity of support for the regions receiving non-Objective 1 support, in addition to being fair in terms of actually ensuring cohesion, constitutes a key political objective for sharing out resources between the various countries, whether or not they are net beneficiaries under the Community's budget.

1.3.6. The report notes that only two [1] of the four options mentioned in the Second Report on Cohesion, proposing different solutions for the difficulties which will crop up after enlargement, met with any substantial support; in the course of the debate in 2002, most support went to the first option.

1.3.7. According to the Commission, the representatives of the outermost, mountain and island regions in the EU feel that these regions should continue to be included in the category of less developed regions, even if their income levels exceed the eligibility threshold. Account must, however, be taken of the fact that in some circumstances (e.g. when offshore businesses are based in such regions) the wealth generated is more apparent than real.

1.3.8. There is support from some quarters for the idea of maintaining support for non-lagging regions, either because there are persistent restructuring and economic development problems in many areas or because the Structural Funds represent a vital instrument of support for regional development potential throughout the EU. Some proposals advocate more decentralisation of current cohesion policy instruments.

[1] The first option involves retaining the current threshold of 75 % of the average per capita GDP in an enlarged EU, backed up by transitional differentiated arrangements for those regions which, as a result of convergence, will no longer be able to be considered to be less developed in an EU of 25, and other more generous arrangements for most of the regions falling foul of the statistical effect. The second option involves stipulating an eligibility threshold above 75 % so as to mitigate or eliminate the consequences of the statistical effect.

1.3.9. The sharing of knowledge through cooperation and exchange of experiences has been described as a key element in improving the implementation of cohesion policy at all levels and above all as a way of ensuring that good practices and solutions spread; these, being most diverse, have been developed throughout Europe.

1.3.10. One fundamental issue concerns the financial resources available, particularly in view of enlargement. There already seems to be broad consensus about targeting 0,45 % of the Community's GDP for the regional policy budget, as a basis for the new requirements, that is, as a minimum level.

1.3.11. In terms of the Union's general political aims, there also seems to be ample support for the idea that cohesion policy should itself tie in with all aspects of the Lisbon strategy, as part of a common ambition to further the development of European society.

1.3.12. Lastly, the report stresses the need to simplify the management of European programmes, respecting the principles of responsibility, efficiency and good financial management, to pursue action aimed at cross-border and inter-regional cooperation targeting more balanced development throughout the EU and also to step up the contribution of other Community policies to achieving economic and social cohesion.

1.3.13. The aim seems to be to achieve greater coherence with other Community policies and to try to set up genuine convergence between different actions and instruments, targeting the same objective. Farming, fisheries, competition and research policy are, for example, still far from being perfectly tied in with cohesion policy, although there have been calls for such a link-up for some time now.

2. **The EESC's comments**

2.1. The EESC welcomes the way the report has been drafted and structured, allowing it to be easily read and analysed. It is objective, concise and clear. It also recognises that the Commission has endeavoured to put together a document with high technical and statistical standards.

2.2. The EESC is positive in its assessment of the results achieved in promoting economic and social cohesion in the EU over the last few years.

2.3. In fact, the statistics presented in the report clearly show that the Community's cohesion policy has played a key role; it highlights the substantial economic benefits gained in the three least prosperous Member States (Portugal, Greece and Spain), where average per capita income rose from 67.8 % of the Community average in 1988 to 78.1 % in 2001.

2.4. Ireland provides another example of the success of Community cohesion policy, having achieved what is by any standards a remarkable improvement, in particular as regards the rise in its GDP relative to the Community average.

2.5. Despite the progress achieved, the EESC is concerned about the significant regional disparities persisting within the EU and, above all, about the fact that these disparities will worsen once the EU is enlarged.

2.6. It would seem sensible, when allocating resources in the future under each of the cohesion objectives, to give preference to those regions with the highest unemployment rates.

2.7. The EESC also deems it important that significant funds be earmarked for productive and production-generating areas, so as to boost sustained economic growth by supporting key economic activities.

2.8. Lastly, the EESC agrees that there is a need to step up cross-border, trans-national and inter-regional cooperation in order to promote more balanced development throughout Europe, to boost synergies between cohesion policy and other Community policies and to ensure that each operates in a complementary fashion to the other so that all policies contribute to the aim of economic and social cohesion, while still, of course, pursuing the main objectives for which they were devised.

2.9. The EESC feels that the data on national and regional disparities cited in the report clearly show the need to step up efforts to boost cohesion in an enlarged EU; the EESC therefore supports the Commission's proposal that cohesion policy should continue to give priority to less developed regions.

2.10. The EESC advocates a cohesion policy which meets the specific needs of the most disadvantaged regions in the acceding countries and which at the same time takes account of the continuing economic development requirements in the less favoured regions of the current EU 15, even though they might appear less serious in relative terms. The EESC also recommends that, as part of the future cohesion policy, account be taken of the specific circumstances of regions which suffer from permanent geographic disadvantages.

2.11. Thus the EESC is pleased that the options advanced in the 2002 debate on the eligibility criteria for obtaining Objective 1 status favoured retaining the current eligibility criterion while introducing special arrangements for those regions which, due to the statistical effect of enlargement (because of the arrival of countries whose GDP is lower than the current Community average), would no longer qualify for Objective 1 support, despite continuing to suffer significant economic development disadvantages.

2.12. The EESC considers that the discussion about the need to supplement the current eligibility criteria, in order to take specific circumstances into account, is worthy of consideration, especially in view of the objectives traced out at the Lisbon summit and the current labour market prospects, in particular the way that the unemployment rate in some of the current Objective 1 regions has been rising and will continue to do so over the next few years.

2.13. Irrespective of the matter of the Objective 1 eligibility threshold, the EESC considers that the 0,45 % of Community GDP earmarked for cohesion policy funding may be inadequate to cope with the needs of the acceding countries and of the existing Member States which have still not achieved high levels of development.

2.14. In fact, a mere EUR 80 billion more have been allocated for meeting the needs of ten new countries. In spite of the fact that some of the current regions will no longer be eligible, the EESC feels that EUR 340 billion (compared to EUR 260 billion for the 2000 — 2006 period) will probably not be enough to achieve the objective of improving economic and social cohesion policy for all the regions concerned, both current and future.

2.15. The EESC therefore advocates increasing the volume of funding to a level equal to or higher than the current 0,45 % of Community GDP, in order to avoid the risk of there being a sharp drop in Community support for the most disadvantaged regions as of 2007.

2.16. In fact, should the minimum share of Community GDP earmarked for cohesion policy be maintained at 0,45 %, at a time when more financial resources will be needed to cope with the increase in regional disparities after enlargement, it may well be the most disadvantaged regions of the EU 15 which will bear the full cost of enlargement in cohesion policy terms, as a result of the drop in Community support allocated to them.

2.17. Indeed, a significant share of support funds for the weaker regions are already passed on to the richer regions, since goods and services for carrying out projects are often purchased from abroad, namely from the richer countries and regions (which are net contributors to the Structural Funds). Although on the one hand the richer countries put money into the structural funds, on the other, when the beneficiaries of these funds are carrying out the projects concerned, the richer countries get part of this money back by providing the relevant goods and services.

2.18. It is the EESC's view that this situation cannot be sustained from either a political or economic point of view, because it goes completely against any principle of fairness in distributing the costs of enlargement.

2.19. In fact, under the first and second Delors packages, funds doubled without there being any enlargement. Given the fact that the EU is now being enlarged, the Commission's stance appears rather modest.

2.20. Nevertheless, the need for economic growth should not be forgotten, since only thus can the minimum objective of 0,45 % of GDP be achieved. The EESC feels that particular attention should be paid to this matter, by creating the right conditions for boosting economic growth in the near future.

2.21. In short, it will be one of the EU's greatest challenges in the near future to pursue an economic, social and territorial cohesion policy which fulfils not only the specific needs of the most disadvantaged regions in the acceding countries, but also the requirements for economic development which will continue to exist in the least favoured regions in the current EU of 15, even though these regions will see their prosperity increase in statistical terms in an enlarged Europe.

2.22. Although the report does highlight some fundamental points, the EESC considers that the debate on the future of cohesion policy is still far from over. Since cohesion policy is a key pillar for the integration of the EU's peoples and territories, it is clear that this policy needs to have adequate financial resources available so that it can cope with the requirements flowing from the new context of enlargement, thus ensuring its credibility.

2.23. The EESC considers it vital that, in matters pertaining to cohesion, special attention be paid to the economic and social partners' involvement in implementing this important policy. This is an area where little progress has been made and where much remains to be done, all the more so since organisations representing civil society are best placed to bring decision-making into line with the actual situations that they are endeavouring to improve.

2.24. The importance of such partnership has, moreover, been acknowledged by the Commission itself, which has already asked the EESC to draft an exploratory opinion on how the partnership actually works in implementing the Structural Funds.

2.25. The EESC's work in this field could also explore the functionality, simplification and transparency of the processes involved. In addition it should include an unprecedented analysis of the likely challenges arising from enlargement, as well as outlining trends in the factors determining genuine convergence, notably the so-called 'dynamic competitiveness factors', and ways to stimulate them.

2.26. Lastly, the EESC considers it vitally important for the Commission to give serious thought to the possibility that there might not be enough funds to maintain the Community's cohesion policy at current levels, which could mean a need to keep up cohesion policy efforts for much longer, entailing higher costs and poorer results for which public opinion might have much less understanding.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the Council amending Directive 92/79/EEC and 92/80/EEC, authorising France to prolong the application of lower rates of excise duty to tobacco products released for consumption in Corsica'

(COM(2003) 186 final — 2003/0075 (CNS))

(2003/C 234/13)

On 5 May 2003, the Council decided to consult the European Economic and Social Committee on the above-mentioned proposal.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 23 June 2003. The rapporteur was Mr Burani.

At its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion by 107 votes to four, with eight abstentions.

1. **Gist of the Commission proposal**

1.1. The proposal concerns a request from France to prolong until 31 December 2009 the derogation allowing the application of a lower excise duty on tobacco products in Corsica than that applied in mainland France. The derogation was granted in a statement in the Minutes of the Council meeting that adopted Directive 92/79/EEC on cigarettes and Directive 92/80/EEC on manufactured tobacco other than cigarettes. It was originally granted until 31 December 1997, subject to the excise duty applicable in Corsica being gradually raised to the national level by that date, and was extended once more to 31 December 2002, at the request of France, in Directive 1999/81/EC.

1.2. Leaving aside the technicalities involved in implementing the directives, which are only a minor consideration in examining the request, the derogation would mean that the retail price of cigarettes in Corsica would be one third lower than in mainland France, whereas cigars, cigarillos and manufactured tobacco other than cigarettes would be 15 % cheaper.

1.3. When it submitted the request, France also presented a package of tax measures it intends to introduce in order to bring excise duty on tobacco in Corsica gradually in line with that imposed in the rest of the country by the end of the transitional period requested.

1.4. The request for a prolongation of the derogation is based on a Memorandum of 26 July 2000 pleading recognition of Corsica's special position as an island within the European Union, and a subsequent letter dated 5 November 2002, which deemed the prolongation necessary in order to protect island jobs in the production and distribution of manufactured tobaccos.

1.5. France states that 53 people are employed in cigarette manufacturing in Corsica, and that the additional margin resulting from the application of the derogating tax provisions would compensate for the lower output and higher cost of producing cigarettes in Corsica, owing to the isolation and topography of the island, and resulting in higher manufacturing and distribution costs.

1.6. With regard to distribution, there are some 350 retailers who are said to employ almost the same number of shop assistants, mainly in the four to five-month tourist season. They provide a neighbourhood service, including in sparsely populated mountain areas, thereby helping indirectly to keep the population from moving away.

1.7. At a meeting between the Commission and the French Government, it was agreed that immediate and complete alignment with the tax rules for tobacco in mainland France 'could undermine Corsica's economic and social equilibrium'. A package of measures for gradual alignment has therefore been proposed:

— until 31 December 2007 the total rate of excise duty applicable to cigarettes, up to a quota of 1 200 annual tonnes, will be 35 % of the price charged for cigarettes of the most popular price category in Corsica; subsequently, and until 31 December 2009, the rate will rise to 44 %, and then be aligned with the excise rate applied on the mainland (currently 58,99 %);

— for cigars and 'other tobacco products', there is a relief package of related measures that are differentiated according to type of product, to be applied until 31 December 2009, after which national rates will apply.

2. **Comments**

2.1. This matter, while in itself not particularly significant in terms of overall revenue from tobacco duty, nevertheless raises a few important problems of principle and of substance. The EESC would draw the attention of the Commission and of the Council to some points that perhaps warrant further consideration.

2.2. The Commission document, which reproduces data provided by the interested party, states that 1 200 tonnes of tobacco (in cigarettes alone) is sold in Corsica every year. With a population of less than 260 000 inhabitants, and taking into account children and a presumable number of non-smokers, every smoker on the island would seem to be smoking almost 8 kilos of cigarettes each. This quantity diminishes when the four to five-month tourist season is taken into account (although not all the tourists will be smokers, of course). Even with this correction, the quantity of cigarettes sold appears to be considerably higher than the actual smoking capacity of residents and tourists.

2.3. It must therefore be assumed that a certain quantity of cigarettes (and probably other types of manufactured tobacco, for which no figures have been provided) is destined for 'export' to the mainland. In its opinion [1] on the proposal for a Council directive [2], the EESC pointed out that cross-border purchases of tobacco were perfectly legal, as long as the quantities stipulated in Directive 95/12/EC were respected. However, in view of the presumably considerable quantities not destined for consumption on the island, it must be wondered whether the directive is genuinely complied with, and whether any type of illicit trade might be going on. This — albeit arbitrary — suspicion would not seem wholly unreasonable.

2.4. At any rate, whether the tobacco leaves the island legally or otherwise, the revenue losses for the French state ought to be considerable. Alongside this lost revenue, we are asked to consider keeping 53 people employed in manufacturing cigarettes, although their output can hardly be expected to meet actual needs. Leaving aside the alleged higher production costs, it seems debatable whether the distribution costs referred to in the Commission document are higher for cigarettes produced in Corsica than for those that have to be shipped or flown in from the mainland.

2.5. The claims regarding distribution would also seem to be open to question. No retailer sells only cigarettes. Consequently, the 350 retailers it is claimed take on staff to cope with increased sales (almost 350 people, according to the document) do so, fortunately, for completely different reasons than tobacco sales. It should also be noted that, according to the third recital of the directive, most of the retailers are to be found in sparsely populated mountain areas. Sadly for them,

[1] OJ C 36 of 8.2.2001, p. 111.
[2] COM(2001) 133 final

they are unlikely to experience sales volumes that would force them to take on outside help, in addition to that provided by the family.

2.6. All things considered, the EESC feels that the exemption measures are only marginally warranted by the need, referred to in the fifth recital, 'to prevent damage to the island's economic and social equilibrium'. Furthermore, it cannot fail to point out that the circumstances described in the French Government's document, and repeated in the Commission document, regarding 'Corsica's special position as an island' and the problems raised by the 'isolation and topography of the island' are common to almost all islands in the EU, sometimes more acutely.

2.7. All things considered, the EESC feels that the reasons advanced do little to justify the provision, so much so that one might wonder whether this were not a almost a case of state aid rather than a temporary tax exemption. However, the Committee is well aware of the political circumstances and of the state of relations between Corsica and the motherland. A refusal would have consequences reaching far beyond the relatively small figures at stake. Consequently, and mindful of its responsibilities, the EESC reluctantly endorses the proposed directive as submitted.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council for a monitoring mechanism of Community greenhouse gas emissions and the implementation of the Kyoto Protocol'

(COM(2003) 51 final — 2003/0029 (COD))

(2003/C 234/14)

On 19 February 2003 the Council decided to consult the European Economic and Social Committee, under Article 175 (1) of the Treaty establishing the European Community, on the above-mentioned proposal.

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 27 June 2003. The rapporteur was Ms Le Nouail-Marlière.

At its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion by 106 votes in favour, with eight abstentions.

1. **Introduction**

1.1. Scientific evidence [1] confirms that climate change is taking place and that most of the warming observed during the last 50 years is attributable to human activities. The atmosphere concentration of carbon dioxide has increased by 31 % in 25 years, the global average temperature has increased by 0,6 °C since 1861 and the rate of change will be more rapid if measures are not taken to reduce emissions. Temperatures are projected to rise by 1,4 to 5,8 °C over the next 100 years, and sea levels by between 0,1 — 0,9 metres [2].

[1] Third Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) 2001 and European Commission study on World Energy, Technology and Climate Policy Outlook.

[2] Europe's environment: the third assessment, European Environment Agency, Copenhagen, 2003, p. 91.

Climate change will result in economic losses due to more frequent tropical cyclones, loss of land as a result of rising sea levels and damage to fishing stocks, agriculture and water supplies. Less than a metre rise in sea levels in 100 years would engulf several small island states, flood coastal areas and displace 150 million people by 2050.

It will also worsen food security in tropical, sub-tropical and predominantly rural countries. These will suffer a general reduction in potential crop yields and be most vulnerable to famine, social unrest and political instability.

The number of people living in countries that are water-stressed will increase massively, from 1,7 billion people (one-third of the world's population) to around 5 billion by 2025. There will be an increase in the geographic spread of potential transmission of malaria and dengue fever, which already impinge on 40-50 % of the world's population.

All the models warn that given the planet's thermic inertia, even drastic action would need decades to significantly check warming.

1.2. The United Nations Framework Convention on Climate Change (UNFCCC) was signed by 154 countries at the Earth Summit in Rio in June 1992. It came into effect on 21 March 1994 and it represents a concerted effort to tackle global warming occurring as a result of human-induced (anthropogenic) climate change. Its ultimate objective is the 'stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner' ([1]).

1.3. The Kyoto Protocol (KP) to the UNFCCC was adopted in December 1997 at the 3rd session of the Conference of the Parties (COP) in Kyoto, Japan. To date, 76 countries plus the EC and its Member States, as well as most of the applicant countries, have already ratified it.

To enter into force the Kyoto Protocol needs to be ratified by at least 55 countries responsible for more than 55 % of carbon dioxide (CO_2) emissions in 1990. The United States withdrew from the protocol in 1998. Despite the efforts to achieve this objective before the Johannesburg summit in August 2002, the protocol has not yet entered into force.

1.4. The EU is committed to reducing its collective emissions of greenhouse gases by 8 % below its emissions level in 1990 in the 2008-2012 period. However, total greenhouse gas emissions in the EU are expected to fall by 4,7 % from 1990 to 2010 assuming adoption and implementation of current measures, leaving a shortfall of 3,3 % to the target of 8 % reduction. If the EU is to achieve its Kyoto target, substantial further action and additional policies are needed ([2]). In 1998 the EU Member States adopted the 'burden-sharing agreement' in which they agreed to internally distribute the collective EU reduction obligation of 8 %. The EU ratified the Kyoto Protocol at the Council meeting of 4 March 2002 pursuant to Council Decision No 358/2002/EC ([3]). The Member States completed their national ratification procedures on 31 May 2002.

1.5. In order to encourage and facilitate the implementation of their emission reduction commitments, Annex I Parties have at their disposal so-called flexible mechanisms, created with a view to promoting the achievement of emissions reductions in a cost-effective way. These flexible mechanisms are: Emissions Trading, Joint Implementation, and the Clean Development Mechanism (encouraging sustainable development and cooperation between developed countries and developing countries).

At the Seventh Conference of the Parties to the UNFCCC held in Marrakech in November 2001 (COP7), the Parties also adopted the Marrakech Ministerial Declaration recognising that the World Summit on Sustainable Development provides an important opportunity for addressing the linkages between climate change and sustainable development ([4]).

2. **Content of the proposal**

2.1. This proposal replaces Council Decision No 389/93/EEC for a monitoring mechanism of Community CO_2 and other

([1]) Article 2 UNFCCC.

([2]) Europe's environment : the third assessment, European Environment Agency, Copenhagen, 2003, p. 102.

([3]) Decision 358/2002/EC concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder (OJ L 130 of 15.5.2002, p. 1, comprising the protocol and its annexes.
EP Report A5-0025/2002 on the proposal of the Council relating to the above decision.

([4]) Commission Communication to the Council and the European Parliament on climate change in the context of development cooperation. (COM(2003) 85 final).

greenhouse gas emissions [1] which established a mechanism for monitoring anthropogenic greenhouse gas emissions and evaluating progress towards meeting commitments in respect of these emissions.

2.2. The aims of this revision are to:

— reflect in the Monitoring Mechanism reporting obligations and guidelines for the implementation of the UN Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol, on which the political agreements and legal decisions were taken at the seventh Conference of the Parties (COP7) in Marrakech;

— provide for further information on emission forecasts at Member State and Community-level, and harmonisation of these emission forecasts, in the light of experience with the current Monitoring Mechanism;

— to address reporting requirements and implementation relating to the 'burden-sharing' between the Community and its Member States.

2.3. Experiences with the current Monitoring Mechanism have revealed the need for some further harmonisation in the reporting of policies and measures and projections by Member States. So far, proper assessment of Member States' policies and projections has been difficult due to significant methodological differences under the current scheme. Reliable projections will be crucial for an early warning system and for non-compliance prevention.

2.4. A Community greenhouse gas Inventory System under the Kyoto Protocol will be introduced. The Community's compliance with Kyoto Protocol guidelines and the quality of the Community greenhouse gas inventory depends on the implementation of National Inventory Systems in the Member States and the quality of the Member States' inventories.

2.5. In order to assess whether the Community and its Member States are on track towards their targets under the Kyoto Protocol, i.e. the actual progress and projected progress, the established annual reporting to the Council and the Parliament needs to be continued.

2.6. Guidelines under Article 7(4) of the Kyoto Protocol require that each Annex I Party shall establish and maintain a national registry to ensure the accurate accounting of the issuance, holding, transfer, acquisition, cancellation and retirement of assigned amount units, emission reduction units, certified emission reductions and removal units. As Parties to the Kyoto Protocol, the Community and the Member States are therefore required to establish national registries.

3. **General comments**

3.1. The Kyoto Protocol, which was established in 1997 to limit the emission of greenhouse gases, represents only 3 % of the effort necessary to check the warming process. Its application would be derisory or even counter productive for some, as it favours sectors presenting other risks, such as nuclear energy or accelerated carbon storage, whose side effects have not been determined. Nevertheless, the EESC approves the modifications to simplify the annual or periodic report procedures by Member States of the enlarged European Union and their communication obligations to the Convention Secretariat.

3.2. The EESC supports the Commission's efforts to present forward projects and studies, such at the WETO study (World Energy, Technology, and Climate Policy Outlook 2030) [2]. This is a priority of the Sixth Community Framework Research Programme 2003-2006, which earmarks 2,12 billion euros for sustainable development, global change and ecosystems over the next four years. This study incorporates world energy forecasts, progress in the field of energy technologies, consequences on climate change policy and technological prospects.

3.2.1. The Kyoto Protocol's objectives for emissions could be reached more easily if new energy sources were found.

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(1) OJ L 167 of 9.7.1993, p. 31, modified by Decision No 296/99/EC (OJ L 117 of 5.5.1999, p. 35).
Opinion of the Economic and Social Committee on the Proposal for a Council Decision for a monitoring mechanism of Community CO_2 and other greenhouse gas emissions, OJ C 73 of 15.3.1993, p 73.
EP Opinion, single reading OJ C 115, p 246 (1993).
Opinion of the Economic and Social Committee on the Proposal for a Council Decision amending Decision 93/389/EEC for a monitoring mechanism of Community CO_2 and other greenhouse gas emissions, OJ C 89 of 19.3.1997, p. 7.
EP Decision, second reading PE T4-0079/1999, 9.2.1999, OJ C 150 of 28.5.99.

(2) Two recent Commission communications should also be mentioned: Climate change in the context of development cooperation COM(2003) 85 final of 11.3.2003, and Developing an action plan for environmental technology COM(2003) 131 final of 25.3.2003.

According to the WETO study, the costs of implementing the objectives could be reduced by up to 30 % if nuclear or renewable energy sources were used on a large scale. Emissions could also be significantly reduced through improved energy efficiency and energy savings, which would reduce energy demand and the carbon intensity of energy consumption. The WETO study also considers that the industry will probably have to make the greatest efforts to reduce the energy demand. Lowering high carbon intensity energy consumption should mainly be achieved by replacing coal with gas and biomass, as well as oil to a lesser extent. This scenario would also include a considerable increase in various forms of renewable energy production such as wind and solar power. The Committee believes that all sectors of human activity should be involved in efforts to lower energy consumption.

3.3. The ECCP has confirmed that there is a great emissions reduction potential, but that much of this potential has remained unrealised because of obstacles that hinder the market penetration of the relevant technologies. This is why, within the ECCP, a number of different barriers have already been identified along with specific actions to overcome them ([1]).

4. Specific comments

4.1. The Clean Development Mechanism (CDM) will allow developed countries to gain Certified Emission Reductions by financing emissions-reducing projects in developing countries. The Certified Emission Reductions will then in turn help the developed countries in meeting their own emission reduction targets. Consequently, the Clean Development Mechanism is of particular relevance with respect to developed-developing country relations and cooperation.

4.2. Already now, before the Kyoto Protocol enters into force, project-based activities can be eligible under the CDM and generate credits. These credits will have a value since governments can purchase them to meet their Kyoto targets or entities can use them to fulfil their domestic obligation to reduce emissions at lower cost. This makes the CDM an economic incentive for greening Foreign Direct Investment. As such, and taking account the environmental additionality requirement laid down by the Kyoto Protocol, the CDM is expected to be a good vehicle for the transfer of clean and modern technologies in developing countries while delivering real development benefits ([2]).

5. Conclusions

5.1. The EESC stresses the importance of updating the EU's monitoring system for Community greenhouse gas emissions and implementing the Kyoto Protocol if it wants to work actively towards accessions to and ratifications of the Kyoto Protocol, in the context of pan-European environmental cooperation after the Kiev Conference ([3]).

([1]) COM(2003) 131 final.

([2]) COM(2003) 85 final.

([3]) Communication from the Commission to the Council and the European Parliament on Pan-European environmental cooperation after the 2003 Kiev conference COM (2003) 62 final.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Internal Market Strategy — Priorities 2003-2006'

(COM(2003) 238 final)

(2003/C 234/15)

On 8 May 2003, the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for the Single Market, Production and Consumption was responsible for the Committee's work on the subject. The Committee appointed Mr Cassidy as rapporteur-general.

At its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion by 80 votes to 15, with 18 abstentions.

1. Ten years of an internal market without frontiers

1.1. The EESC welcomes the Commission communication and its conclusions and the action plan set out in the appendices. It agrees that much remains to be done to achieve the full potential of the internal market.

1.2. The internal market is incomplete with major challenges to be overcome from 2003 to 2006. Various national constraints on the free movement of goods and people remain.

1.3. In addition to removing national barriers to the free movement of goods, services, capital and people, new challenges and developments, like the changing character of the EU (from EEC to EU and beyond), the Lisbon strategy and its broader political approach, upcoming enlargement, the outcome of the Convention proceedings, a changing international division of labour and the current economic slump, influence the environment and the framework conditions for the internal market.

1.4. Though there are now relatively few restrictions on capital movements, progress in implementing the Financial Services Action Plan has been slow. This is a major challenge for the European Parliament and the Council to speed up their co-decision as financial services are the lubricant of business in the EU. National protection of financial services may also hinder the internal market in cases where no EU measures yet exist. In removing these obstacles, account must be taken of citizens' interests (consumers, workers and employers.)

1.5. Progress over the last ten years has been insufficient to impact on unemployment, which remains too high, at 8 % with a forecast rate of 8,8 %, according to the European Commission's Spring Economic Forecast adopted on 8 April ([1]). While removing remaining obstacles to the internal market does open up additional economic opportunities and thus also potentially creates more jobs, unemployment cannot be tackled successfully without an employment-oriented macroeconomic policy and enhanced efforts to implement the employment strategy at national level.

1.6. The Commission communication emphasises that achieving the internal market is a continuing process shared with Member States. The communication highlights, however, the increase in regulatory barriers, which arise from the way in which some Member States transpose European measures into their national law.

2. The priorities from 2003 to 2006

2.1. *Facilitating the free movement of goods*

Trade with third countries has been growing faster than trade between Member products manufactured in another country. Member States should trust each other's systems. A sound legal system, high and transparent quality standards and consumer education initiatives provide the best conditions for increasing trade in goods between Member States.

([1]) European Economy No 2. 2003.

2.2. *Integrating services markets*

2.2.1. Specific characteristics of services such as the importance of know-how and qualifications for the service-provider, considerable differences in national regulations and the resulting differences of prices, incomes and standards and the absence of effective mechanisms at EU level to deal with these differences as well as a lack of confidence in each others' regulatory systems have up to now hindered the development of an internal market in services. Services still account for only 20 % of trade in the internal market — less than a decade ago! As nearly 90 % of the SMEs in the EU are in service industries, there is an urgent need for progress.

2.2.2. Apart from the financial services, where 32 out of the 42 measures of the action plan have been adopted, other segments of the services sector have not yet been subject to a comprehensive internal market policy. As the Commission now plans action in this field, the Committee would draw attention to specific requirements in this field with respect to social, environmental and consumer safety standards, especially with respect to integrating the new Member States, as well as the needs of SMEs, e.g. in sales promotion and the principle of the country of origin.

2.3. *Ensuring high quality network industries; ensuring high standards in services of general interest*

2.3.1. Companies offering service of general interest provide ongoing, high-standard and comprehensive service cover. The prime concern in any moves towards privatisation, outsourcing or liberalisation must always be the added value for the consumer and affordable, generally accessible service provision. For reasons of safety and to maintain standards, adequately trained specialist staff must also be on hand in order to be able to bridge bottlenecks.

2.3.2. Network industries — telecommunications, water, energy, transport, etc. — are an essential part of the EU internal market. However, though there has been progress in bringing down prices after liberalisation, notably for companies and to some extent also for consumers, other improvements for consumers and users have been limited and, in some instances, enormous problems have arisen with supply and safety.

2.3.3. The EESC is monitoring with great interest the Commission's request to Council and Parliament to speed up their adoption of the 'second railway package' and the package designed to create a Single European Sky. With regard to network industries in particular, the Committee is in favour of achieving a balance between the general interest and competition. The Committee also believes there is a need for the Commission to present a proposal for a framework directive consolidating the political principles governing services of general economic interest and giving Member States the flexibility they need in this area.

2.3.4. The larger internal market inevitably leads to an increase in the volume of transport. The challenge facing EU transport policy is thus to provide an appropriate framework for the requisite transportation that also is also environmentally — and socially — compatible and ensures that the various transport modes (rail, road, water etc.) are used sensibly side-by-side. At the same time, however, incentives must be put in place to avoid unnecessary journeys.

2.3.5. The Committee therefore backs moves to speed up completion of the Commission priorities (TEN-T). However, the resources provided to date by the Member States and the Community are insufficient to achieve these objectives.

2.4. *Reducing the impact of tax obstacles*

2.4.1. The principle priority, as it has been for almost twenty years, is a harmonised system whereby VAT is charged in the country of origin (the origin principle) rather than in the country of consumption (the destination principle). Fifteen different sets of VAT regulations add enormously to the burdens on business. The EESC emphasises that the question of VAT *rates* should remain in the hands of Member States but the Commission has a role in bringing about a harmonised *system*.

2.4.2. The EESC warns the Commission that its proposals for phasing out vehicle registration tax will meet objections from some Member States.

2.5. *Expanding procurement opportunities*

Few public procurement contracts are awarded cross-border in the public procurement market which accounts for 16 % of EU GDP, i.e. EUR 1 429 billion. So the system is not working satisfactorily. The EESC is concerned about the slow progress in the Council and the Parliament in adopting the current legislative procurement package. Thus, there is still room for improving the system. As this is a major procurement market, cross-border invitations to tender involving a larger number of potential applicants could improve the competitive environment. That said, companies must factor into their cost

calculations the higher transport costs usually entailed and the technical and commercial challenges of executing cross-border orders. In that regard, large companies used to international operations are better placed than SMEs operating on tight margins. Careful checks must be carried out to obviate the threat of social dumping through the deployment of workers from low-wage countries, or other workers paid below the contractually agreed rate.

2.6. *Improving conditions for business*

2.6.1. A key tool for the success of the internal market is the community patent. The EU must create an environment in which business and job creation can thrive. The EESC very much regrets the delay in full implementation of the recent Council agreement on the community patent.

2.6.2. The EESC has frequently expressed its concern about the impact of EU and national measures (red tape) on European internal market players. One of the aims of the internal market programme is to reduce the burden placed on companies and the public. It therefore urges the Commission and Member States to produce more detailed 'impact assessments' on their proposals.

2.6.2.1. The Committee has repeatedly pointed out that small and medium-sized enterprises are not sufficiently involved in designing measures to implement the internal market. It urges that dialogue between the Commission and SMEs be reinforced. The EESC hopes that, in accordance with the recommendations of the European Charter for Small Enterprises, DG Internal Market will establish a system of consultation and cooperation with the organisations representing small enterprises to guarantee their participation in the entire Community legislative process.

2.6.3. The Committee, however, draws attention to the difference between, on the one hand an unnecessary regulatory and administrative burden and, on the other hand, the social, environmental and consumer protection standards and regulations required to ensure that living and working conditions are maintained and developed, in accordance with the common goals of the EU laid down in the Treaties and the Lisbon strategy.

2.6.4. The EESC looks forward to seeing the Commission proposals on corporate governance and hopes that they will be consistent with worldwide criteria. International Accounting Standards require legal endorsement throughout the EU in accordance with the IAS Regulation and urges the Commission and the Council to move rapidly to the adoption of international standards on auditing. The interests of all stakeholders should be taken into account.

2.6.5. The EESC supported the Commission proposals for cross-border takeover bids. It notes that particular care is required to ensure a balanced interplay of the various forces involved so that the same conditions apply to all countries.

2.6.6. Concerning the Commission proposals for a regulation on a European Private Company Statute for SMEs, the EESC hopes that this will not impose additional burdens and points out that there are many large private companies whose shareholders and workers wish them to remain private.

2.7. *Meeting the demographic challenge*

2.7.1. Though the Commission has limited scope for initiatives in this field, the communication highlights the twin problems of an ever aging population and ever declining age of retirement.

2.7.2. The 'dependency ratio' (the number of people that work to support those who are retired) also arouses concern.

2.7.3. Changing demographic trends call for necessary measures in the labour market as well as in social protection systems and infrastructure, e.g. in the health system. Within the Lisbon framework, the decision to boost employment is the priority objective if economic, social and more specifically, pension strategies are to be conducted properly [1]. In addition to the non-discrimination of older workers, however, action is also needed to reach higher employment rates among older people. Well-targeted employment and macro-economic policies are necessary to create the jobs needed, otherwise increased employment rates among older people will have negative effects on the employment of younger age groups.

2.7.4. The EESC points out [1] that necessary reforms in view of a fair and balanced pension system have to take into account increasing longevity as well as new-style employment contracts and the effects of the different models of financing pensions. The Committee would also like to draw attention to the fact that reforms of social protection systems tend at the moment to be discussed from the point of view of internal market and budgetary necessities alone. This may have adverse effects on the systems as a whole. The pension systems need reform but must be discussed in overall terms. Moreover, reform efforts have to involve all the stakeholders concerned, especially the social partners.

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[1] EESC Opinion on Safe and Sustainable Pensions, OJ C 48 of 21.2.2002.

2.7.5. The internal market also brings challenges for health services. On the one hand, worker mobility within the internal market can help resolve staffing bottlenecks, especially among the nursing staff. On the other hand, patient mobility may lead to unequal financial burdens and imbalances in the differently structured systems. In this case too, discussing the challenges purely from an internal market perspective may have an adverse impact. To avoid that, future requirements must be considered and discussed in overall terms.

2.7.6. The Committee also draws attention to the reform of social protection systems undertaken in the incoming Member States. Reforms in these countries have gone in the direction of systems relying heavily on private initiative, private responsibility and personal risk as well as on funded pillars. This may create a division and tensions when the countries join.

2.8. *Simplifying the regulatory environment*

Replacing fifteen sets of national regulations with one EU-wide regulation is one of the objectives of the internal market. However, Member States continue to add to the requirements of EU directives (a process known as 'gold plating'). The European Parliament has suggested the introduction of an internal market 'compatibility test', a proposal the EESC supports ([1]), provided the test criteria take account of the interests of all citizens in the internal market.

2.9. *Enforcing the rules*

2.9.1. Member States do not implement European directives speedily or accurately. The number of infringement cases rose from under 700 in 1992 to over 1 500 in 2002 ([2]). The resolution of these infringement cases depends very much upon the work of the European Court of Justice (ECJ). The EESC would like a speeding up in resolution of infringement cases and hopes that the SOLVIT arrangements will contribute materially to this speeding up. The EESC asks the Commission to report regularly on the achievements of the SOLVIT network.

2.9.2. The EESC believes that a possible solution to the transposition deficit would be greater use of Parliament and Council regulations (to be known as EU laws), which are directly applicable rather than Parliament and Council directives which are addressed to governments and from which the main problems of transposition arise.

2.9.3. Regulations should only be used, however, if there is strict compliance with the subsidiarity principle and if, at the same time, standards are respected in social security systems and in the fields of consumer and environmental protection.

2.9.4. The EESC welcomes the Commission proposal for a 'screening mechanism' whereby Member States must notify new technical regulations to the Commission before they come into effect.

2.9.5. The EESC also welcomes Commission suggestions for better administrative cooperation and for the establishment of voluntary EU wide codes of conduct/professional rules.

2.10. *Providing more and better information — An internal market for citizens*

2.10.1. In spite of the progress made so far, citizens are still largely unaware of their rights and of the help available to them through programmes and contact points such as EURES (for jobseekers) and SOLVIT (for removing obstacles to the free movement of goods and services).

2.10.2. Also as far as consumers are concerned, the completion of the internal market has been a major disappointment, as they have not enjoyed the hoped-for benefits that they should have.

2.10.3. The public remain largely unaware of their rights and opportunities and of the programmes and contact points available to help them. It would therefore be worthwhile drawing up a blueprint for improving public information and easing grassroots access to existing programmes and contact points. The Committee thus recommends that information be provided about existing problem-solving machinery (e.g. SOLVIT) and how to access it and that such access also be made easier. For instance, employers', workers' or consumers' associations could act as contact points for companies and the public and provide a link to the appropriate problem-solving offices, such as the SOLVIT centres. However, as this is not actually part of these organisations' remit, it could impose an extra financial burden on them, and might possibly necessitate their being provided with additional resources. However, there should be no duplication of structures and resources.

([1]) The Harbour Report of the European Parliament, A5-0026/2003.
([2]) Source: Internal Market Scoreboard No 11: November 2002.

2.10.4. Although the free movement of persons is one of the main objectives of the internal market, there are still obstacles as the number of complaints addressed to the Commission shows. Programmes enhancing the mobility of students have been quite successful. Maybe this is due to the fact that mobility is not seen as an end in itself. This also has implications for the geographic development of the internal market, instead of asking people to go where the jobs are, it may be more effective and also more compatible with people's needs to create the jobs where people are. This necessitates a comprehensive regional and structural policy as an adjunct to the internal market.

2.10.5. In order to be able to take greater advantage of the opportunities offered by cross border shopping, consumers need better information and existing barriers have to be removed. One of the key challenges for the Commission will be to ensure that Member States' judicial systems are able to deal quickly and cheaply with cross-border complaints about unreliable products or inadequately performed services. The Commission's initiatives in encouraging Alternative Dispute Resolution (ADR) are to be welcomed.

2.10.6. Knowledge of consumer rights in the internal market is extremely limited. Similarly, the jurisprudence of the ECJ and the CFI has too low a level of awareness even among lawyers. The EESC opinion on PRISM 2002 (rapporteur: Mr Pezzini) has drawn attention to these failings and the way in which national and local officials often exploit this ignorance. The conclusions of this opinion are supported.

2.10.7. The own-initiative opinion by Mr Hernández Bataller ([1]) examines in detail the need for the Commission to take a number of new initiatives in the field of consumer education. His recommendations are supported.

3. **Getting the best out of the enlarged internal market**

The Commission communication acknowledges that the enforcement of EU law will be even more difficult with enlargement. It proposes to issue a recommendation setting out 'best practices' which should be applied consistently throughout the EU to ensure better and faster implementation. The EESC welcomes this.

3.1. *Building the internal market in an international context*

3.1.1. The enlarged internal market will bring many economic advantages and will strengthen the competitiveness of the EU in the global market, provided that the Union manages to exploit its existing potential, e.g. the utilisation of the existing workforce, and to deal effectively with the challenges associated with the enlargement of the internal market.

3.1.2. Among these challenges are the following: reducing economic and social discrepancies, transitional provisions which cause divisions in the internal market, sufficient administrative and judicial capacities in order to deal effectively with the implementation of the EU acquis and the increased volume of cross-border economic activities, differences in the quality of goods and services especially in agriculture, special challenges for border regions, an increasing necessity for adapting infrastructure to the changing needs, an increasing transport volume, the challenges of special economic zones, differences in tax regimes, health and safety standards in the workplace, environmental standards, reinforced border controls, increased competition, coping with unemployment due to restructuring, reforming social systems on the basis of the principles of economic, social and territorial cohesion and the necessity of strengthening social dialogue in order to enable social partners and civil society to fully participate in shaping the future internal market.

3.1.3. Effective support for the restructuring process and the removal of economic and social discrepancies between the existing Member States and the future Member States — also after their accession — are key prerequisites for a coherent economic and social development of the new EU as a whole, in line with the Lisbon objectives. Efforts need to be made in all areas of EU policy in order to remove, as quickly as possible, the differences between the existing regions of the EU and the new EU regions and assure a coherent internal market.

3.1.4. The Committee plays its part by regularly organising hearings in present and future Member States in order to find out how the relevant actors cope with developments in the internal market, which obstacles they encounter and which measures would help develop the internal market and overcome the obstacles. It has also developed the PRISM initiative which collects data on relevant initiatives and thus provides information.

3.2. *Monitoring*

The Commission communication acknowledges that no matter how good the strategy statement may be, it will fail unless systematically monitored and evaluated. The EESC firmly supports that.

([1]) OJ C 133 of 6.6.2003, p. 1.

4. **Conclusions**

4.1. While welcoming the Commission communication and supporting its recommendations, the EESC believes that there are some significant omissions. In particular, there is insufficient attention given to job creation. Though the Commission communication expresses the belief in general terms that the internal market will create jobs, it does not provide any evidence.

4.2. Furthermore, the Commission communication virtually overlooks consumers and the advantages to which they have a right through the completion of the internal market.

4.3. The Committee also points out that, on its own, the setting-up of the internal market will not resolve the problems on the European labour market but that additional pro-active measures will also be required on this front.

4.4. The EESC believes that labour markets are under constant development, jobs disappear in the course of economic restructuring, changes in the international division of labour, technological development, etc. New jobs will be created which require different skills. New businesses may require different economics and other conditions (infrastructure, etc.) How to manage change is an important challenge to the European Commission and especially to the social partners.

4.5. The internal market brings with it challenges for the social systems and their future development. Any discussion about the future shape of the social systems must not, however, focus solely on the internal market and budget requirements but must look at the systems as a whole and take account of their objectives.

4.6. Slow progress with the Lisbon process is beginning to cause concern. The Commission communication does not acknowledge that concern.

4.7. An international threat to the internal market strategy may arise from deflation spreading to the EU from the USA and Japan. The EESC is concerned about this, but there is no reference to it in the Commission communication.

4.8. Additional welfare benefits within the EU will not be achieved by market liberalisation and enhanced competition alone. A supporting macro-economic policy geared towards growth and employment will do much to help complete the European internal market.

4.9. Lastly, the EESC finds it strange that the strategic priorities for the internal market do not include steps to gain citizens' confidence (consumers and workers) and to ensure that they benefit from the advantages associated with completion of the internal market.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

APPENDIX

to the opinion of the European Economic and Social Committee

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

Point 2.6.4

Amend as follows:

'The EESC looks forward to seeing the Commission proposals on corporate governance and urges the Commission and the Council to check whether the International Accounting Standards and the International Standards on Auditing are compatible with the European economic model and to make any adjustments as may be necessary, taking account of the interests of all stakeholders.'

Result of the vote

For: 44, against: 44, abstentions: 12.

Opinion of the European Economic and Social Committee on the 'Role of civil society in European development policy'

(2003/C 234/16)

On 17 January 2002 the European Economic and Social Committee, acting under the second paragraph of Rule 29 of its Rules of Procedure, decided to draw up an opinion on the 'Role of civil society in European development policy'.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 June 2003. The rapporteur was Ms Florio.

At its 401nd Plenary Session of 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion by 63 votes in favour and 4 abstentions.

1. Introduction

1.1. This opinion is intended as a contribution to the debate on the role of civil society in international relations and, more particularly, in the European Union's development policy, which has grown in importance over recent years. This has been brought into particularly sharp focus by recent world events such as the war in Iraq, and by the fundamental role the European Union should play in the region in reconstruction and establishing a genuinely democratic society.

1.2. Against this backdrop, civil society's increasing interest in development policy and the international scene has been matched by a growing recognition on the part of international organisations that non-state actors (NSAs) are key actors in framing programmes and development policies.

1.3. An awareness of growing economic interdependence and the recognition that international balances are constructed on the glaringly obvious North-South divide have prompted wide sectors of civil society — the NSAs — to take a closer interest in all development-related issues, and to seek to take a more active part in the debate on social, economic and cultural inequality. This process of engagement, which began back in

the 1980s, gathered pace in the following decade, when the changing global political scene and the demise of the bipolar world order removed a number of obstacles to broader expression and participation on the part of non-institutional players.

2. The European Union's development policies: legal bases and evolution of guiding principles

2.1. The European Union's development policy is rooted in the 1957 Treaty of Rome. The Community Member States undertook to maintain bonds of solidarity with 'the colonies and overseas territories' and to contribute to their development. In the 1960s, when most of these territories won their independence, their relations with the Community were governed by the Yaoundé Conventions (1963, 1969). Only in the 1970s, and in particular after the United Kingdom's accession, did development policy begin to grow in complexity: these years were marked by the Lomé Convention and new links with a number of countries in North Africa, Asia and Latin America.

2.2. In 1993, the Maastricht Treaty on European Union, and more particularly its Articles 177 to 181, established a specific legal basis for European development policy. The Treaty defines its objectives as being: the sustainable economic and social development of the developing countries, the smooth and gradual integration of the developing countries into the world economy, and the campaign against poverty. The Treaty also emphasises the principles of freedom, democracy, and respect for human rights and fundamental freedoms. Further progress in the affirmation of human rights was marked by the Treaty of Amsterdam (1999) and the European Charter of Fundamental Rights agreed in Nice (2000).

2.3. The European Union and its Member States currently provide 55 % of official aid to the developing countries, which gives some idea of the potential significance of the Union's policies and their impact in favour of genuinely fair and sustainable development. The main objective is to combat poverty, starting from the principle of human and social development which is fair, sustainable, and participatory.

2.4. The European Union is consequently emerging on the international scene as an active player in disseminating development policies based on an awareness of different cultures and geared to building up partnerships with third countries, treating them as full equals in spite of the difference in levels of development.

2.5. The Cotonou Agreement, signed in June 2000, marks a turning point in the EU's policies in this area. The agreement makes clear the link between social dialogue, civil dialogue, development aid and trade support. For the first time, the dialogue between institutions and NSAs is a legally-binding obligation, with the state and civil society assuming a mutually supporting role which should help to boost the impact of development programmes.

2.6. The background to the Cotonou Agreement is one of an overall shift in EU development policy. The Joint Declaration on EU development policy adopted back in November 2000 by the Council and the Commission urged the most wide-ranging participation of all segments of society in order to create the conditions for greater equity and for the strengthening of the democratic system in the developing countries; in 2001, the White Paper on European Governance [1] underlined the importance of civil society and of the dialogue with governmental and non-governmental actors of third countries in defining policies with an international dimension.

3. The new participatory approach in development policy

3.1. EU development policy is thus moving towards a participatory approach which acknowledges civil society as a new actor in international relations, at least where development policies are concerned. It embraces all local social players and, most importantly, promotes their involvement in the various stages of drafting and implementing national strategy documents. As part of this new vision, civil society should not only benefit from being more actively embedded within the decision-making processes, but should itself take on a larger part of the responsibility for the development process as a whole.

3.2. The political dimension of development has therefore been recognised, an area in which the equal contribution of the public and private sectors, economic and social actors and civil society — who should all be brought into the process — is essential. Only close cooperation between these social players can provide any guarantee of coherent development policies and maximise the impact of development aid.

3.3. Participation and dialogue with NSAs also generate considerable added value. Given that the concept of development is no longer seen in purely economic terms, but also includes a political and social dimension, involving civil society is an essential contributing factor in setting up or consolidating democratic systems. It also plays a significant part in conflict

[1] (COM(2001) 428 final).

prevention and resolution. The Commission's Communication on linking relief, rehabilitation and development ([1]) marked a step in this direction, arguing that closer coordination between all the relevant actors, including civil society groups as well as NGOs and international organisations, is crucial in responding effectively to crises.

3.4. More recently, the Conclusions of the 5th regional seminar of ACP economic and social interest groups, held in Yaoundé from 21 to 23 May 2003, also emphasised the key role of civil society in preventing conflicts and social tensions, given the large number of coups d'état and civil wars that persist in developing countries.

4. Towards implementation of the participatory approach

4.1. The Commission's Communication on the participation of non-state actors in EC development policy ([2]) illustrates how the EU is striving to put the participatory approach into practice in development policy. Overall, considerable efforts and energy have been expended to this end, but full introduction of the approach still seems some way off. This is in part due to the fact that rules and procedures — where they exist — are sometimes not clearly formulated, as well as to the evident difficulties inherent in any thorough-going reform.

4.2. Formal involvement of civil society at all stages in the formulation and implementation of development policy exists only in the Cotonou Agreement. Under the agreement, NSAs must be informed and consulted about cooperation policies; have access to resources in order to support local development; be involved in the implementation of projects and programmes in areas or sectors that concern them; and be provided with capacity-building support. In this regard, it would be helpful for NSAs to be brought into the preparation of national development strategies. Numerous speakers at the ACP civil society forum organised by the EESC in December 2002 described a serious lack of information and involvement, specifically in cooperation programmes.

4.3. The Barcelona Process is of key importance in this regard. Under the process, the Euro-Mediterranean Partnership (Euro-Med) was launched in November 1995 with the aim of:

— establishing a common area of peace and stability;

— creating an area of shared prosperity;

— developing human resources, and promoting understanding between cultures and exchanges between civil societies.

The programme has received funding (especially from MEDA sources) and is operational in many fields.

4.4. Other agreements, programmes or dedicated funds, however, make no provision for compulsory consultation or involvement of third country NSAs, although in practice the Commission has consulted with various elements of civil society on a more or less informal basis.

4.5. There are a number of examples of this: human rights NGOs from the EU countries were consulted in the programming phase of the European Initiative for Democracy and Human Rights, although only after the programming document had been adopted were field missions undertaken and contact made with local NGOs; turning to humanitarian assistance, while ECHO does not directly finance third country NSAs, it views them as local partners essential to identifying local needs; similarly, the European Union has established an institutional dialogue with Latin America through the Rio Group and, at subregional level, through the San José Group and Mexico, the Mercosur countries and the Andean Community; the most recent regulation governing the ALA programmes has accepted various NSAs into the sphere of humanitarian cooperation and, most importantly, has recommended that relations between ALA and EU partners — NSAs in particular — be stepped up.

4.6. It thus emerges from the Commission's communication that a relatively large amount of attention is paid to civil society in granting funds to carry out projects, but that it is not yet involved in policy-formation. Third country NSAs are basically seen as partners or indirect recipients of funds, but not as bearing any active responsibility for shaping development policy.

4.7. In 2001, the Commission initiated a process of 'deconcentration' of programming to its delegations, transferring resources and responsibilities to them with a view, precisely, to introducing a more participatory approach.

([1]) COM(2001) 153 final.
([2]) COM(2002) 598 final.

4.8. The Commission is currently attempting to implement a range of initiatives to achieve real participation of NSAs, in part through enhanced capacity-building support for them. As far back as 1976, the Commission established budget line B7-6000 to encourage the participation of European civil society in the dialogue with the Commission on development policy, and this was augmented in 1992 with budget line B7-6002, specifically intended to strengthen capacity and mobilise decentralised actors in the developing countries.

5. Obstacles and problems

5.1. As has already been seen, the Commission generally expects NSAs to be brought into all the stages of the development process, from the formulation of national development policy to the preparation of national response strategies, as well as into the political dialogue, once the areas of intervention have been determined and, lastly, into implementation and review processes.

5.2. Strategy for the effective introduction of a participatory approach, however, runs up against a number of obstacles:

— there is still a noticeably high level of resistance on the part of most third country governments to dialogue with NSAs: even where such provision is made, there is virtually no real possibility for NSAs to take part in defining development programmes and strategies;

— the highly centralised administration of such countries constitutes a further obstacle which, because it does not encourage participation by actors who are not already at the centre, tends to marginalise local elements, especially in the least accessible — and often poorest — rural areas;

— there is a clear lack of specific rules and standards governing real participation by NSAs;

— civil society organisation in third countries is often of only the most rudimentary kind, and the main problem is frequently how to boost the capacity of the actors who are to participate in the process;

— a further problem is that of access to funding, closely tied in with that of dissemination of, and access to, information. Third country NSAs complain that there is often a total lack of any system for disseminating information;

— the established procedures for granting funding are in general excessively costly and complex, as the NSAs themselves frequently point out.

6. Role of the European Economic and Social Committee

6.1. Against the backdrop described above, the European Economic and Social Committee assumes a key role as an intermediary and supporter of organised civil society, as clearly established in the Treaty of Rome in 1957 and recently emphasised by the Treaty of Nice.

6.2. As a consequence of the relevant provisions of the Treaty of Nice, in 2001 a protocol was signed between the Committee and the European Commission. Its purpose is to strengthen links between the two institutions, recognising the Committee as an essential forum for dialogue between the European institutions and civil society. Article 14 of the protocol promotes this active intermediary role of involving organised civil society, also in third countries.

6.3. It should however be pointed out that the Committee has long been working in this direction. There has been a wide range of activities geared to launching and sustaining dialogue with the various components of third country civil society, some of which have official European Union status, including regional seminars, summits of economic and social councils, study groups, follow-up committees, initiatives under the ACP civil society forum, the meetings and consultation between European and ACP economic and social operators (explicitly acknowledged by the Protocol to the Cotonou Agreement), the Euro-Med dialogue, the EU-India Round Table, and the framework for relations with the candidate countries and others on the Union's eastern borders.

7. Proposals and recommendations

7.1. The Committee welcomes the Commission's steps to fully implement a participatory approach, reflecting civil society's essential role in development processes, as both target and, above all, an active agent in such processes.

7.2. While welcoming the approach adopted by the Commission, the Committee hopes that a common agreement will be reached in the short to medium term defining the practical arrangements and instruments for the participation of NSAs, culminating in a regulatory system conferring full legitimacy on dialogue. The starting-point for this dialogue must be the definition of precise objectives, models and common values to be promoted.

7.3. A 'roadmap' must be prepared on the basis of broader and clearer selection systems in order to facilitate dialogue with NSAs and their participation, taking account not only of long-standing structures at local level, but also of more recent structures provided they appear to offer added value in terms of greater independence from governments. This need was highlighted by delegates to the Yaoundé regional seminar, with a call for clear eligibility criteria to be drawn up at national and local level in order to bring in all civil society stakeholders without exception.

7.4. The process of decentralisation to the delegations, which the Commission has commenced and which should be complete in 2003, must include mechanisms for a real exchange with third country NSAs. The delegations should therefore become a key factor in, and themselves a forum for, dialogue between civil society, national governments and the EU institutions. By virtue of their greater awareness of local circumstances, they should help define ways of optimising the financial resources used, and should assist NSAs in the transparent application of European funds. The Conclusions of the Yaoundé regional seminar specifically ask that each Commission delegation appoint an official to deal with relations with NSAs, as is already the case in some delegations.

7.5. The Committee recognises the particularly important role of NSAs from the EU countries in capacity-building for third country NSAs, while trusting that they will not automatically take the place of local actors. The Committee is convinced that the role of European NSAs in transferring know-how and boosting the capacity of their third country counterparts, so that they can work more effectively in the field, should be enhanced. European NSAs, however, have the readiest access to funding, and the risk that they might come to substitute third country NSAs should be avoided. All measures which could avert the growth of such an imbalance should therefore be stepped up.

7.6. The Committee welcomes the Commission's approach to boosting the capacity of third country NSAs, as it points to general information targeting various sectors of civil society, and the establishment or reinforcement of networks, including the use of the new technologies, as essential means. The Committee however urges that the importance of specific training initiatives also be considered.

7.7. Regarding means of access to funding, third country NSAs complain that even where well-structured NGOs meeting all the requirements of representativeness, transparency and democracy exist, they experience severe difficulty in gaining access to financing.

7.8. The EESC therefore considers it important to establish a constant and comprehensive flow of information at grassroots level. If development programmes are to achieve practical results, much broader participation by representative civil society organisations is essential.

7.9. For this reason, the Committee hopes that the procedures for access to European funds will be made easier, while complying with the rules of democracy and transparency. In particular, it hopes that the costs of submitting the relevant applications will be reduced. The language employed in the official documents is often excessively technical, and the documentation required very costly.

7.10. Concerning the use of funds for development policies, the Committee hopes that anti-corruption measures will also be strengthened. This should be one of the key criteria for granting funds.

7.11. To ensure that the participatory approach is implemented in practice, it is also proposed that arrangements be introduced to monitor the real involvement, in qualitative and quantitative terms, of NSAs in procedures for defining and assessing development policies in those countries receiving European funds. It is important, in this connection, that the strategies adopted by the Committee regarding impact assessment be examined and reinforced. The NSAs meeting in Yaoundé specifically called for such scoreboard monitoring to be taken into account by the ACP-EU institutions, including the Council of Ministers, the Joint Parliamentary Assembly and the European Commision in their own assessments. NSA involvement in development processes does not, of course, end with access to finance, indeed, it only begins to be meaningful where NSAs can secure an active political role.

7.12. For the same reason, the Committee is convinced that initiatives by NSAs, such as the forum of employers' associations or the trade union committees within the Euromed and EU-Mercosur frameworks, must be supported by the Commission not only in order to strengthen social actors and increase cooperation between them, but also to ensure they are effectively involved in the political dialogue and in negotiations on bilateral regional agreements.

7.13. The Committee would also point out that inconsistencies and contradictions between EU policies and those of the Member States often occur. The EU must therefore act to set equal framework criteria for all the Member States, in order to make such policies more effective.

7.14. The Committee is convinced that full implementation of the participatory approach must necessarily take account of the objective of equality between the sexes. It therefore stresses the importance of boosting the role of women in cooperation policies, affirming their rights within development processes. It calls for dedicated gender equality initiatives to be launched, for focused training to be available to women, and for proactive measures to be energetically implemented to ensure that women's interest groups are fully involved in development policies.

7.15. As suggested in earlier opinions, it would also be helpful for the World Bank, the International Monetary Fund and the International Labour Organization to join with the other European institutions in helping to strengthen and promote the social partners and civil society organisations in the developing countries.

7.16. Furthermore, the Committee regrets that only a very small portion of the funds (some 20 %) are channelled directly to NSAs in the developing countries, which clearly runs counter to the recent participation-based approach which has been chosen as the method for strengthening development policies.

Brussels, 16 July 2003.

The President

of the Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on 'EU-China Relations'

(2003/C 234/17)

On 17 January 2002, the Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on 'EU-China Relations'.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 24 June 2003. The rapporteur was Mr Etty and the co-rapporteur Mr Dimitriadis.

At its 401st Plenary Session of 16 and 17 July 2003 (meeting of 16 July) the European Economic and Social Committee adopted the following opinion unanimously.

1. **Introduction**

1.1. The transition process of the Chinese economy is one of the major events in today's world. Its political, economic and social impact will have far-reaching consequences for the world at large. It is a double transition: from a command economy into a market economy, and from an agrarian into an urban/industrialised society. It embodies an enormous growth potential, but also frightening risks. The EU is right to follow this process as closely as possible, not only because of the impact it has — and will increasingly have — on EU interests, but also with a view to the chance it has to influence it to both its own and China's benefit. In cooperating with China, however, it should never lose sight of the limitations of its role of a partner in change.

1.2. Placed against this background, the basic principles underlying the EU strategy vis a vis China are sound and the objectives of the strategy can be supported. At the same time, it must be observed that, after almost two decades of EU-China

cooperation and three Commission strategy papers, it is difficult to judge what has resulted from the efforts made. The 1998 Commission reports were presented as a stocktaking operation. They documented a large number of important activities, but did not try to draw a clear and concrete balance of successes and failures. Neither do the most recent documents.

1.3. It is not clear whether policies of the Commission and of the Member States have always been in harmony and whether or not efforts are being made to coordinate them. Perhaps it is too ambitious yet to aim for that. However, with a view to the limited means of the EU on the one hand, and the unique dimensions of China and the magnitude of the problems it is facing on the other, it is desirable that this aspect of the EU's relations with China will be dealt with more adequately in future Commission documents.

1.4. The five main policy objectives of the EU strategy are well chosen. For the European Economic and Social Committee (EESC), as the voice of economic and social interest groups in the EU, three out of the five are of particular importance, i.e.:

— supporting China's transition to an open society, based on the rule of law and respect for human rights;

— helping to integrate China into the world economy by bringing it more fully into the world trading system and by supporting the process of economic and social reform; and

— increasing mutual understanding between the EU and China.

In discussing these three objectives, the Committee will (as in its 1997 opinion on EU-China relations) concentrate on issues closest to its own interests, competence and experience and try to avoid duplication of positions taken by the European Commission, Council and Parliament.

1.5. In the six years which have passed since the Committee produced its earlier opinion, major changes have occurred as regards the major questions it discussed. No doubt, the most important was China's entry into the WTO in November 2001. Issues of particular interest for the Committee then as well as today include:

— the implementation of China's rights and obligations as a member of the WTO;

— conditions for foreign investors in China;

— the development of a market economy in China;

— the implementation in law as well as in practice of human rights, embodied in the UN Human Rights instruments that China has ratified (and in particular the Covenant on Economic, Social and Cultural rights) and in the fundamental international labour conventions of the ILO;

— the establishment in China of a climate conducive to the development and functioning of a genuine civil society;

— training and education; and

— the situation in Hong Kong and Macao since the 'hand-overs' respectively in 1997 and 1999.

2. **General remarks**

2.1. In twenty-five years of transition from a command to a market economy China has realised impressive economic progress while retaining a regime falling short on democratic processes. The regime seems to be convinced that this process can be continued without real changes in the realm of governance and the rule of law, other than those immediately linked to economic requirements.

2.2. Among the main accomplishments of this period are significant progress towards a market economy; high (often double-digit) growth figures, and poverty reduction.

2.3. On the negative side are corruption, violations of human rights, poverty (despite the progress made), unemployment, the virtual absence of social security, increasing social and regional inequalities and continued limitation of freedom of expression and of information.

2.3.1. A sad recent example of the lack of change in political culture, compared to the transition in the economic field, is the dramatic mishandling of the SARS (Severe Acute Respiratory Syndrome) epidemic in China.

2.4. Although China has made impressive progress in transforming its economy during the reform era (begun in 1978), the important engines that have driven China's growth in the past are losing their dynamism today.

2.5. The main reason is that China's economy has become badly fragmented and segmented, and this led to increasing inefficiency and under-utilisation of resources. Trade and investment liberalisation, although it will require difficult adjustments by some segments of the economy, will stimulate other segments and bring positive net benefits to the economy

as a whole in the long-term. However, trade and investment liberalisation alone are unlikely to solve the basic problems now impeding China's economic development.

2.6. China's economy has reached a stage that calls for some important changes in the way economic reforms are carried out. As the economy has become increasingly exposed to market forces and the scope for self-contained development of individual sectors has narrowed, economic problems have become more and more interdependent. Conditions in particular segments of the economy, such as labour markets, industry, the financial system, and regional development, now depend more and more on developments in other areas of the economy than on developments or policies within that specific segment.

2.7. The rapid and continuing growth of China's public debt in recent years has raised concern among economists, investors and the general public over China's economic future. The pursuit of expansionary fiscal policy, the poor performance of state enterprises, and the slow growth of local government revenue will add to public debt.

2.7.1. Of great importance is China's rural economy. In 1980, agriculture employed virtually the entire rural workforce and supplied nearly all of its income. However, rising productivity within agriculture was accompanied by the large-scale exit of workers from agriculture to industry. Today agriculture employs about 50 % of the country's workforce and is characterised by relatively scarce land in relation to labour and small-scale production using little mechanisation.

2.7.2. Of particular concern is that farm incomes may fall, exacerbating rural-urban and inter-provincial (especially Western-Eastern) income inequality and possibly adding to rural poverty. This trend has become apparent since 1998.

2.8. All of this, together with a population of 1,3 bn and a vast territory, has made China number one in the world in terms of bad debts, unemployment, the number of workers laid off, and probably also with respect to income gap problems.

2.9. This is reflected most fundamentally in the 'three inequalities' between:

— the rural and urban population;

— the south-east and the remainder of the country;

— those in the official core of the economy (with all its present difficulties) and those trying to survive in petty and 'informal' economic activities.

2.9.1. From 1978 to 1998, the per capita income of rural residents increased from 133,5 yuan (EUR 16,5) to 2 160 yuan (EUR 268), an actual increase of 350 % after allowing for price rises, with its yearly average growth rate exceeding 8 %. The per capita income of urban residents increased for 343,3 yuan (EUR 42,5) to 5 425 yuan (EUR 670,6), an actual increase of 200 % after allowing for price rises, with its yearly average growth rate exceeding 6,2 % [1]. For the country as a whole, the World Bank reported GDP year-on-year growth rate of 8 % for 2002 [2].

2.9.2. Nationwide, rural income in 1999 averages 2 210 yuan (EUR 273), but it was 2 971 yuan (EUR 367,3) in the east, 2 031 yuan (EUR 251) in the central region and only 1 448 yuan (EUR 179) in the western region. Whereas farmers in the east saw a modest 4,3 % increase in income in 1999, those in the central region received an increase of only 2,4 %, while those in the West saw income rise by 2,7 %.

2.9.3. The east coast appears much better positioned to capitalise the opportunities that WTO presents. The east has advantages in human capital, management, information, transportation and infrastructure that other areas cannot match and therefore will capture the biggest share of new foreign direct investment (FDI).

2.9.4. The heavily industrialised north-east is likely to face a formidable challenge in adjusting to WTO. Manufacturing industries are not in China's comparative advantage, and so they will face continuing lay-offs.

2.10. WTO-membership will put the accomplishments of transition to the test and threatens to aggravate the major problems. On the other hand it opens new perspectives for more openness, transparency, accountability and for good governance. As regards the WTO's economic requirements, a great deal of preparatory work has been done by the Chinese authorities and their trading partners, including the EU. One can be assured that they will have their full attention in the years to come. Not so much thought has been given to the solution of the economic and social repercussions of WTO-membership in China. For the time being, they seem to be considered mainly with a view to the threat to stability they might pose.

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(1) The Information Office of the State Council, 'Progress in China's Human Rights for 1998', People's Daily, April 14, 1999.

(2) http://lnweb18.worldbank.org/eap/eap.nsf/Attachments/updateapr03/$File/china.pdf

2.11. China's WTO membership, making it part and parcel of a rule-based world wide system, will at the same time be a formidable impulse for the economic transition process and a decisive step towards integration into the global economy. It is an important milestone along the reform path China has been following for more than twenty years, rather than a new direction. The true significance of WTO is on the institutional side — laws, legal practice, regulatory practices. There will be an institutional convergence towards a market economy and it will facilitate development of the private sector. The opening to international markets promotes market discipline, access to technology, and other qualities that have been important goals of domestic economic reforms. In this respect, WTO entry is a complementary aspect of the next phase of China's reform.

2.11.1. The policy changes still to be made to fulfil WTO obligations will affect all areas of China's economy. Numerous commentators predict a dramatic effect on agriculture and hence rural areas, because reforms in China over much of the 23 years largely ignored the country's trade policies for farm products. China was required by its trading partners to commit to major changes in those farm trade policies by 2005 — commitments that appear far greater, and faster, than other developing countries committed to in the Uruguay Round Agreement on agriculture.

2.12. China's WTO entry gives new impetus to EU-China trade growth. The entry provides effective institutional and legal guarantees for bilateral trade.

2.13. WTO rules stipulate that members should abide by the principle of non-discrimination and most favoured nation treatment which, in the case of EU-China trade, includes tariff reduction, lifting import quota restrictions, and easing market entry criteria.

2.14. China's further opening to international markets (WTO membership) will force substantial adjustments to industry and a further increase in FDI. Although higher FDI will create jobs, it will put competitive pressure on domestic enterprises.

2.14.1. Today about 10 % of China's FDI inflows originate in the EU. These investments are of particular importance for China as European FDI is known to be much more capital intensive and go along with the introduction of newer technology than the bulk of China's FDI inflows originating in Asia. The development impulse associated with European FDI is therefore deemed to be very considerable. Seen from the perspective of the EU and its member states, however, China is still of minor importance as a host country for European FDI. On average less than 1 % of the EU Member States' FDI outflows are directed towards China.

2.15. According to recent UNCTAD estimates, FDI inflows to China may more than double to $100 billion per annum in 2006.

2.16. China's WTO membership will push the country to open its markets further and to improve the investment environment; it will provide foreign investors with the same treatment as nationals.

2.17. According to WTO rules, China is committed to reducing tariffs on 150 varieties of industrial products from the EU. It will open the farm produce market and allow the EU to enter its tertiary sector.

2.18. Meanwhile, the EU will take measures to give China better access to its market. The EU also partially lifted restrictions on the entrance of China's farming products.

2.18.1. With respect to the importance of food safety, it should be recalled that the relevant international standards have been set by the FAO/WHO Codex Alimentarius Commission.

2.18.2. An early, crucial issue affecting the relations between the EU and China, shortly after China's entry into the WTO, was that the EU placed bans on certain animal products originating from China. All imports for human or animal consumption from China have been suspended since the end of January 2002, because they were found to contain unacceptable levels of chloramphenicol. China has protested strongly over the moves taken by the Netherlands to destroy containers of Chinese animal products stored in Rotterdam and reacted against the EU imposing bans on certain products imported from China. During Commissioner Lamy's recent visit to Beijing, the Chinese decided to lift progressively the embargo on Dutch products and are to send a technical mission to Europe, which has so far been delayed because of the SARS epidemic.

2.18.3. Finally, anti-dumping cases against Chinese products have already significantly decreased.

2.19. China's obligations to implement its WTO commitments (reduction of tariffs, abolition of administrative and approval procedures for the imports of goods, liberalisation of a broad range of financial and professional services and of its investment regime) have received wide publicity and have been hailed by the Commission as an important negotiation success. There has been less discussion on EU commitments (e.g. phasing out of China specific qualitative restrictions with respect to textiles and clothing).

2.20. In addition to China's WTO membership, the launch of the euro is another driving force for the growth of EU-China trade. The good performance of the euro so far has put the US dollar under pressure and has eased China's dependence on the US dollar in foreign trade settlements. Now that the euro has integrated the European currency system, the risks in China's EU-related transactions, incurred from changes in the foreign exchange rate of different European countries' currencies, will be reduced.

2.21. The integration of the European currency system enables Chinese exporters to orient their business to one integrated euro zone, instead of several individual countries, thereby saving transaction costs.

2.22. The Committee remains convinced that there is a direct link between stability and respect for international norms in China. It welcomes China's ratification of the International Covenant on Economic, Social and Cultural Rights (although it regrets that the Chinese Government has made a reservation on its Article 8(1)(a) which protects trade union rights).

2.23. There has been progress in the development of civil society in China. Nevertheless, the Government needs to lift many unnecessary restrictions in order to bring Chinese civil society on a par with the international community.

2.24. Experiences in Hong Kong and Macao with 'one country, two systems' have not been fully satisfactory so far. Certain developments in the sphere of democracy and respect for human rights give rise to concern.

2.25. The Committee thinks that it has a special contribution to make in the development of EU-China relations and it has found an interested counterpart in the China Economic and Social Council. It has stressed the important contribution to economic and social development which free, independent and representative interest groups of employers, workers, farmers, etc. can make in China and will continue to do so.

3. **Specific Remarks**

3.1. In the discussion about China's WTO-membership and its further integration into the global economy, the main accent is put on bringing its economic and financial regulations and performance in line with the WTO. Important as that is, the Committee thinks that these efforts should be combined with respect for other relevant international standards regarding product safety, sustainable development, and fundamental labour rights.

3.2. The Committee welcomes the WTO related co-operation projects of the EU with China, as well as the monitoring of China's progress in the implementation of its WTO obligations.

3.3. The Committee was struck, during its visit to China in July 2002, by the confidence of its Chinese counterparts as regards their country's ability to conform to the WTO rules before 2005. They stressed their long and thorough preparation and the training given to relevant officials at national, regional and local level. Nevertheless, the Committee notes that well-informed observers have stressed that the main obstacles in China will be found at the regional and local level and that the Ministry of Commerce, which is responsible for enforcement of WTO rules in China, is not in a position to command other ministries or provincial authorities. The EESC has therefore pleaded for a specialised mechanism for WTO enforcement in China.

3.4. Corruption is one of the most acute problems in China's economic development. A recent estimate of the outflow of embezzled funds by Government and state-owned enterprise-officials amounts to USD 48 billion in 2001. That is a slightly higher figure than the total amount of foreign direct investment in China recorded in the same year. Organised crime and triad involvement in large scale corruption of senior Government officials has been acknowledged to be serious.

3.4.1. Some of the serious problems in China's banking and accounting system are intimately connected with this phenomenon.

3.4.2. Malpractices, corruption and abuse of power are among the main popular grievances against the Government. An important remedy against these major shortcomings of governance would be effective check and balance and watchdog mechanisms which would help to make enterprise owners, managers, and officials accountable. Organised civil society, as a major contributor to democracy, has to play a prominent role in such mechanisms. Freedom of information and a free press are of great importance in this context.

3.4.3. Taking a look at China's industry, the biggest problem impairing industry performance is the widespread inefficiency in enterprise operations. Added to this the inadequate technology and the limited capacity to innovate are particular weaknesses of much of Chinese industry.

3.4.4. Some key obstacles to the improvement of industry performance are continued government interference in enterprise management, poor financial discipline, the restriction of exit and other modalities for re-deploying resources.

3.4.5. Technology standards for a large portion of domestic firms are far below international standards. Moreover, technology transfer by foreign enterprises to Chinese firms seems to have been limited in both amount and scope.

3.4.6. In the mid-term the Chinese financial sector will have to catch up with international best practices as the availability of state-of-the-art financial intermediation will be the key for successful WTO membership and long term growth because:

— the enterprise sector's international competitiveness relies on the availability of modern financial services;

— attracting capital from the world capital market — at reasonable costs — relies on modern financial institutions;

— in a market economy macro-economic stability is based on sound financial markets.

3.4.7. These necessities will speed up the modernisation of China's financial system and by doing so create the preconditions for full convertibility.

3.5. Although the fight against poverty has been a priority for the Chinese Government for several years now, the figures remain alarming. The World Bank estimates that, despite the improvements which have been achieved, 130 million people still live below the poverty line. Mass dismissals in state-owned enterprises without social safety nets continue in the industrialised areas of the country and grave problems in rural China will keep the issue high on the agenda. In the short and medium term, the consequences of China's WTO membership will probably only aggravate an already very difficult situation.

3.5.1. What must be highlighted in this context is the feminisation of poverty. Large scale migration of (male) surplus labour from the countryside leaves women to take up the bulk of farming on the countryside. They largely live on the verge of poverty. Women farmers are often deprived of the right to own their farmland. In recent years, many employers in industry as well as in the civil service stipulate that only male applicants will be considered for its vacancies.

3.6. Unemployment in China today is probably closer to 15-20 % of the national workforce of 730 million than the official 4 %. Nearly half of the 100 million strong workforce in the state-owned sector has been made redundant in the last few years and the end is not yet in sight. In the short and medium term, China's entry in the WTO will bring to bear negative influences and perhaps even pose an immediate threat to the livelihood of its agricultural workforce of 400 million (among whom there are already some 150 million surplus workers). A large number of them, possibly about 100 million people, are presently looking for work outside their area of origin.

3.7. In order to employ the workers coming from agriculture, local governments were encouraged to foster the growth of rural-non agriculture enterprises (REs), also known as TVEs. REs are small- and medium-sized enterprises in rural areas that specialise in labour-intensive products, and along with foreign funded enterprises produce most of China's exports.

3.8. REs have been the main vehicle for absorbing workers from agriculture and an important engine of China's growth, as it has been for other rapidly developing countries in the past. Today REs are suffering from financial problems and operating inefficiencies nearly as severe as those afflicting the State Owned Enterprises (SOE) sector.

3.9. Quite rightly, the Commission identifies the establishment of a social safety net as a crucial task for the Chinese Government. The majority of the population is currently not covered by social security regulations. Many who used to be covered as workers in state-owned enterprises have found that their money has disappeared in the course of 'restructuring'. One crucial problem in the maintenance or establishment of social security provisions is the absence of sound monitoring mechanisms. This has resulted in malpractices and misappropriation of funds; frequently one of the major causes for recent social unrest. Social security is typically an area where the absence of genuine, independent organisations representing the interests of workers and employers is being felt.

3.10. Growing social dissatisfaction and unrest represents a real threat to stability. It is widespread in the cities and perhaps even more in the countryside. Causes in addition to those already mentioned are growing income disparities and massive ecological damage. There has been a sharp increase of protest actions in terms of numbers, scale and militancy, both in urban and in rural areas. In most cases they have been dealt with by police repression. There appears to be an urgent need for reconciliation machinery.

3.11. Against this background it is of great concern that basic trade union rights (freedom of association, right to bargain collectively) continue to be violated. The 2001 amendment of the trade union law fails to satisfy ILO Convention 87 and 98 as well as the International Covenant on Economic, Social and Cultural Rights. The monopoly position of the All China Federation of Trade Unions is not only reconfirmed, but also its function as an instrument of the Communist Party is underlined.

3.11.1. The Government should seek reconciliation with the tens of thousands of protesting workers through tripartite consultation instead of repression or (in incidental cases) buying them off. Organisers of autonomous unions or non-violent workers' actions should not be victimised. Arbitrary detention of labour organisers should stop in respect of ILO Convention 87 and 98 (which China, as a member of the ILO, is expected to respect and implement even if it has not yet ratified them) and the recommendations made by the ILO Governing Body Committee on Freedom of Association in recent complaint cases should be followed up.

3.12. China's economic and political restructuring initiated since 1978 creates the basic political, economic and legal environment for the rise of civil society. At the same time, the emergence of civil society will in due course exert a great influence on social policy and economic activities, change governance to a large extent and effectively promote good governance.

3.13. In decentralisation, the Government and the Party have widened the scope for certain non-governmental organisations (NGOs) to perform previously state-run, or newly-established, functions of service provision (as in the field of healthcare) and resource mobilisation. However, NGOs should also be allowed to assume other essential functions in advocacy, monitoring of public policies, community organisation, and interest representation. In order to reconcile rising social and economic tensions, a process of civil dialogue and consultation needs to be built urgently. Interest representation can only be meaningfully materialised on the basis of freedom of association, and NGOs can play a crucial role in that process. The Committee was impressed by the frankness of several NGOs, who assumed a proactive stance in the face of Government-led quasi NGOs during discussions held during the EESC's visit in July 2002.

3.14. There are obvious differences between China's NGOs and those in the EU. In comparison with those in EU, China's NGOs have the following special features:

— China's civil society is, generally speaking, under tight government control and has an obvious official-civil duality. It is a distinctive feature of China's civil society that the government directs important key organisations.

— China's NGOs came into being during the transition period. Typical features such as autonomy, voluntary action, close contacts with the population, absence of governmental interference are not much in evidence. They are still at an early stage development and they are still struggling to define their structures and functions.

— In line with the above features, many of China's NGOs are not firmly institutionalised. Although the Ministry of Civil Affairs revised and promulgated the new management regulations for civil organisations in 1998, the institutionalisation process has only just begun and is ongoing. Many restrictions to their functioning, including political censorship still remain.

3.15. Nevertheless, there is a growing body of more independent NGOs.

3.16. The development of NGOs in China today is rather uneven. There are great differences in social, political and economic influence and status between different civil organisations, often depending on the degree of government support and control.

3.17. The EESC stresses that the serious difficulties facing foreign NGOs wanting to establish operations in China remain virtually unchanged.

3.18. More in-depth discussion between the EU and China on the important role of NGOs in the transition process may contribute to widening the space of operation on independent NGOs. This may also create better conditions for the development of free and independent workers' and employers' organisations.

3.19. The European Commission's China development cooperation programmes target several of the most pressing problems China is currently facing. They include encouragement and assistance to ratify major international conventions. What is, as yet, not addressed in an articulate way in its discussions with the Chinese authorities is the nature and the prospects of the key issue of social instability. The Commission cooperates to a great extent with quasi-governmental bodies instead of the growing community of independent NGOs in China. Recently, it has started on a modest basis to work with these independent NGOs.

3.20. Hong Kong was identified by the Committee in its 1997 Opinion as an area of special interest, in particular with respect to developments pertaining to fundamental rights to organise and to bargain collectively after the 'hand-over' in July 1997.

3.20.1. Now, five years later, the Committee thinks that the Hong Kong Government is not demonstrating convincingly its commitment to uphold internationally recognised human rights standards as well as the integrity of its rule of law. Certain political and civil rights, and also economic and social rights, which were already limited in the pre-1997 period, are clearly under pressure (freedom of assembly, freedom of expression, freedom of the press, basic trade union rights). A recent cause for special concern are the recent Government proposals to implement Article 23 of the Basic Law, dealing inter alia with sedition and subversion.

3.20.2. An asset for Hong Kong is its active organised civil society. It plays an indispensable role in defending human rights. It is also an important source of inspiration and support for the emerging civil society in mainland China.

3.20.3. Subsidiaries of Hong Kong (as well as Taiwanese and Korean) companies and their subcontractors are among the foreign investors with the worst reputation in labour relations in mainland China. Local trade unions and NGOs have been campaigning to improve the situation. Government and the business community should lend an ear to these campaigns.

3.20.4. For many decades, gaming-led tourism has been the main economic pillar of Macao, which was handed over in 1999. The Macao Government has defined the future direction of the Special Administrative Region's economic development in the next decade as follows: gaming-led tourism will function as the main driving force and the service industry will act as the main stay for the co-ordinated development of other sectors. The aim is to establish Macao as an international centre for gaming-led tourism and as a hub for international conferences and exhibitions. Various sectors and industries in Macao stand to benefit from this strategy, as well as the expected strong development of tourism worldwide. There are concerns about the over-reliance of the economy on very few sectors. Efforts to reduce this over-reliance and to diversify should be supported.

3.20.5. Industrial relations, tripartite consultation and socio-economic interest representation in Macao are clearly below the modest Hong Kong standards. The same is true for its civil society. For the time being, the climate does not appear to be conducive to significant improvements.

3.21. During its July visit, the European Economic and Social Committee and the China Economic and Social Council decided to engage in consultation, dialogue and research on economic and social issues of common interest as well as on issues related to human rights and the rule of law, so as to promote economic development and social progress.

4. Conclusions and recommendations

4.1. One major question has hardly been raised in the EU-China dialogue so far: whether a successful transition to a market economy can be made without sweeping political reform. However, the key issue (for both China and its partners in trade and investment) of stability appears to be intimately linked with the tension between the two. This question therefore requires special attention in future EU-China contacts, including those between the EESC and the China Economic and Social Council (CESC).

4.1.1. The Committee believes that the crucial issue for China to succeed is development in terms of further political pluralism, rule of law and privatisation. This might put an end to the quasi omnipresence of the state in the economy and bring its role closer to the role played by the state in a social market economy.

4.2. Monitoring of implementation of the enforcement of WTO rules in China will not be an easy task, in particular not at the levels where the main problems may arise: the regional and the local. Hence, the Committee strongly supports the continuation of EU support for the efforts made by China to train legislators and members of the judiciary involved in China's implementation of the WTO rules at the various relevant levels. The Commission might suggest to the Chinese authorities the establishment of a public watchdog.

4.2.1. The Committee recommends that the Commission should cooperate closely with the EU Chamber of Commerce in China, which is in a position to give it first-hand accounts of enforcement of WTO rules by drawing on the experience of its 200 members.

4.2.2. The Committee will contact the European side of the EU-China Business Dialogue to draw their attention also to this problem and to suggest they include this matter on the agenda of their meetings with their Chinese counterparts.

4.3. To tackle the negative aspects of transition — and the probable aggravation of some of them as a consequence of China's WTO membership — the real and full involvement of organised civil society seems highly desirable. The European Commission is aware of the crucial role NGOs can play. Unfortunately, they have so far paid little attention to the role of free and independent economic and social interest groups.

4.4. In light of the increasingly vital role of NGOs in furthering China's development and fostering international cooperation the EESC proposes that, in close cooperation with the CESC, work should be undertaken on the following issues:

— the improvement of transparency and clarity in regulations by clearly defining the registration procedures and requirements for foreign NGOs and specifying the ministries responsible for their governance and sponsorship;

— the elimination of ambiguities in current regulations regarding how NGOs attain independent legal status, hire employees, and gain access to foreign currency.

4.5. China, as a prominent member of the International Labour Organisation, should ratify all eight fundamental human rights Conventions of the ILO and implement them in law and practice. As an ILO Member State China is already expected to meet the requirements of Conventions 87 and 98 on the basic workers' and employers' rights, irrespective of ratification. China should also withdraw its reservation on Article 8(1)(a) of the International Covenant on Economic Social and Cultural Rights.

4.6. In its human rights dialogue with China, the European Commission should pay even more attention to China's persistent violation of the right to organise and the right to bargain collectively, systematically address the fate of detained and imprisoned labour activists and stress the importance of full involvement of free, independent and democratic economic and social interest groups in the transition to a market economy, of NGOs and of freedom of information and a free press.

4.7. The EU should support and enhance dialogue between organised civil society, economic and social interest groups in China and the EU on issues such as social justice (poverty reduction, gender, greater participation, environmental protection, etc.). This should include dialogue on issues as human rights, good governance and minorities' policies.

4.7.1. The Olympic Games to be held in Beijing in 2008, as well as the EXPO 2010 to be held in Sanghai could prove a major opportunity for the deepening cooperation in all fields if China puts an end to human rights violations and makes substantial progress in the democratisation of the political system.

4.8. The development of political and civil rights, as well as of economic, social and cultural rights under the conditions of 'one country, two systems' in Hong Kong and Macao will be closely followed by the European Economic and Social Committee.

4.8.1. The European Commission might wish to draw the attention of the Hong Kong authorities and business community to the possibility of using the OECD Guidelines for Multinational Enterprises as a reference point for the activities of Hong Kong based companies and their subcontractors in mainland China. The Commission should, in close cooperation with its EU member states, encourage enterprises based in the EU with significant investment in and trade links with China to respect the OECD guidelines and to encourage their Chinese business partners to do the same. In this connection, it should pay special attention to living and working conditions in Export Processing Zones (EPZ) in China.

4.9. The EESC delegation to Hong Kong and Macao concluded that relations between the EU and Hong Kong and between the EU and Macao have continued to be excellent since the hand-over, but it is perhaps now time to place the relationship between the EU and both the two Special Administrative Region (SARs) in a more systematic framework. In this framework, special attention should be paid to the diversification of Macao's economic development and to the development of democracy and civil rights as well as basic economic, social and cultural rights there, both in law and in practice.

4.10. With respect to development cooperation, the EESC believes that there should be a number of actions regarding:

1) improvement of the living conditions and social justice, maintaining/restoration of the natural basis of life; examples for that are: poverty reduction, improvement of environment and food security, empowerment of women;

2) employment and social security issues: for instance establishing/improving social security systems in urban and rural areas, promoting self-employment in the small scale sector; restructuring of the rural financial system (credit co-operatives, particularly for self-employed people and for women);

3) support for business training, in particular with regard to the small- and medium-sized sector, as well as for the establishment of independent business associations in this sector.

4.11. The EESC agrees that the EU should further encourage the transfer of know-how, technology or policy experiences through joint ventures and other forms of partnership either between companies, municipalities/regions or public bodies. Such contracts, strengthen the links between EU and China, and could also give additional impetus to the reform process. The success of Asia Invest and 'Local Authorities' programmes in China show real potential in this sector, focusing in particular on SMEs links.

4.11.1. The Committee believes that in order to take full advantage of trade and investment liberalisation, China's economy should require extensive restructuring of firms, improvement in their governance and management, and reallocation of resources. Particular attention should be given to SMEs (producing labour-intensive products) who will need to integrate into international production chains if they are to be successful in world markets.

4.12. The European Commission China programmes should more prominently reflect the importance it places on governance, civil society, human rights, and sustainable development. Regular and systematic reviews will help to improve the relevance and effectiveness of EU programmes along these guiding principles.

4.12.1. There is a need to have a women-specific agenda and strategy in all poverty reduction programmes in China.

4.13. The EESC and the China Economic and Social Council have decided to engage in consultation, dialogue and research on economic and social issues of common interest as well as on issues related to human rights and the rule of law. They intend to do this on a regular and institutionalised basis. These contacts should also be used to address relevant issues coming up in Hong Kong and Macao.

4.14. Future visits of the Economic and Social Committee in China should not only be used to strengthen contacts with the China Economic and Social Council, but also to renew and to widen contacts with the NGO community in China, (and in particular with the free and independent among them) working in areas such as healthcare and environmental protection, along the same lines as during the visit of July 2002.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions — Industrial Policy in an Enlarged Europe'

(COM(2002) 714 final)

(2003/C 234/18)

On 12 December 2002, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

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 25 June 2003. The rapporteur was Mr Simpson.

At its 401st Plenary Session held on 16 and 17 July 2003 (meeting of 17 July), the European Economic and Social Committee adopted the following opinion by 113 votes in favour, no votes against and 1 abstention.

1. Summary

1.1. The EESC welcomes the initiative taken by the Commission in the preparation and publication of this Communication on industrial policy in an enlarged Europe.

1.2. There are two interdependent strands to the issues provoked by this Communication. First, this is a timely review of topics of concern to industry within the EU. Second, the preparation for enlargement makes it appropriate to integrate some thoughts on the implications of enlargement for industry (both within the existing EU and in the countries about to join the EU).

1.3. The EESC appreciates that this Communication is essentially a panoramic perspective of the range of relevant questions. It is not, itself, designed to offer detailed policy applications. However, the logical sequence is that the Commission must now follow through on the policy implications and adopt pro-active policies in support of industrial development. The EESC will then offer the benefit of its experience and opinions to the Commission.

1.4. Whilst the positive contribution of this Communication is welcome, the EESC does have concerns that the transition to an enlarged EU will be more difficult than the Commission expects. The Commission should, therefore, monitor closely the anticipated consequences of enlargement and review the measures that may be appropriate to offset any unacceptable consequences.

1.5. The Committee agrees that industrial policy tools will have to be applied taking account of the specific needs of candidate countries. The identification of these specific needs and the Commission response remain a critically important process for the years ahead.

1.6. The EESC has concerns that there may have been an insufficient appreciation of the impact of enlargement in a number of areas.

1.7. A critical feature for the extension of the single market is that the infrastructure endowment of many of the new Member States still lags behind the standards of the rest of the European Union. An appraisal of the priorities and financing mechanisms (with a defined contribution from Community sources) to modernise key parts of the infrastructure, including the modernisation of trans-European networks, is commended.

1.8. Although the statement has been made many times, one of the key elements of an improved framework for industrial policy is that, within the EU (15), many of the unfinished measures to define a single market should be implemented.

1.9. The EESC welcomes the willingness of the Commission to examine sectors facing particular economic difficulties to test the merits (if any) of further supplementary (vertically specific) policies to support sustainable growth.

1.10. Whilst the EESC acknowledges that, in border regions, localised cross-border distortions as part of the adjustment process to an enlarged Community are likely, the responses to these developments are, the EESC suggest, a shared responsibility. The Community must apply the rationale and expertise built-up by the Interreg Programmes (and other special initiatives of this type) and define the scope for action by the more local governmental institutions.

1.11. The value of the Commission Communication is that it sets a framework for a better understanding of the pressures affecting the development of industry in the Community. The essential theme of this Communication, endorsed by the EESC, is that the combined efforts of industry itself, industrial associations, local and regional government, national governments and the Community must acknowledge and respond to the need to maintain, and enhance, industrial competitiveness within a context that offers a sustainable and viable future.

1.12. The EESC welcomes the proposal outlined in this Communication for the launch of a continuing review of all EU policies that impact on industry. The Committee welcomes this positive re-orientation of policy making and commends the intention to use evaluation methods based on impact assessment analyses.

1.13. The dialogue with the EESC, including the social partners, will be a critical feature of the improved and refocused emphasis on the contribution of industrial policy.

1.14. Commissioner Liikanen described this Commission communication as the first step in a larger process that will place industry back on the policy agenda. That is a sentiment welcomed by the EESC.

2. **Introduction**

2.1. The European Union continues to depend critically on the strength and vitality of its industrial sector as a major contributor to the economic development of the Union. The strength and growth of the sector further depends on the competitiveness of the sector and that, in turn, depends on the actions of those who control and contribute to the individual firms as well as the supportive actions of official agencies, Member State Governments and the Community institutions.

2.2. A successful industrial structure has been, is, and will continue to be a critical feature of the European economy. Therefore, there is little doubt that the European Union should have an explicit analysis of the factors affecting the development of the industrial sectors to inform policy and decision making both for the Community as a whole, through the Community institutions, and within the Member States.

2.3. As the Communication from the Commission emphasises, in its introduction, 'Industrial policy has a key role to play in helping the EU meet the Lisbon and Gothenburg objectives ... a review of this policy is timely, so as to ensure that the EU has the tools with which to respond to the needs of an enlarged Europe' [1].

2.4. Industrial policy is multidimensional. Many aspects of economic policy at EU and national level contribute to the shaping of industrial policy. Some industrial policy issues are co-incident with, or overlap with, other policies. Key examples are the efforts to create a genuine single market, the developments to ensure an effective and equitable competition policy regime, the strengthening of appropriate external trade policies (particularly as they affect traditional sectors such as textiles, steel and shipbuilding), efforts to increase the application of enhanced research and development policies, opening the market place through enhanced public procurement opportunities, and aspects of environmental, social and employment policies.

2.5. In some respects, the argument can be made that the best basis for a successful industrial sector within the EU is that there should be an effective and expanding single market, shortly to be the world's largest internal market, that offers the advantages of scale to all producers and maintains a level playing field between competitors regardless of national boundaries.

2.6. Industrial policy is not only important and relevant to manufacturing industry. Many of the policies appropriate to success must acknowledge these implications for other sectors, including services, and should take account of the growing degree of inter-dependence of manufacturing and related services.

2.7. In order to fully harness the potential of the internal market, economic policy should, therefore, be orientated to increasing the growth of the economies in the EU so that, *inter alia*, there is an expanding market for industrial products.

2.8. Industrial policies should aim (1) to create a competitive European market place where distortions and disruptions that fragment the market are removed, (2) to encourage favourable conditions for enhanced productivity by strengthening and exploiting the potential for innovation and new forms of industrial organisation and (3) to enhance the competitive strength of firms in the EU.

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[1] COM(2002) 714 final.

2.9. There are a number of very diverse interfaces between the industrial policies and other actions of the EU, acting for all the Community, the actions of national governments, and the institutional arrangements within Member States. A rational and coordinated approach, resolving any tensions in and between these interfaces, is therefore vital to the effective development of industry.

2.10. Becoming the 'most competitive and dynamic knowledge-based economy in the world' implies that, within the EU, there should be a single economy with the removal of the remaining barriers to the completion of the internal market and that industry must contribute to that process.

2.11. The combination of the Lisbon and Gothenburg conclusions brings together the ambition for industrial policies to contribute to sustainable economic development taking account of the impact on social cohesion and contributing to better environmental protection.

3. **The Commission review**

3.1. The Commission review of industrial policy explicitly acknowledges that competitiveness is central to the goals of the European Union as embodied in the conclusions, on the need for a dynamic knowledge-based economy, agreed at the Lisbon summit. Further, this is acknowledged to depend on the ability to maintain and develop the competitiveness of the manufacturing sector.

3.2. The Communication has prepared this review partly to test whether the industrial policy established and developed since 1990 is capable of responding to the changed conditions created by increased globalisation, enlargement and the objective of sustainable development.

3.3. Although the Communication does not explicitly say so, the implication of the analysis is that there is scope for a reconsideration of the main elements of industrial policy and an opportunity now to grasp a larger potential contribution arising from the enlargement of the Community.

3.4. In the search for improved industrial competitiveness, the Commission identifies four key factors that deserve particular attention: knowledge, innovation, entrepreneurship, and the orientation needed to ensure the sustainability of development. In support of the former, the Commission relates to the main developments that underpin knowledge-based investments in education, vocational training and research. In relation to innovation, the Commission underlines the need for innovative actions in all sectors of the economy and acknowledges the need for the conditions to be in place to stimulate vigorous innovation. Examining the role of entrepreneurship, the Commission notes (what it regards as) the reluctance of too many Europeans to bear entrepreneurial risk. The Committee doubts whether the emphasis on the scope for greater entrepreneurship should be expressed as a general ambition rather than a significant option for only a small group of people, only a few of which would previously have been unemployed. To acknowledge the importance of sustainability in industrial production, the Commission encourages appropriate initiatives influencing production and consumption in ways compatible with sustainable development.

3.5. The EESC notes that the emphasis in the analysis appears to be that industrial policy should usually be essentially horizontal in nature and should aim at securing the framework conditions most favourable to industrial competitiveness. This rests on the instruments of enterprise policy that enable entrepreneurs and businesses to take initiatives, exploit ideas and build on the opportunities.

3.6. This horizontal classification includes all the related Community policies for competition, the development of the internal market, encouraging R&D, education and training investments, and questions of trade arrangements and of sustainable development. Hence, the EU's Lisbon agenda offers an excellent framework for implementing the concerns of a forward-looking, horizontal industrial policy both nationally and at EU level.

3.7. In a potentially significant statement, the Commission allows that industrial policy may need to be applied to meet the specific needs of particular sectors. The horizontal basis would be adapted for specific selected sectoral applications. This acceptance of occasional specific needs might be described as a vertical application of sector-specific measures. Whilst these specific measures should not be an unjustified preference for certain sectors over others (possibly because economic forces are changing in ways that are unpopular), their rationale depends on the degree to which framework conditions need, to some extent, to be sector specific and this needs to be reflected in devising policy that allows adequate support over a long enough period to facilitate necessary changes.

3.8. The Commission regards the Communication 'as the start of a process of examination of the appropriateness and balance with which its industrial policy is applied.' This is, however, linked with an invitation to Member States also to examine their own industrial policy particularly in the light of the principles set out in this Communication.

3.9. The EESC welcomes this opportunity to contribute to that examination.

4. **General comments**

4.1. The EESC supports the main principles underpinning an industry policy that builds a competitive framework where progressive businesses can compete successfully in global markets. Also, the EESC welcomes the existing degree of success in creating the framework for a Single European Market where industry has easier (but not yet completely unrestricted) access to markets within the existing 15 Member States, shortly to be 25 and later possibly 27 (or more). This competitive framework, linked to preferential access to the internal market and enhanced global markets, also creates the opportunities and threats that may emerge when the single market is chosen as a location by foreign-owned companies.

4.1.1. Of course, the enlargement of the EU brings not just the need to consider the impact of industrial policy on 25 (or 27) Member States instead of 15. It also brings a greater range of disparities, structural differences and social and cultural variations that make the search for agreed policies more difficult. Over the past decade the accession countries have increased competition between the 25 countries, particularly through the different fiscal advantages offered to companies. There are examples of companies relocating from one member state to another for many differing reasons, some linked to unhelpful competition in state aids.

4.1.2. Building a new series of measures to assist industrial development calls for a careful analysis and evaluation of the successes and failures of measures adopted in earlier years. Such an evaluation would serve to put the Commission's future recommendations on a firmer footing.

4.2. The role of the Community is indeed to enhance the impact of the single market through the development and implementation of a series of policy measures of a horizontal nature. For the EESC there is no ambiguity in acknowledging the importance of the main categories of framework conditions ([1]). This includes the rules that set the general market framework, (including commercial law, competition rules, fiscal and labour rules, and intellectual property rights), the rules that set standards for specific goods and services, institutions to facilitate the operations of the market place, and those conditions that set a basic macro-economic framework or ensure political stability.

4.3. Examples of the key strands of horizontal policies include:

a) completing the single market;

b) strengthening innovation policy generically, or as appropriate to specific sectors, and related research and development incentives;

c) encouraging the benefits of business clusters;

d) efforts to strengthen territorial and social cohesion;

e) instruments to facilitate social dialogue;

f) stronger social cohesion, particularly through enhanced skills training;

g) supporting services of general interest;

h) improving the physical infrastructure;

i) efforts to increase the flow of students into scientific and technological disciplines and courses in engineering and entrepreneurship.

j) promoting business financing.

4.4. Within the Community, the success of the last 50 years has been the degree to which these conditions have now been accepted across the Community. There is, of course, still more to be achieved. A substantial proportion of the measures needed to completely adopt these conditions also lie in the remit of the Member States (for example in transposing legislation) or with Member States acting through the Council of the European Union (in adopting suitable Community-wide policies).

4.5. The EESC notes the conclusion by the Commission that 'although industry in the future Member States is broadly ready to compete in an enlarged EU, deeper integration will inevitably entail some localised problems. Further restructuring will be necessary, particularly in the steel sector ...' The EESC is concerned, however, regarding the social consequences of job losses. Additionally, the Commission acknowledges that the cost of complying with the Community acquis, especially environmental legislation, may in the short term have negative implications for the cost structure of businesses.

([1]) As set out in section V.2.1, p. 21 *et seq*. in the English version.

4.6. These risks point to the need for a carefully targeted series of EU sector specific actions that are motivated to encourage the emergence of more competitive businesses and also take account of the possibly painful adjustment processes that will affect some businesses and their employees.

4.6.1. Business financing and a functioning European capital market are particularly important given the difficulties in the European banking sector, the Basle II debate and the increasing significance generally of capital market financing for European industry. This issue therefore requires close attention and it is essential to promote business financing tools.

4.7. A critical societal feature of enlargement is the degree to which key assumptions about the nature of mature market economies should not be assumed to apply equally to the new Member States. The cultural inheritance of a mature market economy offers features such as a legislative framework for modern business, an acceptance of the role and need for a strong entrepreneurial culture and an approach to business that includes the acceptance of risk taking.

4.8. The institutions of the EU must take account of these features and the tensions that they create.

4.9. However, the EESC is not completely reassured that, for the new Member States, 'enlargement is a reality for industry and has opened up new opportunities'. Even if only because these new Members have not yet absorbed the full acquis, the basis for arguing that enlargement is a reality seems insecure. The Committee comes closer to agreeing with the Commission when it argues that industrial policy tools will have to be applied taking account of the specific needs of the future member states. The identification of these specific needs and the Commission response remains a critically important process for the years ahead. These specific needs include investment, adjustment and modernisation to cope with changing opportunities and go beyond purely short-term competitiveness criteria.

4.10. The EESC is particularly concerned that, for some sectors, the enlargement of the Community will mean that some less productive plants with higher cost structures will face serious market loss, or financial losses, when exposed to competition from established EU businesses. In reverse, some sectors within the existing EU may be exposed to low cost competition from within the enlarged Community. The EU institutions should work to devise policies relevant for the whole of the Union to make best use of the human resources of a community of 25, partly to counter any concerns that short-term policies may lead to exorbitant costs in terms of the need for retraining and avoidance of social decay.

4.11. Alternatively, enlargement may offer some EU companies a better chance of survival in the face of stronger (internal and external) competition if they are enabled to draw on a pool of relatively inexpensive well trained labour in the new Member States.

5. **Specific comments on the communication**

5.1. A number of aspects of the communication merit more critical examination.

5.2. These include:

1) the consequences for industry of enlargement;

2) the need for the completion of the single market, including the elimination of the remaining deficit in horizontal measures;

3) the circumstances where vertical measures can be justified as they affect specific sectors;

4) adjustments affecting industry in border regions;

5) some key challenges for industrial policy.

In this opinion, these differing aspects are examined in turn in the following paragraphs.

5.2.1. Consequences of enlargement

5.2.1.1. The Commission acknowledges that, at the institutional and framework levels, the candidate countries have made considerable efforts to prepare for accession. It also acknowledges that there are large differences in some sectors that may give rise to complaints of low cost competition or, conversely, an inability to compete when faced with the enlarged market.

5.2.1.2. In preparation for enlargement the Commission has negotiated a number of specific transitional measures appropriate to the period of change. The several accession treaties have specified these measures and the EESC believes that they offer an acceptable institutional framework.

5.2.1.3. Amongst the key issues will be the impact of differences in technology and productivity as well as differences in labour costs.

5.2.1.4. The assessment of the EESC is that the Commission has understated the degree of adjustment that will need to take place. In addition, the Commission has overstated, possibly in a too complacent manner, the potential benefits from competitive reorganisation in the enlarged Community. Whilst the synergy of an enlarged market should be positive, there may be some casualties in the early years after accession.

5.2.1.5. The EESC suggests that the Commission should acknowledge these risks and pay particular attention to the needs and problems of the future Member States in the design and the implementation of industrial policies.

5.2.1.6. The EESC has concerns that there may have been an insufficient appreciation of the impact of enlargement in some, or all, of the following areas:

— the particular needs of SMEs that become more vulnerable to competition in some sectors and regions.

— the impact of enlargement on incentives for some businesses to relocate to new areas.

— possible migration of people seeking employment opportunities.

— the new orientation needed of customs duty enforcement along the new external frontiers of the Community and associated anti-smuggling and anti-counterfeiting measures.

5.2.1.7. A critical feature for the extension of the single market is that the infrastructure endowment of many of the new Member States still lags behind the standards of the rest of the European Union. An appraisal of the priorities and financing mechanisms (with a defined contribution from Community sources) to modernise key parts of the infrastructure, including the modernisation of trans-European networks, is commended. Equally, the major national networks are also worthy of modernisation whilst their services of general interest are retained.

5.2.1.8. As well as the possible migration of workers from the new Member States seeking employment opportunities (point 5.2.1.6), it must not be forgotten that, in some Member States, skilled labour will be in short supply as a result of demographic trends. This has wider and important implications for EU policies, impacting on education and training across the European Community.

5.2.2. The completion of the single market

5.2.2.1. Although the statement has been made many times, one of the key elements of an improved framework for industrial policy is that, within the EU (15), many of the unfinished measures to make the single market effective should be implemented.

5.2.2.2. This includes:

i) the introduction of a Community Patent [1];

ii) an effective competition policy;

iii) reduction, or removal, of unmerited State aids;

iv) agreement on progress to a single market in financial services;

v) fiscal harmonisation;

vi) adequate policies to encourage research and development;

vii) means of opening the market through effective public procurement policies and cooperative defence procurement policies;

viii) agreed application of environmental policies;

ix) improved recognition of professional qualifications;

x) common customs administration at the external borders of the EU.

5.2.2.3. In addition, the support of an effective, open and guaranteed market place for safe energy and transport services is needed. These infrastructural needs should be supported by the creation of adequate Trans-European Networks to meet the capacity needs of the enlarged Union.

5.2.2.4. For the new Member States, the impulsion to create the framework for industrial development relies on the need to adopt and implement the acquis already in the Community and then to keep pace with the evolving policies and pressures.

5.2.2.5. For these States, the Commission has noted that many of them need to take action on:

a) standards and technical regulations;

b) property rights, including IPRs (intellectual property rights);

[1] The Council approved the framework for the introduction of a Community Patent on 3.3.2003

c) harmonising the application of company law and respecting the plurality of different forms of enterprise;

d) liberalisation of energy markets;

e) building competitive conditions for privatised firms;

f) removal of some forms of State aid;

g) opening access to FDI (foreign direct investment);

h) supporting the conditions that might assist the creation and development of SMEs.

5.2.2.6. The initial, short-term, costs of compliance with environmental regulations is a particular concern because of the front-loaded nature of the costs.

5.2.2.7. The Commission has acknowledged that there have been fears that there would be some dislocation of production in sectors where relocation was motivated to find lower costs and wages in some of the CEEC countries, particularly in the textiles and clothing industries. Alternatively, there may be dislocation because firms move to lower cost locations in other countries. These fears are considered by the Commission not to be large since most relocations motivated by these factors may already have taken place [1]. The EESC has a concern that this may prove an optimistic interpretation.

5.2.2.8. Nevertheless, such processes are an inherent consequence of the increasing globalisation of the market place for industrial products.

5.2.3. Vertical measures affecting specific sectors

5.2.3.1. The EESC commends the merits of the introduction of policies that will be supportive of further and faster industrial development. In this context, the EESC would support a process where the Commission introduced defined strategies for key sectors where the benefits of further investment and the application of sector specific research and training policies would be outlined.

5.2.3.2. The most difficult aspect of industrial policy is how to cope with specific conditions where simply to allow market competition to operate can lead to outcomes that are judged to be undesirable.

5.2.3.3. The justification for specific temporary measures is likely to call for judgements at national or now, more usually, Community level that are complex. Different industries must adapt continuously to changing market conditions, changes in technology and production processes, changes in the usage of key skills, and changing cost structures. Many difficult decisions, which are usually motivated by the ambition to make products available on a more competitive basis to final or intermediate customers, and which are appropriate to the conservation of resources for future generations, would be a necessary response to changed conditions. Almost as inevitably, responses to change in the status quo bring threats of loss of business and/or employment for those who cannot, or do not, adapt quickly through consultation, within a framework of social dialogue. The Commission should take account of this factor in industry-related policies to give industry a greater degree of medium-term security to plan ahead.

5.2.3.4. Critical, therefore, to the work of the Commission, Member State Governments and other industrial policy agencies, is the preparation of positive responses to enhance the benefits of change rather than help to maintain an unsustainable status quo.

5.2.3.5. The Commission has many years of experience in responding to (but not necessarily agreeing with) representatives of several sectors including shipbuilding, steel, coal, textiles and clothing.

5.2.3.6. The Commission reports, in this Communication, that aid to steel making has only been allowed in as far as it was accompanied by capacity reductions and not to maintain existing capacity. Extra measures were permitted to mitigate the social impact of restructuring and also to support R&TD. The emphasis on R&TD and targeted training policies is regarded as adequate although the Commission adds that efforts will be needed to maintain competitiveness. Somewhat inconclusively, the Commission acknowledges the need to ensure all these instruments are well coordinated. No further proposals are outlined.

5.2.3.7. Whilst the EESC accepts that adjustments in industries such as steel must face the new commercial realities and cannot, or should not, rely on State aids and subsidies to offset competition, the Commission policy framework appears to lack measures to adequately ease the transition. The EESC recommends a sectoral review of vulnerable industries, particularly affected by enlargement (such as steel), to assess the restructuring process and outline transitional measures to ease the changes.

[1] See the discussion in the Commission Staff Working Paper on the Impact of Enlargement on Industry, SEC(2003) 234, section 2.2.

5.2.3.8. In shipbuilding, the argument, over the years, for intervention payments was tightly constrained and linked to partially offsetting the effective price subsidies offered by non-EU countries.

5.2.3.9. In each of these cases, the Commission had, necessarily and logically, to be persuaded that, in one form or another, there was 'market failure'.

5.2.3.10. An alternative justification for specific measures occurs where market forces operate in a way that leads to unsustainable development. Examples include the need to encourage new 'clean' technologies and charges linked to environmental damage or controlling waste linked to the guaranteeing of safe energy supplies.

5.2.3.11. The merits of introducing targeted measures for specific sectors applies both to the existing Member States and the new Member States.

5.2.3.12. Interestingly, the Commission also identifies sector-specific needs for more modern sectors such as chemicals, space and aerospace, biotechnology and telecommunications.

5.2.3.13. The EESC welcomes the willingness of the Commission to examine individual sectors to test the merits (if any) of further supplementary policies to support sustainable growth sponsored by the European Union.

5.2.3.14. Sector-specific policies are not necessarily a plea for subsidies. Sector specific policies may include, *inter alia*, education and training policies, energy policies, trade policy and the application of ICT. In addition, such sector specific policies may need to take account of external artificial distortions affecting global trading conditions.

5.2.4. Border regions

5.2.4.1. The EESC agrees with the Commission that there may be particular problems or disruption of trade and industry, especially for smaller and medium-sized businesses ([1]), in the regions next to the border between new and old Member States as well as in regions bordering other east European countries.

5.2.4.2. Whilst the EESC acknowledges that localised cross-border distortions or disruption as part of the adjustment process to an enlarged Community is likely, the responses to these developments are, the EESC suggest, a shared responsibility. The Community must apply the rationale and expertise built-up by the Interreg Programmes (or other special initiatives of this type). This can be most effective if a cross-border policy framework is set by the Commission and designed to facilitate acceptable local measures by the local government or regional agencies in these border regions.

5.2.4.3. The critical starting point for such responses must be to aid a transition to the new horizontal conditions rather than an attempt to enshrine longer-term protectionism.

5.2.5. The key challenges

5.2.5.1. The current key challenges for industrial policy affecting competitiveness are:

— the challenge of globalisation;

— technological and organisational change;

— innovation and entrepreneurship;

— sustainability and new societal demands;

— regaining full employment;

— defence procurement;

— vocational training and lifelong learning;

— minimising environmental damage (including the environmental impact of related energy and transport developments);

— the availability of adequate and appropriate financial resources for investments.

The first four of these are specifically identified by the Commission in its review of industrial policy.

5.2.5.2. These reflect the key factors underpinning and influencing the current processes of economic change. The EESC acknowledges that the first of these is driven by the opening-up of world markets and the advance of technology and science. For the others, the EESC agrees with the Commission that, whilst there is no single prescription for their development, 'industrial policy will have to pay particular attention to nurturing these strengths' ([2]).

([1]) This issue is discussed in more detail in the Commission Staff Working Paper 'Impact of Enlargement on Industry', SEC(2003) 234, section 2.2.

([2]) As set out in section V.1, p. 18 in the English version.

5.2.5.3. The value of the Commission communication is that it sets a framework for a better understanding of the pressures affecting the development of industry in the Community. The essential theme of this communication, endorsed by the EESC, is that the combined efforts of industry itself, industrial associations, local and regional government, national governments and the Community must acknowledge and respond to the need to maintain, and enhance, industrial competitiveness within a context that offers a sustainable future. European-level policy must ensure that industrial competitiveness is strengthened by reducing costs and bureaucracy, in line with the Lisbon strategy.

5.2.5.4. The impact of increasing globalisation means that different industrial sectors will need to adjust to a more competitive-trading environment in which cooperation and interdependence should increase involving employees, sub-contractors, universities and research institutes.

5.2.5.5. Critical to the adaptation process will be the incorporation of new technologies and the acceptance of organisational change. This has major implications for the upgrading of employees' skills and points to a need for an increase in public spending on education and training, reversing the apparent fall in the last decade. Employers have a crucial role to play in the workplace in making lifelong learning a reality for all their employees. Sufficient skills also make changes more easily acceptable and may even be seen as opportunities, as well as threats.

5.2.5.6. The European Commission should continue to improve vocational training and lifelong learning programmes to support understanding and knowledge among the civil services of the new member states not only of European law but, in particular, also the effects of legislation on the economy. Similarly, coherent training programmes are needed among entrepreneurs and the social partners. Well functioning employers associations and trade unions should be encouraged in the new member states together with improved institutional frameworks to meet the needs of the market-based economy.

6. **Policy revisited**

6.1. The basis for Community industrial policy can be seen in Article 157 of the Treaties. The evolution of industrial policy in the Community in the years ahead will, according to the Communication, be based on the following linked approaches:

— ensuring the most appropriate framework conditions;

— a more systematic EU approach for improving framework conditions;

— improving the integration of EU policies with an impact on industrial competitiveness;

— responding to the specific needs of industry in the accession States;

— striving for improved global governance;

— testing the sectoral relevance of this approach.

6.2. The EESC accepts the logic of this approach but notes that this will call for detailed policy developments at Community and, sometimes, Member State level. Nevertheless, this might be a useful approach if it assists the identification of appropriate measures.

6.3. This communication is not the vehicle to devise detailed proposals for the improvement of policy for industry. It is, however, a critical overview that, when endorsed, can set the principles for the actions that should follow. The next steps, which are now a pressing priority, must focus on the themes outlined above, in paragraph 6.1.

6.4. The EESC welcomes the proposal outlined in this Communication for a continuing review of all EU policies that impact on industry. This will, of necessity, cover a wide spectrum of policies and policy-making.

6.5. The continuing review will also be enhanced by the application of the new measures adopted by the Commission to simplify the governance mechanisms of the Commission, and the introduction of well-defined consultation commitments and related impact assessments of policy proposals that will include assessments of the economic, social and environmental implications. This review will need to incorporate a systematic surveillance of the cost impact on industry of any new draft regulations. In addition to the specific impact assessment of individual measures, the Commission should be asked to publish on a periodic basis its assessment of the cumulative effects of any EU decisions on the costs and performance of industry both in total and for specific vulnerable sectors.

6.6. A more systematic impact-assessment process would offer a more transparent process and also offer a basis for wider dialogue with stakeholders on the acceptance of the policies and debate about their impact. This will be of particular value in assisting the further work of the EESC.

6.7. Lest the conclusion might be drawn that industry policy turns narrowly on official actions, the EESC also commends the role of industry, industry sectoral associations and industrial associations, in cooperation with the social partners, in taking an active role in ensuring that industry continues to build its contribution to the economies of the EU.

6.8. In his presentation to the Committee of the European Parliament ([1]), Commissioner Liikanen described this Commission communication as the first step in a larger process that will place industry back on the policy agenda. It would also open an exploration of how different EU policies interface with the performance of European industry and allow an examination of what should be done to reinforce competitiveness of EU companies.

6.9. vThe EESC welcomes this re-visitation of critically important aspects of EU policy-making and will welcome the opportunity to contribute further to the debate as it evolves.

6.10. The EESC also welcomes the reshaping of the Council of the European Union so that a new formation brings together, in an appropriately named format, a Competitiveness Council with many of the main responsibilities relevant to industrial policy.

6.11. Nevertheless, the EESC does not need to remind the Council, or the Commission, that, whilst industrial policy must place a key focus on factors directly influencing competitiveness, the successful and legitimate encouragement of industrial development calls for the better understanding of how industry is influenced by, and itself influences, many other Community actions.

([1]) Speech on 22.1.2003.

Brussels, 17 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council establishing a general framework for financing Community actions in support of consumer policy for the years 2004-2007'

(COM(2003) 44 final — 2003/0020 (COD))

(2003/C 234/19)

On 12 February 2003 the Council decided to consult the European Economic and Social Committee, under Article 308 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the work on the subject, adopted its opinion on 25 June 2003. The rapporteur was Mr Hernández Bataller.

At its 401st Plenary Session of 16 and 17 July 2003 (meeting of 17 July), the European Economic and Social Committee adopted the following opinion by 94 votes in favour, four votes against and one abstention.

1. **Introduction**

1.1. The essential aim behind the general framework for Community activities in favour of consumers, established by Decision No 283/1999/EC of 25 January [1], was to group together all initiatives carried out for the benefit of consumers so as to optimise their effects for consumers, whilst taking account of the initiatives adopted by the Community and the support provided to those organisations and bodies which work to defend consumer interests at Community and national level. It was adopted to meet the immediate need for a legal framework for expenditure on consumer protection in accordance with the judgement of the European Court of Justice of 1998 (case 106/96) [2].

1.2. This Decision pursued the aim of strengthening those organisations and bodies active in the area of consumer protection so that they could be a more effective driving force in raising consumer awareness. It set out the arrangements for the financial support provided by the Community to such organisations and bodies with the aim of ensuring maximum transparency and effectiveness in the use of the funds allocated by the Community.

1.3. This Decision provided the first legal framework for expenditure on activities in several areas of health and consumer protection. It expires on 31 December 2003.

1.4. In its opinion on the previous proposal [3], the Committee expressed its agreement with the Commission's reasoning and its support for the proposed framework, provided explicit reference was made to the planned action to be undertaken. The Committee also suggested leaving sufficient room for the introduction of a new basic act to earmark new financial provisions in order to take appropriate action in the case of events in areas not covered by this framework.

1.5. The Commission drew up a report in 2001 [4] in which it outlined three principal lessons, taking account of the experience gained over the previous years:

— the benefits of flexibility in implementing the action plan;

— the need to adopt a more strategic approach to EU consumer policy;

— the importance of effective integration of a consumer dimension in all relevant EC policies.

1.5.1. Recently, the Commission drew up an evaluation report [5] in which it concluded that any future legal framework for expenditure in favour of consumers should contain a better

[1] Decision No 283/1999/EC of the European Parliament and of the Council of 25.1.1999 establishing a general framework for Community activities in favour of consumers. OJ L 34 of 9.2.1999.

[2] This judgement stipulates that implementation of Community expenditure relating to any significant Community action presupposes not only the entry of the relevant appropriation in the budget of the Community, ... but in addition the prior adoption of a basic act authorising that expenditure.

[3] OJ C 235 of 27.7.1998.

[4] Report from the Commission on the 'Action Plan for Consumer Policy 1999-2001' and on the 'General Framework for Community activities in favour of consumers 1999-2003', COM(2001) 486 final.

[5] Report from the Commission to the European Parliament and the Council on the implementation and evaluation of Community activities 1999-2001 in favour of consumers under the General Framework as established by Decision (EC) No 283/1999. COM(2003) 42 final.

alignment of policy and budgetary frameworks and should take account of important shifts in the policy context, such as enlargement and new governance, and the adoption of the new Consumer Policy Strategy.

1.6. In May of 2002, the Commission issued the 'Consumer Policy Strategy 2002-2006' ([1]), which comprised three essential objectives: a high common level of consumer protection; effective enforcement of consumer protection rules and proper involvement of consumer organisations in Community policy making. The following are some of the key factors underlying the strategy: prioritising the integration of consumer interests into other EU policies, maximising the benefits of the internal market for consumers, and preparing for enlargement. The Committee has already issued an opinion ([2]) on this strategy, expressing its satisfaction and support for more effective implementation of the existing legislation and advocating the integration of consumer policy in other relevant policy areas, including education. The Council ([3]) for its part urged the Commission and the Member States to ensure that the proposal for a future legal act for Community activities in favour of consumers reflects and supports the objectives outlined in the Commission strategy.

2. **Content of the Proposal**

2.1. The aim of the proposal is to establish an enabling framework for the Community actions in support of consumer policy set out in the Consumer Policy Strategy 2002-2006, adopted by the Commission in May 2002, which establishes the following objectives:

— high common level of consumer protection,

— effective enforcement of consumer protection rules,

— proper involvement of consumer organisations in Community policy making.

2.2. These objectives will be implemented through actions included in the rolling programme (annexed to the Strategy) which will be regularly reviewed by the Commission. This proposal establishes a direct link between the objectives and priorities of the Consumer Policy Strategy 2002-2006 and the actions to be financed under the proposed Decision. The legal basis for the proposal is Article 153 of the EC Treaty.

2.3. The scope of this proposal covers issues concerning consumer safety related to non-food products, consumer economic interests, consumer information and education, the promotion of consumer organisations at European level and their contribution to EU policies affecting consumer interests.

2.4. The proposal covers the four-year period from 2004 to 2007. The total budget proposed for the four-year period amounts to EUR 72 million, or EUR 18 million per year, in operational credits and EUR 32 million, or EUR 8 million per year, in human resources and other administrative expenditure. This is intended to create budgetary stability for consumer policy actions.

2.5. Only specific projects that support the objectives of the Consumer Policy Strategy and fall within the following areas will be eligible for co-financing:

— protection of consumer health and safety with respect to services and non-food products;

— protection of the economic interests of consumers;

— promotion of consumer information and education;

— promotion of consumer organisations at European level.

With the aim of extending both the size and duration of the projects financed, it is planned to issue a call for proposals at the least every two years.

2.6. The proposal does not incorporate selection and award criteria for the financing of specific projects. These are, instead, set out in an annual work programme to be presented to the 'Advisory Committee' responsible for assisting the Commission in implementing the proposed Decision. In line with subsidiarity, co-financing of specific projects will no longer be used as an instrument to provide support to smaller-scale national consumer organisations. Instead, the Commission will directly finance projects that support and promote consumer organisations through staff training and exchanges of best practices.

([1]) Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions. COM(2002) 208 final.
([2]) OJ C 95 of 23.4.2003
([3]) Council Resolution of 2.12.2002 on Community consumer policy strategy 2002-2006, OJ C 11 of 17.1.2003.

2.7. The proposal modifies the eligibility criteria for financial contributions to European consumer organisations in order to clarify that they must be independent of industry, commerce and other business interests, and that their primary objective must be to promote the health, safety and economic interests of European consumers.

2.7.1. The proposal provides for different forms of budgetary support based on varying levels of Commission participation and funding percentages:

2.7.2. Projects implemented directly and financed 100 % by the Commission, carried out through the award of contracts. These projects will cover areas such as:

— advice, analysis, expertise and preparation of technical, legal and socio-economic proposals aimed at the protection of consumers;

— monitoring and assessing consumer protection standards, including the creation of databases and other IT tools;

— providing support to consumer organisations in the form of technical and legal expertise, staff training, consumer information and education, and developing initiatives in this area.

2.8. Co-financing of specific projects run at Community or national level by any legal person or association of legal persons acting independently of commerce and industry. The financial support available here amounts to between 50 % and 70 % of the costs of the implementation of the project.

2.8.1. Financial contributions for the functioning of European consumer organisations in accordance with the definitions provided in the proposed Decision. This category of financial support is capped at 50 % of all administrative expenditure, although up to 95 % of costs incurred by organisations that protect the interests of consumers by developing standards applicable to products and services Community-wide may be financed. This latter measure is explained by the significant political relevance and 'general European interest' of standardisation.

2.8.2. The proposal also introduces specific provisions for actions undertaken and financed jointly by the Commission and the Member States and consisting of:

— financial contributions to bodies that are part of existing Community networks set up to provide information and assistance to consumers to help them exercise their rights and to obtain access to appropriate dispute resolution;

— actions to be developed in the area of administrative and enforcement co-operation with the Member States.

2.9. The proposal also contains rules on publication, monitoring, and evaluation, implementation of measures, and the assistance to be provided to the Commission by an advisory committee.

3. **General comments**

3.1. The Committee agrees with the Commission that the creation of a general legal framework for the financing of Community actions in favour of consumer policy based on the principles of unity, sound financial management and budgetary transparency is a necessity.

3.2. The Committee welcomes the Commission's desire to enhance the effectiveness of these actions and to tailor them more closely to objectives on the basis of an ex ante evaluation of the Consumer Policy Strategy 2002-2006 and an ex post evaluation of the implementation of Decision No 283/1999/EC. Sound financial management must be based on the principles of economy, efficiency and effectiveness and confirmed through the use of measurable effectiveness indicators, related to the activity in question, so that the results can be assessed. The Committee advocates a system of ex ante and ex post assessments to be carried out by the institutions in accordance with the new general financial framework.

3.3. Given that expenditure related to food safety is to be financed independently, as outlined in the White Paper on Food Safety and Regulation (EC) No 178/2002, it would seem logical for initiatives concerning foodstuffs to be left out of the scope of the present proposal.

3.4. The Commission believes that the annual project cycle on which the framework is based has been shown to be highly costly both for the Commission and the applicants and that as such it diminishes the Community added value and long-term impact of the projects financed. In the light of this, the decision has been taken to issue a call for projects at least every two years. Nonetheless, it must be made clear that the introduction of a two-year project cycle in principle and a call for proposals every two years at least does not imply that the projects financed must have a duration of two years. This would be excessively rigid in view of the ever-changing nature of the market.

3.5. The Commission has proposed a total budget for 2004-2007 of EUR 72 million, or EUR 18 million per year, in operational credits and EUR 32 million, or EUR 8 million per year, in human resources. The Commission does recognise, however, the concern expressed by the experts consulted in the ex ante evaluation with respect to the adequacy of the programme of action proposed. In view of this, it would be advisable not only to ensure a more effective use of resources, but also to provide additional funding for human resources, in particular given that the new Member States will also be in line for financing during that period. Third countries, whether EFTA/EEA countries or other states which have bilateral agreements with the EU, may also benefit insofar as they have contributed to the budget. In terms of the participation of the new Member States, the financial perspective for enlargement is currently being adapted, increasing the funds available within the financial framework by approximately 2,5 million EUR per annum.

3.6. In its proposal the Commission pledges its support to associations working at European level, which are the only organisations eligible for operational subsidies. The Committee notes that in reality only one organisation will be awarded this type of subsidy and believes that the Commission should be more flexible and amend this definition to enable other well-established consumer protection organisations to continue to benefit from operational subsidies. This would ensure in practice that the strongest, most powerful associations do not take advantage of the actions financed within the framework.

3.6.1. The Committee thus proposes the following definition of 'European Consumer Organisation': 'Non-governmental, non profit-making organisation which has amongst its main objectives the promotion and protection of consumers' interests and health by working for their defence, interest and representation and to provide information, training and advice and take initiatives in their interests. It shall have member organisations in most of the Member States and shall be mandated by them to represent the interests of consumers at Community level.'

3.6.2. The Committee asks the Commission to ensure that the criteria relating to representation on the Consumer Committee do not become dependent on the criteria used to grant funding.

3.7. Whilst the Committee agrees with the overall aim of strengthening the European framework for consumer protection and organisations that work to protect consumer rights, it feels that this approach to operational subsidies should be clarified. In this respect, the Committee notes that the budget must be based on the principle of efficiency, i.e. the means used must match the results obtained as closely as possible; the Commission must not lose sight of this, given its ultimate responsibility for budgetary implementation in accordance with Article 274 of the Treaty.

3.7.1. It is important to distinguish the size and resources of the organisations, whether they operate at national or Community level and the 'Community interest' of their proposals. A variety of areas are of great strategic importance for European consumers, including the new technologies, electronic communication, self-regulation and co-regulation, general interest actions, new financial services, etc. Within these areas, specialist organisations that work to protect consumers' rights can provide essential added value, independently of their organisational strength and the scale of their operations.

3.7.2. The Committee considers that the role of the Commission in coordinating Community projects carried out within different Member States must be maintained and indeed reinforced. Examples have shown, over and above the concrete assessment of their circumstances and results, that organisations can combine action at national level with activities that provide added value at the European level provided the Commission acts as coordinator.

3.7.3. Article 7 of the proposal establishes the beneficiaries, with paragraphs 2 and 3 providing two different definitions of European consumer organisations. Although this can be explained in terms of the varying objectives of the subsidies provided and the strategic interest of standardisation projects, problems could arise as a result of the use of differing definitions. Therefore it would be desirable to agree a single definition as described in 3.6.1 above.

3.7.4. The EESC calls on the Commission, the Member States and consumer organisations to consider how people with disabilities might play an active role in consumer policy.

3.7.5. The Committee finds it strange, against the current background of European integration, that no requirement is placed on these organisations to operate in a democratic and transparent manner and to make their organisational data available to the public.

3.7.6. The Committee notes that the proposed Decision deals with the period 2004-2007 whilst the related consumer policy strategy covers the period 2002-2006. Whilst it understands the internal reasons cited by the Commission for this, the time discrepancy could create problems in the future.

3.8. In terms of the co-financing of specific projects that support the consumer policy objectives outlined under point 2.1 and are run by legal persons or associations of legal persons that act independently either at Community or national level, it would seem clear that these projects can be developed either at Community or national level and that the financing can be granted to any person or association that meets with the independence criterion even where they are not represented at European level.

3.8.1. The Committee considers that, when granting financing, priority should be given to cross-border actions and those based on co-operation between different associations in various Member States. Given that cooperation between consumer organisations in different Member States can be problematic, the Commission should seek out appropriate measures to remedy this.

3.8.2. The EESC also feels that, in terms of co-financing, great store must be set by projects that aim to provide information to consumers.

3.8.3. The Commission should support the priority for financing given to specific projects which are of strategic importance and comply with the consumer policy aims. It should not be forgotten that in a great many cases such projects are based on new activities that require additional human and technical resources over and above the organisation's existing resources.

3.8.4. More generally, the Committee finds it unusual that the support for the co-financing of specific projects cannot also attain 95 % of eligible project implementation costs where the significance and scale of the project would require this. Experience has shown that partial subsidies force consumer organisations to look for other sources of financing for their projects and that this financing is subject to severe restrictions, thereby limiting their ability to present new initiatives.

3.9. The Committee agrees with the Commission that the principle of transparency must be applied to the planned publication, monitoring and evaluation measures. With this in mind, it considers that greater efforts must be made when submitting the proposals and the list of beneficiaries to the consumer organisations to use all possible communication methods available to the Commission, both electronic and through the Official Journal.

3.10. The proposal provides for the creation of an advisory committee set up to assist the Commission. The Committee would remind the Commission that it is bound to provide adequate justification for the type of committee chosen [1] and its makeup.

3.11. The Committee would remind the Commission of the need to set aside public money under the new post-2006 financial perspective for the creation of a European research body for the protection of consumer rights. The EESC awaits the Commission's proposal with interest.

Brussels, 17 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

[1] Judgement of the Court of Justice of 21.1.2003, case C-378, Commission versus the European Parliament and the Council, section 63.

Opinion of the European Economic and Social Committee on the 'Proposal for a directive of the European Parliament and of the Council amending Directive 2002/96/EC on waste electrical and electronic equipment'

(COM(2003) 219 final — 2003/0084 (COD))

(2003/C 234/20)

On 13 May 2003, the Council, acting in accordance with Article 175 of the Treaty establishing the European Community, decided to consult the European Economic and Social Committee on the above-mentioned proposal.

On 13 May 2003, the Economic and Social Committee Bureau instructed the Section for Agriculture, Rural Development and the Environment to prepare the Committee's work on the subject.

Owing to the urgent nature of the opinion, the 401st Plenary Session of the Economic and Social Committee of 16 and 17 July 2003 (meeting of 17 July) appointed Mrs Cassina as rapporteur-general and, at its meeting on 17 July, adopted the opinion by 65 votes to none, with one abstention.

1. Introduction and gist of the proposal

1.1. Directive No 2002/96/EEC on waste electric and electronic equipment (WEEE) governs the collection and environmentally sound treatment of products ranging from large industrial machines to small household appliances (washing machines, refrigerators, toasters, hairdryers etc.), including IT and telecommunication equipment (PCs, printers, telephones) and even mobile telephones. The legal basis can be found in Article 175(1) of the Treaty, and on the basis of the precautionary principle, the aim of the Directive is to ensure that the equipment referred to and/or their components are disposed of or recycled in an environmentally sound manner.

1.2. On 29 April 2003 ([1]), the Commission proposed amending the directive that had been adopted only a few months earlier by the European Parliament and by the Council ([2]). The proposal for an amendment tabled so soon after adoption was justified as follows:

1.2.1. During the final stages of adoption, it became clear that an amendment to Article 9 (approved at first reading) gave sole responsibility to the producers ([3]) of electrical and electronic equipment (EEA) supplied to non-household sources for disposing of EEA that has been discarded or replaced by the latter.

1.2.2. In procedural terms, since no amendment had been tabled during the final stage of the decision-making process, it was impossible to amend Article 9 at the adoption stage.

1.2.3. To remedy the problems associated with implementing Article 9, the European Parliament, the Council and the Commission issued a joint declaration ([4]) recognising the need for a prompt amendment to the Directive before the deadline for transposition by the Member States was reached, i.e. before 13 August 2004.

1.3. The amendment only concerns WEEE from non-household sources.

1.3.1. The proposed amendment transfers responsibility for financing the collection, treatment, recycling and disposal of WEEE put on the market before 13 August 2005 (historical waste) and replaced by producers, to producers of new products when supplying replacements. As an alternative, Member States may provide that users be made partly or wholly responsible for this financing.

1.3.2. For waste that is not replaced, users are responsible for financing the costs.

2. Comments

2.1. Directive 2002/96/EEC is very important in that it takes a coherent approach, in line with other pieces of environmental legislation, to tackling the risks posed by products that are becoming increasingly widespread in daily life, both in the home and in the workplace. In addition, before

([1]) COM(2003) 219 final.

([2]) OJ L 37 of 13.3.2003, p. 24. See also the EESC opinion OJ C 116 of 20.4.2001.

([3]) Article 9 states that: 'for WEEE from products put on the market before 13 August 2005 (historical waste), the financing of the costs of management shall be provided for by producers'.

([4]) Appended to the Directive.

this Directive, over 90 % of WEEE was either dumped, incinerated or re-used without adequate prior treatment to reduce the risk of pollution. The EESC therefore stresses that the proposed amendment must be examined with the key environmental aim of the Directive firmly in mind ([1]).

2.2. The proposed amendment is logical since it seeks to avoid a situation in which EEE producers alone are responsible for costs that risk compromising the economic livelihood of firms that might have lost market share over the years and are experiencing economic difficulties. It is, however, a logic that reflects market concerns rather than environmental objectives.

2.3. In this respect, the EESC notes that, in the case of non-replacement, the responsibility for all costs would lie with users and could create some problems, for example, if non-replacement were caused by bankruptcy of an enterprise, cessation of production due to *force majeure*, or non-compliance on the part of the owner, etc.

2.3.1. In the specific case of cessation of production or activities due to *force majeure* and if the user cannot be required to cover the costs, it would not only be unfair to impose additional costs on businesses already facing difficulties, but it could create a significant environmental hazard during the delay in finding some as yet unidentified players to dispose of the WEEE in question. The EESC believes that in this case, Member States should be responsible for ensuring environmentally sound waste disposal.

2.4. The EESC notes that Member States are given the freedom to make provisions for, in the case of replacement, users to be partly or wholly responsible for financing the treatment of WEEE. The Committee observes that significant differences in provisions between Member States could in some cases lead to distortions in competition, since the situation could arise where users in one Member State are fully exempt from costs whilst users in another Member State are fully responsible.

2.5. The Directive also gives producers and users the freedom to conclude agreements stipulating other financing methods ([2]). The EESC therefore notes that the Directive appears to be advocating different approaches to identifying responsibility and respective degrees of liability.

3. **Conclusions**

3.1. In view of the above comments, the EESC considers that it would be advisable not to offer too many options, and that co-responsibility between producers and users should be the only permissible method, albeit allowing for variation in the percentage share of responsibility. Accordingly, the EESC believes it would be more equitable, transparent and environmentally sound if the amendment simply provides for co-responsibility for producer and user, including for historical waste, since the method for applying co-responsibility will be clearly laid out in purchase agreements for all products bought after 13 August 2005.

3.2. In any event, when it comes to implementing the Directive, the EESC urges the Member States to ascertain that liability is set out clearly and allocated equitably, since achieving the environmental objectives of the Directive will be greatly facilitated if there is a clearly accepted definition of the arrangements for co-responsibility.

([1]) See opinion on Directive 2002/96 (OJ C 116 of 20.4.2001, pp. 38-43) for its broadly positive comments and assessment.

([2]) Article 9(2) of the proposal.

Brussels, 17 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation on the common organisation of the market in raw tobacco (codified version)

(COM(2003) 243 final — 2003/0096 (CNS))

(2003/C 234/21)

On 27 May 2003 the Council decided to consult the European Economic and Social Committee, under Articles 36 and 37 of the Treaty establishing the European Economic Community, on the above-mentioned proposal.

On 17 June 2003 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 work, at its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July 2003) the European Economic and Social Committee appointed Mr Moraleda Quilez as rapporteur-general and adopted the following opinion by 26 votes to one, with one abstention.

1. The purpose of this proposal is to codify Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco [1]. The new Regulation will supersede the various acts incorporated in it; their content is fully preserved, and they are brought together with only such formal amendments as are required by the codification exercise itself.

2. The Committee regards it as very useful to have all the texts integrated into one Regulation. In the context of a People's Europe, the Committee, like the Commission, attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to ordinary citizens, thus giving them new opportunities and the chance to make use of the specific rights it gives them.

It has been ensured that this compilation of provisions contains no changes of substance and serves only the purpose of presenting Community law in a clear and transparent way. The Committee expresses its total support for this objective and, in the light of these guarantees, welcomes the proposal.

[1] Carried out pursuant to the Communication from the Commission to the European Parliament and the Council — codification of the acquis communautaire, COM(2001) 645 final.

Brussels, 16 July 2003.

The President

of the Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation on the common organisation of the market in pigmeat (codified version)

(COM(2003) 297 final — 2003/0104 (CNS))

(2003/C 234/22)

On 7 July 2003 the Council decided to consult the European Economic and Social Committee, under Articles 36 and 37 of the Treaty establishing the European Economic Community, on the above-mentioned proposal.

On 17 June 2003 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 work, at its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July) the European Economic and Social Committee appointed Mr Caball i Subirana as rapporteur-general and adopted the following opinion by 26 votes to one with one abstention.

1. The purpose of this proposal is to codify Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ([1]). The new Regulation will supersede the various acts incorporated in it; their content is fully preserved, and they are brought together with only such formal amendments as are required by the codification exercise itself.

2. The Committee regards it as very useful to have all the texts integrated into one Regulation. In the context of a People's Europe, the Committee, like the Commission, attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to ordinary citizens, thus giving them new opportunities and the chance to make use of the specific rights it gives them.

It has been ensured that this compilation of provisions contains no changes of substance and serves only the purpose of presenting Community law in a clear and transparent way. The Committee expresses its total support for this objective and, in the light of these guarantees, welcomes the proposal.

([1]) Carried out pursuant to the Communication from the Commission to the European Parliament and the Council — Codification of the acquis communautaire, COM(2001) 645 final.

Brussels, 16 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Preparation of the 5th WTO Ministerial Conference'

(2003/C 234/23)

On 18 July 2002 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an initiative opinion on the 'Preparation of the 5th WTO Ministerial Conference'.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 24 June 2003. The rapporteur was Mr Vever.

At its 401st Plenary Session on 16 and 17 July 2003 (meeting of 17 July), the European Economic and Social Committee adopted the following opinion by 46 votes to two with 26 abstentions.

1. Summary

1.1. The 5th WTO Ministerial Conference in Cancun (Mexico) on 10-14 September 2003 will carry out a mid-term review of the Doha Development Agenda. It is going to play a decisive role in the completion of negotiations by the end of 2004. The conclusion of these negotiations should not mean a lower common denominator for the Member States, but should rest on a sustainable consensus that is commensurate with the issues at stake. The success of the Cancun conference is particularly necessary in the present circumstances in order to:

— revive economic growth, which has fallen sharply since Doha,

— bolster investor confidence, which has been shaken by the ongoing stock market and financial crisis,

— improve the general climate, which is still dominated by international security concerns and the war on terrorism,

— provide a more solid and wide-ranging overview of the issues at stake and progress made with regard to economic openness and development, thereby transcending the approaches adopted in technical and detailed negotiations,

— make more effective progress in the support of developing countries at a time when economic, budgetary and social problems have continued to worsen in many of these countries.

1.2. The situation in the run-up to this conference is contrasting: Member States have played quite an active part in preparations, and certain interim deadlines set in the Doha Agenda have led to the submission of work programmes (differential treatment, implementation), but elsewhere deadlines have been missed (health, intellectual property). Delays have thwarted the initial plan to achieve a balance between the three main areas of negotiations (services, goods and agriculture) by the start of 2003 by means of mutual concessions. Accordingly, positions still remain quite a long way apart on a number of questions.

1.3. If negotiations are to receive a new decisive fillip at the Cancun Conference, the Committee thinks that all parties must feel that an overall and dynamic balance — borne out by impact assessments and proportionality tests — has been attained with regard to market access, with in particular:

— the gradual liberalisation of services, while continuing to keep public services outside the scope of the negotiations,

— likewise the gradual opening-up of agricultural markets, which matches the ongoing and planned actions to reform the EU's common agricultural policy,

— a balanced and fair scheme — involving all Member States — for reducing tariffs for industrial products (including the eradication of tariff peaks).

1.4. The Committee would also underline the importance of obtaining the following at the conference:

— a significant reduction in non-tariff barriers, with more transparency in the field of government procurement,

— an agreement on foreign direct investment, helping to initiate harmonisation of the various bilateral agreements,

— more appropriate and effective anti-dumping and anti-subsidy provisions,

— progress in making allowance for environmental protection, with effective impact indicators.

1.5. The Committee points out the key importance of development for the success of the Doha Agenda. This presupposes in particular:

— real progress in launching the work programme which has been agreed on to facilitate the implementation of commitments, by way of the special and differential treatment of developing countries,

— greater clarification of developing countries' situations and categories, by making a clearer distinction between countries which lag behind persistently and countries which already enjoy the benefits of an emerging economy,

— effective support for administrative capacity building in the least developed countries.

1.6. The Committee also reiterates the importance which it continues to attach to progress in the field of fundamental social rights, which cannot be called into question for the sake of the development issues at stake. Even if these matters remain outside the scope of the Doha Agenda negotiations, the Committee

— supports the ILO initiatives in this field, in particular the work of its group on the social aspects of globalisation,

— underlines the importance of the ILO being granted the status of permanent observer to the WTO.

1.7. The Committee renews its support for the improvement of WTO procedures, as proposed in its recent opinion entitled For a WTO with a human face. This includes the need to find as far as possible alternative dispute settlement solutions that do not penalise enterprises and other parties on which sanctions have not been imposed.

1.8. Finally the Committee invites the various civil society players (businessmen, socio-occupational organisations, social partners, NGOs) to take steps to:

— participate in information campaigns about the issues at stake in the Doha Agenda,

— organise international meetings, at a cross-sectoral level or within sectors of activity,

— contribute through their assessments, proposals and participation, to the success of sustainable development worldwide.

1.9. The Committee will take part in these initiatives. Before the conclusion of the Doha Round at the end of 2004, it will present operational proposals for improving participatory democracy by involving organised civil society in the WTO's activities. These proposals will be the result of joint deliberations with its partners in the European Union and in non-EU countries.

2. **The outlook for the Doha Development Agenda (DDA)**

2.1. The Ministerial Declaration issued at the end of the 4th Ministerial Conference in Doha, which was held from 9 to 14 November 2001, set out a work programme which is due to be completed by 1 January 2005 at the latest. However, an important mid-term review is to take place at the 5th Ministerial Conference in Cancun (Mexico) from 10 to 14 September 2003. In Cancun a decision will be taken on whether to pursue the current negotiations and launch the Singapore package. A real hurdle will therefore have to be overcome at the conference.

2.2. The Doha Ministerial Declaration attempts to bring together in one single instrument a series of requests from States (or groups of States) which wish the WTO to move in different directions. However, priority is given to one subject — development — in response to the demands of one group of countries, viz. the developing countries including first and foremost the least developed countries. This priority has undoubtedly been accentuated since the Monterrey and Johannesburg Conferences, which placed somewhat more emphasis on the development side of globalisation.

2.3. However, this subject can be approached in a variety of ways which other members or groups of States such as the industrialised countries find acceptable to a greater or lesser extent:

2.3.1. firstly, renegotiation of all or some of the disciplines agreed on after the preceding Uruguay Round, on the grounds that these negotiations were detrimental to developing countries;

2.3.2. secondly, technical assistance and cooperation plus (administrative) capacity building in these same countries, so as to help them meet their WTO obligations;

2.3.3. thirdly, special and differential treatment or — to put it another way — asymmetry of obligations in all fields dealt with by the Doha Development Agenda (DDA) starting with access to the markets in industrialised products, agricultural products and services and not forgetting the old rules and disciplines (though these are to be improved) or the new ones (investment, competition, etc.).

2.4. Apart from the developing countries' demands, the DDA must also do justice to the priority demands of other categories of countries:

2.4.1. access to the market in agricultural and industrial goods as well as services (United States — Cairns — European Union, though this is also a problem for developing countries);

2.4.2. new controls on international trade and financial transfers (European Union certainly, but also many other states, as the February 2003 Tokyo Ministerial showed);

2.4.3. the need to take account of the non-trade dimension of international trade — cf. the environment (European Union and civil societies).

2.5. In order to attempt to satisfy all these demands — which, if not contradictory, are at least heterogeneous — multiple rendez-vous clauses have been laid down:

2.5.1. end of 2002: implementation and public health in relation to intellectual property;

2.5.2. spring 2003: the various accesses to the markets;

2.5.3. September 2003: Cancun Ministerial Conference (Mexico), search for a consensus on negotiation of the Singapore subjects (investment, competition, trade facilitation, government procurement).

2.6. In previous opinions [1], the EESC constantly called for a balanced approach to the WTO negotiations. In the run-up to Cancun, it must tell negotiators how it thinks negotiations could be balanced in both general and specific terms and do justice to:

2.6.1. the preferences of all parties;

2.6.2. the interests of the different categories of members, including first and foremost the least developed countries and the real developing countries;

2.6.3. the improvements in commercial and financial flows which should be brought about not only between North and South but also between South and South.

2.7. The current situation, which is marked by uncertainties, regional economic and financial crises and reductions in trade and foreign investment, demands more than ever that the international environment be stabilised. This is once again the challenge facing Cancun.

2.8. In addition, Doha, Monterrey and Johannesburg have put the spotlight once again on the need to take account of development, whose sustainable and social dimension is itself now under discussion more than ever before. Also — and this is something which undoubtedly has not been done properly since Doha — the progress made in this area will have to be measured more thoroughly, either within the framework of the WTO or another international institution. This is central to the development issue and underlines the importance of concluding the Doha Round and, to this end, overcoming the divides separating the frequently short-term interests of States so that better account is taken of the long-term interests of all parties.

2.9. Concessions and compromises will be required to achieve this. In the WTO negotiations the European Union is defending

— not only its future economic growth, its active strategies for winning foreign markets, its technological advances, the protection of its consumers and the jobs of its inhabitants,

— but also a sustainable development process which meets the justified demands of both developing countries and industrialised countries and, more especially, their civil societies.

2.10. The overall framework laid down within the WTO — no matter how balanced it may be — will undoubtedly not suffice to satisfy all the legitimate expectations of all sides. Thus, headway must also be made in parallel in other international bodies — IFI, UNDP, ILO — to find solutions to a number of fundamental problems relating to the environment, living and working conditions and the fight against underdevelopment. To this end, the Union is proposing in each area of negotiations a compromise which is likely to win the support of a maximum number of WTO members, plus a very substantial development package.

2.11. It is the duty of the European Union to also be the driving force behind such actions and, if need be, to set an example. The current international political tensions make these actions necessary. The Economic and Social Committee must define the main thrust of such actions for the benefit of national, Community and international decision-makers.

2.12. The success of the Doha Development Agenda depends on the success of the Cancun Conference, which is particularly necessary in the current circumstances in order to:

— revive international economic growth, which has fallen sharply since Doha;

[1] Opinion on The preparation of the 4th WTO Ministerial Conference, (OJ C 36 of 8.2.2002)
Information Report CESE 326/2001 of 7.6.2001 on Coping with globalisation — the only option for the most vulnerable.
Opinion on Human rights in the workplace, (OJ C 260 of 17.9.2001)

— bolster investor confidence, which has been severely shaken by the ongoing stock market and financial crisis;

— improve the general climate, which ever since the September 11 attacks has been dominated by international security concerns and the war on terrorism;

— provide a more solid, profound and wide-ranging overview of economic openness and development that transcends the approaches adopted in technical and detailed negotiations;

— do more to further development at a time when economic, budgetary and social problems have continued to worsen in many developing countries.

3. **The state of play in the run-up to the Cancun Ministerial Conference**

3.1. 2003 will be vital for the success of the Round.

3.1.1. On the one hand, preparations have so far made satisfactory progress, with Member States playing quite an active part. Thus, a clear interest is being shown in the DDA by players as diverse as China, Brazil, India, Africa and the ACP countries plus, of course the United States itself. Furthermore, at the moment, the chairmen of the different negotiating groups have received a significant number of contributions which should allow them in due course to draw up single texts for negotiation:

3.1.1.1. Following the issuing of a specific mandate to the Trade Promotion Authority by Congress, the United States has frequently made its views known very forcefully, both when it has been on the offensive (access to markets) and when it has been on the defensive (the various trade policy instruments).

3.1.1.2. The People's Republic of China, Brazil and India are playing important role in all areas of negotiation, very often defending the interests of emerging countries and developing countries which have been skilfully merged.

3.1.1.3. African countries and the ACP countries play a more important role than in the previous Round, and emphasise a number of issues which are particularly dear to them: implementation, special and differential treatment, essential medicines, access to the various markets.

3.1.1.4. Generally, the dynamic involvement of developing countries in the DDA is not in any way synonymous with unfailing agreement; with regard to certain issues dear to industrialised countries, they can provide selective support and hence help break the deadlock. In addition, in other areas of negotiation a trade-off is conceivable, e.g. international trade in services, government procurement with safeguard provisions.

3.1.1.5. Other more traditional issues are also the subject of bitter negotiations: agriculture — the cornerstone of the Doha agenda — customs duties, and anti-dumping.

3.1.2. However, there are still a number of topics in which members must become actively involved, otherwise negotiations are in danger of ending in stalemate. Examples include the transparency of government procurement and, more generally, the so-called Singapore subjects (investment, competition, trade facilitation, government procurement).

3.1.3. In addition, the ambiguities underlying the Doha compromise are bound to resurface throughout the year and will need to be solved straight away if possible (i.e. before Cancun), though this does not rule out the Cancun conference itself devoting the whole of its agenda to these matters. In this case, Cancun would be a recast of the Doha agreement. Thus, at the moment, there are a number of extreme positions which are still far removed from each other and which depart from the middle ground that the Doha agreement seemed to have established in the following areas:

— agriculture;

— access to the markets in goods;

— implementation (for the benefit of developing countries);

— trade policy instruments;

— the 'Singapore' subjects.

3.2. At the moment everything seems to indicate that members have been pushing up the bidding with regard to their preferences, thereby putting off agreed deadlines.

3.2.1. Thus, one major December 2002 deadline has not been honoured. It had been agreed that priority would be given to meeting two of the main demands of developing countries and the least developed countries by then, viz.:

— essential medicines and intellectual property;

— implementation, i.e. the granting of solutions which match their level of development in close on one hundred fields.

3.2.2. In the former case, the United States has adopted an intransigent attitude which has thwarted the search for a balanced solution. The overall impression is that the opposing factions have been wanting to up the bidding and defer the moment when possible concessions could be offered by both sides under the best possible conditions.

3.2.3. In the latter case, a work programme has been proposed on the subject of special and differential treatment, with a hundred or so proposals.

3.2.4. The delay on health issues has thwarted the idea put forward at the Doha Ministerial Conference that the arrangements for the negotiation of the three market access packages (products, services and goods) should be laid down simultaneously, i.e. by spring 2003, so that a balance could be struck between the total value of the concessions granted.

3.2.5. However, it is common knowledge that the situations to date regarding negotiations in these three categories do not tally:

— in the case of services, the Community offer has not been matched by a real quid pro quo from its partners,

— in the case of goods, a compromise is feasible based on a general package covering all products and all countries — adjusted where necessary by additional sectoral negotiations and, on the sidelines, by requests and offers; the Girard proposal takes this line, but the asymmetrical retention of high and lasting levels of protection for some developing countries poses a problem,

— in the case of agriculture, some progress has been made in the negotiations but market access is the major problem; the Harbinson proposal does not come up to the expectations of the various States to a sufficient extent to be able to provide a basis for consensus.

3.2.6. This is bound to slow down the negotiating process as a whole, since the members which are not satisfied with the agricultural package will no longer propose concessions in the fields of goods and/or services until further concessions are forthcoming in agriculture and, on the other hand, the EU is not happy with regard to services, which will not help it to make any major progress in the field of agriculture.

3.3. Hence the need to use Cancun to make a decisive fresh start in negotiations on a basis which is regarded by all sides as being balanced. Better use of impact assessments and proportionality tests should help matters.

4. The Committee's recommendations for the Ministerial Conference

4.1. The Committee's recommendations take particular account of the discussions held at the two hearings on the preparations for Cancun which it held on 9 April and 26 May with representatives of European socio-occupational organisations and NGOs. In presenting these recommendations, the Committee would stress how the WTO must continue to play a central role in the long-term governance at world level of international economic relations, with due regard to its beneficial effect on sustainable development.

4.2. Nothing can be achieved within the framework of the DDA, as in the case of the Uruguay Round, without the binding force of a single undertaking, which must be taken into account in full by all participants. This principle cannot be ignored if the negotiations are to succeed. Overall progress on all the subjects discussed will also make it possible to strike a balance in each area of negotiation.

Overall balance in market access

4.3. Since the Uruguay Round, the WTO has adopted an overall view with regard to opening up markets and regulating trade. It could even be affirmed from looking at this institution's work in the long term, that the WTO is moving towards a unified approach towards trade. The idea is that, ultimately, practically identical rules will be laid down for trade in goods, services and agricultural products, with the specific rules for each of these categories being reduced to a minimum. This is where the DDA has to face its thorniest political problem, for voices are legitimately calling for the preservation of the practices that underpin this need for specific rules in States. This is why the EESC recommends that the WTO should not forget such considerations.

4.3.1. This applies first of all to services, the treatment of which requires gradual liberalisation that takes account of:

— the capacities of the importing States or States in receipt of foreign investment,

— development needs, the realisation of which may be greatly helped by the opening-up of international trade in services,

— the international expansion needs (exports, investments, staff movements) of service enterprises,

— difficulties which may arise momentarily in a particular sector in a WTO member country,

— questions relating to temporary service provision in another WTO member country (mode 4); these questions are already covered by joint single market provisions and are the subject of an exploratory opinion which the Committee is preparing at the request of the Commission,

— in the case of financial services, issues relating to security and the fight against terrorism and money laundering,

— the need to continue to keep public services outside the scope of negotiations, in accordance with the mandate agreed between WTO member countries. This exclusion should not, however, dissuade the EU from pressing ahead with the opening-up in progress within the Community or even from envisaging the possibility at some point in the future of public services with a truly European dimension being established in areas where there is good reason for doing so.

4.3.2. The EU's strategic offensive is dictated by its already highly liberalised common market in services (even if the opening-up of markets within the Community continues to face numerous delays, despite the strategic programme which the Commission has been trying to press ahead with for two years): the progress already made requires that Community economic operators benefit, especially in industrialised and intermediate countries, from EU-style open markets, wherever possible.

4.3.3. In addition, for obvious reasons to do with equal competition and the refinement of market opening, it is vital to establish a body of rules based on the alignment of domestic regulations, competition, investment, government procurement and possible instruments for the temporary and degressive regulation of imports.

4.3.4. Finally, for reasons relating to the particular features of pan-European practices, there is a case for:

— not opening up the Community market to the foreign providers of traditional public services,

— looking for a sensible way of facilitating the temporary movement of physical persons, i.e. a way which excludes the circumvention of the provisions on immigration adopted by the European Union.

4.4. In the field of agriculture, the WTO, while encouraging some market liberalisation, should not be seeking in the EESC's opinion to

— speed up ongoing and planned actions regarding the reform of the EU's common agricultural policy,

— call into question the competitiveness of European agriculture, which makes a huge contribution to satisfying needs worldwide as the main importer and exporter in the world,

— copy the reform which is the subject of the DDA negotiations from a model inspired by countries which occupy a separate place in the world (Cairns: Australia and New Zealand),

— disregard the need to retain specific rules in the agricultural sector, in particular in order to give the sector the means to fulfil its multifunctional role and to help keep WTO member countries' domestic markets in balance,

— or finally, ignore non-trade-related concerns when trade concessions are negotiated.

Thus, a dynamic balance ought to be obtained that takes account — as agricultural markets are increasingly opened up — of developing countries' need to increase exports and of the objectives of the EU's common agricultural policy reform, thereby leading to enhanced competitiveness on world markets while at the same time retaining a European rural model based on a multifunctional agricultural sector.

4.4.1. Once the sensible aim of eliminating the most clear-cut trade distortions has been achieved worldwide within a reasonable timeframe and bearing in mind the political and social feasibility of these policies in the Member States, it would appear necessary for the WTO to maintain its measured approach to sustainable social, economic and agricultural development.

4.4.2. The task of the WTO is sufficiently ambitious with regard to the distortional aspects of certain agricultural policies for it to devote itself entirely to this matter:

— alignment of export conditions and all forms of support in this field,

— establishment of a timetable and realistic procedures for access to markets in agricultural products,

— choice of means for domestic support, which should not distort international competition.

4.5. With regard to goods, the EESC thinks that the conflicts of interest between the various parties could be reconciled. This could be done first and foremost on the basis of a compromise comprising:

— a balanced and fair scheme — involving all Member States — for reducing tariffs,

— plus complementary action to regulate sensitive sectors; and the reciprocal opening of markets in this area,

— enactment of legislation in a number of areas in advance of liberalisation, where it would be appropriate to go further than the formula insofar as a critical mass (80 % of world trade for example) could be attained (e.g. chemicals, pharmaceuticals).

4.5.1. The situation of developing countries can be taken into consideration in a number of ways:

— greater opening of markets in the countries of the Northern hemisphere,

— growth in South-South trade,

— guarantee of the perpetuity of preferential systems, thereby facilitating North/South forms of cooperation which are particularly suited to co-development,

— different coefficients for reducing tariffs in developing countries and industrialised countries — a formula which may, however, also have drawbacks,

— implementation of these reductions over longer periods.

4.5.2. In the particular case of the EU, the international development of Community industry involves a number of requirements:

— eradication of tariff peaks,

— major increase in the scope of consolidations, with the aim of considerably narrowing the gap between consolidated and applied rates and offering developing countries the chance of being granted longer transitional periods.

4.5.3. In addition, the EU and its industry urgently need a reduction in the number and scope of non-tariff barriers by all foreseeable means:

— improvement in existing non-tariff codes,

— successful negotiations with regard to the transparency of government procurement and the facilitation of trade,

— negotiation of requests and offers in packages (export bans, export taxes, double prices, boycotts of foreign products),

— quantification and downsizing of these measures wherever possible, as in the case of industrial tariffs,

— liberalisation of products which promote environmental development in industrialised and developing countries alike.

4.6. If, historically speaking, the main mission of the WTO is to improve market access, there is a strong case at the moment for calling on the Geneva-based institution to provide in addition a body of rules to stabilise the international trade system, from which the development process will benefit at the same time.

4.6.1. An agreement on foreign direct investment is first of all highly desirable, even in the form of an embryonic instrument. There are two reasons for this:

— it should allow the largest possible number of firms to invest in optimum conditions (transparency and predictability, together with non-discrimination, repatriation of capital, rules with regard to expropriations and dispute settlement),

— it would benefit the host countries, and in particular the developing and least developed countries (which would also be able to pilot this process themselves unimpeded using 'positive lists'), and

— fine-tune the opening of their markets with the aid of derogations and safeguard clauses, provided that they are temporary and degressive.

4.6.2. While the beneficial effects of foreign investment for industrialised countries and developing countries are a topic which is gaining ground among DDA negotiators, albeit while having to be adjusted somewhat to take account of the concerns of developing countries, competition itself is rightly beginning to be taken seriously by these same developing countries. It is universally thought that the ultimate aim is an embryonic agreement which can gradually evolve with the

endorsement of all WTO member countries while also helping to initiate harmonisation of bilateral agreements for the protection of investments.

4.6.3. On the other hand, the DDA should perhaps capitalise on the advances made in a number of areas (e.g. transparency) and a number of fundamental principles: the creation of national competition authorities, non-discrimination and procedural fairness have the effect, on the one hand, of facilitating market penetration by abolishing trade barriers and other trade practices which restrict such penetration (see, for example, Japan and South Korea) and, on the other hand, of protecting developing countries and least developed countries from certain predatory competitive practices falling outside the remit of the courts.

4.6.4. The DDA must also regulate trade with the aid of new or improved rules which eliminate protectionist practices and other policies that distort competition. Anti-dumping and subsidies are, for example, two areas where the rules must also be updated.

4.6.4.1. Anti-dumping policies have literally flourished since the Uruguay Round in a good many developing and emerging countries and have remaining a burning issue elsewhere, for example in the United States. Without calling into question the legitimacy of measures providing protection against dumping and unfair competitive practices, one is prompted, as time passes, to ask whether deterrent action should not be taken to combat protectionist abuses, such as the harassment of the firms targeted and excessive compensatory levy margins going beyond what is necessary to remedy the damage done, and taking account of the interests of industrial and final consumers.

4.6.4.2. The question of subsidies should also be reviewed: new problems have arisen such as export support and the level of economic development of the States granting such support, leading to the unjustified ousting from markets of, for example, EU economic operators (see the Proex-Brazil aircraft case).

4.6.5. The Committee would also emphasise the importance of government procurement being more open and transparent. Joint provisions should also be adopted as a deterrent in the fight against corrupt practices.

4.6.6. Progress should also be made on trade and environment issues by taking account of the impact indicators (SIA) developed by the European Commission and working in close cooperation with the relevant international bodies.

New developments in the Doha agenda

4.7. One of the keys to the failure of Seattle and the success of Doha is the acceptance by all member countries of the need to address development problems. It must be noted straight away that the WTO can only help solve such problems with others. It is necessary to take advantage of the actions of international institutions other than the WTO and of certain national and even regional bodies.

4.7.1. Nothing would be more dangerous in this respect than perpetuating the existing situation, which is one of the main faults of the WTO. This would mean including in perpetuity among the developing countries a number of emerging countries where in some, if not in all cases, a certain minority of the population enjoys the living standards of industrialised countries and industry is as strong as it is in our countries. In such conditions it is anomalous for these countries to enjoy derogations from the general rules. This situation should change, in the light in particular of the WTO's key instrument — the 'single undertaking' rule. This being so, there is no doubt that industrialised countries will have to agree to make an effort, either at government or enterprise level.

4.7.2. The Committee also supports the modernisation and greater transparency of WTO procedures (which must support the clear interests of all developing countries). More systematic use should be made of instruments which gauge the impact of the issues under negotiation more accurately. These instruments should include:

— impact assessments of the main issues at stake in the negotiations, in the light of different scenarios;

— proportionality tests which examine existing and future tariff and non-tariff barriers;

— the evaluation of the real level of development in the various developing countries, in order in particular to draw a better distinction between newly industrialised and emerging economies, countries still in the process of development, and countries still in the LDC category.

4.7.3. The Committee would also stress how vital capacity building is to carry through the domestic reforms in developing countries which WTO rules require. Implementation constitutes a second angle of attack for the problems peculiar to developing countries, and the demands made by the countries in the African group in 2002 must be taken into consideration to a large extent. Health must be treated by Cancun at the latest. Without a doubt, the WTO cannot do everything in that area either. Not everything is due to the single issue of patents and compulsory licences. A partnership between industries and developing countries is vital and is also wanted by pharmaceutical companies. Furthermore, it is necessary to address new problems that have emerged in the meantime,

such as the granting of pharmaceutical licences for chemical components. Medicines are not everything. Medical teams and hospital facilities are just as important. However, in the final analysis, the WTO can only work towards a solution akin to the one thought up by Ambassador Motta at the end of last year, viz.:

— causes: situations of national emergency or extreme urgency,

— vetting by importing or exporting countries of a certain number of minimum conditions governing eligibility for compulsory licences, with a neutral body along the lines of the WHO being used for this purpose,

— action to combat the hijacking of shipments and misuse of this machinery by certain newly industrialised countries (India, Brazil), especially with regard to the re-exportation of such products not covered by a licence to other markets.

With regard to intellectual property, the EESC also urges the EU to have the breeder's right, as agreed under the International Convention for the Protection of New Varieties of Plants (UPOV Convention), accepted under WTO rules as a 'sui generis' system.

4.7.4. The Committee would also underline the need to improve the management of trade disputes and, in particular, to avoid as far as possible the damage caused to third parties by trade sanctions by giving them access to additional compensation on preferential terms.

4.8. The Committee would like greater consideration to be given to the social dimension of international trade. Even if this matter does not directly come under the agenda drawn up in Doha, progress in this area will be bound to consolidate the development of sustainable trade [1]. The Committee welcomes the consideration given by a high level ILO group to the social aspects of globalisation. It hopes that the ILO will step up its involvement in WTO proceedings by acquiring the official status of permanent observer. The Committee suggests that each year the ILO should publish a comparative study of the social situation in the world along the lines of the EU single market scoreboards published by the Commission. This study would become a universal reference document for international organisations (including the WTO), States and parliaments, economic and social committees, businesses, social partners and NGOs.

4.9. Finally the Committee invites businessmen, socio-occupational organisations, the social partners, NGOs and other civil society players to take steps to:

— participate in information campaigns about the issues at stake in making the Doha Agenda a success;

— contribute to the assessments of the implementation situations in developing countries;

— organise international meetings between industrialists and/or social partners at a cross-sectoral level and in individual sectors of activity, thereby helping to clarify the issues at stake, make the assessments more detailed and facilitate agreement in the negotiations;

— support the implementation of openness and development programmes promoted by the WTO;

— submit proposals which help further the interplay between international trade and sustainable development at a worldwide level.

4.10. The Committee, for its part, intends to step up the dialogue on international trade with its socio-occupational partners, and especially the representatives of other economic and social committees both in EU countries and outside the EU — such as the committees for Mercosur, the ACP countries or other developing countries. Following the example of the European Parliament's transnational initiative in the field of representative democracy, the Committee would like in this way to make its contribution to the development of a participatory democracy in which civil society players are involved more closely in the monitoring of international trade negotiations and the general functioning of the WTO.

4.11. In particular, the Committee intends to present operational proposals to this effect before the conclusion of the Doha Development Round's negotiations at the end of 2004. These proposals will be based on the joint deliberations which it is going to continue to step us with its partners inside and outside the EU.

Brussels, 17 July 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH

[1] EESC opinion OJ C 133 of 6.6.2003 — For a WTO with a human face, rapporteur Mr Dimitriadis. Conference on human rights in the workplace organised by the EESC on 2-3 December 2002 in Brussels