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Notice No | Contents | Page

EN

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(Continued overleaf)

EN

(Continued on page 100)

I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

476TH PLENARY SESSION HELD ON 7 AND 8 DECEMBER 2011

Opinion of the European Economic and Social Committee on 'Industrial change to build sustainable Energy Intensive Industries (EIIs) facing the resource efficiency objective of the Europe 2020 strategy' (own-initiative opinion)

(2012/C 43/01)

Rapporteur: **Mr IOZIA**

Co-rapporteur: **Mr JARRÉ**

On 20 January 2011, the European Economic and Social Committee, acting under Article 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

Industrial change to build sustainable Energy Intensive Industries (EIIs) facing the resource efficiency objective of the Europe 2020 strategy.

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee's work on the subject, adopted its opinion on 17 November 2011. The rapporteur was Mr IOZIA and the co-rapporteur was Mr JARRÉ.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 8 December), the European Economic and Social Committee adopted the following opinion by 143 votes with 7 abstentions.

1. **EESC conclusions and recommendations**

1.1 The EESC considers that Europe will only be able to respond to intensified competition with emerging economies by implementing highly innovative systems and technological, environmental and production standards rising in line with the technological development. The workforce should be protected from the effects of changes, through proper and timely training. EU policies should favour such a development.

1.2 The products of the Energy Intensive Industries (EIIs) are the basis for the value chain for all manufacturing sectors, where a large proportion of EU jobs are allocated. Stability, timeliness, quality and security in supplying those sectors is the guarantee of their competitiveness in the global market as well the guarantee of as highly qualified jobs in the EU.

1.3 An adequate European framework needs to be created that addresses the common needs of EIIs, with the key goal of strengthening and maintaining competitiveness in Europe against a backdrop of economic, social and environmental sustainability. The sectors in question are of equal importance and are dependent on each other.

1.4 Moreover, given today's difficult economic climate, the EESC recommends investing even more strongly in research, development, deployment and training, and in the scientific activities that are applied to industry. These investments should

be given sufficient backing in the next framework programme and should make it possible to exchange experience and results at European level, at the very least. European and national programmes should focus more on energy efficiency research and innovations ([1]).

1.5 The EESC believes that there must be an integrated industrial policy that keeps external variables constantly in check and enables European businesses to compete with others globally on a level playing field and subject to reciprocal conditions. In order to guarantee sufficient competitiveness, common industrial and fiscal policies and strategic choices must be defined which cover European industry as a whole.

1.6 Europe cannot keep managing its economy by imposing ever stricter constraints if it does not also take the necessary steps to make stable and strategic common choices in governance, in order to defend its economic and social model and ensure optimum results, including environmental protection.

1.7 The EESC firmly believes that the EU must make every effort to establish flexible systems in order to achieve such objectives that are recognised to be necessary. These systems should take the specific nature of basic industry into account.

1.8 The EESC wonders whether importers should also be subject to ETS equivalent measures. The primary objective would be to secure an efficient global system by means of a strict and enforceable agreement. In the absence of such an agreement, and with a view to achieving the goals which the EU has chosen to set itself, there should be a level playing field (i.e., same treatment and conditions) for goods and services placed on the market within its borders as well as for exported goods and services.

1.9 The EESC strongly recommends that consideration be given to the possibility of retaining the system of allocating ETS certificates free of charge to firms which have already achieved levels of excellence and are close to the physic and thermodynamic limits of their specific technologies. The practice of auctioning emission permits, to be launched in 2013, is certainly a good one but only if it will be adopted by other parts of the world. The EU intends to open up trading with other, non-EU, operators, with the aim of building a global ETS market.

1.10 In the case of EIIs, the ETS could cause incalculable harm to the industry concerned, if not managed very carefully. Carbon leakage is not something that should be considered in the future only. It has been happening in the recent 10 years at least, since investments have been redirected from Europe to other countries like the US, China, India Brazil etc. An in-depth investigation of this phenomenon would be extremely useful.

1.11 Energy conserved in materials should be reused, boosting recycling operations where possible. Glass, iron and steel and aluminium can contribute significantly. Europe exports its noble materials. Instead, there should be incentives to reuse them within the EU and save, the energy contained in the various materials ([2]).

1.12 EIIs should be encouraged to make long-term investments – possibly joining forces to do so – in the energy sector (especially in renewable energies) and given the opportunity to purchase energy via long-term contracts at fixed prices.

1.13 The EESC thinks that a stable, effective and enduring regulatory framework is extremely important. Economic investment cycles in EII run from seven to twenty years (for blast furnaces, for instance) and there is a reason for the fact that there has been lower than expectable investment in the integrated steel cycle for over thirty years.

1.14 The policies adopted to date have generally been geared towards penalising misconduct, rather than rewarding responsible behaviour and investment. This approach must be amended and fiscal incentives used to support the actions of firms which demonstrate that they have achieved impressive results in energy efficiency.

1.15 The tremendous results already obtained by EIIs in the period immediately before the ETS entered into force need stressing. They anticipated new needs and changing times and there is no reason why they should be severely penalised as a result and risk losing a million highly stable and qualified jobs (both direct and indirect).

1.16 Support must certainly be given to disseminating best practice between countries and between sectors, as well as to new pilot and demonstration projects.

1.17 Public support measures for research and innovation, with specific, dedicated programmes, have proven to be extremely important. The EESC calls on the European Commission, the Council and the Parliament to reinforce these programmes, focused on energy efficiency and diversification and make them a permanent part of development initiatives.

1.18 Small and medium-sized enterprises (SMEs) can significantly contribute to achieving the objectives through specific programmes tailored to them. Energy intensive companies can be found in every market sector. However, the costs involved in achieving high levels of energy efficiency are inversely proportionate to the company's size. It is SMEs, in fact, that can achieve the best overall results and they should be the focus of substantial effort and resources.

([1]) OJ C 218, 23.7.2011, p. 38.

([2]) OJ C 107, 6.4.2011, p. 1;OJ C 218, 23.7.2011, p. 25.

2. **Introduction**

2.1 The Energy Intensive Industries are the foundation for all European manufacturing value chains since they supply the basic materials for the production of manufactured goods. These industries hold a crucial position in the development of a low-carbon economy.

2.2 The introduction of regulations aiming to obtain a 20 % reduction in consumption is a challenge that has to be met by the development of a new generation of products from EIIs. A great number of measures and incentives are needed to open the market for the new energy saving products.

2.3 The industrial manufacturing sector, which contributes 17,6 % to European GDP, accounts for 27 % of the final energy demand in the EU. The major primary materials industries (e.g., chemicals and petrochemicals (18 %), iron and steel (26 %) and cement (25 %),) are energy intensive and account for 70 % of industrial energy use.

2.4 The idea of reducing costs to maintain and possibly improve competitiveness has prompted many industries, especially the energy intensive ones, to make energy efficiency improvements, which has meant that their economic potential in 2020 is lower than in other sectors.

Table 1

Projected developments and energy savings potential in 2020 ([3])

	2020 (PRIMES 2007) [Mtoe]	2020 (PRIMES 2009 EE) [Mtoe]	Expected progress in 2020 without further action [%]	2020 Economic Potential [%]	2020 Technical potential [%]
	1	2	3 [=(2-1)/1 (*)100]	4	5
Gross inland consumption minus final non-energy use	1 842	1 678	– 9 %	– 20 % (EU target)	n.a.
Final Energy Consumption of which:	1 348	1 214	– 10 %	– 19 %	– 25 %
Industry	368	327	– 11 %	– 13 %	– 16 %
Transport	439	395	– 10 %	– 21 %	– 28 %
Residential	336	310	– 8 %	– 24 %	– 32 %
Tertiary	205	181	– 12 %	– 17 %	– 25 %
Energy transformation, transmission and distribution	494	464	– 6 %	– 35 %	n.a.

Sources: PRIMES for columns 1, 2 and 3 and Fraunhofer Institute for columns 4 and 5.
(*) The data on the economic potential in the energy transformation sector are based on DG ENER calculations.

2.5 Nevertheless, not all the opportunities have yet been fully exploited, especially where small and even some medium-sized industries are concerned ([4]).

3. **Technological state of the art for the various EIIs**

The energy intensive industries explore and produce a number of products and technologies that are needed to tackle climate change and other global challenges. A key prerequisite for improving energy and resource efficiency is an active industrial policy and innovation. R&D must be more focused on energy and resource efficient technological and organisational solutions. In addition, companies together with employees and their representatives, have to make energy and resource efficiency improvements targeted at driving innovation in products and processes.

An overview of the main EIIs follows.

([3]) SEC (2011) 779 final.
([4]) Energy Efficiency Plan 2011, COM(2011) 109 final; Impact assessment study, Ib. n. 3., OJ C 218, 23.7.2011, p. 38; OJ C 318, 29.10.2011 p. 76.

3.1 *Chemical and petrochemical industry*

3.1.1 The chemical industry employs 1 205 000 people across 29 000 companies, with a production value of EUR 449bn (2009 Eurostat) and almost double that figure in turnover, equating to 1,15 % of EU GDP. Only 8 % of oil is used in the chemical industry as fuel, while the majority is processed. In terms of energy consumption, the processing sector accounts for 18 % in the industrial sectors.

3.1.2 The chemical industry converts raw materials into products for other industries and consumers. Basic raw materials can be divided into organic and inorganic. Inorganic raw materials include air, water and minerals. Fossil fuels and biomass belong to the class of organic raw materials.

3.1.3 About 85 % of chemicals are produced from about twenty simple chemicals called base chemicals. The base chemicals are mainly produced from ten raw materials and these base chemicals are converted into about 300 intermediates. Base chemicals and intermediates are classified as bulk chemicals. About 30 000 consumer products are produced from intermediates. Where these chemicals go: 12 % of the cost of a car (seat cushions, hoses and belts; airbags), 10 % of the cost of a house (insulation pipes and electrical wiring), 10 % of what the average household consumer uses every day (food products, clothing, footwear, health and personal care products, etc).

3.1.4 Coal, oil and natural gas (NG) are the primary raw materials for production of most bulk chemicals. Each stage adds value: relative value of crude oil: 1; fuel: 2; typical petrochemical: 10; typical consumer product: 50.

3.1.5 Fossil fuels are also the most important sources of energy: oil (approx. 40 %), coal (approx. 26 %), and then NG (approx. 21 %).

3.1.6 The chemical industry uses a huge amount of energy. About 8 % of total crude oil demand is used as raw material: the balance is used for fuel production mainly for transport.

3.2 *Non ferrous metals industries*

3.2.1 The non ferrous metals industries are very diverse and include the production of various metals, such as aluminium, lead, zinc, copper, magnesium, nickel, silicon and many others. In total, the sector directly employs around 400 000 people (*Eurometaux*, July 2011). Its biggest, most important subsector is aluminium, which, in 2010, had a total workforce of 240 000 and a turnover of EUR 25bn. Bauxite production accounted for 2.3 Mt, alumina production accounted for 5.9 Mt while the total production of aluminium (primary and recycled) totalled 6 Mt (270 plants). The benchmark defined by the European Commission is 1 514 kg of CO_2 eq/tonne for the production of primary aluminium.

3.2.2 Various analyses show that raw materials and energy are the most important competitiveness factors for the EU's non ferrous metals industry. Depending on the sub-sector, energy and raw material costs represent roughly between 50 % and 90 % of the total costs of refined metals production. Raw material costs range from 30 % to 85 % of total costs, while energy costs vary from 2 % to 37 % of total costs. With regard to raw materials, scrap recycling is as important as the use of ores and concentrates for EU metal production.

3.2.3 On imports dependency, the EU metals industry was claiming in 2005 that bauxite, magnesium, silicon and copper concentrates were the most sensitive raw materials (e.g. China accounts for 50 % of the world's coke exports and Chile for 40 % of the world's copper concentrates exports).

3.2.4 According to the industry, supply risks exist for aluminium scrap, copper scrap and blister, zinc and lead concentrates and, in a longer-term perspective, for aluminium and copper scrap and copper concentrates and blister.

3.2.5 The non ferrous metals industry is highly electro-intensive; this is particularly true for aluminium, lead and zinc producers, which are very large electricity consumers.

3.2.6 A large part of EU non ferrous metals consumption is already supplied by imports and, if no remedies are found, that percentage will increase as European non ferrous metals producers close. This will result in carbon leakage.

3.3 *Iron and steel industries*

3.3.1 Europe's iron and steel industries directly employ 360 000 people and generated a turnover in 2010 of EUR 190bn. Their total energy consumption amounts to 3 700 GJ, which is around one quarter of the energy consumed by manufacturing industry: total CO_2 emissions come to around 350 Mt, equivalent to 4 % of all EU emissions.

3.3.2 There are two main routes to producing steel. The first route is called the 'integrated route', which is based on the production of iron from iron ore – but on average also in this route 14 % is produced from scrap. The second route, called the 'recycling route', uses scrap iron as the main iron-bearing raw material in electric arc furnaces.

3.3.3 In both cases, energy consumption is related to fuel (mainly coal and coke) and electricity. The recycling route has a much lower energy consumption (about 80 %). The 'integrated route' relies on the use of coke ovens, sinter plants, blast furnaces and basic oxygen furnace converters.

3.3.4 Current energy consumption for the integrated route is estimated to lie between 17 and 23 GJ per tonne of hot-rolled product [1][SET_Plan_Workshop_2010]. The lower value is considered by the European sector as a good reference value for an integrated plant. A value of 21 GJ/t is considered as an average value throughout the EU27.

3.3.5 Part of the steep decrease (by about 50 %) in energy consumption in European industry in the last forty years has been due to the increase of the recycling route at the expense of the integrated route (the share has increased from 20 % in the 1970s to around 40 % today).

3.3.6 However, a prospective shift to recycling is confined by scrap availability and its quality. In Europe about 80 % of CO_2 emissions related to the integrated route originate from waste gases. These waste gases are used greatly within the same industry to produce about 80 % of its electricity needs [EUROFER_2009a].

3.3.7 The production of crude steel in the EU in 2008 was 198 Mt, representing 14,9 % of the total world production (1 327 Mt of crude steel) [WorldSteel_2009]. Ten years earlier, with a slightly lower production (191 Mt of crude steel), the share of the same European countries was 24,6 %.

3.4 *Ceramics Industry*

3.4.1 The ceramics industry directly employs 300 000 people and covers a wide range of products ranging from brick and roof tiles, clay pipes, wall and floor tiles, through sanitary ware and table and decorative ware to abrasives, refractory products and technical ceramics ([5]).

3.4.2 These sectors cover applications for construction, high temperature processes, automotive, energy, environment, consumer goods, mining, shipbuilding, defence, aerospace, medical devices and much more. Ceramics sectors are characterised by their dependence on both domestic and imported raw materials.

3.4.3 The European ceramics industry is largely composed of SMEs, which represent around 10 % of the installations under the European Emissions Trading Scheme (ETS), but less than 1 % of the emissions.

3.5 *Cement*

3.5.1 In 2010, the European cement industry directly employed 48 000 people, producing 250 Mt and turning over EUR 95bn. Benchmark energy consumption is equivalent to 110kWh/tonne: total CO_2 emissions were equivalent to 3 % of the EU total.

3.5.2 Cement is an essential material for building as well as for civil and hydraulic engineering. The output of the cement industry is directly related to the general state of the construction sector and closely reflects the economic situation as a whole.

3.5.3 In the European Union, cement is primarily produced using modern 'dry-method' technology. This requires approximately 50 % less energy than burning clinker in kilns using the wet method.

3.5.4 In 2009, the production of cement in the 27 EU countries amounted to approximately 250 million tonnes, representing 8,6 % of world cement production totalling some 3 billion tonnes ([6]). Asia accounts for the largest share of world production (75 %), with China alone responsible for around half of the cement produced (54,2 %). This data shows that a very large proportion of the world's cement is produced in countries that do not apply the Kyoto Protocol.

3.5.5 The key features of the European cement industry are: its highly capital-intensive nature – EUR 150 million per million tonnes of production capacity; its high energy consumption – 60-130 kg per tonne of oil or oil equivalent plus an additional 90-130 KWh of electricity per tonne.

3.5.6 One further important feature of the European cement industry is the existence of regional cement markets which cover a radius of no more than 200 miles.

3.5.7 The cement industry is one of the largest emitters of CO_2. Its carbon dioxide emissions make up around 5 % of global emissions caused by human activity ([7]). The main sources of CO_2 emissions from the cement industry are the decarbonisation of raw materials and fuel combustion.

3.5.8 It is estimated that emissions from the decarbonisation process make up approximately 50 % of total cement plant emissions, with fuel combustion accounting for a further 40 %. CO_2 emitted as a result of these two processes is referred to as direct emission. Sources of indirect emissions (around 10 % of cement plant emissions) include transport and electricity generation for use in cement plants ([8]).

3.5.9 The development of the cement production sector in the EU is very highly dependent on EU policies and decisions on emissions of CO_2 and other pollutants.

3.5.10 In the cement sector, the ETS is applied to the production of cement (clinker) in rotary kilns with a daily capacity of over 500 tonnes. Data from recent years ([9]) reveals lower than expected cement sector emissions. The high price of CO_2 emission rights can prove to be more of a lure than the production of greater volumes of cement. The design of the ETS could limit output. Accordingly, the allocation of quotas should be preceded by an analysis to set sustainable goals, avert disruption on the market and motivate entrepreneurs to improve energy efficiency and reduce CO_2 emissions at the same time.

([5]) OJ C 317, 23.12.2009, p. 7.

([6]) Information report on 'The development of the European Cement Industry', CCMI/040, CESE 1041/2007.
CEMBUREAU, Evolution & Energy Trends – Cembureau Web site May 2011.

([7]) 'Carbon dioxide emissions from the global cement industry', Ernst Worrell, Lynn Price, Nathan Martin, Chris Hendriks and Leticia Ozawa Meida, *Annual Review of Energy and the Environment*, November 2001, Vol. 26, pp. 303-329.

([8]) Vanderborght B., Brodmann U., 2001. The Cement CO_2 Protocol: CO_2 Emissions Monitoring and Reporting Protocol for the Cement Industry. Guide to the Protocol, version 1.6 – www.wbcsdcement.org.

([9]) Report published in Euronews in May 2006.

3.6 *Glass Industry*

3.6.1 The European glass industry directly employs 200 000 people, including 1 300 producers and processors, with a total production in 2010 of 34 Mt (30 % of the global total). Recycling one tonne of glass prevents 670 kg of CO_2 from being emitted. Annual CO_2 emissions are around 25 Mt.

3.6.2 Glass is primarily made of a glass former silica (high quality sand), alkalis to change the state of silica from solid to liquid (mainly soda and potash), stabilisers to reduce weathering of the glasses (calcium oxide, magnesium and aluminium oxide), some refining agents and small quantities of other additives to give different characteristics to the individual types of glass.

3.6.3 The most widely used classification of glass type is by chemical composition, which gives rise to four main groupings: soda lime glass, lead crystal and crystal glass, borosilicate glass and special glasses.

3.6.4 'Container glass' is the largest subsector in the EU glass industry, representing more than 60 % of total glass production. Its products are glass containers (bottles and jars). Container glass is produced in all EU Member States except Ireland and Luxembourg. The EU is the largest producing region for glass containers worldwide, with approximately 140 installations.

3.6.5 Flat glass is the EU glass industry's second largest sector, representing around 22 % of total glass production. It includes the production of float glass and rolled glass. Five manufacturers of float glass and five rolled glass manufacturers operate in the EU.. Total CO_2 emissions from the flat glass sector were around 7 Mt in 2008, with around 6.5 Mt from float glass production and around 0.5Mt from rolled glass (source: CITL).

3.6.6 Continuous filament glass fibre (CFGF) is produced and supplied in a variety of forms: roving, mat, chopped strand, textile yarn, tissue, and milled fibre. The main end use (approximately 75 %) is the reinforcement of composite materials, mainly thermosetting resins, but also thermoplastics. The main markets for composite materials are the building industry, the automotive and transport sectors (50 %), and the electrical and electronics industry.

3.6.7 Some data about the CO_2 footprint:

— Average production: 870 000 tonnes/year of CFGF product

— Average CO_2 direct emissions: 640 000 tonnes

— Average CO_2/tonne: 735 kg CO_2 / tonne CFGF product.

3.6.8 The special glass sector produces around 6 % of glass industry output, and in terms of tonnage is the fourth largest sector. The main products are: glass for televisions and monitors, lighting glass (tubes and bulbs), optical glass, laboratory and technical glassware, borosilicate and ceramic glasses (cookware and high temperature domestic applications), and glass for the electronics industry (LCD panels).

3.6.9 The domestic glass sector is one of the smaller sectors of the glass industry, with approximately 4 % of total output. This sector covers the production of glass tableware, cookware and decorative items, which include drinking glasses, cups, bowls, plates, cookware, vases and ornaments.

4. General overview of CO_2 emissions in 2010 in Europe

4.1 The EU ETS caps the emissions of about 12 600 installations, including power plants, factories and oil refiners. The scheme accounts for about 40 % of total EU greenhouse gas emissions. Analysts estimate, based on industrial output data, that emissions rose in 2010 by 3,2 %, compared with a drop of nearly 11,3 % in 2009 (Barclays Capital, Nomisma Energia, IdeaCarbon).

4.2 According to the European Environment Agency, total EU greenhouse gas emissions were about 4.6 billion metric tons in 2009. If these rose in line with industry carbon emissions last year, this would suggest that the EU was about 300 million metric tons above its target of 4.5 billion metric tons of greenhouse gases in 2020. EU climate officials forecast that the EU will undercut that target if it meets renewable energy and efficiency goals.

4.3 CO_2

EU ETS emissions rose in 2010, as power demand and broad industrial output rose, meaning businesses burned more fossil fuels to generate electricity and heat (Sikorski).

In addition, higher gas prices forced power plants to burn more coal, which emits more carbon dioxide.

5. Comments of the European Economic and Social Committee

5.1 The value chain depends on the availability and quality of raw materials and Europe's basic industries supply top quality raw materials. The European processing industry benefits from this high quality and the continuous innovation generated by research. For instance, in the steel industry, 70 % of the quality is dependent on the type of casting. This quality should be maintained and, where possible, strengthened.

5.2 Without a strong, competitive and innovative industrial sector, Europe will be unable to achieve any sustainable objectives, such as those set by the Commission with regard to CO_2 emissions.

5.3 The EU ETS is a 'cap and trade' system which has been adopted as an important instrument for reaching the EU's self-imposed goal of cutting greenhouse gas emissions by at least 20 % by 2020 compared to 1990 levels and by 30 % if an international agreement is reached. The ETS covers about 12 500 plants in the energy and industrial sectors, which combined account for almost half of the EU's CO_2 emissions and 40 % of overall greenhouse gas emissions.

5.4 The ETS currently operates in thirty countries (the 27 Member States plus Iceland, Liechtenstein and Norway). Compared to other sectors which are not part of the scheme, such as transport, ETS installations succeeded in significantly cutting greenhouse gases. However, EIIs are always subject to a permanent drive to improve energy efficiency because of ever growing costs for energy. Thorough analysis of emission cuts attributed to the EU ETS would be highly desirable.

6. **The social and environmental aspect**

6.1 The only way of safeguarding the European industrial system, European workers and interests, the environment, health and consumers is if none of these interests predominates, and if the optimal balance is struck between environmental, social and economic policies.

6.2 The EESC backs the environmental and social sustainability objectives and identifies several key areas where integrated action with a holistic approach should be taken.

6.3 First and foremost, we need effective programmes to support professional growth, through training to generate the skills needed to tackle and overcome technological challenges and achieve more and better results in the field of energy efficiency. EIIs are characterised by continuous production processes and a high level of responsibility, which means they are not attractive to young people. Special incentives to support vocational programmes (including scholarships) are needed to preserve European skills in the field.

6.4 Incentives are needed to foster the mobility of technicians and specialised workers in order to disseminate knowledge and best practice, both nationally and internationally.

6.5 Particular attention must be paid to transition periods, guaranteeing appropriate support for workers affected by restructuring resulting from the changes needed to align production with current needs. Public investment should support this process.

6.6 A real commitment to industrial change in EIIs must be adequate by appropriate assessments of the impact on society and workers, so as to avoid negative social consequences and to prepare ahead, for the introduction of new production models.

6.7 It is essential to build knowledge, understanding and public awareness of the benefits that can be achieved through highly energy efficient industry. Accordingly, as well as promoting product labelling, the energy efficient processes used to manufacture these products should also be labelled. In other words, there should be dual labelling: identifying not only the product, but also the factory which has helped to maintain a high level of overall efficiency.

6.8 EIIs need more support for research and innovation. The current EU funding system should implements dedicated instruments (e.g., like the SPIRE PPP for sustainable industry) to allow more space for industrial projects. The Technology Platforms have worked hard, to prepare a more favourable environment where industries can better address the EU Framework Programmes. The role of the Research and Technology Organisations (RTOs) should also be emphasised as well, since they play an extremely important part in the innovation chain, taking the idea forward to its industrial application.

7. **The international dimension**

7.1 The USA, Japan, Russia, Brazil, India and – above all – China (number one on the emission-producing list, with 22 % of the total) must shoulder their responsibilities. These countries, together with Europe, produce over 70 % of CO_2 emissions (2007). An agreement for the climate and the Earth's wellbeing is indispensable if we are to tackle and overcome the challenges of rising temperatures caused by anthropogenic factors.

7.2 The EESC has on several occasions expressed its support for such European policies, recommending that every effort be made to reach a fair international agreement which spreads the responsibilities and costs and takes account of a wide array of broader considerations and not just bare facts and figures.

7.3 Climate change policies can only succeed, if the forthcoming conference in Durban is able to establish the new, post-Kyoto targets for the world's largest emitting countries. Europe has pledged to meet still more ambitious targets, subject to a global agreement. The EESC supports this move, provided that the considerations expressed regarding sustainability for European firms and workers are built into the text and respected.

Brussels, 8 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

476TH PLENARY SESSION HELD ON 7 AND 8 DECEMBER 2011

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions — Concluding the first European semester of economic policy coordination: Guidance for national polices in 2011-2012'

COM(2011) 400 final

(2012/C 43/02)

Rapporteur-General: **Mr Michael SMYTH**

On 7 June 2011 the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions — Concluding the first European semester of economic policy coordination: Guidance for national policies in 2011-2012

COM(2011) 400 final.

On 14 June 2011 the Committee Bureau instructed the Europe 2020 Steering Committee to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr SMYTH as rapporteur-general at its 476th plenary session, held on 7 and 8 December 2011 (meeting of 8 December 2011), and adopted the following opinion by 136 votes in favour, no vote against and 6 abstentions.

1. **Conclusions**

1.1 The Union and its population is experiencing the worst economic, social and political crisis in its history, severely affecting the Member States and their population and threatening core achievements such as the single currency, the Stability Pact, the Internal market. In the previous financial crisis it was the swift and decisive joint action among Europe's leaders that averted a long recession. Europe now faces another equally serious challenge and again a very strong cooperative political stance is required. No single Member State can deal with the crisis on its own - the political choice has become stark: either European integration is strengthened to overcome the crisis or the crisis will severely weaken European integration and put it at risk.

1.2 Immediate measures are needed in order to reduce debt, to consolidate public finances and to raise the level of confidence of people and businesses. However, policymakers should look beyond the crises of the day. The focus should not be only on short and medium term actions. There is a clear need for long term reforms. The action or lack of action in this respect will have a short-term, even immediate impact on Member States' borrowing costs.

1.3 Against this background, the Committee considers that the Europe 2020 Strategy is more important than ever since it offers a comprehensive agenda for reforms aiming to secure sustainable growth and making the Union more resilient in future.

1.4 A good balance between all the aspects of the Strategy – notably its economy aspect, the social aspect and the environment aspect is needed: the 3 priority areas - smart, sustainable and inclusive growth are interlinked and mutually reinforcing. Equal attention has to be given to economic growth, entrepreneurship, SMEs, competitiveness, innovation, sustainability and environment, social rights, job creation and support to education.

1.5 In a context of difficult economic situation and strained public finances in the Member States, the challenge is now more then ever the adequate implementation of the Strategy.

1.6 The Committee is very concerned that commitments set out by Member States in their national reform programmes are insufficient - as shown by the Annual Growth Survey ([1]) - to meet most of the targets set by the Strategy (targets on education, employment, research and development, poverty reduction, emission reduction – energy efficiency – renewable energy).

1.7 Member States must increase their efforts and engage in more ambitious national adjustments, in order to have a chance of attaining the targets by 2020, setting the priority on growth-enhancing items (education, innovation, energy, transport inter-connections, etc.). An adequate implementation of their commitments is key.

1.8 The Committee considers that organised civil society and social partner's participation in the carrying out reforms and a growth strategy will be determinant for their success and will encourage national administrations and the EU to deliver concrete results. Therefore, it will continue the joint work with its network of national Economic and Social Councils (ESCs) and similar organisations in the framework of the Europe 2020 strategy. On the one side, it will bring awareness in the Member States and on the other side, it will ensure that the economic and social circumstances on the ground are known by policy makers at the EU level.

2. **Background**

2.1 The first European semester, new governance method aimed at improving the economic policy coordination between the EU and Member States, was launched in January 2011 when the Commission presented the Annual Growth Survey (AGS) ([2]) which was endorsed and completed by the Spring European Council ([3]).

2.2 Against this background, Member States presented at the end of April 2011 Stability or Convergence Programmes (SCPs) on their public finances and National Reform Programmes (NRPs), presenting key policy measures to reach the goals of the Europe 2020 strategy. In addition, most members of the Euro Plus Pact presented specific commitments made under the Pact ([4]).

2.3 After having assessed these programmes and commitments, the Commission issued country-specific recommendations as well as recommendations for the Euro area ([5]). They focused on areas where further action was needed from member States in order to step up structural reforms. The June European Council ([6]) endorsed them, concluding the first European semester and marking the opening of the 'national semester'.

2.4 The present document takes as a starting point the Commission's communication on 'Concluding the first European semester of economic policy coordination: Guidance for national polices in 2011 – 2012' ([7]) issued in June 2011. It aims at focusing on several important issues such as:

— the reinforcement of governance in relation with the Strategy,

— the improvement of communication on the Strategy, and

— the improvement of its concrete implementation by the Member States.

2.5 It will be part of a new 'Integrated Report' ([8]) that will be presented by the interactive network developed by the EESC with national ESCs and other similar partner organisations.

2.6 The specific policies covered by the EU 2020 strategy were dealt with more in depth in the previous opinion on the 'Annual Growth Survey: advancing the EU's comprehensive

([1]) Annual growth Survey 2012, COM(2011) 815 of 23.11.2011.
([2]) 'Annual Growth Survey 2011: advancing the EU's comprehensive response to the crisis' - COM(2011) 11, 12.1.2011, including the draft Joint Employment Report.
([3]) European Council 24/25 March 2011 Conclusions, EUCO 10/1/11 rev. 1.
([4]) Annex I. to the European Council 24/25 March 2011 Conclusions, EUCO 10/1/11 rev. 1.
([5]) For some Member States that are under financial assistance provided by the euro-area Member States and the IMF, the Commission only recommended to implement their Memorandum of Understanding and its subsequent supplements that lay down the economic policy conditions on the basis of which the financial assistance is disbursed. This financial aid should be in line with the achievement of the Europe 2020 Strategy.
([6]) European Council 23/24 June 2011 Conclusions, EUCO 23/11.
([7]) Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of Regions 'Concluding the first European semester of economic policy coordination: Guidance for national polices in 2011 – 2012', COM (2011)400 final.
([8]) A first 'Integrated Report on the post - 2010 Lisbon Strategy' was presented by the Committee in view of the drawing up of the new European strategy for the period after 2010. This opinion was prepared by the EESC's Lisbon Strategy Observatory and contained contributions from national Economic and Social Councils (ESCs) and partner organisations as well as the EESC Opinion on the post-2010 Lisbon Strategy (Rapporteur: Mr Greif).

response to the crisis' ([9]). Indeed, following the consultation on the Annual Growth Survey 2011, the Committee issued an opinion that fully supported the EU 2020 Strategy, the European Semester and encouraged the Commission to stand up for European integration. The Committee regretted however that the first Annual Growth Survey had missed the opportunity to provide policy proposals in view of achieving smart, sustainable and inclusive growth. Given the serious deterioration in economic and social conditions, these proposals must now be acted upon.

2.7 The opinion also tabled several concrete proposals on the ten points advanced by the Commission: implementing a rigorous fiscal consolidation, correcting macro economic imbalances, ensuring stability of the financial sector, making work more attractive, reforming pensions systems, getting the unemployed back to work, balancing security and flexibility, tapping the potential of the Single Market, attracting private capital to finance growth and creating cost-effective access to energy.

2.8 Following the publication by the Commission of the Annual Growth Survey 2012 ([10]), the Committee intends to present an opinion, focusing on the progress report on the Europe 2020 Strategy, in view of the March 2012 European Council.

3. **Governance**

3.1 The Europe 2020 process should be a process for all and by all and not the preserve of policy makers, legislators and expert groups:

— Input from all circles in society is desirable to benefit from the expertise on the ground, to define the best possible approaches to current challenges and to explore creative solutions. Such an example could be the idea of social entrepreneurship that has both economic and social positive effects.

— Adequate implementation of the strategy in Member States depends largely on the commitment and responsibility of all the stakeholders concerned. Therefore, co-ownership of the strategy is crucial and requires full partnership in order to forge dynamism around the reforms.

3.2 The Committee believes that there should be improvements in the consultation, participation and mobilisation of organised civil society at both national and European levels.

3.3 Organised civil society in Member States should be involved in the monitoring and implementation of the EU 2020 strategy as active partners.

3.4 European social partners and organised civil society must be consulted on the country specific recommendations for each Member State. In this context, timing is crucial so as to permit involvement of organised civil society at an early stage in the formulation of future prospects for the cycle after 2011. A fortiori the ILO fundamental conventions, ratified by Member States, must be respected, especially convention 98 guaranteeing free collective bargaining.

3.5 The Committee calls for a strengthening of the special role and profile of national ESCs and similar organisations. This will in no way cut across existing consultation mechanisms with social partners in Member States.

3.6 Steps should be taken to energise the debate on the implementation of EU 2020 strategy in Member States and governments should develop more effective feedback processes about the results of greater civil and social dialogue on the strategy.

3.7 The EESC advocates regular conferences on the monitoring of EU 2020 in Member States which would involve all stakeholders and civil society organisations.

3.8 The Committee recommends the creation of permanent dialogues in Member States between national ESCs or equivalent and other social partners and stakeholders such as SMEs, social economy actors, think tanks, universities and those working to promote social cohesion and equal opportunities. Due account should be taken of agreements and practices on civil dialogue that exist in some Member States.

3.9 Structural barriers to a genuine dialogue with social partners and civil society organisations must be removed. This includes, for instance, avoiding the tight deadlines, which has actually become the norm, for drawing up the National Reform Programmes.

3.10 *Governance at the European level – the added value of a stronger European dimension*

3.10.1 It is becoming clear that national policies, on their own, are not sufficient and that European level policy cooperation should be strengthened. Asymmetric or isolated macroeconomic, industrial or social policies in Member States can undermine EMU and the Single Market and can have adverse spill over effects on other Member States.

3.10.2 The Committee advocates dialogue between national ESCs and civil society organisations and Commission representatives about specific national circumstances. Similarly national ESCs should be more closely involved in the Commission's annual consultations. The EESC advocates this approach,

([9]) EESC opinion on the 'Annual growth survey', OJ C 132, 3.5.2011 p. 26-38.
([10]) Annual Growth Survey 2012, COM(2011) 815.

which is in line with the one adopted by the European Parliament leading to greater cooperation with national parliaments and also by the Committee of the Regions with European regional and local authorities.

3.10.3 The operation of the European Semester has been criticised at the level of the European Parliament, due to the lack of legitimacy, the minor role assigned to the European Parliament, the marginal involvement of National Parliaments and the lack of transparency of the process. The enhancement of the effectiveness of the European Semester by means of a regular economic dialogue on the out workings of the Semester was proposed. The Committee supports the idea of the creation by the Parliament of a sub-committee dealing with issues linked with the European Semester and expresses its wish to be closely associated to its works.

3.10.4 The Committee also desires to continue its collaborative efforts with the Committee of the Regions in promoting citizens' appropriation of the EU 2020 strategy and its effective implementation.

3.10.5 The EESC believes that organised civil society should be invited to participate in territorial pacts ([11]) for EU 2020.

3.11 *Instruments available for improving governance*

3.11.1 The Committee believes that the full range of available instruments of the Union ([12]) should be deployed to ensure the success of the Europe 2020 strategy.

3.11.2 The EESC cautions against the European semester becoming a substitute for the broad guidelines of economic policies and employment policies of the Member States.

3.11.3 The Multiannual Financial Framework for the years 2014-2020 should support the achievement of the Europe 2020 targets.

3.11.4 Structural Funds in the 2014 – 2020 period should be totally aligned with EU 2020 priorities ([13]).

3.11.5 Better coordination of EU and national-level spending would improve efficiency.

3.11.6 Public investments - at EU and Member States level - in smart, sustainable, inclusive growth could also encourage additional private investment, having in this way a leverage effect.

4. **Communication on the Europe 2020 Strategy**

4.1 The political visibility of the EU 2020 strategy should be increased and its awareness among citizens should be enhanced, particularly with respect to the serious challenges that our societies now have to face.

4.2 Communication at all levels (EU, national and especially local) should be stepped up because in many Member States EU 2020 is the only new thinking and policy additionality on offer that gives people some hope of a better future. The key messages of the Europe 2020 strategy about growth, jobs and social inclusion need to be explained over and over again.

4.3 National Reform Programmes should be presented and debated in national parliaments.

5. **Implementation of the Europe 2020 strategy**

5.1 The Committee encourages the Commission and Member States to work to identify bottlenecks that constrain growth at national and international level. These bottlenecks manifest themselves in many forms such as:

— the fragmentation of the Single market,

— the insufficient access for SMEs to Single market,

— the need for developing entrepreneurship,

— the weaknesses in the business environment (including the regulatory environment),

— the obstacles to employment and labour reallocation (labour market segmentation),

— the lack of competitiveness of European industry, due to a lack of reciprocity in world trade and in international public procurement,

— the need for increasing labour market participation,

— the insufficient quality and efficiency of the education and training systems,

— the need for a well functioning, regulated and stable financial sector which serves the needs of the real economy.

5.2 Such potential bottlenecks could be identified thanks to the above mentioned permanent dialogues. New incentives for the areas which are lagging behind could be proposed.

([11]) A *Territorial Pact for Europe 2020* is an agreement between a country's tiers of government (local, regional, national). Parties signing up to a Territorial Pact commit to coordinate and synchronise their policy agendas in order to focus their actions and financial resources on the Europe 2020 Strategy goals and targets – See http://portal.cor.europa.eu/europe2020/news/Pages/TPUsefuldocuments.aspx.

([12]) Instruments such as regulations, directives, recommendations, opinions and standards to guidelines, common objectives, common programmes, structural funds, coordination of policies and instruments of the external action of the EU.

([13]) See notably EESC opinion 'The future of the European social fund after 2013', OJ C 132/8, 3.5.2011.

5.3 The Committee supports the use of modern public administration tools in order to ensure the good implementation of the EU 2020 strategy and the full involvement of organised civil society and social partners. These tools can be:

5.3.1 ***The definition of baselines, targets and deadlines:*** the Committee is aware that currently, in many cases concrete and measurable objectives are lacking, and timetables are too tight. It is in favour of defining clear, concrete targets, accompanied by realistic deadlines for achieving them. Accurate baselines are essential in order to facilitate the measurement of the impact of EU 2020 and to this end the Committee commends greater utilisation of ESPON.

5.3.1.1 The Commission should monitor progress and exert its right of alert when Member States are not delivering on agreed commitments.

5.3.2 Using ***benchmarking and indicators***: the Committee recalls the importance of using indicators of progress and success - output-oriented, quantitative but also qualitative indicators are needed.

5.3.2.1 Such a benchmarking, based on the National Reform Programmes objectives and set up by stakeholders in cooperation with government representatives, would provide concrete information for measuring the progress made in each Member State in the implementation of the EU 2020 Strategy. Each national ESC or similar organisation would need to analyse and establish its own priority criteria. Some national ESCs have already started benchmarking at regular intervals, using statistics which are freely accessible on the Eurostat website. Other national ESCs could engage in the same process.

5.3.2.2 The Committee expresses its readiness to host on its website (the CESLink website) ([14]) a digital platform for the exchange of information and data.

5.3.2.3 The EESC also expresses its readiness to organise an annual conference during which results of benchmarking could be analysed.

5.3.3 ***Regular evaluation of policy implementation and impact:*** thanks to benchmarking, the stakeholders could continuously monitor the implementation of the reforms. This would also provide adequate information for the revision of National Reform Programmes and would facilitate the identification of best practices across the Member States.

6. **Dissemination of best practices**

6.1 The Committee considers that exchange of good practices at the EU level should be highly promoted. It is therefore conducting fact-finding missions to Member States in order to discuss and encourage the exchange of best practices and the implementation of reforms including the civil society stakeholders.

6.2 The EESC is of the opinion that stakeholders should develop new methods for sharing best-practices: multi-level networking would involve the exchange of information with the various levels of government and closer cooperation between border areas in two or more Member States would allow the setting up of cross-border objectives. In addition, analysis of the good practices is needed, in order to be able to use them in other Member States national context.

6.3 The Committee encourages the Commission and Member States to make a renewed effort to promote the cross-border exchange of best practice through the use of electronic communication methods (e.g. databases containing examples of best practices, scoreboards, etc.). The above method depends however on the Member States adopting an appropriate European framework that would allow it. If necessary, the creation of innovative instruments should be considered.

6.4 The Committee reiterates its readiness to be active both as a platform ([14]) for the exchange of information and for cooperation between national ESCs, social partners, civil society actors and the European institutions and as a platform for the exchange of views and experiences between national stakeholders. The Committee takes this opportunity to recall that it highly appreciates the contributions to the discussions made by national ESCs and similar organisations.

Brussels, 8 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

([14]) See http://www.eesc.europa.eu/ceslink/.

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 1083/2006 as regards certain provisions relating to risk sharing instruments for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability'

COM(2011) 655 final — 2011/0283 (COD)

(2012/C 43/03)

Rapporteur-General: **Mr SMYTH**

On the 8 November 2011 the Council decided to consult the European Economic and Social Committee, under Article 177 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1083/2006 as regards certain provisions relating to risk sharing instruments for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability

COM(2011) 655 final — 2011/0283 (COD).

On 25 October 2011 the Committee Bureau instructed the Section for Economic and Monetary Union and Economic and Social Cohesion to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Smyth as rapporteur-general at its 476th plenary session, held on 7 and 8 December 2011 (meeting of 8 December 2011), and adopted the following opinion by 128 votes to zero with 7 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC notes the Commission's proposal to amend articles 14 and 36 of Regulation 1083/2006 allowing on the one hand for risk sharing instruments to be managed under indirect centralised management and on the other for Member States experiencing or threatened with serious difficulties with respect to their financial stability to contribute part of their allocations under the 'Convergence' and 'Regional competitiveness and employment' objectives of cohesion policy to the provisioning and capital allocations of loans or guarantees issued to project promoters and other public or private partners directly or indirectly by the EIB or other international financial institutions. The proposed modifications would not change the maximum amount of financing provided for in the operational programmes for the programming period 2007-13.

1.2 The EESC approves the proposal.

2. **Reason**

2.1 The current proposal would facilitate the approval of loans granted as per Article 36 of Regulation EC No 1083/2006 for one or more priorities of an operational programme by the EIB or by other financial institutions at a moment when due to the downgrading of the public and private debt of the State and financial institutions of the Member States such loans would not be available.

2.2 The Committee agrees that it is vital to support projects and the recovery of the economy and therefore supports the above-mentioned proposal.

Brussels, 8 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Better governance of the Single Market through greater administrative cooperation: A strategy for expanding and developing the Internal Market Information System ("IMI")'

COM(2011) 75 final

and the 'Proposal for a Regulation of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System (the IMI Regulation)'

COM(2011) 522 final — 2011/0226 (COD)

(2012/C 43/04)

Rapporteur: **Mr HERNÁNDEZ BATALLER**

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

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Better governance of the Single Market through greater administrative cooperation: A strategy for expanding and developing the Internal Market Information System ('IMI')

COM(2011) 75 final.

On 14 and 13 September 2011 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System ('The IMI Regulation')

COM(2011) 522 final — 2011/0226 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 November 2011.

At its 476th plenary session, held on 7 and 8 December (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 172 votes in favour with 2 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC welcomes the Commission's intention of improving the governance of the single market through greater administrative cooperation, broadening and developing the Internal Market Information System (IMI) and establishing a proper electronic network for direct contact between the various administrations.

1.2 The EESC welcomes the intention stated in the proposal for a regulation to establish rules for using IMI for administrative cooperation addressing, inter alia, the functions of the various IMI users, the exchange of information, notification procedures, warning mechanisms and reciprocal assistance agreements.

1.3 It also considers it beneficial to establish measures to protect privacy with respect to the nature of the exchanged data, addressing, inter alia, the periods for storing exchanged data and the right of notification and correction.

1.4 With regard to this key legal framework, the EESC suggests including among the definitions set out in Article 5 the concept of 'IMI data', which are economic and professional data that relate to the exercise of economic and professional activities in the internal market and which are exchanged through the IMI system. These data are provided for in the directives establishing the IMI as the instrument for administrative cooperation between national authorities.

1.5 The EESC believes that the IMI can play a decisive role in overhauling administrative cooperation in the internal market and ensuring it meets the needs and expectations of individuals, businesses and civil society organisations who may have a future part to play in developing and operating the system.

1.6 The Committee therefore recommends that the system's development include an objective distinction between data, with regard to the conditions under which economic and professional activities are exercised in the various Member States, to ensure that these data are accessible to private individuals and businesses alike.

1.7 In the EESC's view, the administrative cooperation provided for in the directives that the IMI system helps to implement basically requires, among other measures, the exchange of information between authorities. At the same time, it reiterates that due regard must be given to European data protection legislation. The Committee rejects outright, however, the idea that any exchanged data may also be processed as set out in the proposal for a regulation, for two reasons: firstly, because nowhere do the directives that the IMI system helps to implement state the need for data to be processed under the administrative cooperation they provide for; and secondly, because in the EESC's opinion, the practical requirements to supervise and monitor the operation of the IMI system outlined by the Commission by no means justify expanding the scope for processing exchanged personal data to cover the creation of independent and separate files through processing.

1.8 Lastly, given the quantitative leap represented by this system, the number of participants and the flow of information, the EESC would recommend that provision be included for a basic dispute settlement system for cases of 'transnational' non-compliance. Even a rudimentary system of this nature would help clarify responsibility for any system malfunction or poor system management, which would help improve legal certainty for the public.

2. **Background**

2.1 The Internal Market Information System is an IT application accessible via the Internet, developed by the European Commission in conjunction with the Member States (and applicable in the European Economic Area), whose purpose is to help the latter to fulfil in practice the requirements for exchanges of information laid down in the Union's legal acts through a centralised communication system that allows the cross-border exchange of information and mutual assistance.

2.2 The System, which was initially set up as a 'project of joint interest', is designed to be a flexible and decentralised system that can easily be customised to support different areas of Single Market legislation which contain administrative cooperation provisions.

2.3 The basic principles of the IMI system are as follows:

a) reusability;

b) organisational flexibility;

c) simple agreed procedures;

d) multilingualism;

e) user-friendliness;

f) data protection; and

g) no IT costs for users.

2.4 This system is currently used for the purposes of administrative cooperation in relation to the Directive on the Recognition of Professional Qualifications [1] and the Directive on Services in the Internal Market [2]. It will also be used experimentally for implementing the Posting Directive [3].

2.5 The IMI system cannot currently be used by either consumers or businesses. This is a tool intended solely for use by the competent authorities in the specific areas it covers.

2.6 The EESC has previously stated its views [4] on the Commission Communication on *Delivering the benefits of the single market through enhanced administrative cooperation* [5], supporting a more decentralised and network-based approach to cross-border administrative cooperation operating in the interests of the single market and making use of the Internal Market Information System.

3. **The Commission communication**

3.1 According to the Commission, to ensure that the single market functions smoothly, Member State administrations need to work together closely by providing mutual assistance and exchanging information.

3.2 In its communication entitled *Towards a Single Market Act* [6], one of the 50 proposals it makes announced the creation of an electronic network for direct contact between European authorities, based on a strategy of expanding the IMI using a multilingual information system.

3.3 The IMI is flexible with regard to its organisational set-up in each Member State. The network's decentralised structure requires each participating country to appoint a national IMI coordinator (NIMIC), to manage overall IMI project coordination.

3.4 The IMI's potential lies in:

— adding new policy areas;

— developing new functions;

— linking IMI with other IT systems; and

— using existing IMI functions for new purposes.

(1) Directive 2005/36/EC (OJ L 255, 30.9.2005, p. 22).
(2) Directive 2006/123/EC (OJ L 376, 27.12.2006, p. 36).
(3) Directive 96/71/EC.
(4) Opinion CESE (OJ C 128, 18.5.2010, p. 103).
(5) COM(2008) 703 final.
(6) COM(2010) 608 final.

3.5 Where, in a particular legislative area, no information system exists to support administrative cooperation, reusing IMI instead of developing a new purpose-built system has a number of advantages:

a) more cost-efficient,

b) more user-friendly,

c) faster, more predictable solutions,

d) safer ground, and

e) low threshold for pilot projects.

3.5.1 There is no limit to the number of new areas that can be added to IMI, but there are organisational constraints on its expansion, because the conceptual coherence of the system needs to be preserved, on the basis of the following criteria:

— the new user group should be linked to or partly overlap with existing user groups;

— priority should be given to adding areas that can use existing functions;

— if adding a new legal area requires the development of new functions, this should be done in a generic way so that the new module can be adapted easily for other user groups;

— the costs of any further development needed should be justified by the expected added value of using IMI for the new or existing user groups and for the implementation of EU law and the benefits to citizens and businesses, and

— new areas and functions or links to other tools should not increase the complexity of the system for its users.

3.6 IMI follows a 'privacy by design' approach whereby privacy and data protection compliance are designed into the system from the outset, including a strict application of the purpose-limitation principle and appropriate controls.

3.7 Expenditure for IMI covers development and improvement of the system, hosting IMI in the Commission Data Centre, maintenance, system administration, second-line support, training, communication and awareness-raising.

3.8 In the Commission's view, expanding the system to cover new areas and functions or to create links to other tools should not increase the complexity of the system for its users. Requirements for administrative cooperation should be sufficiently clear and operational and the need for an IT tool to support the process should be analysed.

3.9 The Commission considers it essential that the project have a transparent and effective governance structure and that all stakeholders understand the procedures and forums involved in reaching agreement on various aspects of the project. It therefore includes daily management of the system, policy decisions, advice and guidance from experts and developing the governance structure.

3.10 Lastly, the system is intended to ensure a high level of system performance and security. Where performance is concerned, as the number of users and volume of data in IMI grows, it is crucial to ensure that the performance of the system (e.g. response times) remains satisfactory. With regard to security, the IMI stores and processes personal data and other data that is not intended to be publicly available.

4. General comments on the Communication from the Commission

4.1 The EESC endorses the Commission's approach, adopting a strategy of expanding and developing the Internal Market Information System (IMI) with a view to stepping up administrative cooperation.

4.1.1 More coherent administrative cooperation in the internal market should be based, as a minimum, on the Charter of Fundamental Rights, especially on the principles of sound administration, access to documents, data protection and the shared general principles of law recognised in the Court of Justice's case-law.

4.1.2 In any event, the EESC points out that the level of precautions and protection applying to personal data will vary depending on whether the data refer to traders or business people in their capacity as economic operators.

4.1.3 While it is true that the IMI eliminates uncertainty, it only does so for the authorities and not for SMEs and other stakeholders in society, to whom it should also be extended, as stated by the European Parliament in its Resolution of 6 April 2001.

4.2 In addition to its substantive and specific regulation, the subject of data protection requires this aspect to be taken into account, as a sound legislative technique, in other regulations. This applies in general to the regulation of procedures implementing Community policies and in particular to the IMI System, which is in itself a complex procedure.

4.2.1 As regards lodging appeals, this procedure should provide for a dispute settlement system for cases of transnational disagreements. It is therefore important to provide rapid and efficient access to dispute settlement mechanisms that are straightforward and inexpensive to those they are designed for, whether these are private individuals or businesses.

4.3 Access to the system to provide and obtain information should be very carefully regulated, to ensure that national authorities are obliged to carry out the consultation on the basis of a duly-reasoned prior request, using a standard form and that the person making the request can always display a legitimate interest.

4.4 As regards synergies with other, existing information instruments and databases of regulated professions that include 'lists' of the professions that are regulated in each Member State, the EESC considers that in addition to the 'list', all requirements for exercising a given profession should be included, meaning not only academic qualifications, but also membership or otherwise of a professional association, insurance, licences, etc. This would make some consultations more or less automatic and could be accessible to civil society actors. The EESC hopes that the directive currently being drafted will address these aspects.

4.4.1 The need for this approach can be inferred from the 2010 Annual Report on the IMI system, which refers to the challenge involved in managing the wide range of authorities that are responsible in the field of services. Each authority, with its sphere of competences (at least the basic distinction between regulation, intervention and supervision), should be included on the lists of regulated professions.

4.5 Responsibilities for any malfunctioning of the system or its mismanagement, in terms of mistakes, excessive delays, corrections, etc., to the information that is exchanged, should be clarified, in order to guarantee legal certainty and protection for the rights of individuals and operators where personal data are concerned. The administration's liability for the abnormal functioning of authorities is a general principle of EU law, recognised in all the Member States.

5. **The proposal for a regulation**

5.1 The objectives of the Commission proposal are to:

a) establish a sound legal framework for IMI and a set of common rules to ensure that it functions efficiently;

b) provide a comprehensive data protection framework by setting out the rules for the processing of personal data in IMI;

c) facilitate possible future expansion of IMI to new areas of EU law; and

d) clarify the roles of the different actors involved in IMI.

5.2 It lays down the main principles of data protection through IMI, including the rights of data subjects, in a single legal instrument thus increasing transparency and enhancing legal certainty. The proposal precisely defines the form and methods of administrative cooperation through IMI.

5.2.1 The list of areas of Union acts currently supported by IMI is set out in Annex I. Areas of possible future expansion are listed in Annex II.

5.3 The proposal improves the conditions for the functioning of the internal market by providing an efficient and user-friendly tool which facilitates the practical implementation of those provisions of Union acts which require Member States to cooperate with one another and with the Commission and to exchange information, ensuring a high level of protection for personal data.

5.3.1 The proposal establishes certain common rules related to its governance and use. This includes the obligation to appoint one national IMI coordinator per Member State, the obligation on competent authorities to provide an adequate response in a timely manner and the provision that information exchanged via IMI may be used for providing evidence in the same way as similar information obtained within the same Member State.

5.3.2 The proposal also contains a mechanism for expanding IMI to new Union acts. Its aim is to provide the necessary flexibility for the future while ensuring a high level of legal certainty and transparency. Following an assessment of technical feasibility, cost-efficiency, user-friendliness and overall impact on the system, as well as the results of a possible test phase, the Commission will be empowered to up-date the list of areas in Annex I accordingly, adopting a delegated act.

5.3.3 The Commission's role is to ensure the security, availability, maintenance and development of the IMI software and IT structure. However the Commission could take an active part in IMI workflows, on the basis of legal provisions or other arrangements underlying the use of IMI in a given area of the internal market.

5.3.4 The proposal aims to establish a number of guarantees regarding the transparency of data processing and security. Personal data should not remain accessible for longer than necessary, thus maximum retention periods should be established, following which the data should be blocked and then automatically deleted five years after closure of an administrative cooperation procedure.

5.3.5 As regards geographic scope, the legal instrument for IMI should provide sufficient flexibility to accommodate the inclusion of third countries in the information exchanges in certain areas, or the use of the system in a purely domestic context.

6. **General comments on the proposal for a regulation**

6.1 The EESC welcomes the proposal for a regulation for establishing rules governing IMI use for administrative cooperation. Nevertheless, since these are rules that are directly applicable with the intention of forming a general regulatory framework, the EESC has concerns regarding two questions:

— the lack of precision in some of the fundamental legal concepts, and

— the considerable widening of authority for IMI users as regards the exchanged data.

6.2 In practical terms, IMI is a multilingual IT application that links up more than 6 000 competent authorities which exchange information, within relatively short periods, on the conditions for carrying out specific economic and professional activities in the relevant Member States.

6.2.1 The actual exchange of information via this IT application is subject to a set of minimum procedural rules drawn up for this purpose. Nevertheless, far beyond this specific and limited purpose of exchanging information, the proposal now also legitimises the processing of personal data exchanged as stated in Article 6 thereof. However, the Directives it applies and for which it serves as a basis at no point make corresponding provision for such processing. Because these directives make no such provision, the EESC rejects the idea that exchanged data may also be processed.

6.2.2 Thus there are grounds for questioning the scope of this new power introduced by the proposal for a regulation concerning the processing of personal data under the terms established in Article 2(b) of Directive 95/46/EC.

6.2.3 Apart from the general authority of IMI actors for processing the personal data exchanged, as set out in the article, no other provision of the proposal for a regulation contains a reference either to the purposes justifying the processing or any possible guarantees or restrictions to which they might be subject.

6.2.4 Only the reasons set out in Recital 15 explain why the Commission is now including the processing of data in the general objectives of IMI. The EESC believes that these reasons, unless subsequently explained and clarified, are not sufficient for authorising a function with such a broad remit, particularly:

a) supervising the use of the system by the IMI and Commission coordinators.

6.2.5 The EESC feels that both the IMI and Commission coordinators already have access to the exchanged data, by virtue of which they have already made specific assessments of the system which allow them to evaluate both the response time and the authorities involved, broken down by sector, inter alia.

6.2.6 Thus, subject to further clarifications, it does not seem necessary to make provision for creating specific files using the data exchanged for supervising the use of the system:

b) gathering information on administrative cooperation or mutual assistance in the internal market.

6.2.7 Such information is already public and available from Commission reports on the functioning of the IMI system and could be used to assess administrative cooperation, of which it presents merely a functional aspect:

c) training and awareness-raising initiatives.

6.2.8 The EESC feels that such initiatives do not require the 'processing' of data (as defined in Directive 95/46EC), but simply the 'use' of the data in the system.

7. As regards the need for precision, this refers to a basic concept of 'personal data' referred to a number of times in the proposal for a regulation. In this respect, reference should be made to the concept contained in Regulation 95/46/EC whose definition far exceeds the requirements for the functioning of IMI which, ultimately, concerns a specific category of these data whose common feature is that they are of importance for the exercising of economic and/or professional activities in the internal market.

7.1 The Committee thus considers that the proposal should set out the scope of the concept, limiting the category of 'personal data' to the data included in the corresponding Directives under which IMI is used for administrative cooperation between state authorities and which relate to the exercising of economic and professional activities in the internal market. For this reason, reference should be made to the definitions set out in Article 5.

8. Recital 12 of the proposal states that IMI is a tool not open to the general public which allows external actors to supply information and retrieve data. The EESC disagrees with this approach and believes that certain IMI information should be accessible to external actors, such as citizens, businesses or organisations, provided that it does not contain personal data. Such access would include, inter alia, the administrative requirements imposed by a country with which a commercial or professional relationship is being sought.

8.1 Making this information accessible would in no way include access to other data and certainly not the processing of such data, as might be deduced from the definition of 'external actor' in Article 5(i) of the proposal.

8.2 These external actors should be given the right to make a request for information to their closest IMI user, to create an obligation for the latter to follow it up through the system, provided that the said external actor can provide evidence of an interest linked to a commercial or professional relationship with the country for which the information is being requested.

9. Article 4 of the proposal gives the Commission the authority to include the administrative cooperation set out in the provisions relating to Annex II in IMI. These include the future interconnection of Business Registers, a proposal which has still not been approved. Given the broad scope of this projected measure, the EESC feels it necessary for details to be provided as regards the kind of act to be used for achieving such an expansion of IMI.

10. As regards the definition of external actors, and in accordance with the comments already made, the EESC proposes re-drafting it as follows:

— identifying them as citizens, businesses or organisations requesting a consultation from an IMI user that relates to the objective of certain directives included in the system and which the user must pass on;

— granting them right of access to information in the system which does not contain personal data; and

— expressly excluding the processing of the information which they have accessed.

11. To ensure that the internal market functions properly, the EESC deems it constructive that the information received by a competent authority through IMI from another Member State should have the same evidentiary value in administrative procedures.

12. As regards exercising stakeholders' rights, the EESC regrets that the proposal does not include a single solution, but refers to the obligations of the competent authorities which are laid down in the national legislations on data protection in different forms. Similarly, as regards storing data, it feels that establishing different deadlines is not appropriate for the smooth functioning of the internal market as regards the exercising of citizens' rights.

13. For the purposes of exchanging information with third countries, the EESC considers that it should be made clear whether the conditions set out in Article 22(1) of the proposal must all be met simultaneously or as alternatives. In the latter case, the EESC does not find that a Commission decision as to whether the level of data protection in a third country is sufficient or equivalent represents an appropriate basis for extending IMI to that third country, whilst there are other instances in which the actual Directives included in IMI or an international agreement provide for the external exchange of data.

14. To ensure greater legal certainty, the provisions concerning the functioning of IMI that are being repealed and those remaining in force should be set out in the articles of the proposal, rather than in the recitals.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — Towards a space strategy for the European Union that benefits its citizens'

COM(2011) 152 final

(2012/C 43/05)

Rapporteur: **Mr IOZIA**

On 4 April 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the EU, on the

Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — Towards a space strategy for the European Union that benefits its citizens

COM(2011) 152 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 174 votes, with 8 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC recognises that space is an irreplaceable strategic resource for meeting the EU's social, economic and security needs; it is a driving force for growth and innovation, generating wealth through highly qualified jobs, innovative services and market opportunities in other industrial sectors, and backing for research which in turn produces innovation for industry.

1.2 The EESC recognises the importance of a competitive space industry, comprising the full value chain - i.e. manufacture, launching, operations and downstream services.

1.3 The EESC recognises space policy as a competence that the EU shares with the Member States which also implement their own initiatives. The Committee therefore calls for a stronger partnership with Member States, including those which are not ESA members, aimed at coordinating their respective space policies and competences. Consideration should also be given to allowing States which are not ESA members to participate in collaborative programmes such as ISS (International Space Station).

1.4 The EESC therefore welcomes efforts to consolidate the ground on which European space policy is built by linking it to the foundations of the Union through the provisions of the Lisbon Treaty, and to Europe's industrial policy through the Europe 2020 Strategy, as well as to research and innovation through the Horizon 2020 initiative.

1.5 The global monitoring programme GMES is the key to maintaining the EU's independent capacity for collecting data and information on the Earth system, both in real time and in 10-year data sets, with a view to ensuring environmental and territorial monitoring and security, and to gaining an understanding of some of the mechanisms behind climate change. The EESC is therefore extremely concerned that the GMES budget has not been included in the 2014-2020 multiannual financial framework and calls on the Commission to identify the funds needed to stave off the programme's collapse.

1.6 The EESC recognises the central role that the European Space Agency (ESA) plays as a repository for Europe's technical, scientific and managerial expertise, which is instrumental to the successful management of space programmes.

1.7 Other major bodies include EUMETSAT, an operational organisation that provides meteorological data, the European Environment Agency [1] (EEA) and the European Centre for Medium-Range Weather Forecasts [2] (ECMWF).

[1] (Footnote does not apply to English version.)
[2] (Footnote does not apply to English version.)

1.8 The EESC points to the vital contribution made by space to security and defence. The EESC underscores the need to take due account of the needs of the common defence policy, not least by developing new cooperation and infrastructure programmes ([3]).

1.9 The EESC acknowledges the need to safeguard the value of its own space infrastructure by developing the Space Situational Awareness (SSA) system.

1.10 As regards space exploration and exploitation, cooperation should be stepped up with Europe's established partners, such as the US, Russia and Japan, and bilateral agreements should possibly be sought with emerging space powers such as China, India and Brazil.

1.11 International cooperation in space is vital for the promotion of European technology and services and of its social and humanitarian values.

1.12 In addition to being one of Europe's founding values, research is critical to developing Europe's independent capacity in the area of key enabling technologies, which are needed to make its industry competitive on the global market.

1.13 EU investments in research must be made more effective through the establishment of a Common Strategic Framework for research and innovation funding.

2. **Introduction**

2.1 The Communication defines the legal, economic, social and strategic context for European space policy, linking it to the roots of the European Union: the Lisbon Treaty and Europe's industrial, research and common defence policies.

2.2 The Communication sets out the priority actions that define European space policy. It outlines the international dimension of the EU's space policy and analyses its governance needs. The Communication thus paves the way towards the definition and implementation of a European space programme.

2.3 The Communication asserts that the Commission will present a proposal for a European space programme in 2011 and prepare for the implementation of the proposed strategy (industrial policy, organisation of space activities).

3. **General comments**

3.1 The space sector represents approximately 1 % of the EU budget and 5 % of the volume of the European aerospace sector.

3.2 Despite its limited size in relative terms, the economic, strategic and social importance of space is now fully recognised both by the Commission and by the European Parliament: it is impossible to imagine Europe as a region of well-being without the support and stimulus of its position as leader in the space sector. In addition to generating economic benefits (on average double the amount invested, with peaks of 4,5-fold as in the case of Norway [source: OECD 2011]), this position produces a raft of associated applications which are irreplaceable and fundamentally useful for society: meteorology, navigation, positioning, air and water-borne traffic control, agriculture and land use management, humanitarian activities and management of natural disasters, national security and border control (to mention only a few).

3.3 In a time of economic difficulties such as the present, cutting investment in this sector would have, in return for an entirely marginal impact in terms of absolute savings, the disastrous effect of squandering the body of scientific knowledge and industrial capacity which Europe has built up in this strategic sector over the course of the past decades.

3.4 Developing Europe's independent capacity in the area of key enabling technologies and independent access to space are considered to be of primary importance, requiring active support.

3.5 With new countries such as China, India and Brazil entering the space sector, Europe must prepare a strategic plan to maintain both its key position in this sector and its credibility with its main partners, particularly the US and Russia.

3.6 The major flagship programmes, GMES and Galileo, will enable Europe to continue to be a driving force in strategic sectors linked to the use of satellite navigation systems and services generated by Earth observation.

3.7 Solving the problem of GMES financing is a priority to be tackled without delay: a decade of European investment in the increasingly strategic sector of Earth observation must not be thrown away, depriving Europe, European industry and European research of their hard-won leading position.

([3]) 'The common security and defence policy shall include the progressive framing of a **common Union defence policy**. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements. The policy of the Union in accordance with this Section shall **not prejudice the specific character of the security and defence policy of certain Member States** and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework.' (Treaty on European Union, Title V, Chapter 2, Section 2, Article 42(2)).

3.8 The current financial crisis hitting EU Member States could also jeopardise space exploration programmes, a laboratory of technologies for the future. It is therefore important to ensure continuity in this sector.

3.9 Table 1 gives an overview of the total investment in space by some EU members of ESA in 2009. On average, this investment amounts to between 0,01 % and 0,05 % of GDP (2009 data, source: OECD). By comparison, investment by the major powers such as China, Russia and the US is much larger: 0,12 %, 0,20 %, and 0,31 % respectively. In the case of Russia and China, this figure doubled from 2005 to 2009. In Europe, France stands out as the biggest investor, at 0,1 % of its GDP (source: OECD).

Table 1

2009 space budget, of the largest ESA contributors

(in million EUR)

Country	Space budget (*)	Contribution to ESA (**)
FR	1 960	(716)
DE	1 190	(648)
IT	685	(369)
UK	350	(269)
ES	190	(184)
BE	170	(161)
Overall ESA 2009 budget	**3 600**	

(*) Source: OECD;
(**) Source: ESA

3.10 ESA has the technical knowledge and capacity to plan and implement space programmes and to drive the development of new technologies and applications. ESA operates many of the systems it designs, particularly scientific and research systems. It is up to the European Commission, however, to take on the role of operator for the infrastructure of major operational programmes such as Galileo and GMES.

3.11 EUMETSAT is an important part of Europe's operational capacity.

3.12 Other intergovernmental bodies include the European Environment Agency (EEA) and the European Centre for Medium-Range Weather Forecasts (ECMWF), who are contracting parties to the agreement on the exploitation of GMES data and services.

4. **Specific comments**

4.1 The pillars of European space policy are its legal and industrial framework, its international dimension, its governance, its relationship with the common security and defence policy and an appropriate and sustainable funding scheme.

4.2 European space policy's legal framework is rooted in the Lisbon Treaty.

4.2.1 Article 189 of the Treaty on the Functioning of the EU gives the Union a broad mandate to define a space policy and also suggests making policies in this field operational through a European space programme.

4.2.2 The European Commission's Enterprise and Industry Directorate-General (DG ENTR) directly manages EU space policy and the Galileo programme.

4.2.3 The regulation establishing the GMES programme [4] lays down the rules for its implementation and establishes the budget for its development and initial operations in the 2011-2013 period. Technical coordination and the implementation of GMES's space component are delegated to ESA which draws on EUMETSAT where necessary.

4.3 *The industrial context*

4.3.1 The space sector makes up some 5 % of Europe's aerospace sector (dominated by the aeronautics sector which makes up 92 % of it). The output of the entire aerospace sector in Europe amounted to approximately EUR 130 billion, 6 billion of which related to the space sector (2008 data, source: *Ecorys Report to the EC*). The aerospace sector employs about 375 000 people, with 31 000 in the space sector in Europe (source: OECD 2011); they are highly qualified, 35 % of them being university graduates, engineers and managers.

4.3.2 The space industry's role in innovation, particularly the development of new technologies and equipment, is irreplaceable.

4.3.3 The industrial framework for European space policy is the Europe 2020 Strategy.

4.3.4 The strategy's flagship initiative, set out in the Communication COM(2010) 614 final/4, defines space as a 'driver for innovation and competitiveness at citizens' service'. It mentions the **Galileo/EGNOS and GMES** programmes as established programmes whose completion and continuation beyond 2013 must be the subject of legislative proposals in 2011 in line with overall proposals for the multiannual financial framework. Space infrastructure is recognised as an essential tool for public security and accordingly must be protected. Space environment monitoring capability is provided by the Space Situational Awareness (SSA) programme.

[4] Regulation (EU) No 911/2010, OJ L 276, 20.10.2010, p. 1.

4.3.5 Satellite communications is a key space sector as well as contributing to the Digital Agenda for Europe through its impact on the roll-out of broadband.

4.4 *International cooperation*

4.4.1 As set out in the GMES regulation, the GMES programme is the European contribution to the construction of the Global Earth Observation System of Systems ([5]) (GEOSS), developed by the Group on Earth Observations ([6]) (GEO).

4.4.2 The partnership with Africa, using EGNOS, GMES and telecommunication infrastructures, will have an impact on vital sectors such as resource management, security, cartography, geodesy, telecommunications and information.

4.4.3 G7 countries represent the bulk of institutional investments in space, with USD 53 billion in 2009 (source: OECD). The United States alone have contributed USD 44 billion, with NASA accounting for 17 billion. The G7 aggregate, excluding the US, accounts for the remaining 9 billion.

4.4.4 Alongside traditional players such as the US, Russia and Japan, the importance of the new emerging space powers such as Brazil, India and China, whose space budgets collectively amount to USD 7,2 billion, is clear ([7]). By way of comparison, the Russian Federation's budget is USD 2,5 billion.

4.4.5 ESA's 2009 budget, in comparison, was EUR 3,6 billion (see also Table 1).

4.4.6 Europe has a 'Free and Open' policy on the distribution of data, which is applied by ESA and in effect in the GMES programme.

4.5 *Governance*

4.5.1 According to the provisions of Article 189 of the Treaty on the Functioning of the EU, the Union 'shall establish any appropriate relations with the European Space Agency', in addition to strengthening its partnership with the Member States and coordinating the efforts needed for the exploration and exploitation of space.

4.5.2 ESA is an intergovernmental organisation and will soon have 19 Member States. ESA membership is not restricted to EU Member States (for example, Switzerland is a member) or to strictly European countries (Canada has a partnership agreement with ESA). The guiding principle for managing ESA's resources is *geographical return*, whereby Member States are awarded industrial contracts in proportion to their contribution to ESA. As a result of this principle, the Member States have committed substantial resources. Its staff management is based on the similar principle of *fair return*, although the basis for these criteria is not as direct as for those applied to industrial contracts, as in principle staff are not required to represent or answer to national interests. The EU is currently shifting away from the principle of the sum of national interests in favour of European added value ([8]). In the case of ESA, and with a view to a European space plan, this principle would seem to be particularly appropriate.

4.5.3 Cooperation between ESA and the EU is governed by a framework agreement which entered into force in May 2004 (OJ L 261, 6.8.2004). The European Commission and ESA coordinate their actions through the Joint Secretariat, comprising Commission administrators and ESA executives. The Member States of ESA and the EU meet at ministerial level in the Space Council, a concomitant meeting of the Council of the European Union and the Space Agency Council. The Council is prepared by Member State representatives in the High-level Space Policy Group. ESA maintains a liaison office in Brussels to facilitate relations with the European institutions.

4.5.4 The Space Council has fostered a strong relationship between ESA and the Commission.

4.5.5 EUMETSAT is an intergovernmental organisation with a current total of 26 Member States. The Council is the decision-making body of the organisation, composed of representatives from the Member States' meteorological services, which also fund activities. Contributions are based on a scale which is proportional to the gross national income of the individual Member States. The 2010 budget was around EUR 300 million.

4.5.6 Other intergovernmental bodies include the European Environment Agency and the European Centre for Medium-Range Weather Forecasts, who are contracting parties to the agreement on the exploitation of GMES data and services.

4.6 *Research and innovation*

4.6.1 Research is a founding value of European culture. Research and innovation help deliver jobs, prosperity and quality of life. Research is also at the very foundation of Europe's non-dependence on enabling technologies. Space is a privileged area where links are forged between academic research and industrial innovation and the development of breakthrough technologies.

([5]) (Footnote does not apply to English version.)
([6]) (Footnote does not apply to English version.)
([7]) China: USD 6,1 billion; India: USD 861 million; Brazil: USD 205 million.

([8]) See paragraph 166 of the European Parliament resolution of 8 June 2011 on *Investing in the future: a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe*: '… the way the system of own resources has evolved, gradually replacing genuine own resources by the so-called "national contributions", places disproportionate emphasis on net-balances between Member States thus contradicting the principle of EU solidarity, diluting the European common interest and largely ignoring European added value…'.

4.6.2 Funding for space research is part of the EU's research funding schemes. However, the EU's presence in the applications sector is still too small, and steps must be taken to ensure that Europe's research capacity generates new and innovative applications.

4.6.3 The EU research budget is mainly funded through the 7th Framework Programme (2007-2013) with a budget of EUR 50,5 billion. Approximately 3 % of FP7 is dedicated to space (EUR 1,4 billion).

4.6.4 Under the proposed multiannual financial framework for 2014-2020, research and innovation funding will be connected through a Common Strategic Framework for research, innovation and technological development (to be called Horizon 2020) and research funding will rise to EUR 80 billion for the 2014-2020 framework period.

4.6.5 Under the Europe 2020 strategy, the EU has set the ambitious goal of 3 % of GDP for research.

4.7 *Common security and defence*

4.7.1 Space infrastructure provides vital services for security and defence, as recognised in the common security and defence policy, particularly in the areas of crisis prevention and management.

4.7.2 The safety of space infrastructure is jeopardised by the increasing amount of space debris. ESA and EDA, for the civilian and military dimensions respectively, have launched Space Situational Awareness (SSA) programmes. The EU is working on the international code of conduct for outer space activities.

4.8 *A European space programme – Budget*

4.8.1 The Communication under consideration envisages the possibility of including a proposal for a European space programme in the June 2011 multiannual financial framework. The EU budget proposal for 2014-2020, presented in June 2011, was geared towards delivering Europe's 2020 Agenda ([9]).

4.8.2 The proposal for a European space programme is not spelled out in the multiannual financial framework, although provisions for GMES and Galileo are included:

— Multiannual financial framework Heading 1: 'Smart and Inclusive Growth' assigns EUR 7 billion to Galileo

— Outside the multiannual financial framework: GMES is financed with a budget of EUR 5,8 billion.

The proposal to fund GMES outside the multiannual financial framework is in glaring contradiction with the recommendations set out in the Commission staff working document SEC(2011) 868 final of 29 June 2011 accompanying the Communication on *A Budget for Europe 2020*, as well as with the conclusions of the EU Competitiveness Council, adopted on 31 May 2011.

4.8.3 It is important to understand how the budget planned for GMES can be guaranteed, in order to avoid the risk of losing a programme crucial for Europe's future competitiveness in the strategic sector of Earth observation, which has so far cost a decade of work and EUR 3 billion in investments. According to the conclusions of the 3094th Competitiveness Council (Internal Market, Industry, Research and Space) held on 31 May 2011, 'the Commission will elaborate a proposal for the funding of these flagship programmes [i.e. GMES and Galileo] as part of the next Multiannual Financial Framework' and 'both programmes being European programmes under EU responsibility, should continue to be financed by the EU budget'.

4.8.4 The approach outlined in the multiannual financial framework proposal is to be set out in detail before the end of 2011 in the legislative proposals for the expenditure programmes and instruments in the individual policy areas.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

([9]) COM(2011) 500 final/2, *A Budget for Europe 2020*, Part I.

Opinion of the European Economic and Social Committee on the 'Report from the Commission — Report on Competition Policy 2010'

COM(2011) 328 final

(2012/C 43/06)

Rapporteur: **Paulo BARROS VALE**

On 10 June 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the EU, on the:

Report from the Commission — Report on Competition Policy 2010

COM(2011) 328 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 116 votes in favour with 7 abstentions.

1. **Summary and conclusions**

1.1 Each year, the EESC assesses the Commission's report on competition policy, taking the opportunity to put forward observations and recommendations which, over time, have been taken into account by the authorities, contributing to various adjustments which have led to the increased efficiency which we have seen. We are carrying out this analysis at a time when the European project is facing great challenges, given the risk of fragmentation or, as many people are saying, the threat to the very survival of the extraordinary integration achieved over little more than half a century. In the space of two generations, Europeans have managed to secure a wonderful period of peace and prosperity, based on solidarity between countries and regions and a long process of creating common policies. It is therefore against this backdrop of having to choose between unpredictable backsliding or historic progress that we must look at the different European policies, in particular competition policy. The possible renationalisation of policies as a result of the crisis and possible conflicts between Member States, together with governments intervening in economies with protectionist measures, are scenarios that would seriously affect the internal market and competition policies – which have, at least internally, proved their considerable value.

1.2 This latest report marks its 40th anniversary, laying out the key developments in competition policy and their importance in terms of achieving the EU's objectives: the construction of the single market, passing its advantages on to consumers as the group that can most benefit from it, and the creation of a competitive social market economy. The EESC congratulates the Commission on this report and for its achievements over the last 40 years, but would note that it comes across as a document in praise of the Commission's work, which – as the report says – steps back from current issues. The document is certainly positive, but would actually be more useful if it carried out an analysis and assessment of the strengths and weaknesses of the work done, which could even entail comparative analyses between EU Member States and other major countries, rather than simply a self-eulogy. This 40th anniversary would have provided a golden opportunity for the Commission, on the basis of a proper analysis of history, to propose the modernisation and expansion of competition policy, assessing the developments caused by increasing globalisation and analysing the harmful effects on Europe of changes and relocations based on the unbridled exploitation of human, material and environmental resources, in parts of the world which do not apply the same values as European societies, but which exploit the purchasing power which Europe has been able to guarantee for its citizens.

1.3 The economic and financial crisis continued to have a strong impact during 2010, and on top of that came the sovereign debt crisis. The EESC would highlight the possible distortions which a continuation of the crisis and the temporary measures for combating it may cause in terms of competition and stresses the importance of its rigorous monitoring and of the appropriate corrections being made as soon as possible. It is essential that the implementation of national economic recovery plans, and their impact on competition, be monitored by evaluating the measures taken: this is the only way of ensuring informed decisions on the future of temporary anti-crisis measures that remain in place.

1.4 The EESC welcomes the developments in relation to international cooperation but would emphasise once again that it is crucial to guarantee fair external trade, ensuring that third countries do not benefit artificially from trade liberalisation through the practice of social or environmental dumping. Compliance with international fair trade rules and the fundamental rules on environmental protection, as well as freedom of establishment and business associations, must be guaranteed, and Europe has a crucial role to play in this regard. The European Union must also ensure that the WTO rules against any actions which may hinder access for European companies to the different markets are rigorously applied, by

devising rules to promote equal opportunities whatever their size, location or tax framework. The EU's competition policy needs to enter a new phase, setting new priorities, defining new instruments and taking more effective measures in the field of trade with non-EU countries. The EESC wishes to express its frustration at the fact that its previous calls in this field have not led to the modernisation and expansion of the EU's approach in this field.

1.5 Strict compliance with all aspects of the fundamental ILO conventions on trade union rights and freedoms, child labour, inhuman working conditions and the right to strike must be ensured. At internal level, the national legislations of the Member States in the fields of employment and equal opportunities also need to be harmonised in order to prevent distortions in competition. The labour market, badly hit by the crisis, needs careful attention so that the objective of inclusive growth, a priority under the Europe 2020 strategy, is to be achieved by promoting job preservation and creation and mobility.

1.6 A number of events are indicated in connection with the Europe 2020 strategy, the sector-specific developments and tools of which are set out in the report. Attention is drawn to the risks of liberalising the energy sector, with regard to both quality and continuity of supply, and prices. Concerning the Digital Agenda, emphasis is placed on the importance of electronic communication service managers and users increasing their level of knowledge so they can derive maximum benefit from efforts in this area.

1.7 Speculation on commodity prices has had an impact, although the report has nothing to say on the matter. It is crucial to support the market by devising or applying instruments that can control price volatility and cushion the impact on competition.

1.8 The EESC wishes to express its concern at the inability of the national competition authorities (NCAs) to perform their role as regulators in certain sectors in which prices are strongly influenced by variations in raw material prices, and in which increases in the cost of raw materials have had a direct and immediate impact on the final price, but in which reductions in such costs have not had the converse effect. Given their proximity to the market, NCAs must serve as the key intervention tool for competition policy, focusing action on the regional markets.

1.9 We would draw attention to the importance of supervision by NCAs in the large retail sector, in which the bargaining power of the major economic groups can lead to serious distortions in competition resulting from the abuse of a dominant position. While companies are free to decide how their products are distributed, there is reason to fear that, in practice, agreements may involve price setting by large purchasers, in clear violation of the rules on negotiating balance, gradually leading to the destruction of the production sector and of small-scale wholesalers and retailers.

1.10 There has been no significant progress in relation to the initiative in the 2008 White Paper on damages actions for breach of the EC anti-trust rules, and consumer rights have become even more poorly protected in this area: instances of infringement of these rights have been on the increase and are going unpunished. The necessary Community proposals must urgently be drawn up in this field, in order to guarantee effective redress for cases where the harm caused is collective or widespread. Fair trade and fair competition are crucial to consumers. Information on the quality of products and services must be pertinent and complaint procedures made easier, if consumers' rights are to be guaranteed.

1.11 The EESC welcomes the work towards setting up a European patent as a tool to facilitate access to protection of ownership, which is an important incentive to investment in research and innovation, and hopes that consensus will be reached on adopting this new system for protection of ownership.

1.12 Self-regulation can be an effective means of stimulating the development of certain markets promoting fair trade. It has already proved to be a more effective and flexible tool for coping with the consequences of events on the markets and their products and services than some regulations and laws. The Commission report makes no mention of this possibility, which ought to be looked into and taken into consideration.

1.13 The transport costs of accessing central markets are often an obstacle to healthy competition between operators from remote or island EU regions and those who are better located. Compensation and instruments promoting equal opportunities need to be provided for these cases.

1.14 The EESC welcomes the Commission's declared intention to promote changes to the report on competition, by moving away from a model of simply listing points that are common knowledge, towards replying to the various requests made by the Committee. It is worth highlighting the importance of the report's content taking a more strategic view, paving the way for a debate on competition policy rather than on competition law.

1.15 However, the EESC questions the European Commission report's failure to refer to the need, pursuant to the European treaties, to ensure that competition rules are adhered to by public bodies tendering for operations open to private-sector companies.

2. **Content of the 2010 report**

2.1 The report is arranged in 6 sections: competition policy instruments, the policy's application by sector, the European Competition Network and cooperation with national courts, international activities, initiatives involving consumer organisations and interinstitutional cooperation.

2.2 *Instruments*

2.2.1 Follow-up to the implementation of the temporary crisis framework for State aid

2.2.1.1 In response to the difficulties faced by the financial sector as a result of the sovereign debt crisis, the application of support measures was extended in order to facilitate banks' access to funding. Issuing state guarantees in order to facilitate such access proved to be an effective instrument.

2.2.1.2 The support measures to facilitate companies' access to credit were also extended, although the number of measures was limited and they were restricted to SMEs.

2.2.1.3 There is an urgent need to identify the impact and benefits of these measures. This would provide a basis on which to gauge the advantages and disadvantages of granting such benefits and their impact on competition, as well as the relevance of continuing such assistance during 2012.

2.2.2 Economic adjustment programmes

2.2.2.1 The economic adjustment programmes for Greece and Ireland imposed competition-related measures. In Greece, these involved reform of the NCA, liberalisation of closed professions and a new investment law. In Ireland, they entailed legislative changes to remove restrictions to trade and competition in sectors currently protected by national legislation.

2.2.2.2 National overindebtedness is primarily a cause of distortion to competition because it promotes the activity of certain economic players. Secondarily, by requiring citizens to make greater efforts that are essential to balancing public accounts, it puts them in a weaker position than others. Support for Greece and Ireland, together with that for Portugal, must continue and requires careful attention regarding the possible impact of these measures on distorting competition.

2.2.3 Application of anti-trust measures

2.2.3.1 Application of anti-trust measures was intensive, the Commission having introduced changes to the block exemption regulations, both vertical and horizontal.

2.2.3.2 In the context of the 2008 White Paper on damages actions for breach of the EC anti-trust rules – and contrary to the suggestion made in several EESC opinions to establish a collective redress and compensation procedure (group action at Community level) – it was decided to launch a further public consultation which is not expected to identify the common principles that should be taken into account when drawing up legislative proposals concerning collective redress. Legislative solutions to protect consumers and businesses must urgently be found in this regard.

2.2.3.3 It is worth noting the imposition of fines on 70 undertakings (27 more than in 2009) following on from the seven cartel decisions, and the adoption of a first anti-trust decision in the health services market.

2.2.3.4 The fight against abuse of dominant positions led to four decisions in the energy sector and the opening of several proceedings in the Information and Communications Technology (ICT) sector.

2.2.4 Merger control

As a result of the economic crisis, the number of mergers during 2010 was relatively low. 274 transactions were notified to the Commission, 16 decisions were submitted to conditions and no prohibition was decided.

2.2.5 State aid control

2.2.5.1 The majority of aid approved in 2010 related to horizontal objectives of European common interest (culture and heritage conservation, regional cohesion, environment protection, research, development and innovation, and compensation for damages caused by natural disaster).

2.2.5.2 Attention is drawn to the publication of a handbook on the enforcement of EU State aid law by national courts in order to assist national judges, in response to the increasing number of cases relating to State aid brought before national courts.

2.3 *Sector developments*

2.3.1 In the financial services sector, the main activity in terms of competition was the implementation of the temporary regulatory framework for the sector. A reduced number of merger cases were examined, relating to the restructuring conditions for granting State aid. Efforts to bring about financial stabilisation are essential and must continue, although the dangers posed by the risk of market speculation must not be underestimated in order to avoid the same situation as has arisen in the USA.

Following the work carried out previously, the Commission made legally binding the commitments offered by Visa regarding its multilateral interchange fee (MIF).

2.3.2 In November 2010, the energy strategy for the next ten years in the framework of the Europe 2020 strategy was presented, aimed at creating a single market in the energy sector. The creation of an open, competitive market in this sector is clearly of benefit to consumers, but consumers' concerns must be stressed regarding the quality and continuity of energy supply, particularly in cases where services are provided by companies located outside the country in question.

Measures relating to renewable energy production, energy saving and the remediation of contaminated sites continued to be incentivised, in keeping with the climate/energy objectives laid down in the Europe 2020 strategy.

2.3.3 As a part of the Europe 2020 strategy, the Commission launched the Digital Agenda for Europe, with the main objective of creating a single market for telecom services, with particular emphasis on bringing to near zero the difference between roaming and national tariffs and on achieving broadband coverage for all European citizens. A major challenge now emerging is to strike a balance in competition between e-commerce operators and small businesses and to protect consumers against unfair practices. Consumer confidence in operators' legitimacy, security of payments and protection of personal data must be boosted.

2.3.4 In the ITC market, the Commission's action focused on providing guidelines on cooperation agreements as a means for promoting competition on the market and hence to contribute to one of the objectives of the Europe 2020 strategy of providing efficient products and services. Attention must continue to be paid in this area to training for both operators and end users in order to increase their skills.

2.3.5 With regard to the media, the Commission continued to assist the transition from analogue to digital broadcasting.

2.3.6 In view of the urgent need to create a Community patent, work is continuing on the creation of a unified EU patent system for the pharmaceuticals industry. A revision of the 'Transparency Directive' setting minimum rules for pricing and reimbursement procedures for proprietary medicinal products was also announced.

2.3.7 In the healthcare sector, various complaints lodged by private health service providers against their allegedly unfair treatment compared to public providers were examined. Nothing, however, is said about the outcomes of these complaints.

2.3.8 Having been seriously affected by the crisis in 2009, 2010 was a year of recovery for the transport sector, with prices largely returning to pre-crisis levels.

2.3.8.1 In the air transport sector, the commitments offered by British Airways, American Airlines and Iberia regarding transatlantic routes were made legally binding and the mergers between British Airways and Iberia and between United Airlines and Continental Airlines were authorised.

2.3.8.2 In rail and inland transport, a proposal to recast the first railway package was adopted with the aim of strengthening competition, by establishing a single European railway area.

2.3.8.3 Turning to maritime transport, aid for a 'Motorways of the Sea' project was approved on the basis of the sector's guidelines and the complementary aid guidelines, with the aim of capturing road traffic between France and Spain. The Commission also launched a study on the workings and public financing of port infrastructure.

2.3.9 The deadline for full opening of the postal services market was extended for eleven Member States, and the Commission continued to monitor the liberalisation, ensuring that providers of the public service are not given any unfair advantage.

2.3.10 In the automotive sector, the main concerns in terms of competition are the necessary restructuring of the sector and fostering the development of greener cars.

A vertical block exemption regulation was adopted for the after-markets and for the sale of new vehicles, concerning vehicle manufacturers and authorised dealers, repairers and spare-parts distributors; 15 mergers in the automotive sector were also cleared.

2.3.11 The High Level Forum for a Better Functioning Food Supply Chain was established in response to the competition problems resulting from the differences in bargaining power between suppliers and buyers in food distribution.

The sector is increasingly dominated by large groups, to the clear detriment of both small-scale trade, which cannot compete in terms of price, and small retailers, producers and distributors whose profit margins are squeezed by the power of the large groups. There is a lack of preventive action on the part of the NCAs in the sector regarding possible abuses of dominant positions, which are highly damaging to the market. It is not enough to single out instances of best practice: action should instead focus on supervision and on penalising practices that promote abuse of dominant positions.

2.4 *The European Competition Network and cooperation with national courts*

The European Competition Network continued its activities, demonstrating its importance in the discussion and exchange of good practices on the enforcement of anti-trust rules. A merger working group was established and a review carried out of the block exemption regulations and accompanying guidelines regarding horizontal agreements and vertical restraints.

2.5 *International activities*

2.5.1 Work continued on international cooperation in relation to competition and the Commission continued to participate in the International Competition Network and in the OECD Competition Committee. Cooperation with the USA was intensive and negotiations with the Swiss Confederation regarding competition were launched. Of note are the priority attached to cooperation with China and the discussions concerning the anti-monopoly law, as well as the activities of DG Competition with India regarding restrictive agreements, abuse of dominance and merger control.

2.5.2 Finally, the accession negotiations on the competition chapter were opened with Croatia and the Turkish Parliament adopted a State aid law.

2.6 *Dialogue with consumer organisations and stakeholders*

2.6.1 A page for consumers was made available on DG Competition's website in every official language explaining the role of competition policy and its main initiatives and objectives.

2.6.2 The European Consumer Consultative Group (ECCG) issued an opinion on actions for damages and was consulted on vertical restraints.

2.7 *Interinstitutional cooperation*

2.7.1 A new framework agreement between the **European Parliament** and the **Commission** entered into force in October.

2.7.2 The **European Parliament** adopted resolutions on the 2008 report on competition policy, on the motor vehicle block exemption regulation, on horizontal agreements and on the Council decision on State aid for the closure of uncompetitive coal mines.

2.7.3 The Commission informed the **Council** of initiatives in the field of competition, with particular emphasis on the State aid rules in the context of the crisis.

2.7.4 The EESC made its contribution in the field of competition policy by adopting opinions on the 2008 report on competition policy, on uncompetitive coal mines, on shipbuilding and on the motor vehicle BER.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a directive of the European Parliament and of the Council on recreational craft and personal watercraft'

COM(2011) 456 final — 2011/0197 (COD)

(2012/C 43/07)

Rapporteur: **Mr PÁSZTOR**

On 1 September 2011, the Council, and, on 13 September 2011, the Parliament decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council on recreational craft and personal watercraft

COM(2011) 456 final — 2011/0197 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 8 December), the European Economic and Social Committee adopted the following opinion by 143 votes to 7 with 10 abstentions:

1. **Recommendations**

1.1 The EESC welcomes the proposal for a directive on recreational craft and personal watercraft. It considers it an important step forward on the road to reaching the EU's common goals. Whilst this directive relates to an area of limited importance, its entry into force will contribute to the achievement of several cross-cutting objectives. One could mention, for example, the competitiveness and employment objectives of the Europe 2020 strategy. Strengthening the rules on environmental protection will help achieve the objectives of the biodiversity strategies and of air purity in a key area.

1.2 The EESC considers it especially important that the new rules should strengthen the competitiveness of the sector, despite stricter environmental requirements. It seeks to help it adjust to the expectations of world markets, thus eliminating competitive disadvantages. The EESC hopes that comparable synergies between quality and competitiveness requirements can be created in an increasing number of areas. It therefore recommends closer cooperation with transatlantic partners with a view to achieving comparable treatment of quality parameters.

1.3 The EESC welcomes the Commission's willingness to ensure that the various bodies work properly and seamlessly. At the same time, the Committee notes that the wording is so general that the same procedures should be applied and the same bodies be set up for every other type of goods.

1.4 In general terms, the EESC is also in agreement with the details of the proposal for a directive. However, it recommends that the following points be clarified:

— it is important to establish clearly that safety and emission standards apply to all waters, not just the seas;

— safety standards apply to all the relevant types of boat;

— for smaller engines, provision could also be made for a shorter transitional period;

— with regard to noise pollution, European monitoring of local regulations should be stepped up.

1.5 The EESC would like to see the European Union seeking to be a standard bearer in the area of environmental rules and regulations and to provide an example to the rest of the world.

1.6 On the basis of the experience accumulated in the process of drafting the directive, the EESC expects the European Commission to involve the broadest possible groups in consultations and to ensure that the questionnaires are available and can be completed in all the participants' languages.

2. **Gist of the draft directive**

2.1 The Commission's draft sets out to revise the 1994 directive on recreational craft and personal watercraft on the basis of two considerations: firstly, strengthening environmental protection requirements; secondly, changing the legislative framework.

2.1.1 There are two reasons why the environmental protection provisions need to be changed. The first is the rise in the number of watercraft and the accompanying environmental impact. Not only has there been – most importantly – a particularly sharp rise in nitrogen oxide emissions, but increased emissions of other pollutants have also been observed in the affected geographical areas. The second reason is the competitive disadvantage vis-à-vis the United States due to lower EU emissions standards; this puts exporters in a difficult situation.

2.1.2 Following adoption of Regulation (EC) 765/2008 and Decision 768/2008/EC, a new directive is needed to include recreational watercraft. These regulations represent a commitment on the part of the Commission to harmonisation of sectoral legislation – in relation to the obligations of economic operators, bodies assessing compliance and their competences, market surveillance authorities, and the CE marking – with a view, above all, to overcoming the uncertainty surrounding impact assessments. They therefore help to ensure legal certainty for all stakeholders.

2.2 The proposal aims to set out more precise definitions than hitherto in the field to be regulated. The concepts of recreational craft and personal watercraft are defined together with the relevant exceptions. The various market players are also defined.

2.3 The proposal then sets out detailed specifications for the institutional structures dealing with environmental and consumer protection requirements, as well as describing their remit and the way they operate. In general, the directive allows local or national authorities to use its provisions merely as a basis, with implementation taking local needs and possibilities into account, in line with the subsidiarity principle.

2.4 The annexes to the directive include health and safety requirements, environmental standards and other procedural documents. All these provisions are appropriate to the safety conditions specific to watercraft. Pollutant emission standards have been tightened up, bringing them into line with similar provisions in the United States.

2.4.1 However, the proposal for a directive does not recommend that the limits on noise pollution be changed. The reason for this is that such pollution is caused by a combination of factors which cannot easily be regulated at EU level. In this respect, local regulation has a particularly important role to play.

2.5 In line with the nature of the subject, the directive would give the Commission the right to amend the technical documents and the compliance procedures relating to environmental standards set out in the annexes, with the exception of the limit values, thus enabling flexible adjustment to technological or scientific developments.

2.6 A key element in the directive is that it envisages an adequate transition period enabling manufacturers and traders to adapt. In the case of emissions standards, this would generally be three years from entry into force of the directive. For SMEs manufacturing and selling outboard motors under 15 kW the transition period would be three years longer.

3. **General assessment**

3.1 The current draft introduces new legislation in a sector manufacturing final products, engines and components ([1]), with 270 000 employees working in 37 000 companies, alongside 'hobby boatbuilding' as a specific leisure activity. It defines recreational boats as watercraft which are 2,5 to 24 metres in length and do not take paying passengers. In the new legislation there is a separate category for personal watercraft of a maximum length of four metres, thus correcting previous legislative shortcomings.

3.2 The EESC welcomes the Commission's efforts to tighten up environmental and consumer protection requirements in this field, in line with its general objectives. It is particularly fortunate that, despite tightening up environmental requirements, the new legislation would actually make the sector more competitive by adjusting it to expectations on international markets, thus overcoming the competitive disadvantage existing here. The EESC hopes that such synergies between quality requirements and competitiveness will be found in more and more areas. It therefore recommends closer cooperation with transatlantic partners on ensuring a similar approach to quality parameters.

3.3 Although the Commission endeavoured to address quite a number of issues, and in many respects succeeded, one may well ask which geographical area the legislation actually applies to. There are several indications that it is targeted at the marine sector. It would be preferable for the directive to state more specifically that it applies to boats that can also be used on inland waterways.

3.4 There is a very detailed discussion in the draft directive of the principles underlying institutional structures dealing with compliance, as well as of their stakeholders, responsibilities, competences and tasks. The EESC accepts and appreciates the Commission's willingness to ensure that the various institutional structures work properly and seamlessly. It considers that, in this respect, the draft directive meets expectations.

3.4.1 At the same time, the Committee feels that the proposal is worded in such general terms as to go beyond the purposes of regulating the instruments applicable to recreational boating. Such procedures or institutions could be applied to any other goods. With regard to watercraft, the substantive provisions are set out in the annexes. The EESC feels that the time is ripe for unified consumer protection legislation laying down a common approach to procedures and institutions, thus enabling sectoral legislation to genuinely take sector-specific issues into account. This way of working would make a major contribution to enhancing the transparency, clarity and acceptance of European legislation.

([1]) An independent product built into other products but which can also be used separately.

3.5 The EESC supports the idea of delegating powers to the Commission enabling it to amend the annexes, with the proviso that the Committee retain the right to be consulted on amendments and to be involved in Commission work on amendments.

3.6 The EESC considers that the Commission has not made full use of all the opportunities to involve all the relevant stakeholders as widely as possible in the consultation, in that the written consultation procedure took place exclusively in English. The EESC calls on the Commission to make it possible in future to receive and complete questionnaires in all relevant languages.

4. **Specific comments**

4.1 The EESC agrees with the categories of watercraft and in general with the exceptions too.

4.1.1 At the same time, the Committee would like to ask whether emissions from watercraft used for competitive purposes should not also be subject to some restrictions; this would also significantly boost technological development. It could be worth setting emission levels for each performance category.

4.1.2 Questions also arise with regard to commercial use of watercraft. The EESC considers that safety and emission standards are unrelated to the purpose for which the boat is being used.

4.1.3 The EESC would also recommend that non-powered watercraft also be explicitly mentioned in the legislation, given that safety needs are still the same – even if the technical solutions differ, this should not affect standards.

4.2 The EESC agrees with the emissions standards and supports the proposal to raise them. However, the Committee thinks it should be emphasised that in line with its commitments, the EU should in future be a leader rather than a follower in raising standards. This should be particularly emphasised in implementation reports, and one of the tasks of the 'committee procedure' could be to link this directive with innovation measures.

4.3 The EESC also agrees that it is important, in order to combat noise pollution, to tighten up local regulations whilst providing for the possibility of monitoring at European level involving civil society stakeholders.

4.4 The EESC supports transition periods for market players.

4.5 The EESC supports the proposal for institutions to monitor compliance and hopes that these will not just mean more bureaucracy but will effectively contribute to consumer and environmental protection. The Committee agrees that in such cases self-regulation and the work of committees representing the relevant economic stakeholders are not sufficient; however, the consultative role of such bodies could be strengthened.

4.5.1 To this end, we need to use the latest IT tools and the Commission needs to encourage Member States to do this.

4.6 The EESC agrees that all watercraft in this category, including self-built craft, should be subject to compliance procedures.

Brussels, 8 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

APPENDIX

to the Opinion of the European Economic and Social Committee

a) The following amendment, which received more than a quarter of the votes cast, was rejected in the course of the debate (Rule 54(3) of the Rules of Procedure):

Point 1.4

Amend as follows:

1.4 In general terms, the EESC is also in agreement with the details of the proposal for a directive. However, it recommends that the following points be clarified:

— *it is important to establish more clearly that safety and emission standards apply to all waters~~, not just the seas~~;*

— *safety standards apply to all the relevant types of boat;*

— *~~for smaller engines, provision could also be made for a shorter transitional period;~~*

— *with regard to noise pollution, European monitoring of local regulations should be stepped up.*

Reason

The definitions in the beginning of the Commission's proposal (implicitly), as well as other sections, like the one about navigation lights and appendix 1 (explicitly), state that the rules be applied on all waters. There is no predominance for sea in the Commission's text; this seems to be a perception of the rapporteur.

Outcome of the vote on the amendment:

Votes in favour:	69
Votes against:	78
Abstentions:	13

b) The following section opinion text was rejected as a result of the amendments adopted by the assembly, but obtained at least a quarter of the votes cast:

Point 1.3

Amend as follows:

1.3 The EESC welcomes the Commission's willingness to ensure that the various bodies work properly and seamlessly. At the same time, the Committee notes that the wording is so general that the same procedures should be applied and the same bodies be set up for every other type of goods. The EESC feels that the time is ripe for unified consumer protection legislation laying down a common approach to procedures and institutional structures, thus enabling sectoral legislation to genuinely take sector-specific issues into account. This approach would make a major contribution to enhancing the transparency, clarity and acceptance of European legislation.

Outcome of the vote on the amendment:

Votes in favour:	73
Votes against:	70
Abstentions:	13

Point 4.4

Amend as follows:

The EESC supports transition periods for market players. For small engines, one or two years might be enough instead of the proposed three years.

Outcome of the vote on the amendment:

Votes in favour:	78
Votes against:	49
Abstentions:	10

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — An EU Agenda for the Rights of the Child'

COM(2011) 60 final

(2012/C 43/08)

Rapporteur: **Ms JOÓ**

On 15 February 2011 the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — An EU Agenda for the Rights of the Child

COM(2011) 60 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December 2011), the European Economic and Social Committee adopted the following opinion by 170 votes to 2 with 5 abstentions.

1. **Executive summary and recommendations**

1.1 The EESC welcomes the 'EU Agenda for the Rights of the Child' (hereinafter referred to as 'the Communication') published by the Commission on 15 February 2011 and expresses its hope that this will be a starting point in the full implementation of the UN Convention on the Rights of the Child and the fullest possible mainstreaming of children's rights. The Communication was published after four years of preparation, having been preceded by the Commission communication entitled *Towards an EU Strategy on the Rights of the Child* in July 2006, on which the EESC issued an opinion ([1]).

1.2 Children are an EU population group whose welfare and well-being are of fundamental importance, whether in terms of their general situation, their quality of life, or investment in the future. A high-quality childhood backed by rights secures socio-economic development, enabling the EU to achieve its objectives in all areas. It should be emphasised that the idea of looking at children as an 'investment in the future' must go hand-in-hand with the concept of a happy childhood given that for both children and society the present is just as important as the future.

1.3 The Committee notes that Article 3(3) of the Treaty on European Union introduced the protection of the rights of the child as an objective of the European Union and that this protection is enshrined in the legally-binding Charter of Fundamental Rights. The Charter applies to the actions of all EU institutions and bodies, and to Member States when implementing EU law. Any new European legislative proposal is therefore assessed in terms of its impact on fundamental rights, including children's rights.

1.4 The EESC notes the modest and limited objectives set out in the Communication. The European Union has not ratified the United Nations Convention on the Rights of the Child, as it did in the case of the UN Convention on the Rights of Persons with Disabilities ([2]). The EU should find a way to unilaterally adhere to the UN CRC ([3]). The Member States should provide comprehensive two-year reports to monitor the situation of children, covering not only the economic situation of children but also all other factors contributing to their well-being, based on systematic data collection, research and analyses. This would facilitate the creation of an EU database and evaluation tool, complementing the existing information available.

1.5 The Committee feels that greater use should be made of data and information such as reports by governments and civil society organisations drawn up for the UN Committee on the Rights of the Child, enabling comparison between Member States' action on protecting and enforcing child rights; at the same time, various international organisations such as Eurostat, the OECD, the World Bank, etc. should be encouraged to collect child rights related data and make use of the relevant indicators by systematic compilation and analyses. The EESC recommends that the EU cooperate closely with the Council of Europe in order to create synergies between their programmes ([4]).

([1]) COM(2006) 367 final, and OJ C 325, 30.12.2006, pp. 65–70.

([2]) http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/4.

([3]) The UN CRC is only open for signature or accession by States, contrary to the Convention on the Rights of Persons with Disabilities which includes this possibility for regional organisations. A possible solution would be a unilateral declaration of adhesion by the EU which in practice could have similar effects to an accession, without the difficulties concerning ratification.

([4]) Council of Europe upcoming Strategy on the Rights of the Child 2012-2015 and other strategies in related fields.

1.6 The EESC is concerned about the absence in the Communication of an effective strategy for its implementation or application, even though the indicators issued by the EU Fundamental Rights Agency and the comprehensive list of evaluation instruments drawn up for implementation of the United Nations Convention on the Rights of the Child could serve as a satisfactory basis here; after all, the existence of such an implementation strategy would offer a guarantee that the strategy on child rights will be applied and enforced.

1.7 Proper participation by children in the preparation of decisions concerning them and in the evaluation of programmes is necessary; it would also be useful to measure their satisfaction and evaluate their opinions. The EESC welcomes the EC's efforts to involve children and to support their participation in all issues relating to them. It is also essential to incorporate the views of professional organisations and professionals working with children.

1.8 The EESC recommends that programmes established to ensure enforcement and protection of child rights are in synergy and interact with other EU programmes (on education, youth, integration of the Roma, combating poverty, child-friendly justice, inter-generational solidarity, external relations); these programmes should also visibly emphasise issues relating to children's rights and their welfare and well-being. It also considers it important to guarantee the rights of children by means of an integrated approach, with close cooperation and coordination between the different DGs of the Commission.

1.9 The EESC recommends that implementation of the Europe 2020 strategy should be evaluated not least from the perspective of child rights and child well-being, in a way that is consistent with the strategy's objectives, while allowing for separate evaluation of these objectives from the perspective of long-term planning (given that children are an investment in the future).

1.10 The EESC recommends that the EU pays particular attention to protecting and enforcing the rights of especially vulnerable groups of children (children living in poverty, away from their families, in institutions, those threatened by or suffering from violence or exploitation, living with disabilities, from ethnic minorities or migrant backgrounds, unaccompanied children, refugees, children who have run away from home, children who have been left behind by migrant parents) at both national and European levels. The protection of children's rights, and the right to integrity and human dignity, lead the EESC to condemn any use of violence against children, including 'disciplinary' violence in the home: the Committee therefore urges all Member States to outlaw the corporal punishment of children and reiterates the call for a Special Representative.

1.11 The Committee feels it is particularly important to disseminate and teach child rights together with the means of protecting and enforcing such rights. As well as providing the public with high-quality information, special attention should be paid to informing decision-makers, legal and other practitioners, as well as national and European specialists and politicians; another focus should be the training of those working with children and families together with parents and children themselves, not just to ensure awareness of child rights, but also that they understand the need for children to be human rights holders – not just 'mini-adults with mini-rights' – but with stronger protection given their vulnerability, age and situation. The Member States should support families in every way possible as it is in the paramount interest of the child.

1.12 While acknowledging that the rights of the child must be viewed in a holistic and complex manner, and not separately, the Committee recommends that particular attention be paid to certain issues, such as high-quality, accessible and free pre- and post-natal healthcare for mothers, as an aspect of public health and child health, as well as the issues tackled in the Communication, such as child-friendly justice, including juvenile offenders ([5]).

1.13 In order to secure justice that does not have negative effects on children, the EESC calls for measures to be adopted to provide for protected hearings for children who are the victims of sexual abuse or who are involved in their parents' divorce proceedings. Testimonies should be heard in such a way as to avoid exposing children to additional trauma and should therefore be conducted with the assistance of specifically-trained professional experts, possibly in neutral places other than in court.

1.14 Child poverty, deprivation, discrimination and exclusion are some of the most serious obstacles to enforcing child rights; the EESC therefore reiterates the recommendation set out in its previous opinions that special attention be paid in these fields to implementing, monitoring and evaluating programmes in close connection with the Europe 2020 strategy's objectives on reducing poverty and on all forms of education. To this end, adequate resources must be made available. Priority should always be given to child-related policies and actions.

1.15 In view of the economic crisis, financial constraints and limited resources, the EESC recommends paying special attention to ensuring that existing problems are not exacerbated and that current activities to protect and strengthen child rights do not fall victim to cost-cutting measures.

2. **Background**

2.1 All the EU's Member States have ratified the UN's Convention on the Rights of the Child ([6]) (hereinafter referred to as 'the UN CRC'), and in most of these countries it has become an integral part of national law; its application is therefore mandatory. The UN CRC is the most widely ratified human rights convention in the world; over the past two decades it has fundamentally changed principles and practices concerning the position, rights and role of children.

([5]) OJ C 110, 9.5.2006, p. 75.
([6]) http://www2.ohchr.org/english/law/crc.htm.

2.2 The Commission defined children as a key priority among its strategic objectives for the 2005-2009 period, and in July 2006 it published a separate communication entitled *Towards an EU Strategy on the Rights of the Child* ([7]) envisaging the framing of a comprehensive child rights strategy while mainstreaming the protection and enforcement of child rights in all EU internal and external policy areas and supporting the work of Member States in this field.

2.3 The EESC has called for a comprehensive, complex and holistic EU strategy to fully and effectively guarantee the enforcement of child rights pursuant to the UN CRC) in both the EU's internal and external policies, as well as in the context of activities by Member States to implement the strategy on child rights ([8]).

2.4 The opinion published by the EESC in 2006 argued that the approach to child rights pursued in EU policies should be based on the UN CRC and its two optional protocols, as well as the relevant Millennium Development Goals ([9]), and the European Convention on Human Rights. The EESC has recently issued several opinions dealing with different aspects of the rights of the child ([10]).

2.5 The EU's Charter of Fundamental Rights, Article 24 of which enshrines the principle of protecting and promoting child rights, became a legally binding document with the entry into force of the Lisbon Treaty on 1 December 2009. For the first time in the history of the EU, Article 3 of the Treaty on European Union explicitly refers to protecting child rights ([11]). 'Protection and promotion of the rights of the child is one of the objectives of the European Union. All policies and actions with an impact on children must be designed, implemented and monitored in line with the best interests of the child' ([12]).

2.6 We have found the following four common themes in the child rights programmes of the EU, the Council of Europe and the UN: poverty and social exclusion, children as victims of violence, especially vulnerable groups of children, and the need to actively involve, consult and listen to children on issues of relevance to them. Another theme common to the EU and the Council of Europe is child-friendly justice and family policies.

2.7 In its opinion ([13]) of June 2010, the Committee of the Regions emphasised that children's rights must be applied in a cross-cutting manner touching on all issues; this requires a multidimensional approach, with the mainstreaming of child-related issues into all European and national policies.

2.8 The Commission has established a European Forum on Children's Rights for civil society organisations; this forum has met five times and has voiced its opinion on the strategy currently being drawn up. In addition, two surveys have been carried out on children's awareness of their rights and their views on this subject; the findings of these surveys provided input for preparation of the programme ([14]). The Communication also refers to child rights as laid down by the Council of Europe, with particular regard to violence against children, efforts to ensure child-friendly justice, together with the relevant recommendations and conventions.

2.9 The Child Rights Action Group (CRAG) ([15]) is an important group bringing together civil society organisations. CRAG is an informal grouping of NGOs, whose objective is to cooperate on following up and implementing the European Commission's communication entitled *Towards an EU Strategy on the Rights of the Child*.

2.10 An informal, inter-party European parliamentary alliance on child rights was formed in spring 2011, and has set itself the priority of a coordinated and consistent approach to child-related issues, in particular those concerning child rights ([16]).

3. **Child rights in the EU**

3.1 The EESC welcomes the European Commission's first Report on the Application of the EU Charter of Fundamental Rights ([17]), published on 31 March 2011, which looks at the six chapters of the Charter (Dignity, Freedoms, Equality, Solidarity, Citizens' Rights and Justice), with a separate section on child rights under the heading of 'Equality'. The Charter of Fundamental Rights firmly commits the EU to enforcing child rights, guaranteeing children the right to life, protection, development and active involvement.

([7]) COM(2006) 367 final.
([8]) OJ C 325, 30.12.2006, pp. 65-70.
([9]) UN General Assembly, UN Millennium Declaration, 8 September 2000.
([10]) OJ C 48, 15.2.2011, p. 138–144, OJ C 44, 11.2.2011, p. 34–39, OJ C 339, 14.12.2010, p. 1–6, OJ C 317, 23.12.2009, p. 43–48.
([11]) http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:EN:PDF.
([12]) http://ec.europa.eu/justice/fundamental-rights/rights-child/index_en.htm.
([13]) OJ C 267, 1.10.2010, pp. 46-51.
([14]) Eurobarometer: http://ec.europa.eu/public_opinion/flash/fl_235_en.pdf.
([15]) Members of the Group: Terre des Hommes, World Vision, European Foundation for Street Children Worldwide, Save the Children, Euronet – European Children's Network, Eurochild, Plan International, SOS-Kinderdorf International, http://www.epha.org/a/2610.
([16]) http://www.eurochild.org/ (http://www.eurochild.org/index.php?id=208&tx_ttnews%5Btt_news%5D=1819&tx_ttnews%5BbackPid%5D=185&cHash=cc6d4444ebae436b2a844a082a0ea2a8).
([17]) http://fra.europa.eu/fraWebsite/attachments/charter-applic-report-2010_EN.pdf.

3.2 The EESC is pleased to note that the EU Fundamental Rights Agency, following broad-based consultation of specialists and civil society organisations, has developed indicators to measure the enforcement of child rights ([18]) and has drawn up a study with information on the well-being of children living in the EU; however, this study only includes data on material conditions and welfare, and does not contain any composite indicators to measure living quality and child protection in terms of practical arrangements and extent ([19]).

3.3 The Committee emphasises that only a cross-cutting partnership can succeed in protecting and effectively applying child rights; in such a partnership, Member States, the various levels of government, national and international NGOs, together with civil society organisations, forums representing various interests such as children and the organisations representing them, and social partners such as employers, trade unions and operators from the business world, work together to achieve certain objectives.

3.4 While it is true that the Communication touches on child poverty and various groups of especially vulnerable children, it does not focus on these issues, despite their considerable importance for children's current well-being and for their successful future transition to adulthood and integration, not least in the context of the well-known demographic problems facing Europe. Special attention should be paid to preventing any form of gender discrimination among children as well.

3.5 The economic crisis is a risk factor for child welfare and child well-being and affects children in many ways, especially those living in difficult conditions: in most cases the services and professionals working with them are themselves facing difficulties, and more and more basic services are either lacking or only available to a very limited extent.

3.6 In its external relations the EU attaches great importance to specific issues of relevance to protecting and enforcing child rights; such issues include cross-border guardianship, missing, migrant, unaccompanied, detained irregular migrant and exploited children, and children who are victims of sexual abuse or sex tourism ([20]). However, it does not deal with the increasingly serious problem of children left behind by migrant parents in their countries of origin. For such children, the lack of supervision while parents are working in an EU Member State is a serious problem, as in the case when parents are unable to take their children with them due to the lack of suitable conditions; in this situation, even when the parents' work is needed in another country and they pay tax and contributions there, their children do not have rights and are exposed to serious risks.

3.7 The EESC feels it is particularly important that a first recommendation has been formulated on the link between child rights and business ([21]), namely when UNICEF, the UN Global Compact and Save the Children launched a process to develop principles and guidelines to help business to protect and support child rights. Apart from offering scope for positive action, this process draws attention to potential negative repercussions, particularly in relation to advertising (encouraging children to consume products which are detrimental to physical and mental health, or to indulge in violent, risky or erotic-pornographic behaviour), consumption patterns, including health and nutrition, tourism, child labour and discrimination. All sectors have a key role to play in this field and should therefore cooperate closely with governmental, non-governmental, civil society and business organisations and trade unions, in order to achieve these objectives both in the European Union and in the Member States.

3.8 The EESC feels that while most child-related programmes fall within national competences, there are an increasing number of EU recommendations and activities in numerous areas (e.g. early childhood, vocational training, early school leavers, missing children). They influence national policies, but the extent of this influence on national implementation is often not clear.

3.9 In various EU programmes (e.g. on youth, education, lifelong learning, integration of the Roma, combating poverty, intergenerational solidarity, work-life balance, external relations, etc.), possibilities for protecting and enforcing child rights should be prioritised, with a focus on the various groups of especially vulnerable children, including children left behind in their countries of origin by parents working abroad.

3.10 In an earlier opinion ([22]), the EESC urged the Commission to put in place a Special Representative on Violence against Children to defend children's rights and called on states to prohibit all forms of violence against children. The EESC therefore deplores the Commission's failure to take a stand against the corporal punishment of children. Corporal punishment infringes children's right not to be beaten. Children who are beaten learn to use violence themselves. The protection of children's rights, and the right to integrity and human dignity, lead the EESC to condemn any use of violence against children, including 'disciplinary' violence in the home: the EESC therefore urges all Member States to outlaw the corporal punishment of children, and reiterates its call for a Special Representative and for the European Commission and the Member States to eradicate the corporal punishment of children throughout the EU.

([18]) http://fra.europa.eu/fraWebsite/attachments/FRA-report-rights-child-conference2010_EN.pdf.
([19]) http://www.tarki.hu/en/research/childpoverty/tarki_dwb_mainreport_online.pdf.
([20]) EESC opinion on Protection of children at risk from travelling sex offenders, OJ C 317, 23.12.2009, p. 43–48.
([21]) Children's Rights and Business Principles Initiative.
([22]) OJ C 325, 30.12.2006, p. 65–70.

3.11 The Committee agrees that listening to children, consulting them and involving them in all issues of concern to them ensures the enforceability of their rights while preparing them for active citizenship. For this to happen, it is also important to ensure access to child-friendly versions of the documents and to create and manage similarly accessible brochures and websites or specific sections within them, as planned by the DG Justice ([23]).

3.12 All the EU's legal systems should adopt the following measures so as to secure justice that respects children and avoids damaging them psychologically:

— the testimonies of children who have been victims of sexual abuse should be heard in such a way as to avoid exposing them to further trauma, and should therefore be conducted with the assistance of specifically-trained professional experts, possibly in neutral places, other than in court;

— when children are involved in civil proceedings relating to the divorce of their parents, hearings should be conducted with the same caution and children must be protected from exploitation by their parents or defence lawyers.

3.13 To communicate the rights of the child more effectively, the positive role of the media, including the social media, is essential, reaching out to parents, professionals and the children themselves.

3.14 The EESC advocates the use of the OMC, as well as other possible mechanisms, as an approach which has proved its worth to ensure that cooperation between Member States and the identification and use of best practices can help protect and enforce child rights while mainstreaming child-related issues into other policies.

3.15 As a prominent representative of civil society, the EESC intends to contribute by systematically monitoring outcomes and by disseminating and strengthening child rights through its members.

3.16 In order to enforce legislation more effectively, the EESC considers it appropriate and necessary to establish closer cooperation and consultation than hitherto between the different UN bodies, the Committee on the Rights of the Child, the Council of Europe and international children's organisations and organisations representing children, as the objectives and activities of such organisations are connected with the extensive and comprehensive enforcement of child rights.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

([23]) Kids' Corner on www.europa.eu.

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions — Strengthening victims' rights in the EU'

COM(2011) 274 final

and on the 'Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime'

COM(2011) 275 final — 2011/0129 (COD)

(2012/C 43/09)

Rapporteur: **Kathleen WALKER SHAW**

On 18 May 2011 the European Commission and on 29 June 2011 the Council decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions — Strengthening victims' rights in the EU

COM(2011) 274 final

and on the

Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime

COM(2011) 275 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 142 votes with four abstentions.

1. **Conclusions and recommendations**

1.1 The EESC urges the Commission to assess the impact of the crisis on victims of crime more closely in a study, and bring forward accompanying measures based on its findings.

1.2 The EESC has concerns about the low level of confidence of victims in the criminal justice system, and recognises a need to empower victims, particularly repeat victims, and develop civil confidence to break the cycle of victimisation. It calls upon the Commission to consider accompanying measures and funding to support this.

1.3 The EESC suggests that the Commission amends the definition of 'victim' to strengthen the rights and recognition of the family or representative of the victim.

1.4 The EESC calls for the Commission to conduct a thorough analysis of the protection for victims who suffer harm at work through criminal acts, and to bring forward accompanying measures to support minimum rights and recognition across the EU in both the private and public sector.

1.5 The EESC recommends that the Commission carries out an in depth analysis of victims of road traffic offences, and brings forward measures to ensure justice, support and compensation.

1.6 The EESC suggests the Commission builds more effective safeguards into the proposals to address direct and indirect discrimination of victims.

1.7 The EESC calls for a major culture-change in accepting the role of the victim and for this to be backed up with training of professionals and practitioners at all levels in the justice system and other relevant authorities whilst respecting the principles of subsidiarity. This should include the treatment of victims by the media generally, and to prevent politically motivated exploitation of victims.

1.8 The EESC accepts that certain victims are particularly vulnerable requiring specific treatment, but believes that rather than identifying certain 'vulnerable victims', and thus potentially creating a hierarchy of victims, the Commission should propose that all victims of crime should have access to special measures by means of an individual assessment, in accordance with

national procedures, to determine their vulnerability in relation to their personal characteristics, the nature of the crime, and relationship with the suspect.

1.9 The EESC calls for accompanying measures to strengthen and formalise the network of victim support services across the EU, and suggests it is funded on a consistent basis through the EU Budget. The EESC also recommends that the role of support services is extended to support victims of crime and their families on their return home in cases where the incident happened abroad. The EESC also believes that victim support services should be flexible and capable of channelling resources regionally to potential hot-spot areas.

1.10 The EESC recognises the wider role for civil society in developing practical measures to support victims of crime, and encourages the Commission to bring forward accompanying measures and funding to facilitate this.

1.11 The EESC urges the Commission to make wide-ranging and necessary improvements to provisions for compensation for victims in its forthcoming review, including consideration of an EU level criminal injuries compensation scheme. The EESC wishes the Commission to emphasise to Member States that the directive provides the minimum standards and provides the floor of rights, which allows national implementing legislation to provide greater protection.

1.12 The EESC welcomes the proposals relating to restorative justice, and calls on the Commission to support pilot project funding to develop standards and training in restorative justice across the EU.

1.13 The EESC calls on the EU Commission to develop common procedures within clearly defined and limited timescales ([1]) for the transportation and repatriation of human remains of cross border victims, which would take precedence over national or provincial rules.

2. **Introduction**

2.1 The package of proposals launched by the Commission on 18 May 2011 expands the existing measures on victims' rights adopted at EU level. The proposals seek to provide clear and concrete rights for victims of crime, and to ensure recognition, respect, protection, support, and access to justice no matter where in the EU they come from or live.

([1]) Suggests within 28 days which would allow time for forensic investigation and DNA testing to be carried out by 2 pathologists, including an independent report request from the consulate of the deceased's country.

2.2 The EESC recognises that the Lisbon Treaty now provides a clear legal base for the EU to establish minimum rights and protections for victims of crime. The proposals are based on the Stockholm Programme ([2]) and its Action Plan ([3]), and in line with the Budapest road map ([4]).

2.3 The EESC welcomes the fact that the Polish Presidency has prioritised strengthening security in the EU, and the efforts being made by the Presidency to progress work on the Victims' package in Council.

2.4 The EESC has undertaken a wide range of work relevant to this issue including opinions on compensation of victims of crime ([5]), trafficking ([6]), sexual exploitation and abuse and child pornography ([7]), rights of the child ([8]), EU Counter-Terrorism Policy ([9]), e-inclusion ([10]) and cybercrime ([11]).

3. **General comments**

3.1 The EESC emphasises that Member States cannot ignore the impact of the ongoing economic and financial crisis on this issue, and need to understand the dynamics of crime in this context. With tough austerity measures, many Member States are cutting police, health and welfare services, community organisations and funding for victim support services and other related NGOs. Furthermore, existing inequalities are becoming wider, and steadily increasing levels of poverty and unemployment are likely to fuel further social problems, and be a potential catalyst to crime.

3.2 EU level figures regarding victims of crime are alarming. Every year people are direct victims of more than 75 million crimes. It is an unacceptable fact that the majority of crimes are suffered by the same small percentage of victims who are being victimised time and time again. Typically the victims live in areas of high crime, with a high level of fear of crime and a low level of reported crime. Approximately 90 % of crimes in these communities will go unreported.

3.3 Improving support for victims of crime across the EU is a fundamental cornerstone for developing the area of freedom, security and justice for citizens in the EU. This is vital given the steady growth in the number of people travelling or moving to live and work across the EU, a trend which is set to continue.

([2]) http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/111877.pdf.
([3]) COM(2010) 171 final.
([4]) Adopted by the Council of Ministers on 10 June 2011.
([5]) OJ C 95, 23.4.2003, p. 40–44.
([6]) OJ C 51, 17.2.2011, p. 50–54.
([7]) OJ C 325, 30.12.2006, p. 60–64, OJ C 317, 23.12.2009, p. 43–48, and OJ C 48, 15.2.2011, p. 138–144.
([8]) OJ C 325, 30.12.2006, p. 65–70.
([9]) OJ C 218, 23.7.2011, p. 91.
([10]) OJ C 318, 29.10.2011, p. 9–18.
([11]) OJ C 97, 28.4.2007, p. 21-26.

3.4 The EESC welcomes the fact that the proposals offer citizens who have fallen victim to crime whilst abroad in one Member State the scope to report the crime in their Member State of residence. This is particularly important in cases of serious injury or accident, or for the family, in case of a fatality.

3.5 The EESC supports the directive's horizontal approach, covering rights for all victims.

3.6 Importantly, the proposals recognise the suffering and challenges faced by the family of the victim, as well as the victim themselves, but this needs to be reflected more consistently throughout the proposals.

3.7 Such events have devastating physical, emotional and financial consequences which necessitate support for both the victims and their families, who are so centrally involved in supporting them, in dealing with the authorities, medical support, a maze of administration, pursuit of the suspect/s and in seeking justice and compensation.

3.8 The EESC believes the added difficulties and stress for victims and their families in cross-border situations need to be recognised, where they have the added challenges of different languages, procedures and cultures that are unfamiliar to them and which can seem insurmountable.

3.9 More generally, 50 % of victims of crime do not report the crime to the 'competent authority'. This may be for a variety of reasons, including that victims do not understand the system for reporting or making a complaint, or have little faith in authorities providing help, protection and support to obtain justice or compensation. The EESC wishes to see the proposals translated in to practical measures to address the lack of confidence in the judicial system experienced by victims.

3.10 Studies confirm ([12]) that existing measures have failed to address the many practical and technical problems victims and their families encounter when they are at their most vulnerable and need help.

3.11 These proposals are an important step in ensuring that the victim and their families are put first, that they are given recognition, treated with dignity and respect, and receive the protection, support and access to justice they deserve as a right. In these vulnerable circumstances they should never feel alone.

([12]) COM(2011) 274 and SEC(2011) 580.

4. **Specific comments**

4.1 Currently, there is a great deal of inconsistency in the strength and effectiveness of provisions across the EU, and there needs to be a step-change to ensure acceptable standards of support, protection and rights that EU citizens can rely on whether in their home country or another Member State. It is not acceptable that the level of support a victim receives is a lottery of where they fall victim in the EU.

4.2 The EESC recognises that its members are in a unique position to contribute to ensuring that these proposals are implemented effectively and, in relation to the accompanying measures mentioned in the Communication, calls on the Commission to continue to work with the EESC in encouraging their respective constituency organisations, where relevant, to develop practical structures, policies and practices to provide more systematic and effective support for victims of crime and their families.

4.3 *Recognition and protection*

4.3.1 The scope of definition of 'victim' in the Directive only extends to 'family members of a person whose death has been caused by a criminal offence'. The EESC believes this is drawn too narrowly and ignores the fact that many surviving victims are so badly injured that they need a very high level of support in exercising their legal capacity when conducting the complaint or judicial process for justice and compensation, which therefore falls to family members or other support persons. They also need recognition. The EESC suggests amending COM(2011) 275, Art. 2 (Definitions) to include an additional point 2(a) iii: 'The recognised support person, be it a family member or an employee of a victim who needs a high level of support in exercising legal capacity before or after the crime'.

4.3.2 Despite efforts made to comply with rules on health and safety at work, the EESC has concerns that the proposals are silent on the issue of protection for victims of criminal behaviour suffering harm at work, including people working in road or other forms of transport. Member States have different approaches to determining what constitutes a criminal offence in terms of breaches of workplace rights and protections, and this could undermine the guarantee of minimum standards across the EU. This also has implications for posted workers. The EESC therefore calls for a thorough analysis of this issue by the Commission, and for accompanying measures to support minimum rights for victims of criminal behaviour at work, which would apply to both the public and private sectors.

4.3.3 The EESC is concerned that defining a victim as a 'natural person' could exclude organisations or businesses that fall victim to crime from exercising their rights under the directive. The EESC suggests the Commission should conduct a study to assess the need for specific actions in this area, particularly in relation to SMEs, towards improving protection from serial victimisation.

4.3.4 The EESC believes that the Commission has not adequately addressed the major problem of direct and indirect discrimination against victims, including cultural discrimination, and suggests it builds more effective safeguards into the proposals to address this issue. Double victimisation and discrimination can occur, where victims are targeted for abuse due to their race, religion, beliefs, sexual orientation, disability, gender, or social background, which is a leading cause of the extremely high rate of unreported crime cases. Victims can then face discrimination through unacceptable treatment by the authorities and justice system through not being believed, or treated with dignity, respect and recognition.

4.3.5 The EESC calls for a major culture change to accepting the role of the victim in the justice system. Ensuring adequate training for professionals and practitioners is an important first step whilst respecting the principle of subsidiarity. The EESC recommends that the Commission targets funding programmes to achieve this culture change across the key agencies.

4.3.6 Protecting victims of crime is of central importance to the proposals. This is particularly important when the victim and their families are in the vicinity or in the same building as the accused, either in hospitals, court or police stations. Standard procedures need to be adopted to ensure (rather than 'progressively establish', as stated in the proposals) the avoidance of contact between the victim and their family and suspects by accommodating them in separate rooms, and using separate facilities.

4.3.7 Preventing people from becoming potential victims is also important. The EESC calls on the Commission to support the monitoring of emerging new forms of victimisation for example cybercrime and assess what measures are needed to protect and support victims. Developing programmes building on the success of programmes such as Daphne to raise awareness of potential threats, and to take preventative action when a threat is posed is key to reducing the number of victims.

4.3.8 Statistics show that, having become a victim, people are far more vulnerable to further victimisation. Many victims have suffered a lifetime of victimisation from being abused as children either in the home or in the care of state funded and other institutions. Many find it difficult to talk about their situation, and take steps to report the victimisation. The EESC wishes to see accompanying measures and targeted EU funding aimed at empowering victims, and those witnessing victimisation, to break the cycle of serial victimisation, and develop civil confidence, particularly in high crime communities.

4.3.9 Whilst accepting that certain victims are particularly vulnerable, such as children and people with disabilities requiring specific treatment, the EESC is concerned that, by identifying certain 'vulnerable victims', the Commission may encourage the creation of a hierarchy of victims, potentially leading to discrimination against other victims. All victims are vulnerable, and the EESC believes a better approach might be to propose that all victims of crime should have access to special measures by means of an individual assessment, in accordance with national procedures, to determine their vulnerability in relation to their personal characteristics, the nature of the crime, and relationship with the suspect. Methodologies that recognise understand and respond in a supportive manner to the social environment and living conditions of the victim are vital. The EESC recommends that Article 18 of COM(2011) 275 is amended to remove sections 1, 2 and 5 and to amend references and wording in the remaining text accordingly, including by removing the words 'all other' in line one of point 3.

4.3.10 The EESC welcomes the Proposal for a Regulation on mutual recognition of protection measures in civil matters and recognises this is necessary complementary legislation to the Proposal for a Directive CSL 00002/2010 on the European Protection Order (criminal). The EESC notes that an agreement has been reached between the Council of Ministers and the European Parliament on this proposal. The EESC believes the use and format of both measures should be standardised as far as possible to facilitate operation. Provisions need to be put in place to ensure protection orders are effectively enforced.

4.3.11 The EESC recognises the positive role that the media can play in relation to supporting victims rights and recognition, and wishes to see provisions in the proposals which ensure a balance between recognition of this positive role and protection of the privacy of victims and their families during court proceedings and from intrusive and unwelcome media attention, including politically motivated victimisation by the media. Too often images, photos and personal details are publicised without consent and this is an unacceptable invasion of privacy and family life. Guaranteeing respect, integrity and human rights for victims and their families when at their most vulnerable is essential. In such cases the media responsible should be obliged to remedy the violation by acknowledging it with the same visibility as the victimisation itself was given.

4.3.12 The EESC also wishes to see reference in the proposals to a requirement for public agencies, and in particular the police, to also protect the privacy of the victim and their family. Given that the police are the largest providers of information to the media, this requires attention. Shocking revelations in the UK regarding the hacking of victims' and their families' phones recently triggered a scandal. The EU needs to ensure greater protection for victims and families in this area, both at home and abroad.

4.4 *Right to information, to be understood and to interpretation and translation*

4.4.1 The EESC welcomes the proposals to provide clear and extensive rights for victims to timely and relevant case-specific information, and to be updated on the progress of their case. Too often valuable time, information and evidence is lost in cases, particularly where it is not clear from the outset whether or not there has been a crime e.g. missing persons, drowning, falls, unexplained death. The time delays can be greater in cross-border cases, particularly where the crime was unwitnessed. This should not cause delay in triggering victim support and protection measures. Enquiries using Eurojust or the Mutual Legal Assistance Treaty are restricted as the latter only refers to criminal matters. The EESC would like to see accompanying measures to find ways to remove obstacles to requests for an investigation or enquiry.

4.4.2 Knowing where to get information from and how to report a threat or incident is important, and, in cross-border situations, such information should be more readily available through the relevant authorities such as police, consulates/embassy offices, hospitals and local authority offices and their websites. This information should also be included among travel documents from travel companies/airlines, in duplicate with a tear off copy travellers can leave with close family or friends.

4.4.3 There is currently insufficient coordination and cooperation between relevant authorities in cross-border cases, where different laws and cultures often result in obstacles or reluctance form authorities to share information and cooperate. The EESC would like to see further cooperation between EU Foreign and Justice Ministries to develop a Memorandum of Understanding to exchange information on a police to police basis, via Consular staff, to answer legitimate questions from the victim or family about an investigation. This should include a commitment for relevant authorities to provide contact details of the investigating authority/officer to a nominated colleague in another jurisdiction who could engage with the victim and their family to provide information, with safeguards from disclosure where necessary.

4.4.4 Many countries do not have systems of family liaison services within their police forces or examining magistrates, and require a family to engage a solicitor to represent them before they will disclose information, which can be expensive and beyond many families' means. The EESC recommends that the Commission considers accompanying measures to develop best practice models in this area to be adopted more uniformly across the EU.

4.4.5 Member States should be required to publicise information widely and regularly on the rights of victims and where they can get support. They should also be required to cooperate at EU level in the multilingual provision of such information in order to minimise costs.

4.4.6 The right to understand and to be understood is vital in the pursuance of justice. The EESC suggests that Member States should undertake a communication needs assessment for victims and their family participating in criminal proceedings, to ensure that they have the support they need to understand and be understood.

4.4.7 Wide-ranging rights to free interpretation and translation in criminal proceedings are fundamental human rights, and particularly critical for victims and their families in cross-border cases. The EESC welcomes the fact that these rights are now being extended to victims. Concerns about costs of such services should not be exaggerated as many Member States already respond to these demands from victims.

4.4.8 The EESC welcomes the assurance that victims and their family have the right to challenge any decision finding that there is no need for such services as well as the right to complain if the quality of interpretation is not sufficient to exercise their rights under the proceedings. As required in the Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings, the EESC supports the adoption of a national register of qualified interpreters and translators and for this to be the recognised pool to be used by legal counsel and relevant authorities. EESC has concerns that some Member States hold registers but are awarding contracts to agencies for such services, thus by-passing the register and undermining the spirit of the Directive, and wishes to see such practices stopped.

4.5 *Access to victim support services*

4.5.1 The proposals set out minimum services to be provided across the EU to ensure that victims of crime and their family know what they can expect in terms of timely and effective support, wherever they are in the EU when they most need it. It is vital that services are free of charge, confidential and delivered by highly trained personnel, whether provided by public or private services.

4.5.2 The EESC is concerned that current levels and quality of victim support services vary considerably among EU Member States, and generally are not as well funded as services for people accused or suspected of a crime. The EESC calls for accompanying measures to strengthen and formalise the standards, quality and geographical coverage of victim support agencies across the EU, and to fund it on a secure and consistent basis through measures in the EU Budget. This will help develop economies of scale by developing joint on-line training programmes, information and communication structures and sharing best practice. It will also facilitate more structured monitoring of victims, implementation and enforcement of the legislative package and its effectiveness.

4.5.3 The right of victims to support services is critical to ensuring their recovery and effective access to justice. Although the financial and economic crisis has presented many Member States with serious challenges, they must not step away from their duties in this area. They must weigh up the cost of implementing these services against the cost of not implementing them, i.e. the economic and social cost of victims and family members taking a long time to recover or failing to recover from the experience. Several countries fund national victim support measures through fines raised for criminal offences. The EESC suggests that the EU Commission should fund a study into the effectiveness of such systems for possible wider application.

4.5.4 The EESC recognises that the number of victims of crime varies across Member States and regions. Rises in population during peak holiday seasons, combined with alcohol-fuelled aggression, can create further pressures. The EESC believes that support should be flexible enough to be accessed regionally, and calls on the Commission and Member States to give consideration to channelling resources and supporting measures to improve communication and services to hot spots. This is a particularly important issue where the increase in the risk or threat of violent crime is being perpetrated disproportionately by suspects and/or to victims from outside of the region/country.

4.5.5 Legal obligations to ensure the referral of victims to support services and for those services to then be provided are crucial. In the EU, it is generally the responsibility of the police to refer victims to such services. However, at present, the vast majority ([13]) of victims are not referred to the appropriate services. This poses the greatest single barrier to the provision of support for victims across Europe.

4.5.6 Other relevant authorities coming in to contact with victims should also have responsibility, as appropriate, for referring victims to support services, including hospitals, embassies and consular agencies, schools and housing services. It should be noted that this would not present difficulties in relation to data protection rights.

4.5.7 Existing victim support services do not routinely help victims or the families of victims of incidents abroad when they return to their home country. This weakness should be addressed. Victims can take a long time to recover and may face ongoing health problems and legal and administrative challenges once they return home. The EESC calls for the remit of victim support services to be widened to provide this support.

4.5.8 The EESC would like to see EU funding measures to resource and support cooperation and capacity building between victim support services, and police and judicial authorities, hospitals, trade unions, NGOs, and companies to develop the involvement of civil society in improving support for victims of crime and to promote best practice and practical measures to improve victim support. Volunteers who suffer harm because of criminal behaviour in the course of providing their support and services should also be recognised and supported as victims of crime.

4.5.9 Whilst the EESC confirms that judicial systems and other relevant public authorities have a primary role to play in protecting and supporting victims, it believes there is scope for companies and organisations in the relevant sectors (travel companies, insurance companies, airlines, hotels, banks, mobile and other phone companies, car hire and taxi companies, trade unions and social NGOs) to develop, in constructive co-operation, positive and practical strategies and structures to support victims and their families during a crisis. These initiatives should not be seen as burdens but rather opportunities to develop positive corporate social responsibility policies.

4.5.10 EESC suggests that the Commission conducts a study of the EU insurance industry to assess cover, protection and compensation measures for victims of crime and accident in order to promote best practices in the provision of fair and appropriate legal and administrative support, compensation, and costs so that victims or their families can take part in the criminal proceedings. The clarity of terms and exclusions in policies should be assessed with consideration to the diverse levels of literacy, education and possible disabilities of customers. Clauses in holiday insurance where cover is totally or partially excluded if the insured has been drinking, and under this influence has contributed to an incident should be clearly communicated whilst at the same time insurance companies should be encouraged to apply balance in this area given that many people do drink in moderation when on holiday, and consider the application of established measures for testing alcohol levels such as for drink driving. Member States remain obligated to provide compensation under the terms of the EU Directive on compensation. However, this does not relieve insurance companies from honouring their primary responsibility.

4.5.11 The EESC believes that an EU-level monitoring group should be established comprising victims and their families, victim support groups and related NGOs, trade union and business representatives to support continuous monitoring, training development and act as a driver for culture change towards victims.

4.5.12 Where relevant, support for victims' rights should be mainstreamed into other EU policies and legislative proposals. This would help to ensure progress in this area.

([13]) According to Victim Support Europe information.

4.6 *Justice and compensation*

4.6.1 Greater balance is needed between the rights of the accused and the rights of the victim. Currently, victims are not as well supported and have fewer rights. The EESC urges the Commission and Member States to adopt measures to provide effective recourse for victims if they fail to receive information, support and the other minimum rights and provisions foreseen in the directive.

4.6.2 The right of the victim to be heard during criminal proceedings and to supply evidence is a matter of human rights and effective justice. This right already exists in some Member States and needs to be available throughout the EU. In this context, the EU legislation should take account of and strongly encourage the establishment of effective witness protection programmes.

4.6.3 The rights of the accused must be guaranteed, but the legitimate interests of the victim and their family must be recognised and supported. Victims should have rights to the same level of legal and administrative support. The EESC welcomes recognition of the right of victims to legal aid if they have the status of parties to the proceedings, enabling them to exercise their rights under the directive. The EESC believes that this support should also be available to a victim's family and recognised support person if the victim is deceased or needs a high level of support in exercising legal capacity when participating in the legal proceedings, and asks the Commission to do an analysis of legal aid and assistance provisions for victims and their families across the EU to inform possible future measures to extend support in this area.

4.6.4 The EESC is concerned about significant obstacles in certain Member States regarding the repatriation of deceased victims. Families of victims are often refused the right to take their loved one home for burial or have to wait years and undergo complicated legal proceedings before bodies are released. This causes untold pain and frustration on top of the family's grief. The EESC recommends the EU Commission develops common procedures within clearly defined and limited timescales ([14]) for the transportation and repatriation of human remains of cross border victims, which would take precedence over national or provincial rules.

4.6.5 The EESC welcomes the right to reimbursement of travel, accommodation and subsistence expenses incurred by victims when attending a trial, whether as witnesses or victims. The EESC understands this provision to include the family of a murder victim, but would expect it to apply more widely to the families and support persons of victims who need a high level of support in exercising legal capacity, and to be met by the state.

([14]) See footnote 1.

4.6.6 Written acknowledgment of the report of a crime should be a basic minimum standard. In line with the European Court of Human Rights' decision, victims should also have their complaint appropriately investigated by the state.

4.6.7 The EESC believes that, in cases of crimes committed by a suspect in another Member State there should be provisions to ensure that extradition proceedings are not held up by domestic proceedings against the same suspect if the domestic proceedings are less serious than the case being pursued abroad. They should be fast-tracked or postponed until the foreign proceedings are conducted.

4.6.8 The EESC believes that in the event of a decision not to prosecute, there should be a right to an independent review of the decision. A more effective right would be for the victim to have the right to be consulted on prosecution decisions.

4.6.9 The EESC recognises that financial compensation cannot undo the harm caused by a crime, and often recognition and respect for the victim is very important. Victims have an established right to compensation, but are often not aware of their entitlement, or are put off by the complicated claims process. Obtaining criminal injuries compensation in cross-border cases is often impossible unless the victim or family take out civil legal proceedings in the foreign jurisdiction, which is complex and expensive. More must be done to ensure that victims can file claims more easily and free of charge. The EESC urges the Commission to go ahead with the review of the directive on compensation for victims and make wide-ranging and necessary improvements in this area, including consideration of an EU level criminal injuries compensation scheme.

4.6.10 As part of the above review, the EESC calls on the Commission to specifically look at the issue of compensation for victims of road traffic offences. The EESC notes the good examples of victim compensation and support operating in some Member States. For instance, where a considerable part of the money raised through fines as a result of road traffic offences is spent on support and compensation of victims. Given that road accidents are the main cause of acquiring a disability, the representative organisations of disabled people should be involved in the design, implementation and management of these compensation schemes.

4.6.11 Consideration should be given to providing advance payments to help support victims and their families in the immediate aftermath of an incident, when costs can be particularly high.

4.6.12 The EESC welcomes the proposals on restorative justice in the Directive but believes that the definition is drawn too narrowly and needs to emphasise that there are various options for seeking restorative justice that do not involve bringing people together. EESC confirms that the

wishes and protection of the victim and their family must be paramount in all cases. Strong safeguards are vital, and provisions to ensure that the state facilitates referral to properly trained support services are welcome. The EESC notes that currently very few Member States provide funding for restorative justice and recommends that the Commission supports pilot projects to develop standards and training in restorative justice to create economies of scale and support the exchange of best practice.

4.6.13 The EESC notes that a large amount of 'stolen property' is sold off by law enforcement agencies each year across the EU which the police have not reunited with the owner. Unacceptable delays in returning property is another problem ([15]). The EESC wishes to see provisions on the return of property strengthened with obligations for authorities to provide specific information and contact details as to who has responsibility for the property; and to ensure that property is returned within a short and established timeframe.

4.7 *Implementation and Enforcement*

4.7.1 There are considerable economic and social consequences of failure to comply with the provisions of the directive, not only for victims and their family, but also for the economies of Member States in lost working days, pressures on health and other social and legal services. It is therefore vital that these new measures to support victims and their families are properly implemented to ensure better and faster recovery.

4.7.2 The EESC believes that the proposals should include strong measures to ensure that minimum standards are met across the EU. This will require measures to ensure ongoing monitoring and effective enforcement, together with dissuasive penalties to prevent non-compliance.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

([15]) Victim Support services across Europe routinely receive complaints from victims relating to the law enforcement agencies' delay in returning property to the victim.

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (20th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)'

COM(2011) 348 final — 2011/0152 (COD)

(2012/C 43/10)

Rapporteur without a study group: **Ms LE NOUAIL MARLIÈRE**

On 22 July 2011, the Council of the European Union and, on 13 September 2011, the European Parliament decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union (TFEU), on the

Proposal for a Directive of the European Parliament and of the Council on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (twentieth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

COM(2011) 348 final — 2011/0152 (COD).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 November 2011. The rapporteur without a study group was Ms LE NOUAIL MARLIÈRE.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 144 votes to 45, with 4 abstentions.

1. Conclusions and recommendations

1.1 The EESC recommends that this directive be adopted and implemented in the legislation of Member States as soon as possible.

1.2 However, the Committee is in favour of a precautionary approach being adopted without delay, given the risks of the non-thermal biological effects of emissions from electromagnetic fields. The long-term health of workers must be completely guaranteed at a high level through the introduction of the best available technologies at economically acceptable costs. The Committee expects a relevant provision to be incorporated into the directive.

1.3 The EESC supports the Commission's initiative to fix thresholds so as to make this precautionary approach effective and credible; however, to ensure that this is absolutely effective it advocates fixed thresholds based on the thresholds applied when Directive 2004/40/EC was transposed (by Austria, the Czech Republic, Slovakia, Lithuania, Latvia, Estonia and Italy). The Committee stresses the need to strengthen the independence of scientific bodies involved in determining thresholds for workers' exposure to electromagnetic radiation, its effects and its consequences for public health, and in establishing measures to protect the health of workers exposed to this radiation.

1.4 It is essential to put a stop to conflicts of interest among members of these bodies, linked to the financing of their research and their appointment (procedures and calls for tender, use of independent public research institutes).

1.5 The Committee concedes the need for a derogation for professions using magnetic resonance imaging (MRI) for medical purposes, which should however be subject to a time limit and accompanied by additional resources for research into new technologies to protect workers from the effects of electromagnetic fields and alternative techniques. Workers subject to the derogation should be covered by enhanced measures to protect them, special medical supervision and civil liability insurance to cover errors in the execution of their work arising from strong exposure to electromagnetic fields. The Committee also feels that the above-mentioned principles should be applied not only to medical workers, but also to all other workers who may be excluded from the general principles of the directive on the basis of the derogation included in Article 3 of the proposal.

2. Introduction

2.1 The aim of the proposed directive is to amend Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields), which was originally to have been implemented in the legislation of Member States on 30 April 2008. The aim here is not the protection of the general public. In light of the specific questions posed by MRI and the need to continue the analysis of the directive's impact, the European Commission has proposed and secured an extended deadline of up to 30 April 2012 for the implementation of the directive.

2.2 The proposal is a recast of the 2004 directive, with a new system of limit values and action values for the low frequencies, and seeks to protect workers from the direct and indirect effects of exposure to electromagnetic fields, but only the known short-term effects. In particular, it does not cover the risks that are being discussed of the non-thermal effects of exposure to certain low frequency fields.

2.3 In light of its specific medical use, a derogation is granted to medical sectors using MRI. In addition, derogations from some of the directive's protection standards are granted for the armed forces, and Member States are, in other cases, allowed to exceed these standards temporarily 'for specific situations'.

3. **General comments**

3.1 The EESC was not directly consulted on the 2004 directive but it was consulted in 2008 on the proposal to postpone the directive's implementation by four years. In that opinion ([1]), the EESC:

— reiterated its request of 1993 ([2]) *'to conduct research to identify the risks to workers' health caused by (…) exposure to (…) electromagnetic fields (including exposure over many years)'*.

— maintained *'that the current levels of protection for workers against the risks of exposure to electromagnetic fields vary between individual Member States,'* and that, *'the urgent preparation of an improved text for the directive, providing all workers with an appropriate level of safety (…), should be treated as a matter of priority.'*

3.2 Scientific studies have revealed that electromagnetic fields have a certain number of adverse effects on health:

3.2.1 For magnetostatic fields: skin reactions, changes in the electrocardiogram (reversible up to an intensity of 2 Tesla ([3])), complaints such as severe nausea, flashes in the eyes, vertigo, etc. observed even with a field intensity of 1,5T ([4]).

3.2.1.1 As regards low frequency fields (< 10 MHz): disruption of electrophysiological processes in the body which may lead to visual sensations (phosphenes), stimulation of the nervous and muscular tissue, cardiological dysfunctions, etc ([5]).

3.2.2 For high frequency fields (> à 100 kHz): hyperthermia, as a result of the absorption of energy by body tissues.

3.2.3 The risk of indirect effects, which also have a negative impact on the health and safety of workers, such as: explosion or fire following an electric arc, ferromagnetic projectiles, malfunction of electronic systems, the negative effect on workers considered to be at particular risk from the effect of electromagnetic fields, such as people with medical implants using electronic devices carried on the body, pregnant women, cancer patients, etc.

3.3 There is an ongoing fundamental debate on the physiological, non-thermal and medium-term effects of low frequency fields.

3.3.1 The suspected risks include: disorders of the neuroendocrine system (hormones, melatonin), neurodegenerative disorders (Parkinson's, Alzheimer's, sclerosis), effects on human and/or animal reproduction and development (risk of miscarriage, deformities) and increased risk of cancer (brain tumours, childhood leukaemia).

3.3.2 The IARC (International Agency for Research on Cancer, part of the WHO) has classified low-frequency electromagnetic fields and radiofrequency electromagnetic fields in category 2b (possibly carcinogenic to humans): once in 2001 on account of the possible risks of childhood leukaemia and again in 2011 following a study by Interphone (suspected increased risk of glioma, a type of brain cancer).

3.4 The recent Huss report ([6]) has drawn attention to the non-thermal biological effects, which are potentially harmful to plants, insects and animals as well as the human body, of exposure to electromagnetic fields, including at levels lower than the thresholds recommended by ICNIRP ([7]) and incorporated, by and large, in the European Commission's current proposal.

([1]) EESC opinion, OJ C 204, 9.8.2008, p. 110.

([2]) From the opinion on the proposed Council Directive on the minimum health and safety requirements regarding the exposure of workers to the risk arising from physical agents - OJ C 249, 13.9.1993.

([3]) Electromagnetic fields are measured in teslas, the symbol for which is T. The tesla is the international unit of magnetic induction and corresponds to 1 weber/m^2.

([4]) WILÉN J 2010 - WILÉN J, DE VOCHT F. 2010. Health complaints among nurses working near MRI scanners - A descriptive pilot study. Eur J Radiol. 2010 October 13.

([5]) ICNIRP Guidelines for limiting exposure to time-varying electric, magnetic, and electromagnetic fields (up to 300 GHz). Health Physics, 74, 4 April 1998, 494–522; 494–522 - http://www.icnirp.de/documents/emfgdl.pdf.

([6]) The potential dangers of electromagnetic fields and their effect on the environment, 6 May 2011 – Parliamentary Assembly of the Council of Europe, Committee on the Environment, Agriculture and Local and Regional Affairs. Document 12608, p. 3 http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc11/EDOC12608.htm.

([7]) International Commission on Non-Ionizing Radiation Protection.

3.5 This report, which is based on an overview of the numerous scientific findings and the hearings of all stakeholders (scientists, European Environment Agency, NGOs and citizens' associations, entrepreneurs, etc.), concludes that the EU should adopt a precautionary approach based on the ALARA principle (as low as reasonably achievable) as well as effective prevention measures. It should also review the current threshold values, without waiting for all the scientific and clinical evidence to concur, as waiting could lead to major health and economic costs, as was the case in the past with asbestos, PCB and tobacco.

3.6 Following this report, the Parliamentary Assembly of the Council of Europe adopted a resolution ([8]) which, '*as regards standards or threshold values for emissions of electromagnetic fields of all types and frequencies, (…) strongly recommends that the ALARA (as low as reasonably achievable) principle is applied*'. The resolution also indicates that, in connection with human health, '*the precautionary principle should be applied when scientific evaluation does not allow the risk to be determined with sufficient certainty*'. The recommendation covers, '*both the so-called thermal effects and the athermic or biological effects of electromagnetic emissions or radiation*'. It is essential to take action since, '*Given the context of growing exposure of the population (…) there could be extremely high human and economic costs if early warnings are neglected*'. The resolution also stresses the need for scientific evaluation to be totally independent and credible in order to '*accomplish a transparent and balanced assessment of potential negative impacts on the environment and human health*'. Finally, the resolution recommends reconsidering '*the scientific basis for the present standards on exposure to electromagnetic fields set by the International Commission on Non-Ionising Radiation Protection, which have serious limitations*'.

3.7 In their recent responses to the current proposed directive, the social partners have highlighted the following in particular:

— The importance of not excluding any category of worker and the need to fill the European legislative vacuum concerning workers' exposure to electromagnetic fields;

— The absence of opposition to a derogation for workers using MRI, provided that there is a time limit (which is not the case in this directive), and that it is accompanied by specific medical follow-up measures;

— Their concern that workers should be protected against long-term risks (not taken into account in the proposed directive) with the creation of dialogue platforms between ICNIRP experts and national experts from the EU Member States.

3.8 Despite the possible effects on human health, there is still no European legislation to harmonise protection of workers exposed to electromagnetic fields in the EU.

3.9 The EESC reiterates the need for legislation to protect workers against the effects of exposure to electromagnetic fields. This is an area where scientific methodologies and findings have not yet produced a definitive concrete result, even if certain results of scientific studies confirm the negative effect of electromagnetic fields on workers. However, the extent and scale of the effect differ from one study to another.

4. **Specific comments**

4.1 The European Commission has chosen to base its proposal on a system of precautions which increase in line with the threshold values, rather than a more general precautionary approach based on the ALARA principle. As regards human health, all precautions should be taken to prevent workers from being exposed to the risks of the long-term effects. The evidence pointing to such possible effects, derived from numerous scientific studies, has simply been rejected by two scientific bodies, ICNIRP and SCENIHR ([9]). It should be stressed that this is due mainly to the small number of scientific studies on workers carried out in recent years, stemming from the fact that scientists have mainly focused on the issue of human exposure to the effects of mobile telephone systems.

4.2 Another argument commonly used by these organisations to rule out any long-term effect is that there is a lack of knowledge about the biological mechanisms through which exposure to electromagnetic fields could have an impact on living organisms. However, this is an argument which should favour use of the precautionary principle, if effects are observed regularly before the scientific community is able to come up with precise biological explanations.

4.3 Given this uncertainty the Committee supports '*a possible reduction in environmental exposure, made possible in particular by introducing the best available technologies at economically acceptable costs*'.

([8]) Resolution 1815 (2011) - http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/ERES1815.htm.

([9]) Scientific Committee on Emerging and Newly Identified Risks.

4.3.1 It is important for the level of exposure permitted by the requirements of the directive at the very least not to exceed the limits established by the work of the Member States' recognised experts, based on scientific data and published in accordance with the principles of scientific publications.

4.4 It is useful at this point to refer to the opinion of the *Agence française de sécurité sanitaire de l'environnement et du travail* (French Agency for Environmental and Occupational Health Safety):

'Considering in particular:

— *The methodological gaps in the characterisation of exposure in experimental conditions observed in numerous studies;*

— *The possibility of long-term effects on particular diseases and the need to better document the effect of long-term (chronic) exposure;*

— *The importance of carrying out research into the possible biological effects of "non-thermal" exposure.'*

In 2009 the agency proposed:

1) *'ensuring the methodological quality of in vitro and in vivo studies concerning the physical aspect in particular (characterisation of exposure and type of signals), but also the biological aspect (blind experiments, appropriate controls, identification of false positives, repetition of experiments, sufficient statistical capability, etc.);*

2) *conducting reproduction and development studies on several generations of animals (for example, on animals predisposed to diseases for which the human susceptibility genes are known – neurodegenerative diseases, certain cancers, autoimmune diseases), to be compared with normal animals and under properly characterised and realistic exposure conditions;*

3) *reproducing certain studies analysed in this report which show biological effects which are probably of a physiological nature (especially on the blood supply to the brain);*

4) *developing studies on frequency bands lower than 400 MHz (especially for the chronic effects of low frequencies) and above 2,5 GHz.* ([10])*.'*

4.5 In connection with the precautionary principle, it is worth referring to the article published on 31 May 2001 by Olivier Godard, director of research at CNRS (national centre for scientific research), econometrics laboratory (UMR 7176), *Ecole polytechnique*, France, *Principe de précaution: un bon principe en manque d'organisation de sa mise en œuvre* (The precautionary principle: a good principle, lacking the means to implement it) ([11]).

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

([10]) Opinion by Afsset concerning the updating of knowledge of radiofrequencies. http://www.afsset.fr/upload/bibliotheque/403036549994877357223432245780/09_10_ED_Radiofrequences_Avis.pdf.

([11]) http://www.gabrielperi.fr/IMG/article_PDF/article_a1246.pdf and http://www.gabrielperi.fr/IMG/pdf/PubOlivier_Godard-precaution-0411.pdf.

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest'

COM(2011) 326 final — 2011/0154 (COD)

(2012/C 43/11)

Rapporteur working without a study group: **Mr DE LAMAZE**

On 1 September 2011 the Council decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest

COM(2011) 326 final — 2011/0154 (COD).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 November 2011.

At its 476th plenary session of 7 and 8 December 2011 (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 181 votes to 3, with 10 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC very much welcomes the principle of a directive of this kind. Adopting a legislative text that includes the most recent case-law from the European Court of Human Rights (ECHR) would represent an unquestionable advance in terms of both the requirement for legal certainty and guaranteeing these rights in the different Member States.

1.2 The active assistance of a freely-chosen lawyer from the beginning of criminal proceedings is the guarantee of a fair trial. The EESC shares the Commission's concern as to how to guarantee the effectiveness of this right.

1.3 For this very reason and because the principles established in the proposal for a directive seem ambitious, the EESC is concerned about the difficulties their implementation will entail.

1.4 The EESC deeply regrets the postponement of the measure on legal aid which was linked to the right of access to a lawyer in the Council Roadmap, as this may impact the effectiveness of the rights laid down.

1.5 The proposal for a directive is deemed to be ambitious, first and foremost, because it extends the right to a lawyer to suspects.

1.5.1 Whilst the principle must be that the rights derive from the deprivation of liberty, the EESC recognises that, by virtue of the principle of fairness that governs the search for truth, any persons heard must be accompanied by a lawyer as soon as criminal proceedings are brought against them.

1.5.2 Thus it would appear logical that, by virtue of the right not to self-incriminate, the person against whom proceedings are brought has access to a lawyer, without whose presence their statements alone cannot serve as a basis for securing their conviction.

1.5.3 In this respect, the EESC would be in favour of changing the terminology to replace 'suspect' with 'person against whom proceedings are brought', since this wording has the advantage of reducing the degree of uncertainty and subjectivity.

1.6 The proposal for a directive is also deemed ambitious in that it extends the right of access to a lawyer who would play an active role on behalf of the person being assisted, particularly during questioning.

1.7 The EESC believes that the right of access to a lawyer, as provided for in the proposal for a directive, is compatible with the requirements of the investigation and, by helping to guarantee the admissibility of the evidence gathered, may even facilitate the smooth progress of the criminal procedure, provided that certain conditions are respected.

1.7.1 Provided that the directive, on the one hand:

— provides for the right for the lawyer to attend any investigative or evidence-gathering act for which the presence of the person concerned is required only when necessary for protecting the rights of the defence;

— provides for a reasonable period of time, beyond which the investigative services may act without the presence of a lawyer. However, justification must be provided that due notice was given;

— provides that each Member State establish reasonable periods of time for the duration and frequency of the talks between lawyers and their clients, *a minima* before each hearing;

— provides that each Member State may implement procedures derogating from certain established principles during both the investigation and the proceedings, particularly when relatively minor acts, relating to commonly-occurring forms of crime, are neither questioned nor questionable;

— points out that lawyers are bound by the confidentiality of the investigation;

— provides for the 'right to request notification of' a third party or the consulate instead of 'communicate with'.

1.7.1.1 The investigating authorities must necessarily retain control of the duration and course of the investigations.

1.7.1.2 In any event, the EESC deems it necessary to provide for a derogation in the event of a foreseeable impediment to the smooth progress of the investigation.

1.7.2 Provided, however, that the States allow for creating emergency structures permitting immediate access to a lawyer in the event of the lawyer of choice not being available immediately.

1.8 Finally, with a view to ensuring balance, the EESC calls on the Council to set guidelines for greater protection of victims' rights in the light of the new rights granted to the defence. Victims should be able to receive help from a lawyer when they are heard by investigating services, especially when they have to face the accused, who may receive such help.

2. **The proposal for a directive and its background**

2.1 The Council has recognised that, to date, not enough has been done at European level to safeguard the fundamental rights of individuals in criminal proceedings. On 30 November 2009, the Justice Council adopted a resolution on a Roadmap for reinforcing these rights. This Roadmap, appended to the Stockholm Programme, called on the Commission to put forward proposals on the following measures:

(A) right to translation and interpretation;

(B) information about rights and the charges;

(C) right to legal advice and legal aid;

(D) communication with relatives, employers and the consular authorities;

(E) special guarantees for suspected and accused persons who are vulnerable.

2.2 The first step is Directive 2010/64/EU of 20 October 2010 on the right to interpretation and translation (measure A).

2.3 The second step will be a Directive, currently under negotiation on the basis of a Commission proposal, on the right to information ([1]), which will set out minimum rules on the right to receive information on one's rights, and on the charges, as well as on the right of access to the case file (measure B).

2.4 This proposal for a directive relates to the third measure in this legislative package. It reflects the Commission's choice to deal with the right to legal advice and the right to communicate (D) together. By contrast, legal aid, which was linked to the right to legal advice in the Council Roadmap, has been postponed to a later date (2013). As with the previous measures, the Commission has decided to extend these rights to persons arrested under a European arrest warrant.

2.5 This proposal for a directive aims to ensure implementation of the EU Charter of Fundamental Rights – and particularly Articles 4, 6, and 47 – on the basis of Articles 3 and 6 of the European Convention of Human Rights and Fundamental Freedoms relating particularly to the prohibition of ill treatment and the right of access to a lawyer, as they are interpreted by the ECHR.

2.6 It makes provision for all suspects and accused persons to have access to a lawyer as quickly as possible. Irrespective of any deprivation of liberty, access to a lawyer must be granted upon questioning (Article 3).

2.6.1 The lawyer plays an active part (questions, statements) in the questioning and hearings and has the right to attend any investigative or evidence-gathering act for which the presence of the suspect or accused person is expressly requested or authorised, unless the evidence is liable to be altered, removed or destroyed because of the time that has elapsed before the lawyer arrives. The lawyer has access to the place where the person is being detained to check the detention conditions (Article 4).

2.7 The proposal also provides for the right to communicate with a third party or the consulate following arrest (Articles 5 and 6) so as to inform them of the detention.

([1]) OJ C 54, 19.2.2011, p. 48-50.

2.8 Derogation from the rights set out in the proposal for a directive (Article 8) is only possible in exceptional circumstances. The decision, taken by a legal authority, must be reached *in concreto* and cannot be based exclusively on the seriousness of the offence.

3. **General comments**

3.1 The EESC welcomes the policy shift contained in the Roadmap adopted by the Council on 30 November 2009 which seeks to strengthen fundamental rights in the context of criminal proceedings.

3.2 This proposal for a directive is part of the ongoing ECHR case-law advances and whilst it sets out *a minima* rules – since Member States are free to go further – it is actually aimed at a top-down harmonisation of national criminal procedures.

3.3 National legislations still offer very varying levels of protection of defence rights. Defining common rules applicable throughout the Union is essential for establishing a common rights framework and strengthening mutual trust between national judicial authorities. The EESC attaches particular importance to achieving these objectives, which are both a necessary condition for and consequence of the free movement of persons.

3.4 The EESC also emphasises the urgency of reducing the number of cases blocking up the ECHR and which result in financial penalties for the States.

3.5 However, the EESC would point out that such rules can only be applied and fully implemented if they take account of the differences between the Member States' traditions and legal systems (accusatorial or inquisitorial systems) in accordance with Article 82.2 of the Treaty on the Functioning of the European Union. It believes that this aspect should be examined in greater detail.

3.6 *On the method and legislative timetable*

3.6.1 The EESC is not convinced about the added value to be derived from linking the right to legal advice to the right to communicate with a third party. The latter does not, properly speaking, pertain to the protection of defence rights.

3.6.2 By contrast, the EESC regrets that the right to legal advice:

— has not been linked to the right to information in the context of criminal proceedings (B)

— should be treated separately from legal aid, which was linked to it in the Council Roadmap.

3.6.3 Whilst the EESC understands the reasons for deferring the issue of legal aid, it questions the Commission's choice of establishing the principles before considering the financial resources needed for their implementation. Although the financial aspect cannot, in itself, justify non-compliance with Article 6 of the European Convention of Human Rights and Fundamental Freedoms – as interpreted by the ECHR – there is nevertheless a risk that the effectiveness of the rights enshrined therein may be impaired.

3.6.4 The EESC is particularly concerned by the fact that the impact study accompanying the proposal for a directive seems to underestimate the costs involved in implementing such a directive.

3.6.5 In particular, the EESC is wondering about the resources for financing access to two lawyers under a European arrest warrant (one in the issuing country and the other in the executing country), even though it does not question the justification.

3.7 *Substance*

3.7.1 Right of access to a lawyer extended to suspects (Articles 2 and 3)

3.7.1.1 The main contribution of the proposal for a directive is to extend the right of access to a lawyer to suspects.

3.7.1.2 There are often contradictions in the ways in which recent developments in ECHR case law are currently being interpreted; the EESC feels that access to a lawyer must be understood to apply from the time when a person is deprived of their liberty.

3.7.1.3 The only exception would be when proceedings were brought against the person being heard who thus, in implementing the principle of fairness in seeking out the truth, could no longer be heard as merely a witness and has the right to be assisted by a lawyer.

3.7.1.4 This approach would seem to be in line with the most recent developments in case law.

3.7.2 Substance of the right of access to a lawyer (Article 4)

3.7.2.1 Active participation of the lawyer during questioning (Article 4(2))

3.7.2.1.1 The EESC is aware of the fact that the proposal for a directive places emphasis on the effectiveness of the presence of a lawyer who may raise questions, request clarifications and make statements during questioning and hearings. As regards the particular characteristics of the different legal systems, the EESC feels that the conditions for exercising these rights could be regulated by each Member State.

3.7.2.1.2 It considers that it would be helpful also to provide lawyers with the option of requesting that their comments be appended to the record of the questioning in order to avoid any difficulties with the investigating authorities.

3.7.2.1.3 However, in the case of suspects – if the term 'suspect' is retained – the EESC points out that the assistance of the lawyer will run into practical difficulties, particularly as regards submitting the dossier in real time ([2]). In fact, for the range of most commonly-committed offences, the investigating authorities do not have a file drawn up before the suspect is taken in for questioning.

3.7.2.2 Lawyer's right to attend any investigative or evidence-gathering act in the presence of the defendant (Article 4(3))

3.7.2.2.1 Whilst this right is an unquestionable advance in terms of protecting defence rights, the EESC nevertheless believes that a distinction should be made between the types of measures. The defendant must be able to call on a lawyer for assistance in the event of a search.

3.7.2.2.2 However, in the case of technical and scientific measures (fingerprints, taking body samples, etc.), for which the lawyer has no special skills, the EESC believes that such a right would have no added value. A form signed by the person informing them of the consequences of their refusal should be enough.

3.7.2.2.3 The EESC is nevertheless aware of the constraints such a right could impose on the course of the investigation. It believes that it is fundamental not to jeopardise the smooth progress of the investigation. Evidence should be collected as quickly as possible in the interests of the suspects themselves. The EESC suggests that the directive set a time limit beyond which the investigating authorities could act despite the absence of a lawyer, in which case evidence must be provided that due notice was given.

3.7.2.2.4 In certain cases only where the fairness of the procedure cannot be compromised, the EESC considers that it could be left to the national jurisdictions to decide on the admissibility of evidence obtained without the presence of a lawyer.

3.7.2.3 Talks between lawyers and their clients (Article 4(5))

3.7.2.3.1 Whilst there must be sufficient talks with the lawyer in terms of duration and frequency, the EESC feels that the absence of any restriction other than 'prejudicing the exercise of rights of defence', which is a vague and subjective concept, will be a source of dispute between lawyers and the police services.

3.7.2.3.2 Indeed, the EESC has questions about the length of time needed to exercise these rights (lawyer's opinion, effective presence, familiarisation with the file, interview with the client, attendance during questioning and certain investigations, etc.) in the context of an investigation restricted to a time-frame that has become too short to allow it to be effective.

3.7.2.3.3 The EESC considers it necessary to make provision for each Member State to establish a reasonable period for the duration and frequency of talks between lawyers and clients to avoid jeopardising the smooth course of the investigation whilst ensuring that these rights can be effectively exercised. It believes that these talks should take place at least before each new session of questioning.

3.7.2.4 Detention conditions (Article 4(4))

3.7.2.4.1 The impact of detention conditions on a person deprived of their liberty requires no proof. For obvious reasons relating to human dignity, the EESC stresses the urgency of devoting the necessary resources to improving these conditions. The EESC feels that, whilst it is not part of a lawyer's duty to 'check' the detention conditions of the person in question, it might, nevertheless, be envisaged that the lawyers could 'check up' ([3]) on the conditions and ask for their comments to be recorded. The EESC proposes making it clear that a lawyer should have access as quickly as possible to the place of detention.

3.7.2.5 Principle of free choice of the lawyer

3.7.2.5.1 The right of access to a lawyer cannot be dissociated from its corollary, the principle of the free choice of lawyer, pursuant to Article 6.3 c) of the European Convention of Human Rights. Having noted that the proposal for a directive makes no reference to this, the EESC proposes reiterating this principle. A derogation might be provided for in cases of terrorism and organised crime at the request of the judicial authority; the lawyer could then be appointed by the relevant professional body.

3.7.2.5.2 In order to apply the principle of freely choosing a lawyer, the future instrument governing legal aid must make provision for all European lawyers to be able to have their services paid for by legal aid.

([2]) Article 7 of the proposal for a directive concerning the right to information in the context of criminal proceedings stipulates that any suspect or accused person or his/her lawyer has access to the case file.

([3]) Term which most faithfully translates 'to check up'.

3.7.2.5.3 In order to guarantee the effectiveness of the rights established by the directive, the EESC calls on the Member States to give urgent consideration to setting up emergency structures making it possible to have immediate access to a lawyer in the event of the lawyer of choice not being immediately available.

3.7.2.6 Confidentiality of the investigation

3.7.2.6.1 The EESC wishes to point out that lawyers are bound by the confidentiality of the investigation. The EESC believes that this obligation will help to guarantee that extending the rights established in the proposal for a directive will not jeopardise the smooth progress of the investigation.

3.7.3 Right to communicate with a third party (Articles 5 and 6)

3.7.3.1 The EESC recognises the importance of ensuring that third parties are informed, but is concerned to prevent the risks that communicating directly might have on the investigation, and thus advises the following wording: 'Right to request notification of' or 'Request to notify' a third party or the person's consulate.

3.7.4 Scope (Article 2) and derogations (Article 8)

3.7.4.1 Fearing that excessive formality in criminal proceedings might jeopardise the effectiveness of the investigation, the EESC considers it necessary to allow each Member State the option of implementing procedures derogating from certain established principles during both the investigation and the proceedings, particularly when relatively minor acts, relating to commonly-committed offences, are neither questioned nor questionable.

3.7.4.2 The EESC believes that it is essential not to jeopardise the smooth progress of the investigation and would, in any event, suggest providing for a derogation if this appeared likely. It thus proposes amending Article 8 a) to this effect (see specific comments).

4. **Specific comments**

4.1 Replacing 'suspects and accused persons' throughout the proposal by 'persons against whom proceedings are brought'.

4.2 Article 3, point 1 a): add 'or hearing' after 'questioning'.

4.3 Article 4, point 1: replace 'representing' with 'assisting'.

4.4 Article 4, point 2: clarify as follows: 'any questioning or hearing of the persons against whom proceedings are brought' and add 'and have their comments appended to the record'.

4.5 Article 4, point 4, replace 'check' with 'check up on' and add after 'where the person is detained' 'as quickly as possible' and 'to have their comments recorded'.

4.6 Article 5, title and point 1: replace 'communicate with' by 'request notification of'.

4.7 Article 5, point 2: replace 'child' with 'minor'.

4.8 Article 6, replace 'communicate with' with 'request notification of'.

4.9 Article 8 a), add at the end 'and not jeopardise the smooth progress of the investigation'.

4.10 Article 8, second paragraph, replace 'judicial authority' with 'competent authority'.

4.11 Article 11, point 2, 3rd indent, add 'and have their comments appended to the record'.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea'

COM(2011) 479 final — 2011/0218 (COD)

(2012/C 43/12)

Rapporteur: **Ms LE NOUAIL MARLIÈRE**

On 6 September the Council and, on 13 September, the European Parliament decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea

COM(2011) 479 final — 2011/0218 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 November 2011.

At its 476th plenary session of 7 and 8 December 2011 (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 166 votes to 1 with 12 abstentions:

1. **Conclusions and recommendations**

1.1 The Committee endorses the changes proposed by the Commission to the 2006 regulation, whose aim remains the establishment of sustainable fishing in the region by improving the exploitation of living aquatic resources and by protecting sensitive habitats, while taking account of the specificities of small-scale coastal fishing in the Mediterranean.

1.2 The Committee believes that the impact of these new measures on global fishery resources in the Mediterranean will be insignificant, although no assessment has been carried out.

2. **The Commission's proposals**

2.1 *Summary*

The aim of the proposal is to take stock of delegated powers provided for in Regulation (EC) No 1967/2006 and to put in place procedures for the adoption of corresponding delegated acts by the Commission, which is now empowered to adopt:

— delegated acts to grant derogations from some of the provisions of the regulation when such a possibility is explicitly foreseen and provided that the strict conditions set out by that regulation are fulfilled;

— criteria to be applied for the establishment and allocation of fish aggregating device (FAD) course lines for dolphinfish fishery in the 25-mile management zone around Malta;

— detailed rules for further technical specifications on the characteristics of fishing gears; and

— delegated acts regarding the amendments to the annexes.

Legal basis

Articles 43(2), 290 and 291 of the Treaty on the Functioning of the European Union (TFEU).

— Subsidiarity principle

The proposal falls under the exclusive competence of the European Union.

— Proportionality principle

The proposal amends measures which already exist in Council Regulation (EC) No 1967/2006. No concerns are raised, therefore, concerning the principle of proportionality.

— Choice of instruments

Proposed instrument: Regulation of the European Parliament and of the Council.

Other means would not be adequate for the following reason: a regulation must be amended by a regulation (principle of congruent forms).

BUDGETARY IMPLICATION

This measure does not involve any additional Union expenditure.

2.1.1 This is a revision of Council Regulation (EC) No 1967/2006 of 21 December 2006 on fishery resources in the Mediterranean Sea, the final legislative act. The principal legal basis for this revision of the regulation is Article 43 of the TFEU (ex Article 37 TEC), which gives the Commission the power to present proposals for working out and implementing the Common Agricultural Policy and, more relevant here, the Common Fisheries Policy.

2.2 However, the proposal is also based on Article 290 TFEU (ex Article 202 TEC), which creates a new category of act – delegated acts – which 'flesh out the detail or amend certain elements of a legislative act, under some form of authorisation defined by the legislator'.

2.3 The objectives, content, scope and duration of the delegation of power must be explicitly defined in the legislative acts subject to this legal regime (Article 290(1) TFEU). Acts delegated to the Commission in this way are non-legislative acts that concern non-essential elements of the legislative act, which must explicitly lay down the conditions to which the delegation is subject. Delegation to the Commission is thus strictly circumscribed and the European Parliament or the Council may decide to revoke the delegation under certain conditions (Article 290(2)(a)).

2.4 Furthermore, the delegated act may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the legislative act (Article 290(2)(b)). The adjective 'delegated' must be inserted in the title of delegated acts.

2.5 Moreover, the powers conferred on the Commission enable it to adopt uniform conditions for implementing legally binding Union acts, as provided for in Article 291(2) of the TFEU (implementing measures).

2.6 In the context of the alignment of Regulation (EC) No 1967/2006 to the new rules of the TFEU, powers currently conferred on the Commission by that regulation have been re-classified into measures of delegated nature and measures of implementing nature in the proposal for an amended regulation of 9 August 2011 ([1]).

3. **General comments**

3.1 The Committee notes that only the legislator decides whether or not to authorise the use of delegated acts. This enables the legislator to concentrate on the legislation's key provisions without having to enter into the technicalities, which may extend to post hoc changes to some non-essential elements of the legislation in question. It is the legislator who decides in advance what is essential and what is not.

3.2 The 'call back' right of the Parliament and the Council gives the legislator the power to recover at any time his full legislative power: in this event, the Parliament decides by a majority of its members and the Council by a qualified majority. The delegation of power expires at the date set in the legislative act if a clause to this effect (sunset clause) is included. If appropriate, the delegation of power to the Commission must be renewed when it expires.

3.3 The legal basis for the proposal for an amended regu1ation is (the new) Article 43(2) of the TFEU, which gives powers to the EU regarding the CFP. The Committee agrees with the Commission that the proposal complies with the proportionality principle, since it only changes elements that already exist in the 2006 regulation, which gave the Commission delegated powers for updating certain non-essential provisions.

3.4 The Committee also notes that the principle of congruent forms is respected, since the act in question is a regulation, which alone can amend another regulation. Finally, it is not expected that any new budget expenditure will be needed to implement the amended regulation. The main features of the regulation to be amended are:

— the introduction of 40mm square mesh of bottom trawls and, under certain circumstances, diamond meshed net of 50 mm by 1 July 2008 at the latest;

— the general rule still involves a ban on the use of trawl nets within 1.5 nautical miles. However, trawling activities within the coastal bands (between 0.7 and 1.5 nautical miles) could continue to be authorised under certain conditions.

3.4.1 The regulation to be amended also:

— introduces technical measures to improve the selectivity of the current 40 mm mesh size for towed nets;

— strengthens the current ban on the use of towed gear in coastal areas;

— limits the overall sizes of certain fishing gear that affects fishing effort;

— introduces a procedure for establishing temporary or permanent closures of areas to specific fishing methods, either in Community or international waters;

— provides for the adoption of management plans combining the use of effort management with technical measures;

([1]) COM(2011) 479 final.

— allows EU Member States to regulate, in their territorial waters and under certain conditions, fishing activities that do not have any significant Community dimension or environmental impact, including certain local fisheries currently authorised under Community law.

4. **Specific comments**

4.1 The amending regulation contains two types of provision: procedural provisions regarding the exercise of delegated powers by the Commission, and technical measures concerning the granting of derogations to certain fishing vessels concerning the size and engine power of ships benefiting from derogations and the fishing methods they use, as well as authorised fishing areas.

4.2 The Committee notes that these procedural provisions comply with the new TFEU.

4.3 On the other hand, it wonders whether the technical provisions permitting derogation from technical provisions of the 2006 regulation can be defined as non-essential provisions as required by Article 290 TFEU, since they are in effect derogations from measures that seek to protect fishery resources in the Mediterranean, which are at risk from overfishing.

4.4 The Committee notes that there were protracted discussions in the Council on these provisions and that one Member State abstained. No impact assessment has been made to show than the changes proposed are 'insignificant' and so justify recourse to the new measures in Articles 290 and 291 of the TFEU.

4.5 Nevertheless, the Committee thinks that the proposals for derogations will enable small-scale fishing operators in the region to better cope with the global economic crisis and increased operation costs, especially fuel.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Green Paper on promotion measures and information provision for agricultural products: a reinforced value-added European strategy for promoting the tastes of Europe' *COM(2011) 436 final* and the 'Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 3/2008 on information provision and promotion measures for agricultural products on the internal market and in third countries'

COM(2011) 663 final — 2011/0290 (COD)

(2012/C 43/13)

Rapporteur: **Ms Dilyana SLAVOVA**

On 14 July 2011, 27 October 2011 and on 29 November 2011 respectively, the Commission, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 43(2) and 304 of the Treaty on the Functioning of the European Union, on the

Green Paper on promotion measures and information provision for agricultural products: a reinforced value-added European strategy for promoting the tastes of Europe

COM(2011) 436 final

and the

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 3/2008 on information provision and promotion measures for agricultural products on the internal market and in third countries

COM(2011) 663 final.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 188 votes to 2 with 5 abstentions.

1. **Conclusions and recommendations**

1.1 European Union agri-food products are unique in terms of their quality and diversity. However, in an open global market, producing excellent food and drinks is not, by itself, enough to ensure a good market position. By explaining the high quality standards of EU agricultural products to consumers and stimulating exports, information and promotional programmes can help European producers to meet the challenges of an increasingly competitive world.

1.2 The current policy on information and promotion for agricultural products has achieved good results but the EESC is convinced that it should be further simplified and improved in order to better respond to the demands of European and world markets, and address the needs of European producers.

1.3 The EESC welcomes the 'Green Paper on promotion measures and information provision for agricultural products: a reinforced value-added strategy for promoting the tastes of Europe', and recommends that the promotion policy for agri-food products should become one of the Commission's political priorities over the coming years, on both the internal and the external markets.

1.4 The EESC supports two fundamental aims of the new promotion policy, geared to the target market: consumer information and awareness on the EU market, emphasising the more robust guarantees for labelling, traceability and food safety and the more stringent requirements for the environment, animal welfare and due regard for workers' rights on the one hand, and export promotion on the external market on the other.

1.5 While acknowledging the limitations resulting from the current financial crisis, the EESC considers it absolutely crucial to increase the budget for information provision and promotion measures for agricultural products on the internal market and in third countries. For instance, US funding for the Market Access Program is $200 million annually to fiscal year 2012.

1.6 The EESC recommends that the administrative procedures for preparing and monitoring promotional programmes should be simplified, particularly by reducing the number of reports required by the Commission. It is especially important to reduce administrative burdens.

1.7 The EESC considers that greater transparency in the selection of programmes at national level is essential, and that the Commission should draw up clear guidelines for Member States. The evaluation of programmes should be improved, using a strict evaluation system with concrete indicators such as market increase. The duration of the selection process

should be reduced. Moreover, it is crucial that programmes have a European and added value-based vision, including job creation, and that priority be given, through a more favourable financing scheme (providing up to 60 % rather than 50 %), to multi-country programmes that cover a number of products.

1.8 Greater flexibility should be introduced in order to allow programmes to be adapted to changing market conditions during the implementation phase. To this end, the level of detail required when presenting programmes should also be reduced.

1.9 The EESC recommends that the Commission take account of the differences in the capacities of professional organisations in the old and new Member States. Insufficient experience and low capacities restrict new Member States' professional associations' ability to participate fully in the promotion scheme. The EESC recommends that the Commission consider increased advance payments to such organisations (for example 30 % of the annual costs).

1.10 The EESC believes that promotion legislation should clarify the role of brands and the balance between generic promotion and the promotion of a brand, particularly in non-EU countries. With a view to ensuring complete and transparent information, mentioning product origin should be permitted, including for products that have not been granted a denomination of origin or a protected geographical indication.

1.11 Communication and coordination between the Member States and the Commission need to be improved, and also between the Member States themselves. Best practices and know-how should be exchanged at conferences and seminars.

1.12 The EESC welcomes the idea of creating a European platform for exchanging good practices between professionals, which can be a valuable tool for supporting the development of promotional campaigns. An EU-level exchange service (workshops, websites, etc.) available to all parties involved in agri-food information and promotion would be particularly beneficial in the drawing up of well-structured and coordinated 'multi-country' programmes.

1.13 Synergies must be created between different on-going promotion programmes. Continuity is essential in order for programmes to achieve their intended impact. It should be possible easily to re-run a successful promotion programme. A genuine active promotion network needs to be created.

1.14 The EESC recommends that the Commission produce a complete and simple 'handbook' that could help beneficiaries to comply with the scheme's rules and procedures.

1.15 The promotion policy must support the export activities of EU operators, in particular SMEs, in order to benefit from the growth of consumption in emerging markets. Export activity does not just represent new markets but is also an essential driver for improving the performance of companies. The EESC therefore recommends that the Commission support pilot projects geared towards drawing up export strategies that can provide a framework or a network tailored to companies' individual export strategies and needs, thus facilitating the penetration of EU agri-food products in these markets.

1.16 The list of products covered by the legislation should be extended to allow for the promotion of all products which deliver the European quality production message or which can strengthen it. A solution should also be found for other products, such as starter cultures.

1.17 The EESC would like to see a strong emphasis on the nutritional benefits of products and on healthy eating/nutrition, by placing EU agri-food produce in a nutritional/health perspective. Initiatives promoting more balanced diets should be introduced. In this respect, the emphasis could be placed on the promotion of key health messages and on product quality.

1.18 The Committee believes that the powers to adopt delegated and implementing acts, as laid down in the Commission's Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 3/2008 (COM(2011) 663 final), will improve the consistency of the measures for information provision and promotion for agricultural products, and will contribute to their uniform implementation. The EESC recommends that the Commission maintain regular contacts with stakeholders and proposing organisations, and respond adequately to their proposals.

2. **Introduction**

2.1 The EU promotion scheme for agri-food products is a horizontal policy covering all agri-food sectors and emphasising the general characteristics and added value of the CAP. It complements private and public promotion efforts at Member State level.

2.2 The European Commission allocates around EUR 50 million per year to supporting campaigns to promote EU agri-food products and production methods. This assistance is normally given to professional producer organisations or associations promoting high-quality, European agri-food approaches.

2.3 Promotional campaigns highlight the quality, nutritional value and safety of EU farm products, and draw attention to the high added value provided by production methods, labelling, animal welfare and respect for the environment, amongst other aspects.

2.4 Campaigns can be implemented inside the EU or beyond its borders with the objective of opening up new markets. Between 2000 and 2010, 458 promotional programmes received EU co-financing and all Member States benefited from the measure. Promotional activities can include advertising campaigns in the media, point-of-sale promotions, participation in exhibitions and fairs, and a range of other activities.

2.5 EU financing covers up to half of the overall campaign costs. The proposing organisation should contribute at least 20 % and the remainder can be provided by national authorities and other sources.

2.6 Programmes should preferably be multiannual and sufficiently extensive to have a significant impact on the target markets. Priority is given to programmes proposed by organisations from several Member States, or covering several Member States or third countries.

2.7 More than two-thirds of all EU agri-food information and promotion campaigns approved in the last five years have been targeted at the internal market. Only 8 % of approved programmes are multi-country, and more than half of all applications in the period 2006-2010 were rejected.

2.8 Since its inception, the promotion scheme has been regularly monitored in Commission reports to the Council and the European Parliament. The European Court of Auditors also made recommendations for its improvement in its Special Report in 2009.

3. **Gist of the Communication**

3.1 Despite its major successes, Europe's agricultural and agri-food sector is facing considerable challenges. The strides made by EU producers in the areas of sanitation, the environment and animal welfare are not always recognised. New competitors have arrived both in traditional markets and emerging EU markets. Finally, the EU has a culinary heritage of great diversity that should be exploited to the full.

3.2 The ongoing reform of the Common Agricultural Policy (CAP) beyond 2013 aims to ensure that the CAP will feed directly into the Europe 2020 strategy by promoting an agriculture sector which delivers food security, sustainable use of natural resources and more dynamic rural areas. In parallel with the CAP reform, the Commission has launched a wide-ranging stakeholder consultation process with a view to defining the contours of a more targeted and ambitious promotion strategy for the agriculture and food sector in Europe.

3.3 The specific aims for local, European and global markets will be defined at a later stage in order to target more effectively the measures to be taken in each case. The overall aims of the reformed information and promotion policy will include:

— exploiting European agricultural production more effectively and consolidating its position on the various markets;

— promoting the EU's very high standards of food safety, the environment and animal welfare and offering consumers better information on the European production model;

— introducing consumers to new products and exploiting the diversity of products available in Europe;

— raising awareness of quality systems and products with high added value.

3.4 The Green Paper is divided into four parts, discussing and posing questions on various aspects of the information and promotion policy: its added value for Europe; goals and measures for the internal (including local and regional) and for the external markets; as well as more general aspects of content and management approaches.

3.5 The Green Paper emphasises the underexploited potential of regional and local markets. Measures aimed at financing basic services should be available, such as creating commercial centres, shops or markets. A better integrated LEADER tool after 2013 could play a significant role in promoting short distribution channels.

3.6 Cooperation between Member States could be supported in order to create complementarity with information and promotion campaigns carried out by Member States and/or the private sector and to encourage synergies.

3.7 At present, proposals can be submitted by professional or inter-professional organisations representing the relevant sectors in one or more Member States or at European level. The Green Paper proposes the possibility of extending funding access to structures other than professional organisations, such as companies or chambers of commerce, in order to include sectors that are not necessarily structured through professional organisations in all Member States.

3.8 Programmes currently relate to specific products or quality systems (e.g.: information on milk and its nutritional qualities). The Green Paper proposes a new, more flexible and possibly more incisive approach focusing initially on key messages at European level and then breaking them down and illustrating them with products that demonstrate the diversity, richness and complementarity of European produce.

3.9 The Green Paper underlines that the measures should be implemented through simple procedures. The selection process is two-fold (Member States and European Commission) and extensive (seven months between the deadline for submission and the Commission's decision), which limits the possibilities for developing pragmatic and reactive campaigns.

3.10 The Commission has also presented a Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 3/2008, in order to align it with Articles 290 and 291 of the Treaty on the Functioning of the European Union. The proposal outlines the powers of the Commission to adopt delegated and implementing acts under Council Regulation (EC) No 3/2008 and establishes the corresponding procedure for the adoption of these acts. It also incorporates into Regulation (EC) No 3/2008 some of the powers that have so far been exercised by the Commission.

4. **General comments**

4.1 The main challenges facing the European agricultural policy relate to climate change, the financial and economic crisis, inequality between old and new EU Member States and the tensions arising from unfair competition between them; the conditions for the dumping of prices generated by the application of the CAP; job insecurity and unstable markets with large fluctuations. In view of these challenges, it is increasingly important to promote EU agri-food products in order to help establish them as high added value products and maintain the EU's leading position as a food supplier.

4.2 EU promotion policy highlights the advantages of European production, especially in terms of quality, hygiene and food safety, by means of an advanced labelling and traceability system, combined with respect for workers' rights, animal welfare and the environment. This requires consistent financial support.

4.3 The agri-food chain complies with high standards of food safety, plant and animal health, animal welfare and environmental protection. Communication and promotion campaigns are an efficient and effective way to recognise efforts made by farmers, manufacturers and traders. The promotion policy should therefore have two basic aims in this regard:

— promoting and selling European agri-food products on the external markets (export promotion, especially for SMEs, as they provide the driving force for economic recovery in the sector);

— informing consumers in the EU market, particularly about specific regimes for quality, safety and traceability, nutritional values, respect for the environment, animal welfare, working conditions etc. In particular, the policy should be aimed at raising consumer awareness, starting at school, in an approach based on responsible consumption, and at fostering recognition of the efforts made by agri-food producers – farmers and industry – to meet the EU's high standards ([1]).

4.4 Promotion policy should also make use of new forms of media, such as web pages, to inform consumers about initiatives by local producers and about access to products sold directly. Developing 'short chains' would certainly meet one of society's new expectations.

4.5 The Court of Auditors has recommended providing targeted technical support to producers through:

— increased synergies between producers and programmes. EU measures should encourage small and medium-sized enterprises to join forces so that they can reach a critical mass for trading on the external market. The development of networks could help to achieve this aim and support the creation of synergies between producers at EU level;

— assistance to new Member States by extending eligible measures to include exploratory work (e.g. one-year trial campaigns or market studies).

4.6 Regarding the Commission's proposal to broaden the range of beneficiaries of promotional programmes, the EESC considers that priority should be given to professional organisations as it is they who bring businesses together and co-finance operations.

4.7 The EESC considers that certain traditional products, brands or indications of origin could open up markets for further European products, particularly on external markets. The European character of products in promotional programmes submitted by professional and/or inter-professional organisations could be emphasised without requiring them to remove the indications of origin or brands, while ensuring that the European message is clearly more prominent than the brand. With a view to ensuring complete and transparent information, mentioning product origin should be permitted, including for products that have not been granted a denomination of origin or a protected geographical indication.

4.8 In accordance with Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU), the Commission will have greater responsibilities. The Committee believes that the powers to adopt delegated and implementing acts, as laid down in the Commission's Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 3/2008 (COM(2011) 663 final), will improve the consistency of the measures for information provision and promotion for agricultural products, and will contribute to their uniform implementation. The EESC

([1]) OJ C 218, 23.7.2011, p. 114 and OJ C 218, 23.7.2011, p. 118.

recommends that the Commission maintain regular contacts with stakeholders and proposing organisations and respond adequately to their proposals with a view to simplified and smooth processing of information provision and promotion measures for agri-food products on the internal market and in third countries.

5. **Specific comments**

5.1 The EESC proposes that the Commission recognise EU sector organisations as proposing organisations.

5.2 Promotion of EU agricultural products in third countries would help EU farmers and processors to access large markets such as Brazil, Russia, China, India, North America, Australia and the Middle East, among others. A well-targeted EU promotion policy in third countries could result in a dramatic increase of sales of EU agri-food products outside the EU.

5.3 The prosperity of overseas markets in 2010 is a key factor in determining opportunities for EU businesses.

5.4 In order to strengthen its competitive position, the EESC proposes that the Commission:

— support the opening and development of markets – particularly connected with the negotiation of international agreements – so that European producers have more opportunity to export their products;

— facilitate the resolution of export issues and assist exporters through information provision and a possible 'umbrella' or EU thematic generic activity.

5.5 In order to optimise the European Union's intervention on the external market, the EESC recommends:

— providing relevant export data, country and contacts information, export guidance etc. to retailers and wholesalers;

— encouraging export promotion of complimentary products, and encourage cross-sector cooperation for increased weight and efficiency;

— encouraging small and medium-sized enterprises to join forces so that they can reach a critical mass for trading on the external market;

— supporting pilot projects in third countries aimed at penetrating new markets.

5.6 The EESC urges the Commission to provide support during and after health crises to sectors in difficulty in order to re-establish confidence and boost consumption. Dynamic and swift ad hoc information and communication campaigns can be very helpful in re-establishing consumer confidence.

5.7 The EESC considers that branch organisations which have successfully implemented promotional programmes should be given the opportunity to apply as beneficiary organisations and implementing bodies according to a facilitated procedure.

5.8 The EESC calls upon the Commission to launch events/campaigns to further encourage branch organisations from EU member states to apply more actively for promotional programmes outside the EU, in order to present the best of the taste, traditions and quality of EU agri-food products. In this regard, priority should be given to multi-country programmes that cover a number of products through a more favourable financing scheme (providing up to 60 % rather than 50 %), because it is these products that will give the programme a truly European dimension and which will also require the EU's support. Moreover, priority should be given to countries according to their market potential. The EESC suggests that the Commission could increase its contribution in the case of programmes in emerging economies.

5.9 The EESC recommends that the Commission play a key role as a facilitator and supporter for small EU producers and processors in terms of their access to third-country markets.

5.10 Internal market programmes must have a European and added value-based vision that looks beyond the purely national: the greater the scope in terms of products and markets, the better the programme. In addition, programmes must be complementary, or create synergies, with other national or regional programmes, in order to avoid duplication of action or contradictory messages. The potential of the educational and health fields can and must be tapped in order to enhance the effectiveness of information measures. Finally, the impact on employment levels should be considered in the design and implementation of the future promotion and information policy for agri-food products.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Council Directive 64/432/EEC as regards computer databases which are part of the surveillance networks in the Member States'

COM(2011) 524 final — 2011/0228 (COD)

and the 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1760/2000 as regards electronic identification of bovine animals and deleting the provisions on voluntary beef labelling'

COM(2011) 525 final — 2011/0229 (COD)

(2012/C 43/14)

Rapporteur: **Mr BRICHART**

On 14 and 20 September respectively the Council, and on 13 September 2011 the European Parliament, decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council amending Council Directive 64/432/EEC as regards computer databases which are part of the surveillance networks in the Member States

COM(2011) 524 final — 2011/0228 (COD)

and the

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1760/2000 as regards electronic identification of bovine animals and deleting the provisions on voluntary beef labelling

COM(2011) 525 final — 2011/0229 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December 2011), the European Economic and Social Committee adopted the following opinion by 180 votes to 3 with 9 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC takes note of the large amount of work undertaken by the bovine sector to restore consumer confidence following the BSE (Bovine Spongiform Encephalopathy) crisis.

1.2 The system for the identification and registration of bovine animals set up provides transparency and traceability with a high level of accuracy and responsiveness.

1.3 The ability to locate and identify animals is also of considerable assistance in combating infectious diseases.

1.4 Implementing the various techniques, however, places a significant financial burden on the sectors concerned.

1.5 The technological advances made since 1997 can be of considerable assistance to actors in this area, particularly regarding electronic identification (EID).

1.6 It can however be seen that the direct costs and benefits generated by these techniques are not distributed equally along the food chain. The costs are mainly borne by farmers, while the financial benefits are largely for downstream actors in the food production chain.

1.7 For this reason, the EESC thinks it would be better for the electronic identification of bovine animals system not to be made mandatory at European level, since it is unlikely that the market will offset the very high cost of this technique. Moreover, it will not bring any real additional benefits for consumers.

1.8 However, if production chain actors in a given Member State accept its application, that Member State should have the option of making it mandatory within its own territory.

1.9 The EESC also considers that those livestock farmers who so wish should be allowed to use electronic identification.

1.10 In order to avoid any distortion of competition that could threaten the common market, a country that has made identification mandatory should itself bear the cost of electronic tagging for animals brought onto its territory.

1.11 Furthermore, the EESC believes that with a view to harmonising practices, all electronic tags should use the same technologies. It is consequently crucial that such technologies be harmonised by reference to international standards.

1.12 The EESC welcomes the overall thrust of the Commission's proposal, provided that special attention is given to the proper functioning of the common market, and to the impact on the different links in the chain.

1.13 Regarding voluntary beef labelling, the EESC is not opposed to deleting the Community provisions, insofar as operators can include additional information they consider important on the labels.

2. **Background**

2.1 Under Regulation (EC) No 1760/2000, each Member State must establish a system for the identification and registration of bovine animals providing for the individual identification of each animal by means of ear tags, a holding register on each farm, an individual passport for each animal containing data on all movements and reporting all movements to a computerised database that is able to quickly trace animals and identify cohorts in the event of disease. By ensuring transparency and full traceability of bovine animals and beef products, the regime has served to restore consumer confidence in beef while also making it possible to locate and trace animals for veterinary purposes, which is of crucial importance in controlling infectious diseases.

2.2 The Regulation was listed in the Communication from the Commission to the Council and the European Parliament on an *Action Programme for Reducing Administrative Burdens in the EU* as one of the 'information obligations with special importance in terms of the burdens they impose on businesses'. Under the Action Plan of the new EU Animal Health Strategy, information obligations are to be simplified by the Commission as bovine electronic identification is introduced.

2.3 When the current rules for bovine identification were adopted in 1997, EID was not sufficiently developed from the technical point of view to be applied to cattle. Electronic identification based on radio frequency identification (RFID) has developed considerably over the last ten years and provides for a faster and more accurate reading of individual animal codes directly into data processing systems. The use of electronic identifiers could help to reduce the administrative burden and paper work, especially when the holding register is kept on a computerised form (which is the case for a growing percentage of farms). In addition, a faster and more reliable system will allow a faster and more accurate reading than conventional ear tags, easing the procedure for reporting animal movements to the central database, and will therefore provide for better and faster traceability of infected animals and/or infected food.

2.4 Electronic identification has already been introduced in the EU for several animal species. Several Member States have started to use EID on a voluntary basis for bovine animals. As no harmonised EU technical standards have been established, there is a risk that different types of electronic identifiers and readers, with different RFID frequencies, could be used by individual Member States. This approach is likely to lead to a lack of harmonisation jeopardising electronic exchange of data; as a result the benefits of having EID systems would be lost.

2.5 An impact assessment concluded that introducing bovine EID on a voluntary basis as a tool for official identification would allow actors time to familiarise themselves with the system. In contrast, mandatory implementation of electronic identification could have negative economic repercussions for some operators.

2.6 Regulation (EC) No 1760/2000 also introduced a voluntary beef labelling system. The Commission has identified deficiencies in this system concerning the disproportionate administrative burden and costs, and the lack of uniform application in all Member States.

3. **The Commission's proposals**

3.1 The proposal by the Commission (COM(2011) 525 final) takes account of the results of the stakeholder consultations and an impact assessment. The Commission proposes to introduce electronic identification of bovine animals on a voluntary basis. Under this voluntary regime:

— Bovine animals could be identified by two conventional ear tags (current system) or by one conventional visible ear tag and one electronic identifier that complies with harmonised EU standards.

— Member States would also be able to opt for a mandatory regime on their own territory.

3.2 The proposal also repeals the notification requirement for the use of additional voluntary labelling indications, on account of the costs and excessive administrative burden involved.

3.3 The proposal brings Regulation (EC) No 1760/2000 into line with the provisions of the Treaty on the Functioning of the European Union (TFEU).

3.4 The proposed regime for the electronic identification of bovine animals necessarily entails amending Council Directive 64/432/EEC as regards computer databases which are part of the surveillance networks in the Member States. The elements of the computer databases laid down in Directive 64/432/EEC do not so far include any reference to electronic means of identification. On this basis, the two proposals are presented under the same legislative package.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products'

COM(2011) 530 final — 2011/0231 (COD)

(2012/C 43/15)

Rapporteur: **Mr ESPUNY MOYANO**

On 14 September 2011 the Council, and on 15 September 2011 the European Parliament, decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products

COM(2011) 530 final — 2011/0231 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 November 2011.

At its 476th plenary session, held on 7 and 8 December (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 186 votes to 4, with 8 abstentions.

1. **Conclusions and recommendations**

1.1 The European Economic and Social Committee welcomes the Proposal for a Regulation on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, which simplifies, updates and replaces the specific EU rules for these products (Council Regulation (EEC) No 1601/91 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails [1] and Commission Regulation (EC) No 122/94 on rules on flavouring and addition of alcohol to certain products [2]).

1.2 The EESC notes that this proposal for a regulation is essentially restricted to simplifying and modernising this system, which has enabled the internal market in these products to function properly, ensuring that consumers are provided with correct information and protection, with a view to bringing it into line with legislative developments in the field of wine quality policy, WTO rules and the provisions of the Treaty on the Functioning of the European Union ('the Treaty'), by introducing certain adjustments of a technical nature aimed at making the following improvements in particular:

— to enhance the applicability, readability and clarity of the Union legislation on aromatised wine products;

— to strengthen and update the quality policy for these products, enhancing the quality and reputation that these products have achieved in the internal market and on the world market, based on the definitions currently in force, updating certain sales denominations and allowing the possibility to increase the level of wine instead of directly adding agricultural alcohol, and so ensuring that the consumer is properly informed;

— to adapt the rules for producing these products to new technical requirements and possibilities;

— to adapt the Union rules to WTO requirements, including the TRIPs Agreement;

— to update the criteria guiding recognition of new geographical indications.

2. **Introduction**

2.1 The European Commission proposes updating the rules applicable to the definition, description, presentation, labelling and protection of geographical indications of aromatised wine products, so as to enhance the quality and reputation that these products have achieved in the internal market and on the world market, to take account of technological innovations, market innovations and consumer expectations, while preserving traditional production methods.

2.2 The European Commission proposes that this regulation be applied to all aromatised wine products placed on the market in the European Union whether produced in the Member States or in third countries, with a view to safeguarding the interests of consumers, and to such products produced in the Union for export, with a view to enhancing the reputation of aromatised wine products on the world market.

[1] OJ L 149, 14.6.1991, p. 1.
[2] OJ L 21, 26.1.1994, p. 7.

2.3 The proposal essentially maintains the traditional definitions of aromatised wine products in accordance with traditional quality practices, but updated and improved in light of technological developments, in particular allowing for the possibility of increasing the level of wine rather than directly adding agricultural alcohol. For certain products in the category of aromatised wine-based drinks, it is proposed that the minimum alcoholic strength required be substantially reduced in order to meet an increasing consumer demand for products of lower strength, and in light of technical developments which make it possible to provide a quality which could only previously be guaranteed with higher minimum alcoholic strengths. Specific measures are also provided for on the description and presentation of these products, to complement the Union's horizontal legislation on the labelling of foodstuffs, with a view to preventing other products which do not meet the requirements laid down in this regulation from misusing the sales denominations of aromatised wine products.

2.4 The proposal states that aromatised wine products must be produced in accordance with rules which guarantee that consumer expectations as regards quality and production methods are met. In order to meet the international standards in this field, in line with the provisions for wine products, these rules should generally speaking be based on the recommendations published by the International Organisation of Wine and Vine (OIV).

2.5 The proposal provides for specific rules on the protection of the geographical indications of these products, which are not covered by Regulation No XXXX/20YY of the European Parliament and of the Council on agricultural product quality schemes [COM(2010) 733 final], Regulation No XXXX/20YY of the European Parliament and of the Council on establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) [COM(2010) 799 final] and Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89, establishing an EU procedure for the registration, compliance, alteration and possible cancellation of third country and Union geographical indications in line with the system for products of the wine sector.

2.6 The proposal also makes the amendments needed to align the powers conferred upon the Commission pursuant to Regulation (EEC) No 1601/91 and Regulation (EC) No 122/94 to Articles 290 and 291 of the Treaty.

2.7 The proposal has no financial impact on the Community budget.

3. **Comments**

3.1 The EESC welcomes the Proposal for a Regulation on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products.

3.2 Aromatised wine products are important for consumers, producers and the agricultural sector in the Union. The EU accounts for approximately 90 % of world production of these products (around 3 million hl per year) and consumes around 2 million hl per year. The EU's main producer countries are Italy, France, Spain and Germany, although there are traditional products embedded in the cultures of many other Member States, in the north as well as in the centre and the east of Europe. These products also constitute a significant market in quantitative and qualitative terms for the European wine sector's value chain, providing a stable outlet for European wine production, white wines in particular, contributing to the balance of the wine market and increasing its competitiveness, which is one of the key objectives of the CAP for this sector.

3.3 The measures proposed help to enhance the reputation achieved by these products in the internal market and on the world market, preserving their traditional production methods and bringing them into line with consumer expectations and technological innovation, where it helps to improve quality, ensuring a high level of consumer protection, market transparency and the conditions for fair competition amongst operators.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending European Parliament and Council Directive 2008/106/EC on the minimum level of training of seafarers'

COM(2011) 555 final — 2011/0239 (COD)

(2012/C 43/16)

Rapporteur: **Dr BREDIMA**

On 30 September and 28 September 2011 respectively, the Council of the European Union and the European Parliament decided to consult the European Economic and Social Committee, under Articles 100(2) and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council amending European Parliament and Council Directive 2008/106/EC on the minimum level of training of seafarers

COM(2011) 555 final — 2011/0239 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 23 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 176 votes to 3 with 10 abstentions.

1. **Conclusions and Recommendations**

1.1 Upgraded maritime training is a key to attractiveness of maritime professions in the EU and a pathway to greater maritime safety and security. Maritime know-how has a strategic importance to retain the EU's leading maritime position worldwide.

1.2 The EESC supports the draft Directive aligning Directive 2008/106/EC on the minimum level of training of seafarers with the Manila amendments (2010) to the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers (STCW Convention) 1978.

1.3 It is vital for EU Member States to adopt the proposed Directive since by 2012 the training of seafarers will be subject to new rules with regard to skills, professional profile, safety and certification on a global basis as a result of the entry into force of the Manila Amendments to the STCW Convention.

1.4 The EESC does not agree with the proposed wording of Article 15(11) that 'Member States may authorise or register collective agreements permitting exceptions to the required hours of rest [of seafarers]'. The EU Directive should not deviate from the wording in existing international and EU legislation, namely, to ILO Convention 180, the ILO Maritime Labour Convention 2006 and Directive 1999/63/EC. The latter Directive concerning the organisation of working time of seafarers was concluded through long and difficult negotiations among social partners and the outcome of the social dialogue should be respected by the EU institutions.

1.5 The EESC proposes specifying the standardised format for the recording of hours of rest and hours of work in the proposed Directive. The standardised format could make reference to the IMO/ILO Guidelines for the development of tables of seafarers' shipboard working arrangements and formats of records of hours of work or hours of rest.

1.6 Whilst the STCW Convention will enter into force on 1 January 2012, the EESC notes that the proposed Directive will not enter into force until July 2012 due to preparatory legislative procedures in the EU Council and Parliament. The EESC draws attention to the fact that there will be problems with the port state control outside the EU regarding the new hours of work of seafarers and the EU seafarers will not have STCW 2010 certification at an early stage. There is a need for legal clarification.

1.7 Regarding the assessment of third countries for the purpose of recognising their training institutes and certificates, the EESC believes that the extension of the current three months to eighteen months is realistic to take into account the heavy workload for maritime counties and lack of resources in non maritime countries.

1.8 The EESC considers positive that EU Member States will be required to provide standardised information to the European Commission on seafarer certification for statistical analysis.

1.9 The EESC proposes to include in the proposed Directive the definition of electro-technical ratings according to the provisions of the STCW Convention.

1.10 The EESC urges the Commission and Member States to examine as a matter of urgency the anti-piracy training of seafarers in view of escalation of pirate attacks on a worldwide basis. Such training should be based on the UN Best Management Practices and the International Ship and Port Security Code (ISPS).

2. **Introduction**

2.1 The key to profitable shipping lies in the quality of training provided to seafarers. Even in times of world economic turmoil, maritime training should not be seen as a cost but as an investment. Maritime training is a pathway to greater maritime safety and security.

2.2 The Standards of Training Certification and Watch-keeping for Seafarers (STCW) Convention (1978) adopted by the International Maritime Organization (IMO) mainly concerns requirements for the training of officers. The STCW was amended originally in 1995 and in June 2010 by the Manila amendments.

2.3 In past opinions [1], the EESC highlighted the importance of European maritime know-how, the compliance of EU Directives with the STCW Convention and the upgrading of maritime education as one of the main actions to attract youngsters to maritime careers (Conference on 'Enhancing the Attractiveness of Maritime Professions in the EU' organised by the EESC on 11 March 2010). It is vital for the EU to maintain its pool of 250 000 seafarers because if they are lost, the other more than two million people working in the EU maritime cluster could go too. Hence, an upgraded maritime training has a strategic importance to maintain the EU's leading maritime position worldwide.

2.4 The dual purpose of the draft Directive amending Directive 2008/106/EC is: first, to streamline EU law with international rules by transposing the revised STCW Convention (1978) of IMO adopted at the Manila Conference (2010) and second, to establish requirements for the EU Member States to provide information concerning certificates and to extend the period for the recognition of educational systems of third countries. The new international standards will be applicable from 1 January 2012. The proposed implementation deadline at EU level is 31 December 2012. The final outcome will be to ensure uniform application of the updated STCW by the EU Member States and ensure that seafarers working on EU flagged ships and holding certificates issued by non EU countries are properly trained.

3. **General comments**

3.1 By 2012 the training of seafarers will be subject to new rules with regard to skills, professional profile, safety and certification. Training and certification are of paramount importance to maritime safety since accidents are more likely to happen in case of deficient training and lack of proper certification. The IMO STCW Convention is one of the four leading maritime Conventions on a worldwide basis. The other three are: the International Convention for the Safety of Life at Sea (SOLAS), the International Convention for the Prevention of Maritime Pollution (MARPOL) and the Maritime Labour Convention (MLC). Since EU Member States are also signatories to the Convention, it is important for international and European legislation to be in line with each other. These amendments lead to higher standards with regard to: medical fitness, fitness for duty and alcohol abuse, and to the introduction of new professional profiles such as 'able seafarers' and 'electro-technical officers', security-related training for all seafarers, simpler and clearer types of certificates. The draft Directive contains improvements regarding procedures (e.g. comitology and recognition of third state schools) and the requirement that Member States should provide statistics concerning seafarer training.

3.2 The EESC supports the proposal that aims at aligning Directive 2008/106/EC on the minimum level of training of seafarers with the Manila amendments to the STCW Convention. It proposes that the European Commission should properly ensure the enforcement of the STCW Directive by the Member States and insists on respect of the STCW Convention when assessing third countries for the purpose of recognising their training institutes and certificates. Although to a large extent, the proposal is word-for-word transposition of the Manila Amendments into EU law, it also suggests moderate changes to existing European provisions concerning the recognition of seafarers' certificates.

3.3 The EESC notes that the Task Force on Maritime Employment and Competitiveness of the European Commission (DG MOVE) (July 2011) recommended proposals to enforce the Manila Agreement to the STCW Convention into EU law. The standardisation of training at global level allows European ships to have well trained seafarers regardless of where the crew receives training. As Transport Commissioner Kallas stated 'since maritime transport is a global industry it is vital to also set minimum standards for training on an international scale'.

[1] OJ C 168, 20.7.2007, pp. 50-56
OJ C 211, 19.8.2008, pp. 31-36
OJ C 255, 22.9.2010, pp. 103-109
OJ C 248, 25.8.2011, pp. 22-30
OJ C 14, 16.1.2001, p. 41
OJ C 80, 3.4.2002, pp. 9-14
OJ C 133, 6.6.2003, pp. 23-25
OJ C 157, 28.6.2005, pp. 42-47
OJ C 157, 28.6.2005, pp. 53-55
OJ C 97, 28.4.2007, pp. 33-34
OJ C 151, 17.6.2008, p. 35.

3.4 In its recent opinion on the Transport White Paper (opinion on a *White Paper towards a Single European Transport Area* – CESE 1607/2011 of 26 October 2011 – Rapporteur: Mr Coulon, co-rapporteur: Mr Back), the EESC reiterated that 'the EU legislation should be completely in line with international legislation particularly the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) of the International Maritime Organization (IMO)'.

3.5 Recent research provides evidence that there is a worrying problem of fraudulent certification, in particular among ratings, in the international labour market casting doubt over the validity of their certification. Moreover, many ratings from non EU countries are unavailable to offset any shortage of EU ratings from the labour markets because of cultural differences, language problems and employment restrictions ([2]).

4. **Specific comments**

4.1 *Article 15(9) (Standardised format for records of daily hours of rest)*

4.1.1 Article 15(9) does not specify a standardised format for the recording of hours of rest and hours of work, which the administrations are required to maintain. Section A-VIII/1, paragraph 7, of the STCW Convention, as amended by the Manila Agreements refers to the IMO/ILO Guidelines for the development of tables of seafarers' shipboard working arrangements and formats of records of seafarers' hours of work or hours of rest. Moreover, a reference to a standardised format with regard to hours of work and hours of rest is also included in Regulation 2.3 – Standard A2.3 paragraph 10 and 11, of the 2006 ILO Maritime Labour Convention.

4.1.2 The EESC proposes specifying the standardised format for the recording of hours of rest and hours of work in the draft Directive. The standardised format should make reference to the IMO/ILO Guidelines for the development of tables of seafarers' shipboard working arrangements and formats of records of seafarers' hours of work or hours of rest.

4.2 *Article 15(11) (hours of rest)*

4.2.1 The revised wording of Article 15(11) states that 'Member States may authorise or register collective agreements permitting exceptions to the required hours of rest'. It represents an important narrowing from the wording laid down in existing international and European legislation, notably, the revised STCW Convention and ILO Convention no 180 (and thus the ILO Maritime Labour Convention).

4.2.2 The wording in Article 15(11) is different from that in Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF). Such agreements are the result of long and difficult negotiations amongst social partners and the ultimate outcome of such negotiations represents a delicate balance. Any amendment or modification to the wording of a social partners' Agreement should take place through discussions and negotiations amongst social partners. The new – narrow – wording in Article 15(11) is not the reflection of a discussion or negotiation amongst social partners. It has been introduced by the European Commission without any consultation of the social partners beforehand. The EESC urges the Commission to respect the wording laid down in Directive 1999/63/EC concerning the social partners' Agreement on the organisation of working time of seafarers.

4.3 *Entry into force of the new Directive*

4.3.1 The Manila amendments to the STCW Convention will enter into force on 1 January 2012. However, bearing in mind the ordinary legislative procedure in the Council of Ministers and the European Parliament, the European Commission has anticipated that 'since at that point in time (i.e. 1 January 2012) the present proposal will not have been adopted yet, it has been foreseen that the proposed Directive should enter into force as soon as it is published in the Official Journal'.

4.3.2 Due to the delay in adopting the Directive there will be a legal paradox, i.e., a conflict between the STCW Manila Agreement and the revised STCW Directive, particularly with regard to the date of the entry into force. Either the Member States will not comply with their international obligations on 1 January 2012 or if they ratify the Convention they will not comply with the existing STCW Directive. Member States are likely to await the final outcome of the Directive before ratifying the Manila Agreement. In the meantime, EU flag ships will continue to trade to/from third countries which may have ratified the Manila Agreement already. This would create a serious problem for EU flag ships since the EU flag states would not yet be following the rules of the Manila Agreement.

4.3.3 The EESC draws attention to the fact that there will be problems with Port State Control outside of the EU, particularly on the new hours of rest provisions. This concern relates to application of the new rest hour requirements. It should be recognised that some EU flagged ships may have problems with port state control in non EU ports. There is a possibility that EU seafarers might become uncompetitive as they will not have STCW 2010 certification at an early stage. Furthermore, there will be problems with the validity of certification and the effect on the lengths of validity of endorsements issued to EU seafarers by non EU countries. In the light of the above, there is a need for legal clarification.

([2]) OJ C 80, 3.4.2002, pp. 9-14.

4.4 *Recognition of Third Countries Educational/Certification Systems*

4.4.1 Regarding the assessment of third countries for the purpose of recognising their training institutes and certificates the proposal extends the current three months deadline to eighteen months. Some Member States want a longer deadline due to the heavy workload it implies for maritime nations (e.g. Malta) or due to the lack of resources in non maritime countries. The EESC notes that the extension is realistic in order to take into account the heavy workload for maritime nations.

4.5 *STCW – IS*

4.5.1 The Commission laments the existence of inaccurate data about certificates. It proposes the collation in a harmonised and consistent way of information existing in national registries. The EESC considers positive that EU Member States will be required to provide standardised information to the European Commission on seafarer certification for statistical analysis. Using the EMSA 'STCW Information System' as a platform for collecting the required information would help the industry to calculate current and estimate future supply and demand of seafarers.

4.6 *Electro-Technical rating*

4.6.1 Whilst the draft Directive refers to Regulation III/7, the definition of electro-technical rating, as laid down in Regulation I/1 (36) has not been added to the new proposal for a Directive.

4.6.2 The EESC proposes that the draft Directive should include the definition of electro-technical rating from Regulation I/1 (36) of the STCW Convention, reading as follows: 'Electro-technical rating means a rating qualified in accordance with the provisions of Regulation III/7 of the Convention'.

4.7 *Anti-Piracy Training*

4.7.1 The EESC anticipates that anti-piracy training of seafarers will be required as a matter of urgency in view of escalation of the piracy phenomenon and its repercussions on seafarers. It, therefore, urges the Commission to examine this issue with the Member States taking into account relevant provisions of the UN Best Management Practices (for Piracy) and the International Ship and Port Facility Security Code (ISPS) Code.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Trade, Growth and World Affairs: Trade Policy as a Core Component of the EU's 2020 Strategy'

COM(2010) 612 final

(2012/C 43/17)

Rapporteur: **Ms PICHENOT**

On 9 November 2010, the European Commission decided, acting under Article 304 of the Treaty on the Functioning of the European Union, to consult the European Economic and Social Committee on

Trade, Growth and World Affairs: Trade Policy as a Core Component of the EU's 2020 Strategy

COM(2010) 612 final.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 185 votes to 1 with 5 abstentions.

1. **Concluding remarks and recommendations**

1.1 The European Commission published a new communication at the end of 2010, at a time when international trade was undergoing radical changes which distinguish the current process from the previous phase of globalisation. As an external component of the EU 2020 Strategy [1], an EU trade policy would aim to ensure that trade would help deliver the sustained growth we currently need to emerge from the crisis whilst guaranteeing the sustainability of the social market economy and supporting the transition to a low-carbon economy.

1.2 The Committee notes with interest that this 'revised trade policy' set out in the communication on 'Trade, Growth and World Affairs' [2] represents another phase and offers useful insights into the following trade priorities in line with the Union's EU2020 Strategy:

— opening up trade to reflect the geographical shift in trade towards Asia,

— the crucial link with the security of supply of raw materials and energy,

— the enormous scale of barriers to trade and investment (whether non-tariff or regulatory) and also to access to public contracts,

— the requirement for reciprocity in multilateral and bilateral negotiations with the Union's strategic economic partners, including aspects relating to intellectual property, and

— recourse to trade protection mechanisms.

1.3 The Committee feels that, on some issues, the existing legislation should be clarified, particularly as regards subsidies and state aids, and that the EU's rules and values should be upheld by applying to the WTO Dispute Settlement Body (DSB) if necessary, in order to feed into case-law that better reflects its concept of fair competition, particularly as regards the emerging countries.

1.4 The proliferation and complexity of bilateral negotiations should not lead the EU to relax its social and environmental demands. These two aspects should, by and large, receive the same consideration as the economic aspect of the negotiations. In this respect, the Committee is paying particular attention to the content and monitoring of the sustainable development chapter and emphasises that the preparation of this chapter is closely linked to the quality of the impact assessment studies and the relevance of the flanking measures.

1.5 The EESC recommends that the UN draw up a global charter setting out a minimum number of rights linked to the ILO's Social Protection Floor initiative, which could be appended to the Millennium Development Goals review scheduled for 2015. This charter would thus provide a coherent link with the commitments on trade and development. The ILO should be given observer status at the WTO as a matter of priority and should gradually become involved in its trade policy review mechanism.

[1] Point 3.3 *Deploying our external policy instruments* in EUROPE 2020. *A strategy for smart, sustainable and inclusive growth*. COM(2010) 2020, 3.3.2010.

[2] *Trade, Growth and World Affairs*. COM(2010) 612.

1.6 The EESC calls for greater attention to be paid to development cooperation, global solidarity and the discussion of the Millennium Development Goals. It suggests dedicating 2015 to the issue of 'development and cooperation' (provisional title). Since the EU and its Member States are also determined to reach these goals by 2015, the Committee proposes taking advantage of this European Year to raise awareness at the individual, civil society and national and European levels and promote an attitude of joint responsibility for achieving the goals that have already been set and the new goals to be set post 2015.

1.7 International trade is part of the problem and part of the solution for issues of food security at world level. The rules of world trade should encourage food security, particularly for the less advanced countries, and ensure that they have duty-free access to developed countries' markets but also for emerging countries, in line with the principle of special and differential treatment.

1.8 In order to develop a green economy in a globalised competitive environment and maintain its leading role in this area, Europe should, in its own interests and in the interest of the climate, retain its ambitious goal of reducing greenhouse gas emissions. The Committee suggests carrying out impact assessment studies (on competitiveness, employment and the environment) and public debates to plan for the transitions between 2020 and 2050 and stabilise the projections of economic stakeholders and individuals.

1.9 In the long term, the Union should help reform the WTO, which was conceived as a form of multilateral governance of globalisation in line with the original intentions of the International Trade Organisation (ITO) as set out in the 1948 Havana Charter, and thus explicitly include employment- and investment-related issues.

1.10 The Committee stresses the growing importance of including civil society in implementing and monitoring the EU's trade agreements, particularly as regards the chapters on sustainable development, as in the case of the recent free-trade agreement with South Korea. The EESC is prepared to make an active contribution to applying the principles laid down in this and subsequent trade agreements. It proposes to help with the monitoring mechanism by collecting the comments of European civil society, extended to all stakeholders, for the annual report. It also suggests acting as facilitator in joint work with civil society in the partner country to ensure that the practical implications of these agreements are taken into account. The EESC believes that a swift implementation of the monitoring mechanisms of the first agreements would greatly benefit progress on the revised trade policy. It would help create a climate of trust of between partner countries and thus facilitate civil society's involvement in the trade negotiations under way.

2. **Anticipating the major changes in globalisation**

2.1 A fair and open international trade system is a global public good to be preserved and strengthened. Each country or union of countries must help to sustainably regulate this good on the basis of the mutual benefits derived in proportion to the concessions made by each party. This is the basis of the EU's commitment to liberalising trade in a multilateral framework that is currently being propelled by the WTO. It is in this spirit that the EESC has supported the Union's trade policy since 2006 ([3]).

2.2 The European Commission published a new communication at the end of 2010, at a time when international trade was undergoing radical changes which distinguish the current process from the previous phase of globalisation. What is at stake today for the EU's trade policy, as a component of the EU's 2020 Strategy, is ensuring that trade can help deliver sustained growth and the sustainability of the social market economy, whilst supporting the transition to a low-carbon economy.

2.3 To analyse the current changes in globalisation, the Committee highlights the five major trends of the decade which should guide the discussions within the WTO's and DG Trade's civil society forum and aim to make the EU's trade policy more strategic and longer-term:

— **Extending the sphere of competition.** The new technologies – ranging from those applying to information or transport to the future green technologies – are changing the ways in which wealth is created and added value is distributed and are heightening competition between countries. They are making goods, services and factors of production, particularly capital ([4]), more mobile and thus increasing the number of economic and social sectors open to international competition.

— Knowledge and innovation are still the drivers of growth, but they are currently sweeping aside the concept of international trade shaped by traditional theories. Countries are no longer exchanging wine for linen as they did in Ricardo's time. For the last ten years or so, countries have been specialising in tasks for which their workers enjoy competitive advantages over their competitors, sometimes at the cost of social and fiscal dumping. **Trade-in-tasks** is gradually taking over from trade in industrial goods. The **proportion of trade made up by services** (20 %) is growing, more closely reflecting the proportion of national wealth they account for (70 % of European GDP).

([3]) EESC Opinions: OJ C 211, 19/8/2008, p. 82; OJ C 318, 29/10/2011. p. 150; OJ C 255, 22/9/2010, p. 1

([4]) OJ C 318, 29/10/2011, p. 150.

— The result of allowing competition between more occupations and economic actors is to boost innovation, increase economic potential and thus global efficiency. Nevertheless, it also helps to increase inequalities within countries. These include **inequalities** of opportunity and pay between workers who are mobile and those who are not, between the skilled and the non-skilled, between those who own capital and those who have only their labour to offer and between workers in the tradable goods and services sector and those from other sectors.

— By relocating activities and resources in line with costs and prices, international trade acts like a magnifying glass, heightening a country's qualities and at the same time underscoring its weaknesses. Trade policy cannot therefore be framed in isolation from the EU's other policies - labour market transition and adjustment policies, the policy for cutting greenhouse gas emissions, social and territorial cohesion policy and single market policy in particular, together with development and cooperation policy.

— In a world that is rediscovering rarity, **the issue of supply security** ([5]) has joined the more traditional challenge of securing access to foreign markets. The trade agenda is now partially linked to the EU's external security agenda. Pressure is mounting on energy and food resources and the increasing competition for access to natural resources is becoming a key factor in trade and security policies.

3. **Key points in a new open trade system that is compatible with a fair transition**

3.1 *Influencing future WTO reform*

3.1.1 The major changes associated with globalisation and their impact on the EU are not just restricted to trade policy but represent challenges for the EU as a whole. Consequently, the EU should encourage forward studies and open up a public debate on the conditions needed to ensure a fair transition. In this respect, the Committee recognises the contribution made by the European Council's focus group's work on the future of the EU leading up to 2030 ([6]), which sets out and revises the 'strategic concept' and the long-term priorities for the EU's external action.

3.1.2 Europe must frame its trade policy to be a lever in the future WTO reform. The Committee supports the Commission's proposal to set up 'a group of eminent persons from developed and developing countries to obtain independent recommendations to help shape our European view on the future agenda and functioning of the WTO post-Doha'. The Committee would like to be involved in the process and is requesting an exploratory opinion on the issue.

3.1.3 The Committee feels that the EU must set itself the long-term target of helping to give the WTO another face and to rethink multilateralism along the lines of its original vocation. The International Trade Organization (ITO), as set out in the 1948 Havana Charter, was intended to be a multilateral organisation dealing with all aspects of international trade without exception, thus including issues relating to employment and investment.

3.1.4 The stalemate in the Doha round and the delays incurred in negotiating Economic Partnership Agreements (EPA) are forcing Europe to reconsider the links between development and trade. The Committee draws attention to the results of the 'Everything but Arms' initiative and the EPAs for reframing our strategy on trade and development. Trade policy is conceived as a whole and the Committee welcomes the additional work being carried out as part of the current communication on reform of the GSP and a planned communication on trade and development.

3.2 *Prioritising food security*

3.2.1 The Committee has used a number of opinions ([7]) to generate ideas that could help shape a more strategic approach to trade policy. Moreover, at the end of a conference on food security held in May 2011, the EESC put forward its recommendations to feed into the work of the G20. It believes that international trade is one of the deciding factors in guaranteeing food security and ensuring that the right to food is upheld. The conclusions of this conference ([8]) set out the impact of trade on food security and development:

3.2.2 Ensure that international trade rules promote food security

3.2.3 Ensure that, in trade reforms and trade negotiations, proper account is taken of the need to help reduce food and nutrition insecurity among the most vulnerable population within developing countries.

3.2.4 Substantially reduce trade-distorting domestic support and dismantle export subsidies:

— Better define when and how export-restricting measures might be used, and at the same time strengthen and enforce consultation and notification processes. In particular, assess the negative impacts of such measures on the food security of other countries.

([5]) OJ C 132, 3/5/2011, p. 15; OJ C 54, 19/2/2011, p. 20.

([6]) *Project Europe 2030 – challenges and opportunities*, a report delivered to Herman Van Rompuy on 9 May 2010. http://www.consilium.europa.eu/uedocs/cmsUpload/en_web.pdf.

([7]) OJ C 318, 29/10/2011, p. 150; OJ C 248, 25/8/2011, p. 55; OJ C 218, 23/7/2011, p. 25; OJ C 21, 21/1/2011, p. 15; OJ C 255, 22/9/2010, p. 1; OJ C 128, 18/5/2010, p. 41; OJ C 211, 19/8/2008, p. 82.

([8]) http://www.eesc.europa.eu/resources/docs/food-for-everyone-conclusions-en.pdf.

— Remove the impediments to the export, transhipment and import of humanitarian food aid in recipient and neighbouring countries.

3.2.5 Ensure that developing countries derive greater benefit from trade rules:

— Enable and encourage developing countries to make sufficient use of provisions on special and differential treatment to help them protect their food markets. It is particularly necessary, within multilateral, regional and bilateral frameworks, to make it easier for them to use safeguard measures that allow them to act in the event of import surges that could undermine local food production.

— Ensure better access for agricultural products from developing countries to developed countries&3x2019; markets. Other developed countries should follow the example of the European Union by adopting a system similar to the 'Everything But Arms' initiative and there should be substantial reductions of customs tariffs on processed products from developing countries in order to promote the development of local processing infrastructure.

— Ensure additional resources for Aid for Trade in order to strengthen the capacity of developing countries to engage in and reap the benefits of international trade in food products. Technical assistance to help developing countries comply with agricultural and food regulations and standards should be strengthened.

— Encourage regional integration and South-South trade and cooperation through the promotion of regional economic groupings. The international community, and the EU with its valuable experience, should support that process.

3.2.6 The Committee hopes that the Commission will take these proposals into account when drawing up the Communication on Trade and Development.

3.2.7 In order to highlight these recommendations and ensure that greater attention is paid to development cooperation, global solidarity and the discussion of the Millennium Development Goals, the Committee suggests making 2015 the year of 'development and cooperation' (provisional title). Since the EU and its Member States are also determined to reach these goals by 2015, the Committee proposes taking advantage of this European Year to raise the awareness at the individual, civil society and national and European levels, and promote an attitude of joint responsibility for achieving the goals that have already been set and the new goals to be set post 2015.

4. **Creating effective instruments for fairer competition**

4.1 There are serious shortcomings in global governance as regards competition. The WTO deals only with certain aspects of this issue, which is unsatisfactory. In particular, problems of private monopolies, abuse of a dominant position and non-tariff barriers arising from private initiatives (rules and standards) do not fall within its remit. Trade law on dumping, subsidies and state aid is still open to interpretation in line with the case law of the Dispute Settlement Body.

4.2 Since the EU alone cannot make good the shortcomings in world governance, it should try to clarify existing law and uphold its rules and values in the instruments that protect and guarantee fair competition:

— by working with the WTO secretariat to consolidate the assessment of export competition conditions in the context of the Trade Policy Review Mechanism (TPRM),

— by encouraging the drafting of an annual report on barriers to trade and investment,

— by supporting the various initiatives aimed at including the so-called Singapore issues (investment, procurement, competition) on a new multilateral agenda and continuing to press for trade facilitation. In particular, the need for a multilateral agreement on procurement should be reaffirmed and backed up, if necessary, by a policy based on both the 'carrot' (for example, technological transfers) and the 'stick' (restricting access to EU procurement),

— by limiting distortions of competition between European Member States when their respective national undertakings are attempting to win markets abroad through the harmonisation of policies and measures covering incentives, insurance and export credits and the gradual amalgamation of chambers of commerce and their representations in third countries. Consolidating and expanding European Business Centres in third countries ([9]) and making market access teams ([10]) fully operational would provide the EU with effective tools in this respect,

— by guaranteeing compliance with intellectual property rights under the WTO agreement on intellectual property (TRIPS), the anti-counterfeiting agreement (ACTA) and bilateral agreements, and

([9]) In China, Thailand, India and Vietnam.
([10]) OJ C 218, 23/7/2011, p. 25.

— by applying to the WTO Dispute Settlement Body (DSP) as soon as necessary in order to strengthen case law in accordance with the EU's vision and values.

5. **Making trade support for an inclusive strategy effective and promoting the social dimension of trade**

5.1 The social dimension of globalisation is a question that cannot be ignored and must be the subject of a negotiated settlement in the long term in the multilateral fora and particularly the WTO. In the immediate future, granting the ILO observer status is a goal that the EU must pursue by changing the views of those countries that continue to oppose it. Moreover, the ILO could be gradually included in the WTO member countries' trade policy review mechanism by making contributions regarding the social policies of the relevant countries.

5.2 The EESC affirms that Europe has useful experience of taking account of the social dimension in trade, which can serve as a practical benchmark at international level without leaving itself open to the criticism of being a form of protectionism in disguise. Thus the Committee's enduring concern is to build on the sustainable development aspect, including the social dimension, being mainstreamed into any trade agreement, on account being taken of the basic ILO agreements in the social chapter, on the experience of conditionality in the 'GSP+' incentive scheme and on the existence of a European Globalisation Adjustment Fund.

5.3 In addition to these recent developments, there has been an impact assessment study whose revised methodology should make it possible to anticipate more accurately the effects on employment and better prepare flanking measures ([11]). The EESC pays particular attention to the setting up of monitoring committees provided for in the trade agreements signed by the EU to oversee their social and environmental dimension.

5.4 The Union and its Member States should uphold their financial commitment for promoting and implementing the 8 basic ILO agreements, whilst bearing in mind that this mechanism was not intended to wipe out competitiveness and employment problems in Europe immediately. Moreover, closely monitoring the ILO initiative to create a global social protection base and support programmes in favour of decent work offers new opportunities for linking trade and employment. The EESC expects the G20, together with the IMF and World Bank, to consider how the global social protection floor might be financed.

([11]) OJ C 218, 23/7/2011, p. 19.

5.5 The EU must put sectoral social dialogue to good use in impact assessment studies when drawing up adjustment measures in response to the effects of its trade choices. It should also explicitly incorporate the effects of the Lisbon Treaty's horizontal social clause ([12]) in its trade policy. During negotiations on the next financial perspectives, the European Social Fund should be maintained and concentrated on the industrial regeneration issues associated with transition and restructuring. Access conditions to the European Globalisation Adjustment Fund should be made more flexible to allow as many workers as possible who have fallen victim to changes in industry, and also in farming, to qualify. This fund should also encourage social experimentation.

5.6 The EESC advocates incorporating the human rights aspect into the sustainable development chapters of agreements and aligning the agreements' accompanying measures with the European Instrument for Democracy and Human Rights (EIDHR). Stricter application of the United Nations' guiding principles will help achieve the EU's targets on specific human rights-related issues. In accordance with the communication on corporate responsibility (October 2011) ([13]), these principles are an essential challenge for trade and development.

6. **Making environmental commitments a reality in trade policy**

6.1 The negotiations on environmental goods and services held as part of the Doha round may help achieve the Union's goals of improving access to climate-friendly goods and technologies. However, for a wide range of products – and renewable energies in particular – tariff barriers are either low or moderate whilst non-tariff barriers continue to seriously hamper their spread. Guaranteeing a swift and single agreement at the WTO on trade in environmental goods and services that includes the tariff and non-tariff aspects of protection is a fresh proposal from the Commission that the EESC supports.

6.2 In order to develop a green economy in a globalised competitive environment and maintain its leading role in this area, Europe should, in its own interest and in the interest of the climate, retain its goal of reducing its greenhouse gas emissions by 80 % by 2050 with, for example, the intermediary objective of 40 % between 2020 and 2030. The Committee suggests carrying out impact assessments (relating to competitiveness, employment and the environment) and public debates to plan for the transitions between 2020 and 2050 and stabilise the projections of economic stakeholders and individuals.

([12]) EESC Opinion: *Strengthening EU cohesion and EU social policy coordination through the new horizontal social clause* (not yet published in the Official Journal).

([13]) COM(2011) 681 final. Commission communication on: *A renewed EU strategy 2011-1014 for corporate responsibility*.

6.3 Establishing this intermediary goal must be accompanied by regulatory and taxation measures which promote increased investment research in clean technologies. Recourse to 'carbon adjustment' measures at borders must be strictly limited to the few cases of loss of competitiveness and carbon leakage identified and carried out in compliance with WTO rules, as stated in the Commission's analysis ([14]).

6.4 Considering the slow and uncertain progress of the plans to set up emissions trading schemes around the world, the EU Member States will, for a number of years to come, remain among the few countries to have set a price for CO2. Given the future risk of carbon leakage in a number of European sectors subject to the EU emission trading scheme (ETS), the Committee also recommends, in addition to the current free allocation of emission quotas established by the Commission, a significant increase in long-term investment designed to foster the decarbonisation of the economy, and the establishment of a stable and predictable incentive-based framework for the promotion of innovation, research and development in the field of as-yet unmarketable clean technologies.

6.5 With regard to transport, the EESC supports the adoption of global UNFCC objectives to cut air transport emissions by 10 % and maritime emissions by 20 %. The decision to share reduction efforts will also have an impact on the transport sector, since air transport will be gradually included in the ETS from 2012. A European initiative to identify energy efficiency objectives in transport by sea would help in these efforts.

6.6 With regard to sustainability impact assessments (SIA), the EESC reiterates its recommendations for overhauling the current mechanism, as set out in an earlier opinion ([15]). In particular, better information on the environmental impact of trade policies should be provided through the closer involvement of the secretariats of the Multilateral Environment Agreements.

6.7 If the introduction of carbon content standards and labelling is to remain a matter for the private sector and decentralised across the EU, it will be essential to put in place a joint framework for measurement and assessment under the responsibility of the Commission or a dedicated agency.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

([14]) Trade as a driver of prosperity SEC(2010)269 http://trade.ec.europa.eu/doclib/docs/2010/november/tradoc_146940.pdf.

([15]) OJ C 218, 23/7/2011, p. 19.

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 (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council'

COM(2011) 451 final — 2011/0196 (COD)

(2012/C 43/18)

Rapporteur: **Jan SIMONS**

On 1 September 2011 the Council, and on 29 September 2011 the European Parliament, decided to consult the European Economic and Social Committee, under Articles 91 and 304 of the Treaty on the Functioning of the European Union (TFEU), on the

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council

COM(2011) 451 final — 2011/0196 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 23 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 136 votes to 1, with 4 abstentions.

1. **Conclusions and recommendations**

1.1 The Committee generally welcomes the proposal for a Regulation amending Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 with regard to drivers' driving times and rest periods, primarily because it increases road safety, improves drivers' working conditions and creates fairer competition between road transport companies.

1.2 The Committee welcomes the Commission's proposal to merge the features of driver cards with those of driving licences, which would improve security and reduce the administrative burden where practicable. The same applies to the possibility, as laid down in Article 6, of integrating digital tachographs with intelligent transport systems (ITS), which would give other ITS applications easier access to data recorded and produced by tachographs.

1.3 The Committee likewise endorses the option provided in the proposal of remote communication from the tachograph for control purposes, so that drivers who comply with the rules do not have to undergo targeted roadside checks.

1.4 The Committee welcomes the proposed Articles 7 to 16 on type approval; they are an excellent example of matters to be dealt with by the Member States on the basis of European regulations being set out clearly and comprehensively.

1.5 In Article 19(4), the Commission proposes that market access for transport undertakings' own digital tachograph workshops throughout Europe should be limited to the vehicles of other undertakings, in order to avoid conflicts of interest, though it does not demonstrate the existence of such conflicts. In particular given the increase in costs that this could entail, the decision should, as indicated in the first sentence of Article 19(4), be taken, if appropriate, by the Member State concerned, and a guarantee of conformity for these repairs and calibration issued by an independent approved body.

1.6 The Commission proposes that liability for infringements against the Regulation should rest with the transport undertakings, but that they should have the opportunity to prove that they cannot reasonably be held responsible for the infringement committed. In the Committee's opinion, this is a fair rule.

1.7 In the Committee's view, the committee referred to in Article 40 of the proposed Regulation and the social partners should be involved in future amendments to the Regulation and its annexes.

1.8 The Committee believes that in future European satellite communications will perhaps open the way for other recording systems that could, over the long term, be cheaper and more reliable, take up less cab space and make monitoring easier. It calls on the Commission to look into whether, for example, specialised software on the on-board computer now present in many lorries could provide the same – or preferably a higher – standard in terms of achieving the objectives of the digital tachograph.

2. **Introduction**

2.1 On 19 July 2011, the Commission published its proposal for a Regulation amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council (COM (2011) 451 final). The European Parliament and the Council have asked the European Economic and Social Committee to issue an opinion on this proposal under Article 304 TFEU.

2.2 The Committee is happy to do so, as it agrees with the Commission that it is important to improve the tachograph system and monitoring of it, for the following reasons.

2.3 The system improves road safety by providing better information about road transport drivers' driving times and rest periods.

2.4 It helps to improve drivers' working conditions.

2.5 It should create fair competition between road transport companies.

2.6 Making tachographs more cost-efficient fits with the Commission's strategy of further integrating the European transport market and, as stated in the Transport White Paper of 28 March 2011, of making road transport safer, more efficient and more competitive.

2.7 In practice, two kinds of tachograph are still used by around six million drivers: vehicles that came into circulation before 1 May 2006 still have the analogue tachograph that has been in use since 1985, while vehicles put into circulation since 1 May 2006 have to be fitted with a digital tachograph.

3. **General comments**

3.1 The Committee generally welcomes the proposal for a regulation amending Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 with regard to drivers' driving times and rest periods. It particularly welcomes the objectives, not least because the proposed amendments to the Regulations increase road safety, improve drivers' working conditions and create fairer competition between road transport companies.

3.2 In Article 27 of the proposed amendment to the Regulation, the Commission proposes that the features of driver cards should be merged with those of driving licences, so as to increase the security of the system and significantly reduce the administrative burden. Drivers would then be less inclined to use their driving licences fraudulently. The plan is to adopt these minor adjustments to the Driving Licences Directive (Directive 2006/126/EC) at the same time as the present proposal for a Regulation. The Committee endorses this proposal in so far as it is practicable.

3.3 The Committee welcomes the proposed Articles 7 to 16 on type approval; they are an excellent example of matters to be dealt with by the Member States on the basis of European regulations being set out clearly and comprehensively.

4. **Specific comments**

4.1 With regard to scope (Article 3), the proposal not only refers to the social legislation within the scope of Regulation (EC) No 561/2006, but also, in Article 3(4), gives Member States the option of requiring the installation of recording equipment in all vehicles, including those under 3.5 tonnes. The Committee endorses this proposal.

4.2 The proposed Regulation will permit remote communication from the tachograph for control purposes, which will give control authorities an indication of compliance before stopping the vehicle for a roadside check. This option means that drivers who comply with the rules will not have to undergo targeted roadside checks. The Committee endorses this approach, which is set out in Article 5.

4.2.1 The EESC draws attention to the key issue of data protection, underlined by the European Data Protection Supervisor (EDPS/11/9) on 6 October 2011, namely preventing privacy-unfriendly measures being developed by industry in the absence of clear provisions governing the use and storage of drivers' data while the update of technical specifications is still pending.

4.3 Automated recording of vehicles' precise location through a global navigation satellite system (GNSS) will take place 48 months after the Regulation enters into force. According to the Commission, this will give control authorities more information for checking compliance with social legislation. This option is provided for in Article 4. The Committee imagines that the committee referred to in Article 40 (committee within the meaning of Regulation (EU) No 182/2011) will have a role to play here, in cooperation with the Commission.

4.4 The Committee welcomes the option provided for in Article 6 of integrating the digital tachograph with intelligent transport systems (ITS), which will give other ITS applications easier access to the data recorded and produced by the tachograph.

4.5 In Article 19(4), the Commission aims to improve the trustworthiness of workshops by strengthening the legal framework for their approval. One of the proposals means that large transport undertakings which have their own workshops for repairing and calibrating digital tachographs will be prevented from doing such work on their own vehicles in future. This is intended to avoid possible conflicts of interest. In particular given the increase in costs that this could entail, the decision should, as indicated in the first sentence of Article 19(4), be taken, if appropriate, by the Member State concerned, and a guarantee of conformity for these repairs and calibration issued by an independent approved body.

4.6 Article 29 makes transport undertakings liable for infringements against the Regulation committed by their drivers, but gives them the opportunity to prove that they cannot reasonably be held responsible for the infringement committed. The Committee endorses this liability provision.

4.7 The Committee agrees with the Commission's proposal for Articles 30 to 36, setting out rules for the use of driver cards, record sheets and other records to be carried by the driver, and for the training of control officers; it particularly welcomes the latter element, which will allow more consistent and effective enforcement of EU legislation.

4.8 In Article 37, the Commission sets out provisions relating to sanctions. In Article 37(3), it states that the sanctions laid down by Member States for very serious infringements as defined in Directive 2009/5/EC must be of the highest categories applicable in the Member State for infringements of road transport legislation. The Committee agrees with the Commission here.

4.9 In Articles 38 to 40, the Commission states that it is empowered to adapt Annexes I, IB and II to technical progress. The Committee would like to see such adaptations proposed by the committee referred to in Article 40, with the social partners invited to its meetings.

4.10 The Committee welcomes the Commission's proposal in Article 41 to set up a tachograph forum including experts from both Member States and AETR countries, in order to harmonise the relevant legislation and technical specifications in EU and AETR countries.

4.11 In this proposal, the Commission is continuing its approach of proposing technical improvements to the digital tachograph. The Committee wonders whether in future European satellite communications will open the way for other recording systems that could, over the long term, be cheaper and more reliable, take up less cab space and make monitoring easier. It proposes that the Commission look into whether, for example, specialised software on the on-board computer now present in many lorries could provide the same – or preferably a higher – standard in terms of achieving the objectives of the digital tachograph. The Committee envisages integrating all the various functions required by legislation or operational rules in a single device in the driver's cab.

4.12 It is apparent that Regulation No 561/2006 – which is directly and uniformly applicable in the Member States as such – and the half a dozen non-binding guidance notes issued on various points of interpretation by the Commission in consultation with, and for the benefit of, the control authorities have still not cleared up all the differences of interpretation in those authorities' implementation of the Regulation. The Committee recommends that these discrepancies be eliminated, preferably before the amended Regulation enters into force – in all probability in at least two years' time – in order to ensure that checks are indeed implemented uniformly.

4.13 The Committee has three further comments that are not directly related to the two – later to be three – Regulations to be amended, but that, in its view, are not out of place in this opinion.

4.13.1 The installation of weight sensors could make it possible to indicate overloading, which would be of benefit both to hauliers and to control authorities.

4.13.2 Some Committee members have suggested that digital recording equipment should also record the location where the journey starts and ends by GNSS, as this would improve monitoring by Member States of cabotage. It should nonetheless be remembered that, according to the 2011 Transport White Paper, all restrictions on cabotage should be eliminated as from 2014, if not before – a position that the Committee endorses.

4.13.3 The Committee has consistently advocated uniform application and enforcement of rules in cross-border transport. These factors play a key role, as fair competition between road transport undertakings is only possible if the same rules apply across the EU, and if those rules are monitored in the same way. Notwithstanding the few criticisms set out in this opinion, the proposals under examination are a good example of how to achieve that uniformity. The Committee calls for the same attention to be paid to this issue when drafting or amending legislation in future.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council applying a scheme of generalised tariff preferences'

COM(2011) 241 final

(2012/C 43/19)

Rapporteur: **Mr PEEL**

On 14 June 2011 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council applying a scheme of generalised tariff preferences

COM(2011) 241 final.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 8 December 2011), the European Economic and Social Committee adopted the following opinion by 120 votes to 7 with 7 abstentions.

1. **Conclusions and Recommendations**

1.1 The Committee strongly welcomes the Commission's firm commitment in its review of the current Generalised Scheme of Tariff Preferences (GSP) to place even greater emphasis on supporting those countries most in need, through encouraging increases in their export earnings so as better to achieve real reduction in poverty. We are concerned that the competitive disadvantage for many poorer countries has worsened in recent years as a result of the emergence of a marked number of advanced developing countries; we fully support the intention to concentrate the use of EU preferences to where they are most needed, as tariffs continue to drop overall.

1.1.1 Therefore the Committee supports the Commission's intention to reduce the number of countries eligible for GSP, but not to widen significantly the number of tariff lines or products affected, so that those who need it most should be the main beneficiaries. As a result we note that even under GSP+ some 'sensitive' products, mainly agricultural products and textiles, will still not be available totally tariff free so that Least Developed Countries may retain those particular benefits under 'Everything But Arms'.

1.1.2 The Committee notes that GSP, and especially GSP+, as an incentive (rather than sanctions) based development tool, must remain sufficiently attractive for all eligible countries.

1.2 The Committee also strongly welcomes that this opportunity has been taken to encourage greater adherence to core human and labour rights, together with the core principles of sustainable development and good governance, whilst enhancing greater legal certainty and stability.

1.3 The Committee supports the Commission in its intention, as the basis for GSP+, not to expand the total number of designated Conventions, not least as those selected allow countries 'a realistic chance to focus on the essentials' ([1]), although we particularly welcome the inclusion of the UN Framework Convention on Climate Change (1992) here for the first time. A balance must be struck between gaining human rights, social, environmental, and political improvements and the technical and financial capacities of poorer countries to meet the added requirements, even where backed by technical assistance: ultimately the choice must be made by the recipient country in line with its own individual cultural and political conditions.

1.4 The Committee therefore stresses that these proposals must be accompanied by more clearly focussed capacity-building measures aimed at offering greater support to help countries meet the Conventions and ethical standards required. We urge the early inclusion of a specific EC programme to run alongside this Regulation detailing the support available for such capacity building for those GSP recipients that request this.

1.4.1 We further recommend that such capacity building should also be based on a dialogue that uses the experience of civil society to identify and target real needs. Even the CARIS ([2]) report, which carried out an official evaluation of GSP on behalf of the Commission with access to sophisticated analysis and analysts, finds it hard to come to conclusions when

([1]) INFO PACK Regarding the European Commission's proposal on a new GSP, DG TRADE, page 8.

([2]) Centre for the Analysis of Regional Integration at (the University of) Sussex: Mid term GSP evaluation report, 2009.

reviewing trade advances under GSP, yet developing countries with little resources are expected to make policy decisions when they have very little capacity for accurate prognosis.

1.5 The Committee in turn particularly welcomes the Commission's stated intention to involve civil society and in particular the Committee itself, due to our ability to take a broad overview on behalf of organised civil society, through including any information it considers appropriate under Article 14 with regard to compliance with the Core Conventions listed in Annex VIII. In this regard we look forward to the Commission bringing forward in due course a separate Regulation to implement procedures to be adopted to cover applications for GSP+, and in particular the withdrawal and reinstatement of GSP, GSP+, and EBA, in line with Articles 10.8, 15.2 and 19.12 of the proposed Regulation, together with Safeguards under Article 22.4.

1.5.1 Without wishing to prejudice the rights or ability of any interested party to make input with regards to compliance issues, the Committee nevertheless recommends to the Commission, the Council and the Parliament that a 'monitoring' or consultation mechanism be set up whereby civil society can make input over alleged violations by GSP beneficiaries of any of the designated Conventions and that the Committee, due to its existing expertise, itself should act as facilitator or coordinator for this, acting as a ready point of contact for complaints to be registered.

1.5.2 This we recommend should be based as appropriate on the anticipated precedents due to be established for civil society monitoring of the implementation of the EU – S Korea and other recently negotiated FTAs, especially arrangements to ensure specific EU input and/or to set up EU-level advisory groups to precede referral of issues to the formal joint bodies foreseen under these FTAs.

1.6 To this end we urge the Commission set up an early joint working group with the Committee with the remit to make firm recommendations.

2. **Background/ the new Proposal**

2.1 The proposed Regulation will replace the current Generalised Scheme of Tariff Preferences (GSP), due to expire at the end of 2011, but extended for two years to make the change seamless. The Regulation would also bring GSP into line with the Lisbon Treaty with necessitated changes including greater EP involvement. The opportunity is being taken to propose radical changes, in particular to sharpen focus and concentrate GSP on those countries most in need, but also to promote simplicity, predictability and stability, essential if importers are to be encouraged to use the system. To that end, GSP will then only be due for review, rather than replacement, at the end of a further five years.

2.2 As part of the Common Commercial Policy (CCP) the EU has been granting trade preferences, in line with WTO rules, to developing countries through GSP since 1971, when it was developed out of UNCTAD recommendations. GSP has been one of the EU's key instruments used to help developing countries to reduce poverty by generating revenue through increased trade, whilst at the same time encouraging such countries to make greater efforts to ensure core human and labour rights, reduce poverty and promote both sustainable development and good governance.

2.3 As Annexes V and IX of the draft Regulation show, the GSP Scheme works by designating those Customs (CN) codes where EU import tariffs for trade in goods are to be reduced or eliminated. Thus it is not a primary instrument to help climate change or food security – or help secure raw materials. CN codes run to eight figures (which to a layman may appear incomprehensible) differentiating for example between roasted, caffeinated coffee (0901 21 00) and decaffeinated (0901 22 00). GSP operates through being taken up by importers who wish to take advantage of the reduced or zero tariffs thus offered: for the system to be used it must be straightforward, stable and sufficiently predictable. We note that not all importers who could do so source automatically from GSP beneficiary countries: only some 69 % of the potential tariff reductions available to Least Developed Countries (LDCs) through 'Everything But Arms' are taken up, this figure rising to 85 % for GSP+.

2.4 As tariffs worldwide fall, the overall scope for GSP is declining. GSP imports only account for 4 % of total EU imports (9,3 % of imports from developing countries) and in 2009 the net loss of customs revenue for the EU as a result of GSP was just EUR 2,97bn (net loss EUR 2,23bn after deduction of collection costs). This will now be reduced to some EUR 1,77bn. Some Member States have therefore questioned whether the proposed technical reductions go too far in a time of economic crisis, trade uncertainty and the ever present threat of a resort to protectionism as a tempting means of dealing with economic problems. The Committee, having looked into these technicalities, however believes that any weakening of the proposed changes, both in graduation and in strict eligibility criteria for some countries, would benefit those better placed. The key point of GSP is to help those who need it most.

2.5 Since 2004, when the Committee last examined GSP ([3]) and the scheme was last revised, there have been three types of preferential agreement available, namely:

— The general GSP scheme, open to all eligible countries (currently 176), offering preferences through reduced or abolished duties for some 6 200 tariff lines out of some 7 100 where tariffs are above zero ([4]). Most (3 800) of these lines are designated 'sensitive', where fixed-rate reductions are offered - mainly agricultural, but including textiles and clothing. In 2009 EUR 48bn worth of products was imported to the EU through GSP (open to some 111 countries) - 81 % of the overall GSP total.

— "GSP+: an incentive mechanism for smaller, 'vulnerable' poorer countries with a narrow tax base, but which do not qualify as LDCs, whose exports to the EU are heavily concentrated in a few products (the 5 largest sections of imports representing over 75 % of the total), where additional preferences are offered, mostly duty-free, for some 'sensitive' products, but only includes a further 70 tariff lines in addition to the 6 200 covered by GSP. GSP+ also includes special incentives to encourage sustainable development and good governance for participating countries that have to commit to embracing a wider range of core universal values on human, labour rights, environment and good governance – see 4 below. In 2009, 15 countries exported EUR 5bn worth of goods to the EU through GSP+ (9 % of GSP total).

— 'Everything But Arms', or Duty Free Quota Free (DFQF) Access to the EU for all imports from the 49 UN classified LDCs, with the exception of arms and ammunition, (and originally sugar, rice and bananas too). Added to the GSP scheme in 2004, this was originally an EC initiative related to the Doha negotiations. Despite the 2005 WTO Ministerial agreement to include similar DFQF measures within Doha, the EU still remains the only trading region to put such generous terms into effect. In 2009 EBA accounted for EUR 6bn worth of EU imports (10 % of GSP total).

2.6 Only 9 % of tariff lines remain totally outside GSP and GSP+ (but these are included in EBA) – mostly agricultural products. To include these in GSP or even GSP+ would mean that some of the advantages of EBA (and GSP+ in turn) would disappear and that the poorest countries would lose out ([5]). However these involve areas, in agricultural products, where some of the most intractable problems have arisen in the Doha negotiations. Sugar products are possibly the most sensitive example here. After more than two centuries of distortion ([6]) sugar is a very sensitive import for the EU, a crop Mozambique (an LDC) can produce at a market rate but which in turn would be highly vulnerable to full open competition from an Upper Middle Income (UMI) country like Brazil. Such considerations also apply to textiles and clothing, another very sensitive area for imports into the EU as well as for competition between LDCs and their neighbours.

2.7 The key effect of the proposed changes will be a redistribution of the origin of some imports into the EU. The draft Regulation proposes to remove over half the countries now qualifying for GSP in order to focus and target GSP better on those countries most in need, which in principle is to be welcomed. As the Commission's Explanatory Memorandum explains, 'thanks to increased trade, many developing countries and export sectors have successfully integrated within the global marketplace … (and) are able to continue to expand unaided'. These more developed countries 'are putting pressure on … much poorer countries that genuinely need help'.

2.7.1 However, we note in passing a key concern of EU importers that changes already in hand over Rules Of Origin may lead to a major decrease in the take-up of the scheme by 2017, when requirements for certification of proof of origin by public authorities are due to be replaced by statements by registered exporters. This is seen by many SMEs to be too risky. Here the Committee considers that the proposed system of self-certification must be supervised, audited and accredited by independent professional institutions acting on an international basis. In the recent past there have been too many examples of fraud or 'bypass' constructions for EU imports, notably in sugar.

2.8 High Income countries (as classified by the World Bank) will continue to be excluded, but without the previous exemptions. It is now also proposed to omit all 33 overseas countries and territories (OCTs), i.e. those connected to the EU, US, Australia and New Zealand, where GSP is only used marginally. These include Greenland, Bermuda and American Samoa.

2.8.1 Also excluded will be:

— All FTA partners and any others benefitting from a preferential market access arrangement with the EU on the same or better tariff terms (although these countries will remain eligible should such arrangements fail) – here two years' notice will be given. Previously the distinction was messy

([3]) OJ, C 110 of 30/4/2004, p. 34.
([4]) A further 2 300 tariff lines already have a standard tariff of zero.
([5]) CARIS report.
([6]) Dating back to the Napoleonic wars and the cessation of imports of sugar cane into continental Europe.

but now the potential major increase in the number of ratified EU FTAs over the next few years needs to be taken into account as well, as that could lead in time to a significant reduction in eligible countries.

— Countries classified by the World Bank as high or upper middle income (UMI) countries (based on Gross National Income per capita) for the previous three-year period – here one year's notice will be given. This is covered further in chapter 3 below.

2.9 The current system of graduation, designed to ensure that preferences are removed from sectors that no longer require them, will be amended. The previous limits whereby if any one country's exports to the EU exceeded 15 % of the total imports covered by GSP over three consecutive years these then cease to qualify (unless this section or group of products accounts for over 50 % of that country's total GSP covered exports), will now be 17,5 % due to the sharper focus of GSP, although in reality a slight tightening. For clothing and textiles the limit will be raised from 12,5 % to 14,5 %.

2.10 Likewise the number of designated product sections will be widened from 21 to 32 to ensure greater objectivity and sensitivity but not so tightly targeted as to remove crucial simplicity, stability and predictability. That is a key consideration despite the fact that this tool is rarely used – currently it only applies to seven counties, notably China, but also including Brazil, India and other Asian countries. It has also been used but then reversed in the past, with both Russia and India benefitting.

2.10.1 Graduation will now no longer apply to GSP+ countries – it never has for EBA.

2.10.2 For GSP+, the requirement for participating countries to account for less than 1 % of the total GSP covered imports into the EU will now be increased to 2 % due to the more targeted and restricted coverage of GSP, although effectively this will only open GSP+ to Pakistan (where levels of textile imports to the EU is an issue not least as Pakistan is thought by some as likely to gain at the expense of nearby LDCs) and the Philippines, provided they meet the conditions and wish to avail of it.

3. **Future GSP/GSP+ eligibility**

3.1 With the general decline in tariffs worldwide (except those mainly in agriculture and textiles) and with the likely increase in the EU's FTAs coming into effect, the scope for GSP is declining. After the anticipated changes and omissions outlined above, it is estimated that:

— Overall some 80 countries will still be eligible for GSP, depending on who will meet the criteria at the time.

— Of these 49 are LDCs and eligible for EBA.

— Of the 30 or so countries that qualify for GSP or GSP+ but not for EBA, all but seven or eight should be eligible for GSP+. However, it is far from clear whether GSP+ will be sufficiently attractive for most of these to take up. Many currently choose not to do so. GSP+ could therefore be reduced to just three or five countries ([7]), even assuming the higher 2 % figure (see 2.10.2.) is established, especially if EU FTAs are established fully with both Central America (yet to be ratified) and the relevant Eastern Partnership countries.

— On the other hand, most of those eligible for GSP alone may soon cease to be so. They include India, China, Ukraine and three ASEAN countries, all developing quickly, and some of these are negotiating FTAs with the EU as well.

— This potential further decrease in the numbers of countries likely to be eligible therefore begs the question as to whether in time the EU should retain both GSP and GSP+.

3.2 The Committee recognises that the Commission is very wary of widening the eligibility for GSP+ following losing a WTO dispute with India in 2004 on GSP in relation to drugs. If the EU was faced with further WTO disputes it could lose them, as legally discriminating between developing countries can only be done in very specific conditions.

3.3 The Committee understands that on the other hand, to increase the numbers eligible for GSP alone, then all those countries, classified by the World Bank as Upper Middle Income (UMI, or above US$3,976 pa), would have to be included, although numbers are small. These include Russia, Brazil, Argentina and Malaysia (all with per capita annual incomes above Romania and Bulgaria). The key point remains that GSP is there to help those who need it most.

3.4 To the Committee therefore it appears that the key difference in most cases between take up of GSP and GSP+ is based on the choice by the eligible countries. The issue then becomes whether or how far the GSP+ scheme can be made attractive enough to include as many of these as possible, likely

([7]) Bolivia, Ecuador and Mongolia, with possible extension to Pakistan and Philippines.

to include Central Asia and Nigeria (which already choose not to use GSP+), Syria, Iran, and a number of island states. By encouraging more of these to take up GSP+ and therefore greater adherence to and compliance with the principles set out in the designated 27 Conventions should lead to a greater 'win-win' situation.

4. **Core Conventions - human and labour rights, the environment and good governance**

4.1 The key feature of GSP+ for the Committee is the undertakings based on universal rights that are made by the beneficiary countries in return. To qualify for GSP or EBA, an applicant must not have committed serious and systematic violations of the principles set out in the Conventions listed in Part A of Annex VIII of the proposed Regulation, which include the UN core human and labour rights Conventions – and the 8 core ILO Conventions. The only proposed change in the draft Regulation is to remove that on Apartheid.

4.2 To qualify for GSP+, however, all countries must have ratified, maintain and adhere to the Conventions listed in Part A of Annex VIII, as well as a further 12 conventions (listed in Part B). Here it is proposed to add the UN Framework Convention on Climate Change (1992), which we strongly welcome.

4.2.1 For GSP+ it is proposed that beneficiaries will now have to display deeper levels of commitment, give greater emphasis to adherence to the Conventions as well as reinforce the mechanisms to ensure implementation. To this end:

— Beneficiaries must now give an undertaking to maintain the ratification of the conventions, the accompanying legislation and other methods of implementation, not to have serious failings identified by the relevant monitoring bodies and must accept regular monitoring and reviews,

— Given that GSP+ is a system based on incentives (rather than sanctions), there will be regular dialogue between the Commission and each beneficiary not least to ensure implementation both improves over time and does not deteriorate,

— Monitoring will be reinforced, with reports every two (instead of 3) years to both the Council and now the EP,

— Lack of cooperation will lead to swift exclusion, without an investigation,

— The burden of proof will be reversed – it will now lie on the recipient country,

— The Commission will now be able to use other sources of reliable information, including importantly input from civil society.

4.3 This for many GSP+ recipients will be a major demand both technically and financially, so support from the EU will be essential. The draft Regulation is silent here. The Committee urges the early inclusion of a EC programme alongside this Regulation detailing the support and financial backing available for such capacity building for any GSP recipient that request this. Ultimately the choice is made by the recipient country in line with its own conditions.

4.4 The Committee supports the retention of 27 Conventions with the two changes as proposed. The Commission stresses that those selected allow countries 'a realistic chance to focus on the essentials' ([8]). As an incentive-based development tool GSP+ has to be sufficiently attractive to the relevant countries for them to pursue it. A balance has to be struck between gaining human rights, social, environmental, and political improvements and the capacities of poorer countries to meet the added requirements, even when backed by trade related technical assistance (TRTA). As the CARIS report points out, the gains so far are still marginal.

4.4.1 Not every eligible country wishes to avail itself of GSP+, for one of three reasons:

— key exports are non 'sensitive', so little to be gained,

— Governments do not want to have to meet the requirements,

— internal problems, including wars, conflicts and/or lack of administrative capability making the requirements non viable.

4.4.2 Previously the EU merely placed emphasis on ratification of conventions and on a clear understanding that countries will ensure effective implementation. To demand that at the start would ensure that on these grounds alone probably none but Norway and Switzerland could ever qualify. CARIS points out that 'GSP+ appears to be effective

([8]) INFO PACK Regarding the European Commission's proposal on a new GSP, DG TRADE, page 8, point 5.

in promoting ratifications of the 27 Conventions' but that 'de facto effects are more difficult to identify'. However GSP adds internal incentives for effective implementation where stakeholders would lose significantly if later withdrawn.

4.5 Any of the GSP arrangements may be temporarily withdrawn for serious and systematic violations of the relevant core principles as well as on a number of other grounds such as unfair trading practices, fraud or serious shortcomings in customs controls.

4.5.1 Hitherto, GSP benefits have been withdrawn for reasons of violations of labour rights in both Myanmar ([9]) (1997) and Belarus (2006), and not yet reinstated. Sri Lanka's GSP+ benefits were withdrawn (2010) over non-effective implementation of human rights conventions. For some countries however, such as El Salvador, the actual opening of investigations has been sufficient catalyst for change.

4.5.2 The key question for the Committee is whether, particularly under the revised, tougher, system, the launching of the full investigation procedure – and many countries still have significant outstanding work ahead of them –would then inevitably lead to withdrawal of preferential treatment, if a positive solution cannot readily be reached. That would benefit no one. There must be a balance between stick and carrot. For some very poor countries, faced with potential starvation and other difficulties, these targets may be unachievable in the short term. Although the Commission is due to report to Parliament every two years, the Committee understands that intermediate dialogue will take place and that the Commission will monitor the situation in beneficiary countries on an ongoing basis, including through the use of material produced by the relevant international monitoring bodies. The Committee looks to the Commission to be as transparent as possible at this stage, when real areas of concern are identified.

4.5.3 A particular question arises over Uzbekistan (which otherwise qualifies for GSP+ but does not choose to avail of it), where there is deep concern about the use of child labour in the cotton harvest. The stated aim of GSP+ is to encourage beneficiary countries to keep on improving their record. A balance therefore has to be found between encouraging positive change and driving a country into greater isolation, thereby delaying or even reversing progress, perhaps for several years.

5. **Role for Civil Society**

5.1 In connection with the extra capacity building referred to in 4.3 above, the Committee recommends that this needs to be based on a dialogue which uses the experience of civil society to identify and target real needs. As mentioned, even the CARIS report which has access to sophisticated analysis and analysts finds it hard to come to conclusions when reviewing trade advances under GSP, yet developing countries with little resources are expected to make policy decisions when they have very little capacity for accurate prognosis.

5.2 Article 14 of the proposed Regulation states that, with regard to compliance with the Core Conventions listed in Annex VIII, the Commission 'may include any information (it) considers appropriate'. The Commission makes it clear that 'beyond the reports of international monitoring bodies, we will be able to use other sources of accurate information' ([10]), which would need to be both proven and reliable.

5.3 The Commission foresee the Committee as one such source, to be welcomed as 'more balanced' due to its ability to take a broad overview on behalf of organised civil society. Other potential sources include companies and business organisations, trades unions and other organisations that can demonstrate active involvement.

5.4 The Committee also notes that the Commission intends to bring forward in due course a separate Regulation on procedures to be adopted to cover applications for GSP+, and withdrawal and reinstatement of GSP, GSP+, and EBA, in line with Articles 10.8, 15.2 and 19.12 of the proposed Regulation, together with Safeguards under Article 22.4. We look forward to commenting on this whilst it is under consideration and consultation.

5.4.1 Without wishing to prejudice the rights or ability of any interested party to make input with regards to compliance issues, the Committee nevertheless recommends to the Commission, the Council and the Parliament that a 'monitoring' or consultation mechanism be set up whereby civil society can make input over alleged violations by GSP beneficiaries of any of the designated Conventions. We urge too that the Committee itself should act as facilitator or coordinator for this, acting as a ready point for complaints to be registered, based as appropriate on the anticipated precedents about to be established for civil society monitoring of the implementation of the EU – S Korea and other FTAs, especially those arrangements concerning specific EU input and/or EU-level advisory groups to precede referral of issues to the formal joint bodies foreseen under these FTAs.

([9]) Otherwise it would now be eligible for EBA.

([10]) INFO PACK Regarding the European Commission's proposal on a new GSP, DG TRADE, page 8.

5.4.2 To this end we urge the Commission set up an early joint working group with the Committee in the near future with the remit to make firm recommendations.

Brussels, 8 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — A new response to a changing Neighbourhood'

COM(2011) 303 final

(2012/C 43/20)

Rapporteur: **Ms BUTAUD-STUBBS**

On 19 July 2011, the European Commission and High Representative of the European Union for Foreign Affairs and Security Policy decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — A new response to a changing Neighbourhood

COM(2011) 303 final.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 November 2011.

At its 476th plenary session, held on 7 and 8 December (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 119 votes to three.

1. **Summary and recommendations**

1.1 The EESC welcomes the Joint Communication by the EEAS and the European Commission as a timely and urgent adjustment in the EU's policy. It fully endorses the Communication's stated objective of developing a new approach to the EU neighbourhood in order to strengthen the partnership between the EU and partner countries.

1.2 The EESC points out that the Communication can only be a starting point for a future partnership and calls on the EU institutions to develop a longer-term strategy, to be implemented under the 2014-2020 financial perspectives, in which the priorities identified, together with relevant budget for enhanced partnerships and various strands of the EU's policy, are integrated.

1.3 The EESC hopes that the EU will be able to react suitably, i.e. firmly and with a single voice, following the approach described in the Communication concerning the Euromed countries [1], to the recent events in certain neighbouring countries where genuine and durable democracy has not yet been established.

1.4 The EESC agrees with the principles of differentiation and conditionality and with the need for greater flexibility in relations with partner countries. At the same time, however, it asks the EU to ensure that the application of a less for less principle will not harm the potential of a partner country to progress with the reform process according to its own pace and absorption capacity.

1.5 The Committee notes with satisfaction the Communication's new emphasis on civil society's key role in strengthening democratic processes and that support for a broad range of civil society organisations, including social partners, is considered as priority.

1.6 The EESC insists that the environment for civil society activities, protection of human rights, as well as economic, social and cultural rights and freedom of religion, is an essential criterion in the assessment of a country's governance.

1.7 The EESC believes that the EU support under the European Endowment for Democracy (EED) should be accessible and responsive to the sudden needs of a broader range of civil society organisations, including non-registered opposition groups. The EED instrument should be complementary to existing tools such as the European Instrument for Democracy and Human Rights (EIDHR) and the Instrument for Stability (IfS).

1.8 In this context, the EESC stresses that greater and more targeted support should be offered to employers and trade union organisations and other socio-professional groups, since they are important facets of social, economic and political life and potential guarantors of stability. Some of them, indeed, played a key role in the mobilisation for democracy. It welcomes the fact that the EED foresees support to these actors but hopes that the Civil Society Facility will also be used to that end.

1.9 The EESC calls for the effectiveness of EU-funded projects to be improved. The complexity of EU funding procedures leaves many non-state actors out of the loop.

[1] Communication on *a Partnership for Democracy and Shared Prosperity with the Southern Mediterranean,* COM(2011) 200 final.

Helping organisations to obtain funds, for example through EU delegation capacity-building training, should be one of the objectives of the initiative.

1.10 Furthermore, the Committee calls on the EU to establish some precautionary measures and basic principles of good governance for partner countries governments which would like to benefit from component 3 of the Civil Society Facility that provides them with the possibility to set up capacity building projects to reinforce civil society organisations and their involvement in domestic policies and decision-making processes.

1.11 As regards trade relations, an ultimate goal of the Deep and Comprehensive Free Trade Area (DCFTA) Agreement is to achieve a high level of economic integration between EU and partner countries. The EESC asks the EU to reflect on differentiated packages of DCFTA acquis which would reflect different levels of interest in European economic integration and different agendas in the partner countries. During the negotiation and implementation processes of the DCFTA and other agreements it is important to make mandatory provision for civil society involvement and to establish a mechanism for permanent dialogue with it. Civil society should also be consulted in regard to Sustainability Impact Assessments

1.12 Promoting freedom of expression, religion and the media within the framework of public freedoms and unimpeded access to the internet and social networks is also of crucial importance as it contributes to increased transparency and fosters the democratisation process. It therefore needs particular attention and targeted action.

1.13 Although success has been only very relative, the EESC welcomes the EU commitment to conflict prevention in its closest neighbourhood and calls on the EU to develop comprehensive strategies in this field.

1.14 The EESC calls for the mobility of people from the neighbourhood countries to be facilitated – especially young people and students, artists, researchers, scientists and business people – in order to increase people-to-people contacts for the benefit of both the partner countries and the EU.

1.15 The EESC, representing civil society at EU level, is ready to play an active role and share its expertise with the aim of building a more efficient European framework for cooperation with societies of the neighbourhood countries ([2]), in particular by:

— assisting in mapping civil society organisations and documenting the situation as regards civil society activities in the region through an open and inclusive dialogue with a broad range of players;

— sharing its expertise, including that gained from cooperation with the EU's eastern neighbours, in defining specific criteria and processes for the establishment of truly representative institutions for civil society consultation in policy-making in the partner countries;

— supporting independent and representative civil society organisations, in particular those which have played an active role in the opposition to non-democratic regimes, through capacity-building efforts and by sharing its expertise in a wide range of fields, such as social dialogue (including at sector level) and economic and social rights;

— exchanging best practice in areas such as social dialogue, gender equality, entrepreneurship and corporate social responsibility;

— participating in the shaping of EU instruments, action plans and programmes to strengthen socio-economic organisations and in the monitoring of their implementation;

— getting actively involved in defining the operational modalities of the Civil Society Facility and the European Endowment for Democracy.

2. **Learning from the past**

2.1 *Critical analysis of previous European Union activities*

2.1.1 The complete absence, with a few exceptions, of a democratic environment has obliged the EU to adapt its policies on pragmatic grounds and to accept as interlocutors figures that could by no means be described as democratic representatives of their peoples.

2.1.2 During the whole Barcelona Process, for example, there was insufficient communication and cooperation between the EU, civil society organisations, trade unions and human rights organisations that were not approved by governments, thus an opportunity to influence political and social developments was missed.

2.1.3 Experience has shown, particularly in the Euromed region, that there is a tendency to underuse the available funding for civil society due to the weakness of these organisations in non-democratic countries.

2.1.4 There are some good practices of civil society involvement, such as the creation of thematic platforms, working groups and panels, developed under the Eastern Partnership and those could be adapted and usefully applied also in the south.

([2]) Please see specific EESC recommendations contained in its recent opinions: The Contribution of civil society to the Eastern Partnership, OJ, C 248, 25.8.2011, pp. 37-42; on Promoting representative civil societies in the Euromed region, OJ, C 376 of 22/12/2011, pp. 32-37 and on The new foreign and security policy of the EU and the role of civil society, adopted on 27 October 2011 (not yet published in the OJ).

3. **Main elements of a new approach**

3.1 *Application of the differentiation and conditionality principle*

3.1.1 The EESC fully endorses the communication's emphasis on these two principles and is itself in the process of reinforcing their application in its own work, for example in its criteria for participation in the Euromed Summit of Economic and Social Councils and Similar Institutions, and for the organisation of its missions abroad.

3.1.2 The EU must take into account in its more for more approach the different histories of regions and countries, their levels of development, different stages in relations with the EU, and their specific needs and problems. This approach will also contribute to the more efficient use of EU financial resources, which is a key duty of the European Union to the European taxpayer.

3.1.3 At the same time, we believe it is important to make sure that the less for less principle is not applied in such a way as to harm the development potential of a partner country where progress is less forthcoming.

3.2 *Working towards 'deep' and sustainable democracy*

3.2.1 The EU has rightly emphasised the need to foster 'deep' democracy by strengthening civil society and elevating its role in the democratisation process and in enrooting good governance standards in the ENP region.

3.2.2 It welcomes the introduction of new dedicated instruments to consolidate democratic gains. In this context, the EESC is ready to participate in the work of defining operational modalities for the European Endowment for Democracy and Civil Society Facility in particular. These instruments should be flexible and responsive to changing needs and contain targeted measures to support democratic processes in the EU neighbourhood, including via promoting the creation of political parties and free mass media, and reinforcing civil society involvement in democratic processes.

3.2.3 Although the European Instrument for Democracy and Human Rights (EIDHR), the Instrument for Stability (IfS), the European Endowment for Democracy and the Civil Society Facility all differ in their financial, operational and managerial modalities, the coherence and synergies between them must be ensured and reinforced.

3.2.4 In order to increase organisations' awareness and the ability to use these financial instruments, the EESC asks the Commission to draw up simple and user-friendly explanatory documents.

3.2.5 The EESC considers respect for both religious and civil freedoms to be a basic human right that should be fully protected in a region characterised by religious and political diversity. It calls on countries that have not yet ratified the existing universal and regional conventions and agreements on political, civil and cultural freedoms, and on economic and social rights, which are based on the Universal Declaration of Human Rights, to do so without delay.

3.2.6 The media in the Euromed region play a key role in relaying and projecting the outcome of the transformations taking place. EU support needs to focus on initiatives to improve the professionalism and independence of existing media and foster an environment in which media diversity and freedom can flourish.

3.3 *Strengthened EU role in conflict resolution*

3.3.1 The persistence of the protracted conflicts in the EU neighbourhood – south and east – constitutes a great challenge for both the EU and the partner countries themselves. The EU has admitted that its actions so far have been of limited efficiency. With the Lisbon Treaty, the EU has a new peace-building mandate and a new structure to support it which provides a real opportunity for a new focus.

3.3.2 The EESC calls on the EU to develop comprehensive conflict prevention and peace-building strategies, especially for its closest neighbourhood, and to focus on ensuring more coherence between a variety of EU programmes and policies in the field.

3.3.3 The Committee calls for all peace-building projects to promote and include democratic principles and for monitoring systems, involving civil society organisations, to assess the progress on reforms. Greater focus should be on those groups whose influence on peace-building is substantial but whose voices are hardly heard. These include women's and youth groups, trade unions and local business. A focus on the continuation of business activities in conflict zones as a demonstration of resilience also merits support, as do trade union activities such as the peace and solidarity demonstrations. Most vulnerable groups, such as women, children and conflict victims, need special attention and targeted programmes. Most vulnerable groups, such as women, children and conflict victims, need special attention and targeted programmes.

4. **Enhanced trade links**

4.1 Apart from fostering trade relations, one ultimate goal of DCFTA is to achieve a high level of economic integration between EU and partner countries. Implementing the DCFTA and complying with it requires the partner countries to profoundly restructure their legal and economic frameworks. For this to happen, substantial additional assistance would be required from the EU to help them acquire the necessary level of development in order to meet the requirements.

4.2 The Committee asks that a chapter on sustainable development be included in all trade agreements that the EU is negotiating with its partners and considers that civil society should also be consulted during Sustainability Impact Assessments prior to the launching of negotiations. This involvement will contribute to the raising of public awareness on the short- and long-term benefits that the DCFTA can bring and will help to secure public ownership of the process ([3]).

4.3 To this end, future DCFTA and other agreements should provide for mechanisms for civil society consultation, such as joint consultative committees, in order to achieve effective monitoring of how provisions related to the sustainable development chapter are implemented.

4.4 As regards social standards and industrial relations, the Committee insists that relevant ILO Conventions are ratified and duly implemented.

5. **Towards effective regional partnerships**

5.1 The EU needs to strike the right balance and seek synergies between the bilateral and regional dimensions of EU relations with partner countries.

5.2 It has been recognised that regional partnerships with the east and south have contributed to the further advancement of relations between the EU and its neighbours. However, the Eastern Partnership and the Union for the Mediterranean, which have complemented Euromed cooperation, have shown a number of shortcomings.

5.3 The Union for the Mediterranean (UfM), the role of which was to complement bilateral relations between the EU and partner countries, has so far failed to deliver the expected results. Its role and objectives therefore need to be radically redefined. It also needs to provide permanent mechanisms for civil society involvement in its initiative. The EESC calls for immediate decisions to be taken on the role, mission, organisation and funding of the UfM. Furthermore, it believes that the UfM's operations need to be brought more in line with the EU's overall strategy towards the region ([4]).

5.4 In general, most of partner countries have improved and intensified their relations with the EU through dialogue on association agreements (AAs), and Deep and Comprehensive Free Trade Areas (DCFTAs), on visa liberalisation and mobility partnerships, cooperation on security of energy supply and on other issues. Unfortunately, Belarus has taken a big step back in its relations with the EU and the situation as regards democratic freedoms and the environment for civil society activities has also worsened in other partner countries, including Ukraine.

5.5 The evolution of the political situation in the EU neighbourhood countries should remain under close scrutiny and the level of economic integration and trade relations should reflect the degree of their commitment to build up sustainable democracy and respect for human rights.

5.6 The EESC is convinced that promoting increased mobility, especially of young people and students from the neighbourhood countries, would provide benefits to the partner countries, including an increase in people-to-people contacts. The same is true for artists, scientists, researchers and people travelling on business. This should be complemented by visa facilitation schemes, fee waivers and the possibility of getting multiple-entry visas, along with continued efforts towards the development of integrated border management, proper migration management, combating illegal migration, asylum laws and humanitarian aid for refugees.

6. **Support to civil society in the EU neighbourhood via the Civil Society Facility and the European Endowment for Democracy**

6.1 The support to civil society organisations has to be comprehensive, credible, multi-faceted and tailored to their needs. For several years now, the EESC has been arguing for a role for civil society in the drafting of the ENP and the monitoring of its implementation, for specific capacity-building programmes for civil society and for an improvement in the dialogue between governments and civil society in the EU neighbouring countries ([5]). It therefore endorses the three components of the Civil Society Facility (CSF).

6.2 For the implementation of these components, a broad and inclusive definition is needed of 'civil society organisation', as suggested in the Commission Communication on minimum standards for consultation ([6]). Consequently, the mapping of civil society is of foremost importance for the implementation of these components. With its various networks, the EESC stands ready to continue assisting in the mapping of emerging non-state actors, as well as networking with NGOs at regional level. Synergies can easily be found with the work of the Commission, the External Action Service and the EU delegations in these areas.

([3]) EESC Opinion on Sustainability impact assessments and EU trade policy, OJ, C 218, 23.7.2011, pp. 14-18.

([4]) COM(2011) 200 final.

([5]) EESC opinion on Involvement of civil society in the Eastern Partnership, OJ C 277, 17.11.2009, pp. 30-36; EESC opinion on Civil society involvement in implementing the ENP Action Plans in the countries of the Southern Caucasus: Armenia, Azerbaijan and Georgia, OJ C 277, 17.11.2009, pp. 37-41.

([6]) Communication from the Commission Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission, COM(2002) 704 final, 11.12.2002, p.6.

6.3 In addition, the experience of European civil society organisations could be used in defining capacity-building programmes. Besides the broad range of EU NGO networks, the main European economic and social actors should be involved. Their expertise could be shared with their counterparts in the partner countries in order to transfer knowledge of European policies and to support civil society in neighbouring countries in policy analysis, advocacy and monitoring convergence with EU policies.

6.4 The proposal to increase the involvement of civil society organisations in sector policy dialogues between EU and partner countries is most welcome, since this is an area that was unfortunately often neglected in the past. As far as economic and social players are concerned, special focus should be put on programmes supporting sectoral social dialogue in recipient countries. The EESC is willing to contribute to the strengthening of social dialogue, and in this context also calls for the involvement of ILO, which it considers crucial, and the European Training Foundation, which could deliver training on sectoral dialogue to social partners in neighbouring countries.

6.5 Component 3 of the Civil Society Facility foresees support for country-based bilateral projects encouraging partner governments to reinforce the capacity of civil society organisations and their involvement in domestic policies and decision-making processes. The Committee is convinced that an institutionalised mechanism for consultation with civil society is very much needed and that economic and social councils are one of the best tools for achieving such dialogue. Some precautionary measures and some basic principles of good governance should however be established for governments which would like to benefit from this support. The EESC is ready to establish a set of principles that should be met for the establishment of representative social economic councils and similar institutions.

6.6 Regional platforms of civil society organisations in neighbouring countries already exist: the Eastern Partnership Civil Society Forum and the Euromed Assembly of Economic and Social Councils and Similar Institutions, which was established as the result of an EESC-led initiative. The EESC has played a key role in the setting up of Economic and Social Councils (ESC) in many countries around the southern Mediterranean. Throughout this process, the Committee has advocated the broadest possible representation of various non-state actors in these councils. The EESC's expertise and support in the setting-up of ESCs as institutions for civil society consultation in policy-making could be usefully added to the possibilities for cooperation under the Civil Society Facility.

6.7 The complexity of EU funding procedures often leaves out of the loop many non-state actors (NSAs), which have the greatest potential but little experience on how to apply for EU funding. This is a recurrent problem in all countries and regions that benefit from EU cooperation funds. Assistance to these organisations in the form of, for example, training organised by EU delegations on how to prepare an application for funding could be one of the objectives of this instrument.

6.8 The EESC is ready to participate in the work of defining operational modalities for the European Endowment for Democracy (EED). It believes that this instrument should be flexible and responsive to sudden needs. It should use targeted measures to support democratic processes in the EU neighbourhood by promoting the creation of political parties, free mass media and independent trade unions and by reinforcing civil society involvement in democratic processes.

6.9 The EESC thinks that the EED should be a demand-driven, non-project but capacity-building oriented, flexible and transparent instrument. Assistance should be granted primarily to organisations that have no access to other EU funding such as the Civil Society Facility, the EIDHR or the Non-State Actors and Local Authorities Programme. The instrument should be managed at country level with minimal bureaucratic and reporting requirements, but should be backed by an efficient mechanism for the evaluation of results. The possibility of joint action with other donors should also be foreseen.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Amended proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1290/2005 and Council Regulation (EC) No 1234/2007 as regards distribution of food products to the most deprived persons in the Union'

COM(2011) 634 final — 2008/0183 (COD)

(2012/C 43/21)

Rapporteur: **Mr SOMVILLE**

On 17 October 2011, the Council decided to consult the European Economic and Social Committee, under Article 43(2) of the Treaty on the Functioning of the European Union, on the:

Amended proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1290/2005 and Council Regulation (EC) No 1234/2007 as regards distribution of food products to the most deprived persons in the Union

COM(2011) 634 final — 2008/0183 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 8 December), the European Economic and Social Committee adopted the following opinion by 139 votes to 1. with 5 abstentions.

1. **Conclusions and recommendations**

1.1 The Committee welcomes the Commission's proposal, especially the plans to broaden the legal basis for the implementation of the European food aid scheme for the most deprived (PEAD) in 2012 and 2013. This change would ensure that the scheme was focused on strengthening social cohesion within the Union as well as meeting the objectives of the CAP and, still more importantly, that it reflected the objectives of the Europe 2020 Strategy.

1.2 The EESC agrees that it is necessary to continue to implement the scheme under the CAP and to finance it from the CAP budget, with the current level of funding, in 2012 and 2013. Solidarity with disadvantaged groups is a value which the European Union has always upheld, across its various policies, and it must continue to do so.

1.3 In the Committee's view, this support is truly vital, given that ever increasing numbers of people are now turning to the scheme in the wake of the economic and financial crises.

1.4 As a body with its roots in civil society, the Committee stands still more firmly behind this proposal. At national level, the scheme is largely implemented by volunteers from charitable organisations, who would find it incomprehensible for PEAD funding to be cut by 75 % between 2011 and 2012, or for the programme to be all but abandoned in 2013 due to a lack of intervention stocks. In the Committee's view, this EU-funded programme gives the European public a positive image of the European Union.

1.5 The Committee also welcomes the fact that the Commission has taken account of certain recommendations it made in its previous opinion issued in January 2011 [1], in particular that the scheme should continue to be fully funded from the CAP budget in 2012 and 2013 and that it should be made possible for some of the administrative, transport and storage costs incurred by charitable organisations to be reimbursed.

1.6 The EESC endorses the proposal to allow Member States the option of selecting products of Union origin. This will mean that, as well as fulfilling its role of stabilising the internal market, the scheme will also offer every guarantee that the products that are delivered will meet the stringent standards required of European producers.

2. **Background**

2.1 It should be remembered that free food distribution to the most deprived people in the Community began in 1986/87, following a particularly harsh winter. The food redistributed by charitable organisations in the various Member States came from the surplus stocks of farm produce known as intervention stocks.

2.2 The use of intervention stocks, which subsequently became official policy, allowed for the simultaneous pursuit of the two goals of assisting the EU's most disadvantaged people whilst also helping to re-stabilise agricultural markets.

[1] OJ C 84, 17.3.2011, p. 49.

2.3 Beginning in 1992, successive reforms of the CAP have helped to bring about significant reductions in intervention stocks. Once systemic, they have gradually become a short-term phenomenon. In recent years, stock levels have declined to the point where the demand for food aid can no longer be met from this source alone.

2.4 Changes had already been made to the programme in 1995 to allow the shortfall in products from intervention stocks to be compensated by purchases on the market.

2.5 As a result of the enlargement of the European Union, the Commission adapted the programme in 2009, by increasing the budget allocated to the scheme.

2.6 In 2008, recognising that the situation had evolved, the Commission launched a debate on the food aid programme for the most deprived, which led to a proposal for a Council Regulation aimed at putting the programme on a permanent footing.

2.7 The proposal set out a series of changes to the existing rules regarding: sources of supply; the variety of foods available; a three-year distribution plan; the establishment of priorities by the Member States; the progressive introduction of co-financing and an increase in the budget for the scheme. This proposal was opposed by a blocking minority in the Council.

2.8 On 17 September 2010, the Commission adopted an amended proposal reflecting some of the changes proposed in the European Parliament's opinion of 26 March 2009 on the initial proposal regarding the increase in the co-financing rate, the annual ceiling of EUR 500 million for the EU's financial contribution to the scheme and the option for Member States to give preference to food products of Union origin.

2.9 The discussions at the Agriculture and Fisheries Council of 27 September 2010 ended with the confirmation of the blocking minority.

2.10 The EESC submitted an opinion on the amended proposal on 20 January 2011 ([2]).

2.11 On 13 April 2011, the European Court of Justice issued a judgment (Case T-576/08) on an action introduced by Germany against the 2009 plan for the supply of food from intervention stocks for the benefit of the most deprived persons in the Union. Whilst the volume of aid from intervention stocks was not affected, the Court set aside the provisions of the 2009 plan for products purchased in the market.

2.12 Consequently, since the plan had to be based solely on intervention stocks, the Commission proposed to greatly reduce the budget for the 2012 budget year.

2.13 At the Agriculture and Fisheries Council on 20 September 2011, the proposal of 17 September 2010 failed to win a sufficient majority.

2.14 A new amended proposal, dated 3 October 2011, was put before the Agriculture and Fisheries Council of 20 October 2011. However, despite the new elements incorporated into the initial proposal, the blocking minority was maintained. It is on this latest proposal that the Committee has been asked to issue its opinion, as a matter of urgency.

3. **The Commission's proposal**

3.1 For over twenty years, food aid for the most deprived has come from intervention stocks. At the outset, these stocks were sizeable, but successive reforms of the CAP have enabled significant reductions to be made in these surpluses and they have now, once again, become a short-term rather than a systemic phenomenon.

3.2 The primary objective of the initial CAP, which was to boost productivity, has gradually been replaced by the goal of ensuring the sustainability of agricultural production, including a better match between supply and demand. This shift in direction necessitates changes in the legal framework of the PEAD.

3.3 Successive enlargements, rising food prices and, most recently, the economic crisis, have led to a surge in the need for food aid. The number of deprived people in the Union is rising. In 2008, the scheme had over 13 million beneficiaries. In 2010, the figure had risen to 18 million people across the 20 Member States where the European Food Aid Scheme (PEAD) was in operation.

3.4 In the wake of these various changes, although the current PEAD is still primarily based on the distribution of food from European intervention stocks, the plan was to allow food to be purchased on the market, as a temporary measure, to make up for the shortfall in these stocks.

3.5 In April 2011, the intervention stocks having declined, the European Court of Justice judged illegal the provisions in the 2009 distribution plan providing for the purchase of food products for the programme in the open market.

3.6 Following this judgment, the Commission made sure, in its Implementing Regulation, that the food products for the 2012 PEAD would come exclusively from intervention stocks. In concrete terms, the sum earmarked for the 2012 plan is EUR 113 million, a quarter of the amount made available in previous annual plans.

([2]) OJ C 84, 17.3.2011, p. 49.

3.7 In the proposal referred to us for an opinion, the Commission takes account of the Resolution adopted by the European Parliament on 7 July 2011, in which the EP calls on the Commission and the Council to prepare a transitional solution for the remaining years of the current multiannual funding period so as to avoid a sharp cutback in food aid and ensure that people dependent on food aid do not suffer from food poverty.

3.8 The Commission's new proposal has a dual legal base, since it refers not only to the Treaty articles concerning the CAP, but also to the article concerning economic and social cohesion.

3.9 The proposal contains a number of elements that were already present in the 2010 proposal, such as the possibility for Member States to decide to give preference to food products of Union origin or to reimburse some of the administrative, transport and storage costs currently borne by the designated organisations, within the limits of the resources available.

3.10 The introduction of co-financing, included in the initial 2008 proposal and confirmed in the 2010 proposal, has now been abandoned. In the new proposal, it is suggested that the current system of funding the PEAD fully from the EU budget should continue to be applied and that the current annual ceiling of EUR 500 million for the EU's financial contribution to the scheme should be maintained.

4. **General comments**

4.1 As the Committee pointed out in its previous opinion, 'the food distribution scheme for deprived people is operational in 20 Member States (…) food is distributed in partnership with (…) non-governmental organisations'.

4.2 These organisations are heavily reliant on the work of volunteers, who would find it difficult to understand why they might have to reduce their humanitarian work to a quarter of what it was in previous years if an agreement were not reached rapidly at European level, at a time when the need on the ground has never been as great.

4.3 Following successive reforms of the CAP since 1992, intervention stocks have gradually resumed their role as short-term measures. In future, the combined result of these reforms and the outlook for markets is likely to be that stocks will be limited or will even disappear entirely for some food products at certain times.

4.4 Consequently, the Committee considers that, in order to compensate for the shortfall in stocks, a proposal that will enable Member States to purchase food products on the market to complement intervention stocks needs to be introduced as swiftly as possible. In our view, with increasing numbers of people now turning to food aid, it is even more important that this option be introduced.

4.5 In the Committee's view, the action called for in point 4.4 needs to be taken urgently, so as to avoid a drastic reduction in the food available under the PEAD between now and 2014, when the new 2014-2020 multiannual financial framework comes into effect.

4.6 The Committee, which represents the diverse facets of European civil society, does not understand why the EU should envisage reducing support for the most impoverished, especially at this time of economic and financial crisis. It should be recalled that 13 million people across 18 EU Member States benefited from the PEAD in 2008 and that the number of beneficiaries rose to over 18 million in 2010.

4.7 In this context, the Committee is pleased that, despite the failure of the Agriculture and Fisheries Council of 20 October 2011 on this issue, the Polish Presidency intends to continue to work towards a solution, so as to avoid a 75 % reduction in the budget allocated to the food aid scheme for 2012 and the risk of there being no scheme at all in 2013 for the people who are most in need, should intervention stocks at that time be too low.

4.8 The Committee – whilst drawing attention to the fact that this proposal applies only to 2012 and 2013 – very much welcomes the fact that the scheme will now have a dual legal basis, stipulating that, as well as being directed towards meeting the objectives of the CAP, including that of ensuring that the population has a safe food supply, it must also strengthen social cohesion within the EU.

4.9 Both these dimensions are an integral part of the Europe 2020 Strategy. As far as social cohesion is concerned, the Committee draws attention to the section in the Strategy on combating poverty. The right to sufficient food and a balanced diet is the cornerstone of all programmes to combat exclusion.

4.10 The Committee is pleased that the Commission still proposes to allow account to be taken of certain administrative, transport and storage costs incurred by the designated organisations. However, it draws attention to the fact that these will be deducted from the financial resources available to implement the plan.

4.11 The Committee joins the European Parliament in welcoming the fact that Member States will have the option of giving preference to products of Union origin in their calls for tender. This aid scheme has both a social and an economic objective. On the one hand, it must help to stabilise the internal market. On the other, it would be inappropriate for the food products intended for the PEAD not to offer the necessary safeguards in terms of the high standards required of European producers.

4.12 On the issue of co-financing, the Committee is pleased to note that, contrary to the suggestions made in the previous amended proposal, the current proposal stipulates that the food aid scheme should continue to be fully funded from the EU budget. This change, which reflects one of the recommendations made in the Committee's previous opinion, is particularly important, since, in the light of the current economic and financial crises, there would have been a real danger that some Member States with lesser financial capabilities would have been unable to co-finance the programme, had the percentages proposed in the previous amended proposal been maintained.

Brussels, 8 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers (recast)'

COM(2011) 566 final — 2011/0243 (COD)

(2012/C 43/22)

On 29 September 2011 the European Parliament and on 18 October 2011 the Council decided to consult the European Economic and Social Committee, under Article 100(2) of the Treaty on the Functioning of the European Union (TFEU), on the

Proposal for a Regulation of the European Parliament and of the Council on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers (Recast)

COM(2011) 566 final — 2011/0243 (COD).

Since the Committee endorses the content of the proposal and feels that it requires no comment on its part, it decided, at its 476th plenary session of 7 and 8 December 2011 (meeting of 7 December), by 177 votes with 11 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

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