

**SUIVI ACCORDÉ PAR LA COMMISSION AUX AVIS DU**

**COMITÉ ÉCONOMIQUE ET SOCIAL EUROPÉEN**

**RENDUS AU COURS DU 3<sup>ème</sup> BIMESTRIEL 2013**

**(Mai et Juillet 2013)**

c.c. Membres de la Commission  
Directeurs généraux

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<p><b>N°1 A deep and genuine Economic and Monetary Union</b>  <b>COM(2013) 777 – CESE 166/2013 – ECO/340</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: MrCedrone (GRII-IT)</b>  <b>SG and DG ECFIN –President BARROSO and Commissioner REHN</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.4. In order to be able to give EMU greater stability and ensure economic and employment growth in the euro area countries, more incisive measures such as a growth plan are needed.</p> <p>1.7. Whereas the most recent decisions taken by the EU, referred to in the communication, are – albeit only partially – appropriate for the macroeconomic framework, the microeconomic proposals regarding the production sectors, which are the only sectors that can relaunch growth, are inadequate. Microeconomic policies are also needed, such as, for example, a genuine industrial compact.</p>	<p>The Commission has set out its economic and social priorities in its recent 2014 Annual Growth Survey<sup>1</sup>. Priorities at national level are identified in the context of country-specific recommendations. These cover both macro- and micro-economic issues<sup>2</sup>. In its Blueprint on a deep and genuine Economic and Monetary Union, the Commission has also identified a way forward for strengthening EMU.</p> <p>As concerns microeconomic policies, and in particular industrial policy, this is discussed e.g. in the Commission Communication on “A Stronger European Industry for Growth and Recovery” (COM(2012) 582).</p>
<p>1.4 Bolder economic integration mechanisms are needed, starting right now rather than in the medium-to-long term.</p>	<p>Bold economic, budgetary and banking integration mechanisms have been introduced since the onset of the crisis or are being put in place. In the last few months important progress has been made in files such as Two-Pack, Single Supervisory Mechanism and the Single Resolution Mechanism.</p>
<p>1.15 As regards the ECB, full use must be made of its structure to boost growth and employment</p>	<p>The Treaty on the Functioning of the European Union (TFEU) assigns to the ECB exclusive competence to define and implement the monetary policy in the euro area. To fulfil its mandate, the</p>

<sup>1</sup> [http://ec.europa.eu/europe2020/making-it-happen/annual-growth-surveys/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/annual-growth-surveys/index_en.htm)

<sup>2</sup> [http://ec.europa.eu/europe2020/making-it-happen/annual-growth-surveys/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/annual-growth-surveys/index_en.htm)

	Treaty gives the ECB full independence. As guardian of the Treaties, the European Commission fully respects that independence.
<p>1.13 With regard to the <b>institutional proposals</b>, the Commission is making a considerable effort. The EESC believes it is useful that institutional considerations are on the agenda at last, as they underpin the Commission's innovative proposals, including political union; a completely new proposal. However, it feels that most of the proposals are rooted in the current framework, making very limited progress, and will therefore fail to resolve anything if the Council does not go further and treats the proposals simply as pointers for action.</p>	<p>In the Blueprint the Commission made clear that deeper integration of financial regulation, fiscal and economic policy and corresponding instruments must be accompanied by commensurate political integration, ensuring democratic legitimacy and accountability. Many of the proposed steps for further integration require changes to the Treaty.</p>

**N°2 Une dimension sociale de l'Union économique et monétaire COM (2013)**

**CESE 1566/2013 – SOC/038**

**490<sup>th</sup> Plenary Session of May 2013**

**Rapporteur: MrCedrone (GR11-IT)**

**SG and DG ECFIN –President Barroso and Commissioner Rehn**

On 2 October 2013 the Commission adopted a Communication to the European Parliament and the Council on "Strengthening the Social Dimension of the Economic and Monetary Union". The Communication follows the Commission's Blueprint on a deep and genuine Economic and Monetary Union published in November 2012. The Communication focuses on three areas: reinforcing surveillance of employment and social challenges and strengthening policy coordination under the European Semester; enhancing solidarity and reinforcing job mobility and strengthening social dialogue.

<p><b>N°3 Where is the Euro headed (own-initiative opinion)</b>  <b>ECO/334; Plenary of 22 May 2013 – 490<sup>th</sup> Plenary Session</b>  <b>Rapporteur: Mr Cedrone (GR11-IT)</b>  <b>SG and DG ECFIN – Responsible President Barroso and VP Rehn</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.7. The EESC believes that the best way to complete EMU, avoid recession, reduce national debts and stabilise budgets is to reverse the principle currently underpinning the EU's economic culture (stability for growth), and build on growth, not austerity, thereby making it the main objective, in order to facilitate a new <b>pact for promoting (mutualising) growth, employment and stability</b>, also by involving the social partners (growth for stability).</p>	<p>The 2014 Annual Growth Survey ("AGS") published on 13 November 2013 presents a balanced, integrated approach towards growth, employment and stability. Differentiated growth friendly fiscal consolidation is one of five AGS priorities. The AGS puts a lot of emphasis on structural reforms as a means to improve framework conditions for growth and to strengthen the adjustment capacity of our economies. The AGS also concentrates on the role employment policies play in view of the precarious social situation in several Member States. The AGS also calls on improving the quality of public administration as necessary precondition for successful reforms.</p> <p>As highlighted in the 2014 AGS , important progress has been achieved over the last year in putting Europe back on track for a more sustainable recovery. The integrity of the common currency was preserved, with greater financial stability and decisive steps taken to put public finances in order. Countries most exposed to financial vulnerabilities have been most engaged in initiating ambitious structural reforms, with visible first results. Signs of economic improvements should thus be taken as an encouragement to pursue efforts with determination. The biggest challenge now is to keep up the pace of reform to improve competitiveness and secure a lasting recovery.</p>
<p>1.8. <b>Symmetrical policies</b> are required to make the <b>euro sustainable</b> and reduce the differences between national economies through a solidarity-based plan that transfers investment resources to countries with weaker economies, through targeted projects, using fiscal displacement if necessary, and integrating</p>	<p>In its 2014 AGS the Commission recommends Member States with more fiscal room for manoeuvre to stimulate private investment and consumption and growth-friendly public investment. This should also help the rebalancing of the economy.</p>

the labour market and social policy.	
1.12-1.12.2/6.5. The EESC argues that the <b>ECB</b> should also act as a lender of last resort for government. Moreover, the ECB should have secondary objectives such as financial stability. Finally, the EESC questions the inflation benchmark used by the ECB, suggests that the ECB adopts negative rates for overnight deposits in certain countries and suggests that the ECB should reconsider unconditional liquidity support to banks.	The Treaty on the Functioning of the European Union (TFEU) assigns to the ECB exclusive competence to define and implement the monetary policy in the euro area. To fulfil its mandate, the Treaty gives the ECB full independence. As guardian of the Treaties, the European Commission fully respects that independence.
1.12.2 The EESC argues that the ECB should take responsibility <b>for exchange rate policy</b> .	The Commission would stress the importance of respecting the Treaties also in this area, and in particular article 219 of the TFEU.

<p>3.2.6 The EESC reminds the Commission that it is [...] essential that standards and regulations governing the quality of enterprises, their products and their services be respected by companies if they want to be successful and remain competitive in different markets. Exempting micro-enterprises from consumer and environmental protection regulations, for instance, may ultimately harm those businesses</p> <p>3.2.7 [...] The EESC reminds the Commission that smart regulation should neither undermine worker's rights nor reduce their basic level of protection, especially in terms of occupational health and safety.</p>	<p>Exemptions and special regimes are decided on a case by case basis. If the impact assessment provides evidence that small businesses must be included in their own interest, they will not be excluded.</p> <p>Small businesses cannot be exempted when there is clear evidence that excluding them would mean that the regulation would not achieve its goals as e.g. to protect workers or consumers, or the environment. Smart Regulation is all about achieving public interest objectives more efficiently and effectively, not undermining them.</p>
<p>3.3.2 The EESC considers that the European Commission should constantly monitor the SME scoreboard through a centralised coordinating service in close cooperation with the different institutions and organs of the EU. Member States and SME organisations are invited to join the exercise as well.</p>	<p>The scoreboard will be maintained with all available information from the Commission, Member States and SME organisations. The Commission welcomes all input, including from the EESC, for this work.</p>
<p>3.4.1 The EESC recalls the Commission that roadmaps should always include a first rough assessment of expected costs [...] Our Committee reminds the Commission that comprehensive stakeholder consultation is crucial for collecting high quality data [...].</p>	<p>It is not always possible to give a rough estimate of costs at the very early Roadmap stage of the proposal although the Commission will always make a best effort. As noted above, the Commission agrees that stakeholder consultation is a very important part of the process and encourages stakeholders to provide high quality data in their responses.</p>
<p>3.4.3 [...] The Committee [...] feels that the scope of consultation should also be extended to cover some key delegated acts which may have a substantial economic, environmental and/or social impact on a specific sector or on major stakeholders.</p>	<p>All Commission legislative proposals with a significant impact need to go through an impact assessment and therefore through a consultation process. The nature of the act, whether it is a delegated act or not, does not constitute a criterion to launch a consultation.</p>
<p>3.4.4 The EESC calls for a genuine and structured "SME dialogue" with different parties when drawing up legislation.</p>	<p>All new legislative proposals are submitted to a formal 12-week consultation process. Moreover, the Commission uses various channels and tools, like the European Enterprise</p>

	<p>Network and SME panels to collect feedback from SMEs. SME organisations participate in regular meetings and provide their input, among other things, on the Commission Work Programme. The annual SME Assembly gathers together SME stakeholders from EU, national and regional level to exchange best practices and promote the implementation of the SBA across the EU. Last but not least the Network of SME Envoys has a key role in promoting the implementation of the SBA in the Member States as well as at the EU-level.</p>
<p>3.4.5 [...]. It regrets that [the] potential [of the EEN] has not yet been realised because many European SMEs appear to be unaware that it exists. [...]</p> <p>The Committee takes the view that Enterprise Europe Network host organisations shall be supported to dedicate more resources towards SMEs needs when dealing with public administration. The EESC believes that this support should especially focus on the smallest enterprises which should be directly consulted by their local Enterprise Europe Network Center when facing regulation issues.</p>	<p>The Commission shares the view that the Enterprise Europe Network services should cover the real needs of SMEs, with special attention for the smaller companies (for example for EU regulation issues), relying on the work of host organisations. Increased efforts are being made to raise the awareness of the Network among SMEs, paying special attention to an increased cooperation with local SME stakeholders. A Consultative Forum with representatives from EU umbrella organisations who have Network partners amongst their members has been created, providing advice on the priorities and services to be offered.</p>
<p>3.4.6 The EESC would especially like to see the [Stoiber] group given a new key role in assisting the Commission with the preparation, monitoring and implementation of policies relating to micro and small businesses in close cooperation with SME organisations and trade unions.</p>	<p>According to the new mandate of the High Level Group on Administrative Burden, the group shall advise on administrative burden placed on business, in particular on SMEs and micro companies and on how to make public administration in Member States more responsive to the needs of stakeholders and in particular SMEs. Members with backgrounds in both small business and trade unions participate in the group.</p>
<p>3.4.7 The Committee invites the Commission to respond to [TOP 10] findings as soon as possible [...].</p>	<p>The Commission has already provided its response to the main TOP 10 findings in a Commission Communication published on 18.06.2013. (Com(2013)446). The</p>



	<p>whole set of results formed part of the REFIT screening of the regulatory acquis.</p>
<p>3.5.1 The EESC looks forward to seeing the results of the pilot [Fitness Checks], and would encourage the Commission to launch further fitness checks in [...] 2014 [...]. The Commission is invited to publish on its website all fitness checks that have been carried out or are planned.</p> <p>3.5.2 The EESC also proposes a comprehensive fitness check of EU legislation that businesses encounter when trading across the EU's external borders.</p>	<p>Results of three pilot Fitness Checks (water – air transport – information of workers) have already been published whilst a fourth is about to be (automotive type approval system)</p> <p><i>(See published reports on : <a href="http://ec.europa.eu/enterprise/sectors/automotive/technical-harmonisation/regulatory-framework/">http://ec.europa.eu/enterprise/sectors/automotive/technical-harmonisation/regulatory-framework/</a>).</i></p> <p><i>Fitness Check of EU Freshwater Policy</i>  <a href="http://ec.europa.eu/environment/water/blueprint/fitness_en.htm">http://ec.europa.eu/environment/water/blueprint/fitness_en.htm</a></p> <p><i>Fitness Check on Internal Aviation Market</i>  <a href="http://ec.europa.eu/transport/modes/air/internal_market/fitness_check_en.htm">http://ec.europa.eu/transport/modes/air/internal_market/fitness_check_en.htm</a></p> <p><i>Fitness Check on EU law in the area of Information and Consultation of Workers</i>  <a href="http://ec.europa.eu/social/main.jsp?langId=en&amp;catId=707&amp;newsId=1942&amp;furtherNews=yes">http://ec.europa.eu/social/main.jsp?langId=en&amp;catId=707&amp;newsId=1942&amp;furtherNews=yes</a>)</p> <p>The first phase of the Fitness Check of Food Legislation has been completed. It will be published soon on <a href="http://ec.europa.eu/food/food/index_en.htm">http://ec.europa.eu/food/food/index_en.htm</a>. The second phase will kick off in late 2013.</p> <p>The Fitness Check of Waste Stream Directives has been launched.</p> <p>Further Fitness Checks are planned to be launched in the context of REFIT. (SWD(2013)401 and planned Commission Communication in the first half of October 2013.)</p>
<p>3.5.4 The EESC considers that a better selection of legal instruments should be used, including mechanisms for self-</p>	<p>The Impact Assessment guidelines of the Commission includes a requirement to evaluate the most appropriate legal instrument to be used or if alternatives</p>

regulation and co-regulation	to legislation should be used, especially co and self-regulation (e.g : voluntary standards)
<p>3.6.3 [...]</p> <p>- [Avoiding Gold Plating] does not preclude any Member States for having higher standards if they so wish.</p>	<p>The Commission is highly concerned about "Gold Plating", as it generally not only makes it more burdensome for small businesses to comply with legislation, but may also re-introduce national regulatory divergences and therefore hamper the efficiency of the internal market.</p> <p>However, the Commission is also aware that, in certain policy areas (e.g : labour law or environmental protection) Member States may maintain higher or stricter standards, based on due justification of their proportionality.</p>
<p>- The EESC invites the Commission to provide assistance to Member States in the form of meetings and workshops with public authorities to smooth the implementation process. The EESC considers that the Commission should carefully coordinate follow-up of implementation in close cooperation with the various DGs and with Member States.</p>	<p>The Commission continues to develop the use of Implementation Plans. In most sectors, the Commission holds regular meetings of expert groups or workshops on the implementation and application of EU regulatory measures. The Commission continues to consult with Member States on possible ways to coordinate better to ensure the timely and good implementation of EU legislation..</p>
<p>- The EESC proposes that the Commission and Member States work more closely together to share examples of best IA practice</p>	<p>The Commission already convenes a High Level Group on Better Regulation where High level Member State representatives share practices regarding smart regulation.</p>

<p><b>N°4 Smart regulation - Responding to the needs of small and medium - sized enterprises</b>  <b>COM (2013) 122 – CESE 2819/2013 - Plenary of 10-11 July 2013 – 491st Plenary Session</b></p> <p><b>Rapporteur Ms Darmanin (GRII-MT)</b></p> <p><b>DG MARKT – Commissioner Barnier</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.2 The Committee:  [...]  b) reminds all Commission services that the SME test is an integral part of IAs</p>	<p>The SME test is an integral part of Commission Impact Assessments and is performed on a systematic basis. Furthermore, since March 2012, the starting point for Commission's services in the preparation of any new or amending regulation is that micro-companies should be exempted from legislative burden unless it can be demonstrated that this is neither feasible nor appropriate. (2011)803 and (2013)122)</p>
<p>c) [The REFIT] programme should be used to identify and propose withdrawal of existing regulations that are no longer fit for purpose and the consolidation of existing legislation. [...]</p>	<p>The Commission adopted a Communication on 2 October (COM(2013)685) identifying actions under regulatory fitness including withdrawals of obsolete legislative measures and consolidation of existing measures.</p>
<p>d) points [...] that IAs are made more user-friendly by using a standard template and having a clear executive summary highlighting the main issues, including implementation costs, especially as regards micro businesses;</p>	<p>As set out in its IA Guidelines, the Commission uses a standardised approach to its impact assessments with the aim of ensuring an integrated and comprehensive analysis while taking into account the specificities of the case in question. To further enhance the user-friendliness of its report the Commission now includes a standardised two-page summary sheet. This facilitates quick identification of key results of the impact assessment, including estimated benefits and costs.</p>
<p>e) supports the creation, [...] of a single independent assessment board (IAB) operating across all EU institutions. This independent IAB should make use of external</p>	<p>The Commission sees no reason for a new body. The existing system is delivering effective results. The European Court of Auditors (and more</p>

<p>experts to provide additional scrutiny</p> <p>(see also 3.4.2 The EESC advocates that some of [the business associations], following an official procedure, participate in the IAB as external experts)</p>	<p>recently also other independent experts) and a study by the European Parliament found that the Commission's Impact Assessment Board (IAB) genuinely contributes to the quality of impact assessments (IAs). The IAB is working well, is an efficient, cost-effective and un-bureaucratic structure. Its members are trusted and support internal cultural change.</p> <p>Moreover, the Board has demonstrated its independence by the nature and frankness of its opinions For instance, on average, it asks the Commission services to redo their analysis and resubmit it to its quality control in more than one case in every three.</p> <p>All IAB opinions are publicly available alongside the final Commission proposal offering a level of transparency confirmed by the European Court of Auditors as good practice.</p> <p>An externalisation of the Commission's IA work or the external appointment of IAB members would not be compatible with the Commission's right of initiative or with the institutional roles of Parliament and Council which are the bodies responsible for reviewing, amending and ultimately adopting the Commission's proposals.</p> <p>It is up to the other EU institutions to decide on their internal organisation and how to structure their work, including by making use of the Commission's IAs.</p>
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<p><b>N°5 The introduction of a Convergence and Competitiveness Instrument COM(2013) 165 and COM (2013) 166 – CEE 3043/2013 - ECO/348 490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: Mr Croughan (GRI-IE)</b>  <b>DG ECFIN - Commissioner REHN</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.3 The Committee is concerned that further complexity will be added to an already crowded agenda of economic governance instrument while adding relatively little value.</p>	<p>Should the instruments concerned be made operational, they should make use of existing tools and procedures (National Reform Programmes, Country-specific Recommendations) where possible. They should be aligned to the European Semester. The value added of the new instruments would come in particular from a better assessment of the impact of national reforms on other Member States, to be taken on board in national discussions as well as strengthened ownership by the Member States and increased incentives for reform implementation.</p>
<p>1.5 The Committee is sceptical about the added value of a new financial instrument under a Convergence and Competitiveness Instrument over the structural funds.</p>	<p>Cohesion policy is meant for stimulating investment, whereas a CCI would aim at stimulating the structural reforms necessary for a well-functioning EMU as set out in the country specific recommendations.</p>
<p>1.7 and 3.6 – 3.8 The Committee is concerned that the filters used for ex ante coordination would interfere with a Member State taking reform measures because they change relative competitiveness in another Member State. It asks the Commission to spell out under what conditions it would dissuade a Member State from pursuing measures that improve its relative competitiveness. It asks if this is a one-sided approach. And it asks the Commission if it would make recommendations to Member States that have in the past improved its competitiveness, which now results in strong surpluses that are detrimental to the euro area.  The Committee doubts that spillovers through financial markets belong as a filter.  The Committee considers that the third filter of political economy considerations and "domestic opposition to reform"</p>	<p>The main reasons to suggest a change to a plan would be that, if implemented, it would be detrimental to the functioning of EMU, for example by limiting the Member State's adjustment capacity or competitiveness, or that an altered reform plan could further increase the positive impact of the plans on the functioning of EMU. Clearly, a process of ex ante coordination would not discourage Member States from implementing reforms that improve their competitiveness for the reason that this implies that other Member States' relative competitiveness would decrease.  In this regard, spillovers through financial markets are very relevant. Reforms that increase or decrease a Member State's ability to withstand external shocks and/or limit or increase the risk of contagion of risk premiums</p>

<p>requires explanation. Mutual learning and exchanging best practices are in danger of being ineffective.</p>	<p>in case of concerns with regard to debt sustainability can have important spillover effects. The Commission believes that mutual learning and the exchange of best practices can have positive effects.</p>
<p>2.6 The Committee questions why Member States in an adjustment programme would be excluded from support under a CCI.</p>	<p>There is a dedicated framework in place for the conclusion of a macroeconomic adjustment programme, the monitoring of the reforms included therein and the disbursement of tranches of the associated loan. Application of a CCI to programme countries would introduce a parallel and overlapping track of commitments (through the contractual arrangement), monitoring and financial support. This is undesirable.</p>
<p>3.4 The Committee expresses concern that the references to the importance of democratic legitimacy in the Communication are a nod rather than real as in the Excessive Imbalance Procedure, sanctions can be applied where the Council concludes that a Member State has not taken the corrective action recommended.</p>	<p>The Commission attaches the highest value to democratic legitimacy, which must start with the national institutions. Ex ante coordination has the aim of providing input from the EU level to national discussions at the planning stage. The final decision remains with the Member State itself. No sanctions are considered.</p>

<p><b>N° 6 Market surveillance of products</b>  <b>COM(2013) 75 final — CESE 1607/2013 - INT/685</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: Mr Lemerrier (GRU-FR)</b>  <b>DG ENTR – Vicepresident TAJANI - DG SANCO - Commissioner</b>  <b>MIMICA</b></p>	
<p><b>Points of EESC considered essential</b></p>	<p><b>Position of the Commission</b></p>
<p>1.1 The Committee welcomes the provisions of the proposed regulation. The current provisions on market surveillance and the checking of products are spread too widely across a number of texts with differing content, which unduly complicates the task of the monitoring authorities, manufacturers, consumer associations and workers' organisations. The Committee is pleased to note that the previous sector-specific provisions will be amended and brought together in a single, strengthened, cross-cutting regulation.</p>	<p>The Commission thanks the Committee for its support for the proposal.</p>
<p>1.2 The Committee concurs with the legal basis but believes that reference should also be made to Article 12 of the Treaty on the Functioning of the European Union (TFEU), which states that consumer protection is a cross-cutting policy whose "requirements shall be taken into account in defining and implementing other Union policies and activities".</p>	<p>Article 12 of the Treaty on the Functioning of the European Union (TFEU) contains a fundamental principle which will be implemented, inter alia, through this proposal and the proposal on Consumer Product Safety. Yet, market surveillance also aims at protecting various other public interests, such as health and safety of persons in general, health and safety in the workplace, the environment and public security</p>

<p>1.3 The proposed instrument is a regulation, which the Committee considers to be the most appropriate form for facilitating cooperation and exchanges between Member States and between individual Member States and the EU. It feels that the package proposed by the Commission meets the proportionality and subsidiarity requirements established by the treaties. The Member States remain fully responsible for national market surveillance and external EU border controls and their financing.</p>	<p>The Commission agrees with the Committee.</p>
<p>1.4 The EESC supports the Commission's affirmation that products moving within the European Union must meet requirements that guarantee a high level of protection for public interests such as health and safety in general, health and safety at the workplace, consumer protection, environmental protection and public safety.</p>	<p>The Commission agrees with the Committee.</p>
<p>1.5 The Committee considers that respect for manufacturing and trade secrets should not prevent warnings from being issued when user health or safety might be affected by one of the components of the product in question. Surveillance and control bodies should therefore continue to apply the consistent practice under the RAPEX system of putting public interests before private ones.</p>	<p>The Commission agrees with the Committee.</p>
<p>1.6 Members or employees of surveillance and customs authorities should provide guarantees of their honesty and independence and be protected from possible pressure or attempts to corrupt them in the exercise of their duties. People notifying faults or risks in relation to a product must be given protection, in particular against legal action, and their identity should remain confidential.</p>	<p>The Commission agrees with the Committee and believes that the proposal contains sufficiently strong confidentiality obligations which, as such, should adequately protect people notifying faults or risks in relation to a product, in particular against legal action.</p>



<p>1.7 The Committee calls for including in the proposed Regulation a legal basis for a pan European Injuries Database (IDB), which should be considered as a third pillar of the EU market surveillance information exchange system complementary to RAPEX and ICSMS.</p>	<p>In its communication COM(2013)76 on ‘20 actions for safer and compliant products for Europe: a multi-annual action plan’, the Commission already indicated that data related to accidents and injuries caused by unsafe products should feed into the market surveillance efforts. Although Regulation (EC) No 765/2008 (Article 18) obliges Member States to monitor accidents, little has happened in practice, considering the many practical difficulties to establish a reporting system that could be helpful for all authorities and economic operators. Therefore, the Commission undertook, in its communication COM(2013)76, to assess the cost/benefit of an EU accident/injury database (AIDB). It will examine the feasibility of a public Consumer Product Safety Information Database, which could include a platform for complaints and injuries. It will take into account the achievements made by EUROSAFE, OECD and other relevant tools available in this area. Consequently, the Commission is of the opinion that it would be very premature, in the absence of a thorough feasibility assessment, to include in the proposed Regulation a legal basis for a pan European Injuries Database (IDB).</p>
<p>1.8 Lastly, the Committee would very much like to receive the reports that the Commission will be issuing every five years in order to monitor implementation of the regulation.</p>	<p>The Commission will ensure that these reports will be transmitted to the Committee through the appropriate channels.</p>

<p><b>N°7 CARS 2020</b>  <b>COM(2012) 636 – CESE/2487 - CCMI/109</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: Mr Ranocchiari (GRI-IT)</b>  <b>DG ENTR – Viceprésident TAJANI</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>Point 1.8 – EESC requests a thorough study of the issue of restructuring, i.e. overcapacity/employment</p>	<p>The issue of restructuring and overcapacity has been discussed at length with the stakeholders of the CARS 21 HLG but no consensus could be reached.</p> <p>For the fact that the automotive industry is a mature one, with new challenges and opportunities stemming from trade liberalisation unevenly distributed among the car manufactures and Member States, finding a consensus within the sector is essential. The Commission is willing to look into how the analytical sources and tools, with a view to support the efficient policy making, could be further improved. Moreover, the Commission is finalising the impact assessment study supporting the FTA bilaterals with a view to assess the scale of impact of the potential trade liberalisation in the automotive sector. This should provide further policy guidance. The work of the European Automotive Skills Council is another source of information.</p>
<p>Point 1.9 - Commission taking backseat approach - overcapacity cannot be addressed through isolated solutions</p>	<p>The issue of overcapacity is one of the central points of the relaunched CARS21 /2020 HLG dialogue and is as such addressed holistically. A necessary operating framework is still being set-up, i.e. the new MFF that will provide financial resources reinforcing sector's competitiveness, sustainability, retraining and employment prospects, and dealing with ad-hoc adjustments. However, this must be complemented by structural reforms under way in the Member States providing the necessary economic flexibility. Obviously the Commission would be compelled to consider stepping-up its coordinating</p>

	<p>role in case of growing divergence of measures envisaged by individual Member States putting at risk the functioning of the internal market or long-term competitiveness.</p> <p>Furthermore, several FTAs with key trading blocks, expected to pep-up sector's performance abroad are being or are about to be negotiated and the European Automotive Skills Council, providing a platform for an intense dialogue between employers and workers, is being set-up.</p> <p>Even more transparency is ensured through the organisation of regular public hearings.</p>
<p>1.10 Commission should collect good practices with a view to help avoiding future redundancies and assume the coordination and financially support a vast restructuring</p>	<p>The responsibility for the industrial situation lies primarily with the companies concerned, and indirectly with individual Member States. Commission would be compelled to consider stepping-up its coordinating role in case of growing divergence of measures envisaged by individual Member States putting at risk the functioning of the internal market or long-term competitiveness.</p> <p>The Commission has been everything but idle. One such recent example is the setting-up of the Ford Genk task force. The Commission also coordinates the efforts of the expert group on Economic Situation, Industrial Change and Social Issues, which contributes to the work of the CARS 2020 HLG.</p> <p>The Commission is willing to examine how to present the fundamentals of past cases that helped avoiding redundancies in order to provide best available practice guidelines for the future emerging situations.</p>
<p>1.12 EESC suggest a European framework should be set-up for social bridging measures to avoid labour market distortions</p>	<p>The Commission is willing to explore whether a further EU level intervention, in addition to the measures currently in place (e.g. ESF, EGF) could complement the actions of the companies themselves and of the Member States to help minimise the negative social impacts, in particular</p>

	those relative to labour market.
1.13 EU needs to strengthen its entire industrial policy	CARS 2020 Action plan is the first deliverable of a revamped EU Industrial policy adopted in 2012. The conclusions of the Competitiveness Council in Autumn 2013 and the European Council in February 2014 will provide further impetus for the policy. The Action plan as such strives to provide more legal certainty which is expected to lead to more investment opportunities, improving access to global markets, stimulating research and innovation ensuring sustainability and strengthening the social dialogue and the outcome in the sector.
4.10.2 Commission's plan to promote the alternative energy sources is in contradiction with the recent proposal for Energy taxation	A robust system of inter-service consultation requires the Commission services to examine whether the effects of legislative/policy initiatives in one's area of competence are not cancelled out (or rendered inefficient) by the effects of initiatives in other areas of work.
4.11 EESC calls for a more accurate way of measuring CO2 emissions	The Commission is finalising the new testing procedure and is expected to be implemented in the legal framework as of 2014.
4.16 EESC invites the Commission to develop guidelines for financial incentives for clean vehicles	In February 2013 Commission published new guidelines on how Member States should use financial incentives to best increase demand for low CO2 emission vehicles.
4.27 EESC asks for a specific study to be provided on the outcomes of task forces	The Commission will examine ways and means how to best report on the outcomes of the task forces. The Commission reported on the progress of the recently launched Ford Genk task force during the public hearing on 4 October 2013.

<p><b>N°8 Entrepreneurship 2020 Action Plan</b>  <b>COM (2012) 795) - CESE 941/2013 - INT/679</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: Mr Lobo Xavier (GRI-PT)</b>  <b>DG ENTR – Vice-president TAJANI</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.1-1.4, 2, 3.1, 3.2 Recognition of the importance of entrepreneurship as a European solution to help overcome present challenges and that entrepreneurship policy must stimulate creation of all forms of enterprise; agreement on the three areas for intervention identified by the Action Plan.</p>	<p>The Commission welcomes the support of the EESC in recognising the importance of strengthening entrepreneurial attitude, knowledge and skills, as well as implementing short-, medium-, and long-term policies to this end and the recognition of the significance of the three key pillars of the Action Plan.</p>
<p>1.5, 2, 3.2, 3.4, 3.5 EESC expresses concern that the MFF may result in the Action Plan being a ‘financially unsustainable set of good intentions’ without a specific budget for its implementation and urges the European Parliament to allocate necessary resources, recalling the important role the Structural Funds can play in this respect. EESC recognises importance of role Member States must play, expresses concern that this will be difficult ‘without recourse to funds from European programmes’.</p>	<p>The Commission notes that actions called for under the Action Plan are to be undertaken by actors and administrations at all levels – European, national, regional – and that those to be undertaken by the Commission are reflected in the Commission’s budget proposal to date. The Commission appreciates the EESC’s recognition of the need for joint action by the Member States and the Commission agrees that the Structural Funds may play a useful role in this regard.</p>
<p>3.3, 3.7 EESC calls for inclusion of intellectual property concerns and for protection against unfair competition.</p>	<p>The Commission recognises the importance of these areas of business-related law but considers that the Action Plan is not the most appropriate instrument for addressing these specific technical concerns.</p>
<p>3.6 Calls for one of the two coming years to be declared ‘European Year of Entrepreneurship’.</p>	<p>The Commission has no plans at present for such a designation.</p>
<p>3.8 Calls for specific social security arrangements under Member State social security systems to offer entrepreneurs the same type of protection as other workers.</p>	<p>The Commission generally supports inclusive social security systems that provide social protection to all citizens irrespective of their employment status. The goal of universal social protection is also reflected in the common objectives defined by the Social Protection Committee in the framework of the social Open Method of Coordination.</p>

<p>3.9 Calls for establishment of ‘virtual entrepreneurship ambassadors’, citing previous Commission initiatives.</p>	<p>The Commission welcomes the suggestion and keeps it in mind for future communication planning.</p>
<p>4.1 Calls for recognition of concept of social entrepreneurship and for dissemination of Member State good practices in field of entrepreneurship education, with sufficient funding under the MFF.</p>	<p>The Commission considers that all forms of entrepreneurship are to be encouraged and refers to the Social Business Initiative adopted in 2011. It agrees that dissemination of Member State good practices is vital in this area; entrepreneurship education laboratories have already been held and development of relevant materials is ongoing.</p>
<p>4.1.4 Recommends using the Enterprise Europe Network and SME organisations to promote entrepreneurship.</p>	<p>The Action Plan was prepared in extensive consultation with the public including groups representing SMEs and business support organisations. The Commission notes that the scope of work of the Enterprise Europe Network is determined by the annual work plans of the participating organisations taking into account the priorities set out in the Annual Guidance Note which includes priority activities from the Entrepreneurship Action Plan.</p>
<p>4.2 Endorses importance of fostering culture of entrepreneurship from early age. Stresses importance of protecting different forms of enterprise and recommends an Action Plan to train and promote ‘diversity and plurality of business set-ups’.</p> <p>4.5.4 Cooperation networks between SMEs should be encouraged.</p>	<p>The Commission appreciates the Committee’s recognition of the importance of entrepreneurship education and notes that entrepreneurship skills are not specifically related to particular forms or types of business, but include such skills as creativity, team work, and the ability to transform ideas into concrete results, which are needed for all forms of business.</p>
<p>4.3 Urges the Member States to ‘complete positive harmonisation of conditions ....for developing businesses’ and recognises that funding for SMEs is a challenge.</p>	<p>The Commission intends to continue to pursue its initiatives as outlined in the Action Plan to improve access to finance for SMEs, to exchange best practices and to follow up with the Member States to improve the business environment.</p>
<p>4.5.2 Urges development of a ‘European Charter for liberal professions’</p>	<p>The Commission reserves its position on the possible role of such a Charter.</p>
<p>4.5.3 Urges incentives for inter-generational mentoring</p>	<p>The Commission is committed under the Action Plan to examine good practices in this area and to disseminate the results of such exchanges.</p>

<p>4.5.5 Regrets that the Action Plan does not mention the need to strengthen coaching and mentoring activities of business organisations and calls for a fourth area of intervention to do so.</p>	<p>The Commission recognises the important role played by business organisations. The Action Plan stresses the importance of business support but takes no position on in which way or through which organisations improved business support services should be offered.</p>
<p>4.6.3 EESC calls on the Commission, Parliament and Council to develop and establish support systems for older people who want to be self-employed and to simplify the framework for their activities.</p>	<p>The Commission agrees that older people are an important group of potential entrepreneurs or mentors to other entrepreneurs and intends to propose exchanges of good practices across the Member States as a first step in assessing the potential and modalities for such support.</p>

<p><b>N°9 Trade arrangements applicable to certain goods resulting from the processing of agricultural products</b>  <b>COM (2013) 106 – CESE 3028/2013 – NAT/599</b>  <b>491st Plenary Session of July 2011</b>  <b>Rapporteur Mr MACIULEVIČIUS (GRH-LT)</b>  <b>DG ENTR – Vice-president TAJANI</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1) The EESC calls for trade rules to be modernised across-the-board, made more transparent in general, with the involvement of all relevant stakeholders, and, at the same time, consistent with the objectives of the Common Agricultural Policy, so as to promote the values of the EU across the world.</p>	<p>The purpose of this proposal is indeed the rationalisation, harmonisation and simplification of trade rules related to Processed Agricultural Products (PAPs). It is consistent with the CAP and especially with the proposed new sCMO (single Common Market Organisation for agricultural products) and related proposals.</p>
<p>2) The EESC calls for effective protection tools to be provided against potential abuse in cases when Free trade agreements (FTAs) serve as a gateway to the EU market for lower standard food products which are cheaper and easier to produce.</p>	<p>Following the informal trilogue, an additional provision was agreed as follows:</p> <p>“Art. 39b</p> <p>When adopting delegated acts and implementing acts, the Commission shall consider international obligations of the Union and the applicable Union social, environmental and animal welfare standards, the need to monitor the evolution of trade and market developments, the need for sound market management and the need to reduce the administrative burden.”</p> <p>Moreover, the proposal contains a sufficient large legal basis allowing to take this recommendation into account in delegated and implementing acts when relevant. See Article 12 point d) (for reduced import duties), Article 15 point a) and b) and Article 16 point c) (i) (for import quota’s) and Article 8 point d) and e) (for import licenses),</p> <p>It should be noted that protection against abusive imports is also assured by Article 5 concerning additional import duties (under WTO) and by Article 17 concerning safeguard measures against imports of PAPs.</p>
<p>3) The EESC strongly recommends that any future trade regime prevents the distortion of competition in the EU</p>	<p>See Commission position to point 2).</p> <p>The proposal is the framework to</p>



<p>market resulting from lower environmental, food safety, animal welfare and social standards applied by third countries. This could be assured through additional, compensatory components in import duties.</p>	<p>implement free trade arrangements. Although generally not provided for by current agreements, provision (article 39b) could be added in the proposal. Additionally, the proposal contains sufficient legal basis to take this recommendation into account in delegated and implementing acts when relevant.</p>
<p>The EESC calls for a revision of the system for attributing import licences, refund certificates and inward processing relief certificates, and especially for allocating quotas, in order to leave enough room for small and medium-sized producers.</p>	<p>There are special provisions allowing for simplified procedures for the granting of export refunds to small and medium-sized producers - see Article 29(1) second subparagraph.</p> <p>Moreover, the proposal contains a sufficient large legal basis for taking it into account in the interest of SME's in delegated and implementing acts when relevant. See Article 29(1), 32 point c) and 33 point h) (for export refunds), Article 8 point h) and i) (for import licenses) and Article 14(4) point a) and b) and article 15 point a) (for import quota's).</p>
<p>The Committee calls for the introduction of e-procurement tools integrated within the customs system for the management of licences, quotas and certificates. Such a system should be able to monitor the exact situation of the market in real time and react immediately if trigger volumes or trigger prices are reached.</p>	<p>Export refunds are managed by e-customs applications in combination with the electronic systems of the paying agencies.</p> <p>The management of refund certificates for PAPs at EU level is done through the DEX electronic system. Given the current stand-by status of the export refunds system, the Commission considers that there is no need for incurring additional equipment expenses.</p> <p>The management of import licences and import quotas is linked to the e-customs applications and carried out by the usual electronic systems introduced by the Commission (management of the reduced import duties and management of the first come – first served quota distribution system).</p>

<p>The Committee calls for the export refunds system to be kept on stand-by, bearing in mind that we cannot currently foresee when this safety net will be needed again.</p>	<p>It is the purpose of this proposal, amongst others, to keep the export refund system for agricultural products, exported in the form of processed agricultural products. At this moment, it is on stand-by status.</p>
<p>The Committee calls upon the Commission to reinforce the role of the Advisory Group on International Aspects of Agriculture so as to have direct input from farmers, processors, consumers, commerce, etc.<sup>3</sup>.</p>	<p>Stakeholders are involved on a regular basis in the expert Group on Processed Agricultural Products/Non Annex I goods.</p>

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<sup>3</sup> [OJ C 304 of 10.11.1993, p. 8-10.](#)

<p><b>N°10 Programme de soutien à la surveillance de l'espace et au suivi des objets en orbite</b>  <b>COM (2013) 107 – INT/693 - CESE 3545/2013</b>  <b>491st Plenary Session of July 2013</b>  <b>Rapporteur M Ioza (GRII-IT)</b>  <b>DG ENTR – Vice-president TAJANI</b></p>	
<b>Points de l'avis du CESE estimés essentiels</b>	<b>Position de la Commission</b>
<p>Le CESE reconnaît l'importance pour l'Europe de se doter d'un système autonome de surveillance de l'espace afin de protéger ses propres infrastructures spatiales et de garantir la sécurité des lancements et accueille favorablement l'initiative de la Commission;</p>	<p>La Commission partage l'avis du CESE.</p>
<p>Le CESE est conscient de la difficulté de trouver des solutions partagées par tous les États membres et considère la proposition de la Commission comme un premier pas important vers des objectifs plus ambitieux de travail en commun;</p>	<p>La Commission partage l'avis du CESE.</p>
<p>Le CESE estime prioritaire que les financements prévus pour l'activité de SST (Space Surveillance and Tracking) au cours des 7 années de fonctionnement du service servent à construire un premier embryon de capacité européenne indépendante, vers laquelle pourrait être transférée une partie de la capacité existante au sein des départements de la défense des États membres;</p>	<p>La Commission souligne que l'idée d'une capacité Européenne indépendante et d'un transfert éventuel en provenance des départements de la défense ne figure pas dans le texte de la proposition de la Commission. Elle n'est pas à la connaissance de la Commission à l'ordre du jour au sein des Etats membres qui pourraient vouloir participer au programme SST.</p>
<p>Le CESE recommande de maintenir ouverts les critères d'accès au programme et de les préciser davantage. Il est essentiel que soient admis à participer au programme non seulement les pays possédant déjà une capacité indépendante, mais aussi tous ceux qui sont en mesure de mettre à la disposition des partenaires des compétences de traitement des données</p>	<p>La Commission ne voit aucune difficulté à maintenir ouverts les critères d'accès au programme. Il est toutefois difficile de plus les préciser sous peine de fermer des possibilités aux Etats membres pour conclure l'accord qui leur permettrait d'être éligibles au programme de soutien et donc de compliquer dangereusement la mise en œuvre du programme.</p>

<p><b>N°11 A Stronger European Industry for Growth and Economic Recovery - Industrial Policy Communication Update</b>  <b>COM (2012)582 – CESE 1094/2013 - CCMI/108</b>  <b>491st Plenary Session of July 2013</b>  <b>Rapporteur: Mr van Iersel (GRI-NL)</b>  <b>DG ENTR – Vice-president TAJANI</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.4: In order to become a driving strategy for Europe, decisions on industrial policy concerning actions, roadmaps and deadlines must be widely communicated, which is badly missing at the moment.</p>	<p>Commission documents are normally published at the relevant web site and often accompanied by a press release.</p>
<p>1.5: Moreover, the EU needs an optimal European convergence of 27 national and EU industrial policies which, according to a broad range of analyses, is no reality today.</p>	<p>The Commission is working against such fragmentation, notably through competitiveness proofing of relevant policies, as well as Member States (MS) visits and the Industrial Performance Scoreboard.</p>
<p>1.10: EU policies must be tailor-made and sector-specific, based on bottom-up assessments which address the technical-economic capabilities and challenges best.</p>	<p>While some aspects of EU industrial policy are aimed at specific sectors (e.g. the Steel Action Plan), much of the industrial policy is however concerned with framework conditions covering several sectors.</p>
<p>1.14: EU Industrial policy should a process of sharing EU's and national visions and competences, as well as shared actions, in which business circles and trade unions are full partners. Other stakeholders like the education sector, universities (research), NGOs, consumers, and others, wherever appropriate, should be equally committed</p>	<p>The Commission pursues constant exchange of views and experiences with MS and business. This is done in structured meetings as well as through consultations and <i>ad hoc</i> discussions.</p>
<p>2.15: There is no indication that policies and instruments or best practices are discussed among MS. National concepts of industrial and innovation policy are primarily driven by national traditions and procedures, and identified by national frameworks and relations between the</p>	<p>Such discussions among MS are promoted by the Commission at the Enterprise Policy group, several times per year at various levels of MS representation.</p>

<p>public and the private sector, among which business, research institutes and universities, trade unions and others.</p>	
<p>3.6: It is astonishing that, until recently, transparent peer reviews of MS were rarely carried out. A monitoring role for the Commission should be extended.</p>	<p>The Commission conducts regular visits and dialogues with MS, leading to the country-specific recommendations of the European Semester</p>
<p>4.5.5: An introduction of absolute caps on the use of raw materials for industry should be duly assessed</p>	<p>It should be recalled that, as pointed out by the 2013 High-level Round Table on the future of the European Steel Industry, resource consumption is a cost to industry. It has been and is in its own interest to reduce consumption and it is doing so wherever possible. In order to reduce the risk of putting the sector into an even more unfavourable position, it is important to refrain from setting absolute caps.</p>
<p>4.6.3: The EU should ensure free market development of services, and promote business services and corresponding job creation across Europe.</p>	<p>The Commission established a High Level Group on business services in March 2013. It will look at the challenges for business service sectors together with manufacturing and make policy recommendations (in spring 2014) to the Commission for improving performance.</p>

<p><b>N°12 The unexplored economic potential of EU competitiveness - reform of state-owned enterprises (exploratory opinion)”</b>  <b>INT/699 - CESE 4263/2013</b>  <b>491<sup>st</sup> Plenary Session of July 2013</b>  <b>Rapporteur: Mr Hencks (GR II/LX)</b>  <b>DG ENTR - Vice-president TAJANI</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.6: Any measurement of the effectiveness, efficiency and, where necessary, the need for reform of public undertakings should not be limited to the usual indicators of economic-activity profitability, but should incorporate all of the objectives and tasks assigned to them by the public authorities.</p>	<p>It should be noted that the economic activities of public undertakings are subject to the same rules as those of other enterprises. Article 106 TFEU prohibits Member States from applying measures contrary to the rules set out in the Treaty (particularly the rules on the internal market and the competition rules), in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. This was duly taken into account in the SGEI package of December 2011.</p>
<p>1.7: According to the official EU definition, competitiveness is the ability of a state to sustainably raise the standard of living for its inhabitants and secure them a high level of employment and social cohesion.</p>	<p>Such a definition of competitiveness would seem to lack the necessary focus. European enterprises can be competitive where States provide the appropriate conditions for this. Such competitiveness could then lead to raised standard of living etc. as listed in 1.7.  Article 173 TFEU lists suitable Union and Member States actions that should help “ensure that the conditions necessary for the competitiveness of the Union's industry exist”. It alludes to the multifaceted nature of the concept.</p>
<p>1.8: Every year, the EU loses a bit of ground in terms of productivity. This slowdown is synonymous with deteriorating competitiveness. The telltale signs of this decline include insufficient innovation, and a lack of investment in infrastructure and technologies as well as in human capital.</p>	<p>The Commission addresses this challenge, notably with its Industrial Policy (COM(2010)614 “An integrated industrial policy for the globalisation era. Putting competitiveness and sustainability at centre stage”, COM(2012)582 “A stronger european</p>

	industry for growth and economic recovery. Industrial policy Communication update”).
1.13: The services of general economic interest that Member States deliver through public undertakings involve industrial or commercial activities, often in direct competition with those of other companies.	Member States are largely free to define which services are of general interest. However, the Commission must ensure that public funding granted for the provision of such services of an economic nature does not unduly distort competition in the Internal Market.
2.3: The forthcoming Lithuanian presidency regrets that so far, there has been no comprehensive discussion in the existing and planned initiatives and documents of the European Commission of the reform of state-owned enterprises, their governance, boosting their efficiency, and their contribution to competitiveness and achieving the goals of the Europe 2020 strategy.	<p>In the context of the European Semester, some Member States have received country-specific recommendations about the need to pursue the reform of corporate governance in SOEs (Lithuania, Romania, Bulgaria). Furthermore, specific conditionality on strengthening the governance of SOEs in accordance with international best practice has been included in several economic financial assistance adjustment programmes (Cyprus, Portugal, and Romania).</p> <p>The European Commission is also conducting a study aiming at assessing the financial situation of SOEs in the electricity, gas and rail transport sectors. The study will build financial indicators that will allow country specific and cross-country comparisons across SOEs and market segments.</p>
3.7: Against this backdrop, consideration should be given to introducing a "statute for an EU public enterprise", as proposed by the Commission in 2011 regarding Galileo which is now a "de facto EU public enterprise".	The Statute for a European company covers public as well as private companies. Furthermore, the discussion in the document referred to was linked to the possibility of creating a corporation controlled by the European Commission. A “European public company” in that context means a company which is at least partly held by the EU.

	<p>As concerns Galileo, the GNSS Regulation on the further implementation of the European satellite navigation programmes (EGNOS and Galileo) defines that the European Union shall be the owner of all tangible and intangible assets created or developed under the programmes. Therefore, the governance is de facto of European nature, but it would seem far-reaching to label Galileo a "de facto EU public enterprise".</p>
<p>3.16: These executive agencies could be considered as a kind of outsourcing of certain Commission functions, and thus the question arises as to whether they are truly independent, while their tasks and responsibilities lead them to be directly involved in socio-economic activities. Is this so far from the broad definition established by the European Court of Justice of the concepts of economic activity and enterprise?</p>	<p>The executive agencies, such as EACI, should not be considered as "independent". They report to the Commission's DGs, which remain responsible for policy development and programming, as well as for evaluation of the programmes.</p>



<p><b>N°13 Rethinking Education: Investing in skills for better socio-economic outcomes;</b>  <b>COM (2012) 669 - CESE658/2013 – SOC/479</b>  <b>491<sup>st</sup> Plenary Session of July 2013</b>  <b>Rapporteur: Mário Soares; Pavel Trantina;</b>  <b>DG EAC – Commissioner VASSILIOU</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.1. The EESC broadly welcomes the Commission's initiative, especially its efforts to combat youth unemployment, but believes that the content of the communication does not match the ambition expressed in the title "Rethinking Education".</p>	<p>The ambition of the communication is to increase the value of education in the wider socio-economic context. Equipping young people with sought-after skills will empower them as citizens and consumers and increase their opportunities in life in general, not only as workers.</p> <p>By focusing on both basic and transversal skills, the communication takes a holistic approach to learning, while keeping the connection to employability.</p>
<p>1.1.1. review the current mechanisms for collecting, presenting and interpreting data on education and training to ensure that they are transparent and comparable;</p>	<p>While data collected at the European level and those collected at the national level are subject to different methodologies, the Commission takes these differences into account when presenting all data and analyses of data.</p>
<p>1.3.2 review the current European educational processes and the different instruments already in place; especially revise the European Standards and Guidelines for Quality Assurance (ESGQA);</p>	<p>The Commission will launch a consultation to be followed by a Communication setting out approaches for the creation of a European Area for Skills and Qualifications (EASQ) to promote a stronger convergence between the existing EU transparency and recognition tools. This will make skills and qualifications more easily recognisable across borders.</p> <p>The EASQ will be launched in 2015 following consultations in 2014 and will seek to put the learner and flexible learning pathways at the centre of EU transparency and recognition tools. While making tools simpler and increasing coherence between them, it will also ensure that they adapt to new phenomena, such as internationalisation and developments in digital learning.</p> <p>Furthermore, the European Area for Skills and</p>

	<p>Qualifications will promote coherence between different European quality assurance arrangements, such as the ESGQA. As a full member of the Bologna process, the Commission has been consulted on the revision of the ESGQA. The Commission considers the revision an opportunity to emphasise quality standards rather than procedures. The Commission will publish its triennial Progress Report on Quality Assurance in autumn 2013.</p>
<p>1.3.3 implement the measures now being proposed, incorporating them into other initiatives aimed at integrating young people into the labour market, in particular the Youth on the Move action plan for employment and entrepreneurship;</p>	<p>The proposed measures are being implemented through the following initiatives:</p> <ol style="list-style-type: none"> <li>1. Monitoring progress in Member States has contributed to the development of country-specific recommendations related to education for 23 Member States;<sup>4</sup></li> <li>2. The European Alliance for Apprenticeships was launched in July 2013;<sup>5</sup></li> <li>3. Work on the European Area for Skills and Qualifications has been launched. A public consultation and an open debate are scheduled for 2014.</li> <li>4. A high-level meeting with social partners and cross-industry organisations at EU level took place in September 2013 to discuss the education and training elements of "Rethinking Education" and to pave the way for further exchanges and collaboration.</li> <li>5. The communication "Opening up Education" was adopted on 25 September 2013, following an extensive consultation with stakeholders.</li> <li>6. Late in 2013 the Commission will publish policy guidance on entrepreneurship education accompanied by a launch event. Further work with the OECD on a guidance framework for</li> </ol>

<sup>4</sup> <http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/>

<sup>5</sup> [http://ec.europa.eu/education/apprenticeship/index\\_en.htm](http://ec.europa.eu/education/apprenticeship/index_en.htm)

	<p>entrepreneurial education institutions is ongoing.</p> <p>7. The funding programmes Erasmus+ and Horizon 2020 will support partnerships between education, research and business through the Knowledge Alliances, the Sector Skills Alliances and relevant actions within the Marie Skłodowska Curie programme.</p> <p>These actions go hand in hand with other activities aimed to boost youth employment and levels of skills in general, such as the Youth Employment Initiative,<sup>6</sup> the EU Skills Panorama<sup>7</sup>, the Entrepreneurship 2020 Action Plan<sup>8</sup> and the Grand Coalition for Digital Jobs<sup>9</sup>.</p>
<p>1.3.4 ensure that the forthcoming EU budget provides the necessary funds, particularly for the recently-approved Youth Employment Initiative.</p>	<p>The new Erasmus+ programme will support activities linked to the actions planned under "Rethinking Education".</p> <p>EUR 8 billion will be spent on the Youth Employment Initiative<sup>10</sup> under the next MFF period.</p>

<sup>6</sup> <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=1829&furtherNews=yes>

<sup>7</sup> <http://euskillspace.ec.europa.eu/>

<sup>8</sup> [http://ec.europa.eu/enterprise/policies/sme/entrepreneurship-2020/index\\_en.htm](http://ec.europa.eu/enterprise/policies/sme/entrepreneurship-2020/index_en.htm)

<sup>9</sup> <http://ec.europa.eu/digital-agenda/en/grand-coalition-digital-jobs-0>

<sup>10</sup> Press statement by President of the European Council Herman Van Rompuy following the Berlin Conference on Youth Employment: [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/ec/137702.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/137702.pdf)

<p><b>N°14 “Social investment” package</b>  <b>COM(2013) 83 – CESE 1557/2013 – SOC/481</b>  <b>Plenary Session of May 2013</b>  <b>Rapporteur: Mr Ropke (GRII-AT)</b>  <b>DG EMPL – Commissioner ANDOR</b></p>	
<p>Commission is pleased that the EESC has welcomed the ‘Social Investment Package’, and that it shares the view that social policies are not a cost but ‘an investment in the future and in growth and employment that will materially contribute to achieving the Europe 2020 objectives and underpin the European social model.’ The EESC has listed a few reservations and questions for clarification in its opinion, which the Commission seeks to answer below.</p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.7. “...The EESC is critical of the question of financing for the Social Investment Package remaining largely unanswered. Without a change in the lopsided policy of spending cuts, successful implementation of the proposals does not seem a realistic prospect...”</p> <p>1.8 “The EESC therefore reaffirms its view that it is imperative that new sources of revenue for public budgets be identified. In this context, measures such as changes to and broadening of tax bases, closing tax havens, ending the ruinous race to cut taxes and combating tax evasions should be mentioned along with levies on various forms of wealth.”</p>	<p>The Commission takes notes of the EESC’s wish to look at new modes of financing for social investment.</p> <p>In addition to the Main Communication’s points to render public spending more efficient and effective, securing additional financing for social policies may be needed in some cases.</p> <p>The Communication calls on Member States to strengthen finance structures through, "improving tax collection, broadening tax bases, critically reviewing tax expenditure items and making the tax structure more growth-friendly, for example through environmental taxes." The Communication also calls for intelligently aligning tax and benefit policies to avoid inactivity traps and provide incentives to enter the labour market. The guidance in the Social Investment Package is also fully complementary to the Commission’s Employment Package, which emphasized "Reduc[ing] the tax wedge</p>

	<p>on labour in a budgetary neutral way by shifting towards environmental, consumption or property taxes with proper monitoring of redistributive effects."In addition to looking at taxation systems, the Commission is also currently exploring the use of new financial instruments based upon the results of previous calls on social innovation, microfinance projects and support to Corporate Social Responsibility.</p>
<p>3.2 “ ...This package could be one of the most important social policy initiatives of recent years, provided it is actually implemented in a consistent and ambitious way. This will require long-term support from the European Commission.”</p>	<p>The Social Investment Package announced numerous initiatives that the Commission will undertake to support the implementation of the package. The Commission will publish by the end of 2013 an integrated roadmap on implementation, detailing concrete deliverables and progress made.</p> <p>In addition to this roadmap, the Commission has taken efforts to support dialogue between policymakers and stakeholders on national, regional and local levels around a strategy for implementation. These efforts include the Conference on the Social Investment Package, held with the Irish Presidency in May 2013. The Annual Convention on the Platform against Poverty and Social Exclusion on 26-27 November 2013, will also be a key occasion for dialogue between policy makers, key stakeholders and citizens, and will help further outline plans to advance social investment in the Member States as part of a larger effort to confront poverty and social exclusion in the framework of the Europe 2020 strategy. Long term EU financial support is envisaged by means of providing appropriate guidance to Member States on how to best use</p>

	<p>European structural and investment funds in putting into operation the concept of social investment including in the areas of social policy innovation and entrepreneurship.</p>
<p>3.3 “...The details of social policy are largely in the hands of the Member States. The diversity of national conditions and circumstances requires that every Member State must find its own balance between sustainability and appropriateness of its social system, as there is no one-size-fits-all model. The Commission should collate a list of examples of best practice...”</p>	<p>In the Main Communication, the Commission has committed itself to developing a knowledge platform, with the support of Eurofound, to help Member States share policy experiences and lessons learned. This platform will permit the pooling and sharing of expertise between policy makers and stakeholders in the key areas in which the SIP calls for social policy reforms. It will also track and analyse good practice examples supported by the ESI Funds, in particular by the European Social Fund, and the Programme for Employment and Social Innovation (ex- PSCI). The Commission will also continue to work with Member States within the context of the Social Protection Committee to foster mutual learning including through peer reviews as well as through multilateral surveillance activities to support the implementation of the SIP.</p>
<p>3.8 “...The Commission should clarify and define in precise terms just what it means by its call for "conditionality" of social security benefits. While it can make sense in areas such as active labour market policy to link benefits to a certain target (such as participation in training), on no account should this principle be applied across the board in social policy (to child care, for example). Social security benefits should be seen as rights subject to predictable criteria in a way that ensures legal certainty.”</p>	<p>The Commission's shares the view that conditionality should not be applied across the board for social protection benefits, such as for child benefits or old-age benefits. Further, the Communication states that social protection should be adequate so as to ensure adequate and dignified livelihoods and should be granted for as long as needed. The Communication also says, however, that conditionality can be appropriate and useful in the instance of certain work-related benefits (such as</p>

	<p>unemployment benefits), so as to offer individuals an 'exit strategy' from unemployment or inactivity. To this end, the Communication states that conditionality should be tied to an 'appropriate and specific goal' (for instance, skill training) that is targeted to the beneficiary's needs.</p> <p>The Communication also stresses the importance of an active inclusion approach, which joins up adequate minimum income support with activating and enabling policies and quality services to help people improve their skills and make the most of their potential.</p>
<p>3.10 “The EESC welcomes the Commission's explicit recognition of the crucial role to be played by the social economy, social enterprises and civil society in implementing the Social Investment Package...To support them in these tasks, public funds and private capital have to be made available in a better and simpler way. The inclusion of thematic objectives for social investment and of investments as actions under EU cohesion policy in 2014-2020 are welcome proposals. They should be taken into account in negotiations on the programmes between national authorities and the Commission, which should involve civil society representatives.”</p>	<p>The Commission services are in informal dialogue with Member States about the content of the partnership agreements and operational programmes of the future programming period, co-financed by the ESI Funds. Their objective is to ensure that the programmes address the challenges, including social inclusion ones, identified in the European Semester and that the relevant stakeholders are consulted in accordance with the partnership principle.</p>
<p>4.8 “...Important questions remain unanswered about the shift in priorities outlined in the Communication and its integration into the European Semester. The EESC welcomes improved monitoring, but is aware that the focus of the 2013 Annual Growth Survey still contains last year's priorities. In the EESC's view, the country-specific recommendations for the second half of the</p>	<p>Even though this year's Country-Specific Recommendations reflect the priorities of the last AGS, many of the recommendations already reflect the messages contained in the Social Investment Package.</p> <p>For instance, an additional emphasis is put this year on the role of activation measures targeting those furthest from the labour market. 12 Member States</p>

year should focus more on social investment. In the next Annual Growth Survey (2014), social investment should then be dealt with explicitly and social problems be included in the forthcoming European Semester. It should also be made explicitly clear during the Semester that more generous social investment is compatible with "differentiated, growth-friendly" fiscal consolidation."

(EE, ES, FR, HU, IT, LT, LU, LV, RO, SE, SI, SK) received recommendations to enhance the quality, coverage and effectiveness of active labour market policies. Three Member States (BG, EE, UK) also received recommendations to improve access to quality social services.

This year's CSRs also have a strong focus on improving opportunities for children and youth. 5 Member States (FR, HU, LV, RO, UK) received CSRs to take measures to reduce child poverty. The 12 Member States with the most serious youth unemployment problems were given recommendations for them to provide them with greater assistance by ensuring that every young person is offered a job, further education or work-focused training within four months after leaving education or after becoming unemployed.

The Commission is in full agreement with the EESC that the Social Investment Package is to inform the development of the next Annual Growth Survey, so that the guidance contained in the package can further feed into future Semester exercises.



<p><b>N°15 Youth guarantee (ESF)</b>  <b>COM(2013)145 &amp; 146 – SOC/485 – CESE3206/2013</b>  <b>491<sup>st</sup> Plenary session of July 2013</b>  <b>Rapporteur: Mr Soares; (GR11-PT)</b>  <b>DG EMPL – Commissioner ANDOR</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>3.4 The EESC points out that the policies being decided on now must help restore growth and create high-quality, stable jobs with the guarantees and protection which historically have contributed to building up the European social model and social cohesion. At the same time, it reaffirms the importance of full participation by the social partners and civil society organisations in planning, implementing and monitoring these policies.</p>	<p>Article 5 of the Common Provisions Regulation proposal stipulates the principle of involvement of partners and lists all the relevant organisations that have to be consulted. In addition, the Commission had proposed and the co-legislators have now agreed on the European Code of Conduct on Partnership whose objective is to fully involve all relevant stakeholders, including the social partners and civil society organisations, in all stages of the programming and implementation of the next generation of European Structural and Investment Funds (ESIF) programming documents.</p>
<p>3.5 In truth, the Youth Employment initiative, incorporated in the Youth Guarantee, will only work if corresponding stimulus is given to "demand on the labour market" (in other words if there is economic growth). Moreover, education, apprenticeships and traineeships and efforts to improve the skills of millions of young people with little prospect of getting jobs, entail huge risks in themselves.</p>	<p>All the ESIF 2014-20 should support the EU2020 targets and objectives for growth and jobs. The YEI will only support some aspects of the Youth Guarantee implementation, namely measures targeting directly individuals. The Commission fully shares the view that this support is insufficient. Member States will have to allocate additional EU and national resources to combat youth unemployment and at the same time implement structural reforms which improve the overall economic environment, in order to attract demand. With regard to ESIF, the common provisions envisaged for 2014-20 for all five funds should facilitate an integrated approach to investments. <b>Educational qualifications remain the best</b></p>

	<p><b>safeguard against unemployment, and quality in-company training improves young people's employment chances. The Commission is working to strengthen the quality and supply of such training, through initiatives such as the European Alliance for Apprenticeships and a Quality Framework for Traineeships. The Commission is also working to include apprenticeships and traineeships in the EURES job mobility portal.</b></p>
<p>4.5 Setting 2012 as the year for determining the youth unemployment rate (25%) which triggers access to the funds now allocated does not take into account either the developments in the crisis or the current recession and may fail to take account of dramatic situations which might arise during this period. The EESC therefore holds the view that there has to be greater flexibility to be able to assess developments in the youth unemployment situation or, as a preventive measure, that the relevant rate should be brought down to 20%.</p>	<p>The Commission shares the view that given the limited budget of the YEI compared to the needs, YEI support will have to be focused and targeted to the most affected regions (i.e. with a youth unemployment rate of 25%).</p>
<p>4.4 Likewise, the overall 6 000 million euros allocated for this purpose, spread out over seven years, is clearly inadequate .</p>	<p>Following the June European Council conclusions, the Commission has already proposed and the co-legislators have agreed on a proposal to frontload the entire YEI budget commitments to 2014-15 instead of the full seven years of the programming period. The draft MFF regulation 2014-20 also envisages a possibility of further increasing the budget of the YEI should unspent margins of commitments become available in the EU budget after 2016.</p>
<p>4.6 On the other hand, the EESC recommends that the age limit for receiving the Youth Guarantee should be</p>	<p>While the Youth Guarantee recommendation refers to the age limit of 25, the Commission considers that</p>

<p>raised to 30 [...]</p>	<p>Member States if they wish can also support young persons aged up to 30, in line with national policies and definitions.</p> <p>The ESF will remain the main instrument for investment in human capital in the 2014-20 period and Member States are encouraged to allocate additional resources from it towards youth policies.</p>
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<p><b>N°16 Fixing an adjustment rate to direct payments</b>  <b>COM (2013) 159 –CESE 2942/2013 – NAT 602</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: Ms Slavova (GR11-BG)</b>  <b>DG AGRI – Commissioner CIOLOS</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>The EESC supports setting the 2013 adjustment rate of the financial discipline mechanism according to Article 11 of Regulation (EC) No 73/2009. However, it notices that the Commission proposal, based on the Multiannual Financial Framework (MFF) agreed by the European Council on 8 February 2013, has no legal validity without the agreement of the European Parliament.</p>	<p>As a precautionary measure, the financial discipline calculation of the Commission proposal COM(2013) 159 was based on the conclusions of the European Council (7/8 February 2013) on the Multiannual Financial Framework (MFF) (EUCO 37/13).</p> <p>The European Parliament and the Council did not determine the adjustment by 30 June; therefore the Commission Implementing Regulation (EC) No 964/2013 set the rate. Following the revised forecasts for direct payments and market related expenditure of the Commission Amending Letter No 2 to the 2014 Draft Budget the Commission adopted the Proposal for a Council Regulation to adapt the rate of adjustment COM(2013)712, subsequently adopted by the Council (Council Regulation (EC) No 1181/2013</p> <p>The above regulations were adopted prior to adoption of the MFF regulation. Thus the calculation of the financial discipline took account of the annual ceiling for 2014 financial year, as foreseen in the political agreement reached on 27 June 2013 and subsequently in the adopted MFF Regulation.</p>
<p>The EESC considers that the Commission and the Parliament could explore the possibilities for the future reserve for crisis not to drain resources from the CAP budget. If the reserve were to be included under heading 2 of the MFF, it should be secured with additional financing. As a consequence, the adjustment rate for direct payments could result in a lower percentage than the one proposed by the Commission, to the benefit of farmers.</p>	<p>The proposal was based on the Draft Budget 2014 which includes, as a precautionary measure, the amount for the crises reserve. Subsequent two regulations mentioned above are based on the results of the political agreement reached on the CAP reform in June 2013 which includes that the crisis reserve shall be established by applying a reduction to direct payments with the financial discipline mechanism.</p>
<p>The Committee urges the Council, the Parliament and the Commission to make any effort needed in order to reach a final compromise within a short delay, thus</p>	<p>The European Parliament and the Council didnot reach an agreement on financial discipline by 30 June 2013,. Therefore the Commission Implementing Regulation (EC)</p>

<p>providing not only farmers but all operators in every sector of the EU economy with the required legal certainty for their own financial planning.</p>	<p>No 964/2013 set the rate. Based on the Commission proposal (COM(2013)712), the Council subsequently adapted the rate of financial discipline (Council Regulation (EC) No 1181/2013).</p>
<p>Taking into account the implications of the unequal distribution of direct payments between small and large beneficiaries, the EESC attaches great importance to the fact that the reduction continues to be applied in the future only for amounts in excess of EUR 5 000.</p>	<p>As regards the threshold, the Commission takes note of the EESC comment. The political agreement on the CAP reform of 26 June 2013 agreed a level of the threshold at EUR 2 000, which was accordingly applied in the subsequent Commission Implementing Regulation (EC) No 964/2013 setting the rate and the Proposal for a Council Regulation to adapt the rate of adjustment (COM(2013)712), subsequently adopted by the Council (Council Regulation (EC) No 1181/2013).</p>

<p><b>N°17 Clean Power for Transport: A European alternative fuels strategy</b>  <b>COM(2013) 17&amp;18 – CESE 530/2013 – TEN/506</b>  <b>490<sup>th</sup> Plenary session of May 2013</b>  <b>Rapporteur: Mr Back (GRI-SE)</b>  <b>DG MOVE- Vice-president KALLAS</b></p>	
<p><b>Essential EESC's points</b></p>	<p><b>Commission's position</b></p>
<p>1.7 The EESC therefore thinks that the long term strategic aims of the communication should be better followed up in the proposal. For instance, the national policy framework for clean fuels and their infrastructure, which Member States are to create under the proposal, should include all those energy sources, such as biofuels, that are seen as important in the communication</p> <p>1.8 The proposal should therefore define an economically and environmentally optimised fuel mix at EU level where coordinated national policies could enhance development and deployment. Articles 3, 8 and 10 as well as Annex I of the proposal should be reviewed in this sense.</p>	<p>The proposal for a Directive provides the legal framework for the long term strategy on alternative fuels set out in the Communication. The legislative proposal only considers those fuels that suffer from a particularly feeble introduction on the EU market or in most part of the Member States, and for which the necessary investments on infrastructure are significantly uncertain. Both the Communication and the Directive provide for a definition of alternative fuels. The Commission deliberately takes a technology neutral approach, as all alternative fuels contained in the package are sufficiently mature for a market take up and all contribute to reaching the goal of reducing oil dependency and reducing GHG emissions.</p> <p>Biofuels are part of the EU alternative fuel strategy as well Liquefied Petroleum Gas (LPG), Natural Gas and Biomethane (in the forms of CNG, LNG and GTL), Electricity, and Hydrogen.</p>
<p>1.9 The EESC doubts that public loading infrastructure for electric vehicles can be provided without public funding, at least during the initial phase, until the number of electric vehicles has attained a level where charging fees may reasonably finance the investment.</p> <p>3.7 The communication seems to assume that financing of alternative fuels infrastructure can be obtained without direct public funding and with the support exclusively of policy tools such as building permits, concessions, procurement regulations, access and charging regulations</p>	<p>Electric utilities, carmakers and mobility service providers would have an interest in investing in charging stations. Partnerships for demonstration projects between utilities and vehicle manufacturers are already present in many Member States. Typically, the customer has to pay a fee for using the charging service that often exceeds the electricity cost by a mark-up, and these enable the investor to recover the cost of the installation.</p> <p>European Union or Member States funds, could also be used for triggering the market development of</p>

<p>and non-financial incentives. In the EESC's view this may be true for non-public loading stations for electric vehicles, but it doubts whether this concept works as regards public loading stations for electric vehicles, where commercial operation is generally considered to be unfeasible and public financing the only realistic solution, at least during the build-up phase. (See, for instance, <i>Fortschrittsbericht der Nationalen Plattform Elektromobilität (Dritter Bericht)</i>, Section 5.5 – a report prepared for the German Ministry of Transport in July 2012).</p>	<p>alternative fuels and the build-up of their infrastructure.</p> <p>There are already a few examples reflecting some of the regulatory initiatives already taken by a number of national or local authorities, as well as examples of infrastructure deployment by private investors.</p>
<p>1.11 The EESC draws attention to the danger of blocking the development of new and more viable technical solutions for different modes and user groups. One example of this danger is the strong commitment to LNG for shipping although new and cheaper alternatives are being developed. Likewise, new user-oriented power solutions are appearing, for instance, for lorries, buses and two-wheeled vehicles</p>	<p>LNG is currently the most promising and most mature alternative fuel for shipping. The Commission is open to the development of new solutions which contribute to reaching the goal of reducing oil dependency and reducing GHG emissions.</p>
<p>3.5 The EESC observes that the proposal obliges Member States to adopt a national policy framework for alternative fuels. Article 3(3) however appears to authorise Member State to omit fuels from that policy, and the infrastructure obligations set out in Articles 4 to 6 only cover electricity, hydrogen and natural gas supply. However, the consumer information obligation in Article 7 seems to cover all alternative fuels on the market. It also appears from the communication that in particular the so called advanced biofuels are an important element in the future energy mix, at least as things now stand, also bearing in mind the minimum quotas foreseen for biofuels in the future energy mix. The EESC therefore thinks that Article 3 of the legislative proposal should indicate a core set of alternative fuels that must be addressed by national policy frameworks.</p>	<p>Member States will be granted flexibility regarding the implementation of their national policy frameworks in order to cater for national specificities. This does not contradict Member States' requirement to provide for the minimum infrastructure for all alternative fuels covered by this obligation.</p>
<p>3.6 According to Article 3 of the proposal, the Member States should assess the trans-border continuity of the infrastructure coverage for alternative fuels. It also provides that the Member States are to</p>	<p>The reporting and evaluation mechanism laid down in Article 3(5) and (6) is deemed to be sufficient to ensure that the measures to implement the Directive are coherent and</p>

<p>cooperate, through consultations or joint policy frameworks, to ensure that the measures to implement the Directive are coherent and coordinated. The only means of ensuring that this fundamental obligation is adequately implemented seems to be the reporting and evaluation mechanism laid down in Article 3(5) and (6). The EESC questions if this is enough and wonders if it might not be useful to create a permanent coordination function, on the lines of the coordinators for certain TEN-T projects under the TEN-T Guidelines.</p>	<p>coordinated.</p> <p>The Commission should ensure the coordination of the national policy frameworks. After the adoption of the Directive the Commission will reflect on the best means to ensure this coordination.</p>
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3.8 Because of the level of investment costs and uncertainty of markets the EESC takes the view that there will be a general and long term need for public financing of dedicated refuelling/recharging infrastructure for alternative fuels. The EESC therefore feels that the assessment made in the communication on this point should be reconsidered. These financing needs have been considered in the Guidelines on Financial Incentives for Clean and Energy Efficient Vehicles (SWD(2013) 27), which have now been issued, and should also be considered when setting priorities, for instance, on TEN-T funding.

The proposed Directive is coherent with existing national initiatives regarding alternative fuel infrastructure.

The Commission sees private investments as contributing the largest share of funds needed. However, this does not mean that EU funding will not be available to support the deployment of alternative fuel infrastructure. In fact, several opportunities to generate EU funding exist:

The revised guidelines of the Trans-European Network for Transport (TEN-T) require in the article 39 concerning new technologies and innovation that the TEN-T shall enable the decarbonisation of all transport modes by stimulating energy efficiency as well as the introduction of alternative propulsion systems and the provision of corresponding infrastructure. Article 45 of the TEN-T guidelines also requires that inland and sea ports, airports and roads of the Core Network provides for the availability of alternative clean fuels.

In the draft Connecting Europe Facility (CEF), the TEN-T funding instrument, article 7 makes eligible for grants the deployment on the Core Network of these new technologies and innovation, including infrastructure for alternative clean fuels.

The European Regional Development Fund, the Cohesion Fund and the European Investment Bank loans could be further sources of funding.

Public procurement is another possibility to set incentives for the market while sharing the financial risks.

Finally, public guarantees can assist the investor in obtaining a loan in better financial terms.

<p>3.9 The EESC also questions the number of loading stations per Member State foreseen for 2020 in Annex II to the proposal. Quoting one example, Germany, the Annex foresees 1 500 000 loading stations, of which 150 000 are to be public. The report on the implementation of the German electro mobility programme quoted under 3.7 above predicts a total of just fewer than one million loading stations for about the same number of cars. Of these loading stations, 150 000 are to be public, but there is a question mark over 50% of these. The EESC would therefore suggest that the target figures in Annex II should be reconsidered and that a simple mechanism for revising the provisions in Annex II should be devised.</p>	<p>The binding targets for EV recharging points are based on targets set by some Member States themselves and have been halved and extrapolated to all 28 Member States (i.e., including Croatia). The Commission therefore considers that these targets are rather conservative.</p> <p>Every two years, through delegated acts, the Commission will indeed assess the level of approved targets with the European Parliament and the Council.</p>
<p>4.2 The EESC welcomes the requirement that all public loading stations should be equipped with intelligent metering systems. This will facilitate future development of functions such as selection of green energy for charging and electricity delivery from the vehicle at peak hours. The EESC wonders if this requirement might not be considered also for non-public charging points.</p>	<p>The Commission shares EESC suggestions of having as many charging points as possible equipped with smart meters.</p> <p>Smart metering requirements for private householders are already regulated by provisions in Annex 1 of the Electricity Directive (2009/72/EC). The equipment of public charger stations with smart meters, an issue not covered in Electricity Directive, represents the minimum conditions to provide accurate billing to consumers and facilitate the deployments of further market-driven services also for charging outside private homes.</p>
<p>4.3 The EESC questions if the provisions of Article 4.8 of the proposal are sufficient to ensure a right to roaming when using an electric vehicle in cross-border travel. The EESC takes the view that serious consideration should be given to the alternative of imposing an obligation on the Member States to ensure that roaming can be carried out within the EU at a reasonable cost.</p>	<p>The development of cross-border EV roaming is currently under different research and demonstration projects. Given this early stage of development and the early stage of market take-up of EVs, the Commission considers not to additionally burden Member States with such an obligation.</p>

<p>4.4 Comparing Article 6(1) and (2) with (4), the EESC questions whether the planned deadline for the availability of technical standards for LNG, set out in Annex III 3.1 to the proposal as "by 2014" is really satisfactory, considering that the 0.1% sulphur rule for marine fuels will apply in Sulphur Emission Control Areas as from 1 January 2015. This gives extremely short notice for actually carrying out the work, let alone for defining financing conditions. The EESC therefore suggests that measures be taken to ensure that ports, ship-owners and ship operators can make timely use of the possibility to adapt to the 0.1% requirement by using LNG, without incurring the risk of non-compliance with EU rules according to Directive 1999/32/EU as amended through Directive 2012/33/EU Article 1(4).</p>	<p>Standardization work at CEN and international standardization bodies is already on-going for several of the fuels covered by the draft Directive.</p> <p>The Commission has asked the European Standardization Committee CEN to provide exact and detailed information on standards needed for the purposes of the proposed Directive. The information to be provided should mention existing EN standards, existing international standards to be transposed into EN standards and new standardization needs for the purposes of the draft Directive. This identification exercise will also include LNG for shipping.</p>
<p>4.5 The EESC would welcome a reference in the proposal, possibly in Article 3, to the need to find appropriate solutions to ensure that adequate infrastructure is available in sparsely populated areas, where financing may be particularly difficult to obtain without public aid also after the end of a start-up period.</p>	<p>The Commission proposes two kinds of approaches for the deployment of alternative fuels minimum infrastructure: for EVs binding targets regarding the number of recharging points are set, for natural gas (in the forms of CNG and LNG) and hydrogen a network approach with maximum distances between refuelling stations. The targets and the networks should be understood as minimum infrastructure. With the market uptake of alternative fuels vehicles the infrastructure would develop further into fully fledged networks, covering also sparsely populated areas.</p> <p>It is for Member States to define in their national policy frameworks to decide how the deployment will be implemented.</p>

<p><b>N° 18 Multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships and to marine pollution caused by oil and gas installations</b></p> <p><b>COM(2013) 174 – CESE 3357/2013 – TEN/523</b></p> <p><b>491st Plenary Session of July 2013</b></p> <p><b>Rapporteur: Ms Bredima (GRI-EL)</b></p> <p><b>DG MOVE- Vice-president KALLAS</b></p>	
<p><b>Essential EESC's points</b></p>	<p><b>Commission's position</b></p>
<p>The EESC supports the budget increase of EMSA under the proposed Regulation from EUR 154 million to EUR 160.5 million for the period from 2014 to 2020. It reiterates its support for the extension of competence of EMSA under Regulation 100/2013.</p>	<p>The Commission welcomes the EESC support for the Commission proposal.</p>

<p>Whilst supporting the financial envelope proposed, the EESC believes that it may prove insufficient to meet the actions required in the seven year period in view of the following challenges: increased traffic flows (more oil tankers and gas carriers at sea), increased drilling activities for oil and gas exploitation in the seas surrounding the EU, more coastal and island states have become EU Member States The limited emergency response capacity may result in increased external costs in case of major incidents.</p>	<p>The Commission agrees with the EESC that challenges ahead are numerous but it had to propose a rather conservative envelope (which maintains existing tasks and allows to phase-in new activities) because of the constrained financial perspectives and the fact that this anti-pollution budget is ring-fenced within the overall envelope for EMSA. Therefore any substantial increase risks to be to the detriment of other operational tasks of the Agency, in particular in relation to maritime safety.</p>
<p>The EESC prompts EMSA to deploy its newly acquired competence to contribute to the fight against maritime piracy. EMSA satellite surveillance instruments will be most useful in detecting pirate ships.</p>	<p>The Commission would like to point out that EMSA is already active in this field through the further development of SafeSeaNet and the service provided to EUNAVFOR which integrates vessel traffic and satellite information with information from EUNAVFOR such as piracy activity, risk information etc. The overview produced then supports EU anti-piracy efforts.</p> <p>However this activity is covered by the general budget of EMSA and not by the specific envelope for anti-pollution activities which funds provision of satellite imagery only in relation to pollution detection and response.</p>
<p>The EESC wonders if EU Member States and neighbouring countries are still properly equipped to respond to major accidents of the magnitude of Erika and Prestige, or disasters similar to the Deepwater Horizon.</p>	<p>The Commission agrees that coastal states keep the responsibility to have appropriate pollution response mechanisms in place. This is stated both in EMSA founding Regulation (EU) 100/2013 and in the present text in article 1. Article 5 requires the Agency to maintain an updated list of public and private pollution response mechanisms and capabilities and MS should provide the information to set up this list. The use of the platform CECIS in the future will make it easier and quicker to assess MS capacities and EU top up capacities and check whether some areas have become more vulnerable.</p>
<p>Regarding the list of public and private pollution response mechanisms in the EU,</p>	<p>The Commission agrees that it would be useful to include similar</p>

<p>the EESC urges action to include similar mechanisms of the neighbouring non EU coastal states, since maritime pollution has no frontiers.</p>	<p>mechanisms for neighbouring countries through the relevant Neighbourhood programmes and cooperation.</p>
<p>The EESC invites the EU, its Member States and the new neighbouring coastal states to strengthen the implementation of the following regional Conventions enumerated in the explanatory Memorandum of the proposed Regulation: the Helsinki Convention, the Barcelona Convention, the Bonn Agreement, the OSPAR Convention, the Lisbon Agreement (which has still to enter into force) and the Bucharest Convention.</p>	<p>The Commission welcomes the EESC invitation to strengthen the implementation of these regional Conventions.</p>
<p>The EESC invites EMSA action to trace down inadequate reception facilities for oil residues to EU ports as well as to ports of neighbouring states.</p>	<p>The Commission would like to point out that EMSA is already active in this field through assisting the Commission in monitoring the implementation of Directive (EC) 2009/59 on port reception facilities for ship-generated waste and cargo residues in the MS.</p> <p>However this activity is covered by the general budget of EMSA and not by the specific envelope for anti-pollution activities.</p>

<p><b>N° 19 Framework on market access to port services and financial transparency of ports</b>  <b>COM(2013) 296— CESE 4030/2013 – TEN/527</b>  <b>491st Plenary Session of July 2013</b>  <b>Rapporteur: Mr Simons (GRI-NL)</b>  <b>DG MOVE- Vice-president KALLASS</b></p>	
<b>Essential EESC's points</b>	<b>Commission's position</b>
<p>General: The Committee supports the Commission' proposal which is broadly considered as a balanced approach to generalise the freedom to provide services while leaving the possibility to introduce public service obligations and which introduces a greater financial transparency.</p>	<p>The Commission welcomes the broad support from the Committee and is grateful for the timely and detailed analysis and recommendations the Committee made.</p>
<p>Point 1.3 : The Committee recommends that particular attention be paid to pilotage, mooring and towage, taking due account of their different impacts, so these can be exercised under independent judgement, free of any commercial pressure that could prejudice the safety, security and environmental protection of the port community and the general public.</p>	<p>The proposed regulation allows the port managing bodies to impose minimum requirements related among other to safety, security and environmental requirements, to limit the number of operators in duly justified cases such as public service obligations, and/or to provide port services themselves ("internal operators"). This regulatory tool box can be used by local stakeholders in accordance to their own local circumstances and the Commission considers that it is sufficient to avoid undesired prejudice to safety, security or environment.</p>
<p>Point 4.5.1 The Committee considers that it is unclear why the "internal operator" (Article 9) is limited to public service obligations. There can be purely commercial reasons, such as ensuring the continuity and availability of a service, why a port managing body might decide to provide a service itself without that service being specifically defined as a public service; lack of space or reserved use of available space could also require restrictions on the number of suppliers.</p>	<p>The proposed Regulation would not prevent port managing bodies to provide port services which are not bound by public service obligation if there are no legal limitations to the number of operators, or in other words if competitors have a free market access. By contrast, the Commission agrees that the proposed Regulation allows for limitations of the number of operators when public service obligations such as continuity and availability of services are needed or when space constraints justify it.</p>
<p>Point 1.4: The Committee wonders why the application of Directive 2001/23/EC</p>	<p>Imposing to all Member States the</p>

<p>on the safeguards for employee rights is made optional.</p>	<p>mandatory application of Directive 2001/23/EC to the employees of the port service operators with whom a contract is not renewed following an open selection procedure could discourage the recourse to open selection procedures and may not be in line with the subsidiarity principle.</p>
<p>Points 1.6 and 5.5 The Committee considers that the commercial freedom of the port managing body to set port charges highlighted in (Article 14(1), (2) and (3)) is very important but fears that provisions in the subsequent paragraph may undermine this freedom, in particular the powers conferred on the Commission to adopt delegated acts. This freedom can be preserved by simply dropping these paragraphs and adding the words "and competition" at the end of Article 14(3), thus: "<i>...and in accordance with State aid and competition rules</i>".</p>	<p>The Commission can agree with the addition suggested after Article 14(3) but does not agree to delete the other paragraphs:</p> <ul style="list-style-type: none"> <li>- The legislator should use Article 14(4) to provide more legal certainty to port management bodies which for the time being, in certain circumstances, cannot vary port infrastructure charges according to desired transport policy objectives).</li> <li>- Delegated acts in Article 14(5) are needed to define common classifications of vessels, based on recognised international standards, according to which the port management bodies would use if they decide to introduce environmental charges. Common definition of clean and energy efficient vessels are indeed urgently needed, in a first step at least at European level, to encourage port management bodies to introduce effective environmental charging. This will not interfere with the port decisions on whether or not to introduce environmental premium and on the level of tariffs.</li> <li>- Article 14(6) seeks to introduce a minimum of transparency by imposing the publication of tariffs while leaving the possibility to grant commercial rebate.</li> </ul>



<p>Points 1.7 and 4.8 The Committee considers the independent supervisory body referred to in Article 17, which is to be responsible for monitoring and supervising the application of the regulation, to be superfluous. Competition law is usually sufficient, and where this is not the case specific action should be taken.</p>	<p>The proposed "independent supervisory body" (ISB) is to handle complaints on market access and on charging. This approach intends to reduce the administrative burden for solving disputes and keep them out of courts, if at all possible.</p> <p>The Commission draws the attention of the Committee to the fact that the existing competition law does not empower the national competition authorities to handle complaints related to the access to the market and is therefore insufficient to cover this specific aspect.</p> <p>However, the Commission agrees that the ISB to be designated can be an existing body or existing bodies, including a national competition authority.</p>
<p>Point 1.8 and 5.6 The Committee considers that the final evaluation of the Regulation with a possible review should be done only after six years.</p>	<p>The proposed Commission report to be published three years after the entry into force of the Regulation does not necessarily imply any Commission's proposal to review the Regulation, nor does it prevent a second evaluation few years after.</p>

<p><b>N° 20 Common rules on compensation and assistance to air passengers</b>  <b>COM(2013) 130 – CESE 2576/2013 – TEN/518</b>  <b>491st Plenary Session of July 2013</b>  <b>Rapporteur: Ms Angelova (GRI-BG)</b>  <b>DG MOVE- Vice-president KALLAS</b></p>	
<p><b>Essential EESC's points</b></p>	<p><b>Commission's position</b></p>
<p>1.4 The EESC rejects the Commission's proposal to increase the time threshold after which the right to compensation arises, deviating from the three consecutive rulings of the CJEU.</p>	<p>Avis: Réserve dans l'attente des résultats des négociations avec les autres institutions.</p> <p>The Commission understands the Committee concern about the proposed measure. However, the higher delay thresholds for the right to compensation are an essential part of the Commission's proposal as they aim to soften the financial impact of the Regulation on the sector and to remove incentives that could trigger more cancellations. This measure should be assessed in the overall context of the proposal.</p> <p>A too short threshold could lead to an increase of cancellations. Indeed, as a delay has also an impact on the subsequent flights with the same aircraft (and where compensation would also need to be paid), a too short threshold creates an incentive to cancel one or two flights in order to be able to operate the subsequent flights on time and to avoid compensation for those subsequent flights. However, for passengers a cancellation (with unsure seat availabilities for rerouting) is even worse than a delay. Therefore, we propose longer thresholds which – according to objective data – give airlines a reasonable time to deal with the causes of the delay.</p>

<p>1.5 The EESC understands the reasons for increasing substantially the threshold for delay compensation for long-haul journeys, but urges the Commission to continue its efforts to find incentives for air carriers to actually perform considerably below these thresholds. The above delay times should be reduced further for people with disabilities or reduced mobility to take into account the particular costs to these people of any long delay.</p>	<p>Avis: Réserve dans l'attente des résultats des négociations avec les autres institutions.</p> <p>In addition to the comments on 1.4, longer thresholds are proposed for long-haul journeys because objective data indicate that it is more difficult for the airlines to deal with delays at remote locations (e.g. time needed to bring in spare parts or replacement aircraft). Note that at the same time, the proposal shortens the time thresholds for the provision of assistance on long-haul flights (assistance already after two hour delay instead of three or four hours).</p>
<p>1.6 The EESC appreciates that a deadline is introduced and that if the air carrier cannot reroute the passenger on its own services, it must consider other carriers or other transport modes. But in the Committee's view, 12 hours before being able to use other services or carriers is too long. Moreover, the passenger should have the right to refuse travel by another mode of transport (e.g. bus, train or ship). To cover the additional costs of transferring to another carrier as swiftly as possible, the EESC reiterates its proposal of creating a "shared liability" fund for repatriating or rerouting passengers with other carriers.</p>	<p>Avis: Réserve dans l'attente des résultats des négociations avec les autres institutions.</p> <p>The proposal that passengers of cancelled flights should be offered rerouting with other air carriers or with other transport modes if the air carrier cannot reroute them on its own services within 12 hours is an improvement over the current situation, as today it is unclear whether other air carriers are to be considered at all. This does not necessarily imply that the passenger must wait for 12 hours to be rerouted. The obligation to reroute "at the earliest opportunity" remains in Article 8.1.b. This means that the alternative rerouting should be offered <u>as soon as it becomes clear</u> that a rerouting on the own services could not be offered within 12 hours.</p> <p>Furthermore, the idea of an industry fund was analysed in the Commission's impact assessment And not retained</p>
<p>1.7 Regarding the definition of "extraordinary circumstances", in the EESC's view it should be clearly stated that delays, changes of schedule or cancellations are only to be considered</p>	<p>Avis: Prise en compte des suggestions dans le cadre des négociations ultérieures avec les autres institutions.</p> <p>The Commission promotes a definition which clarifies the notion of</p>

<p>extraordinary if these circumstances:</p> <ol style="list-style-type: none"> <li>1. are not by their nature or origin inherent in the normal exercise of the activity of the air carrier,</li> <li>2. are beyond the control of the carrier, and</li> <li>3. could not have been avoided even if all reasonable measures had been taken.</li> </ol> <p>It will then have to be checked each time extraordinary circumstances are invoked, if they really meet all three conditions, which will not always necessarily be the case for some of the circumstances listed in Annex 1 of the proposal for a regulation (e.g. health or safety risks, weather conditions or labour disputes).</p>	<p>"extraordinary circumstances".</p> <p>Note, however, that the Commission's proposal includes a clarification in line with case law, where the "reasonable measures" are supposed to avoid the delay or cancellation, and not the circumstances as such.</p> <p>The list in the annex only refers to the qualification as "extraordinary circumstances". Even in extraordinary circumstances, the airline still needs to prove that it took all reasonable measures to avoid the delay or cancellation in order to be relieved from compensation.</p>
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**N° 21 The Fourth Railway Package**  
**COM(2013) 25,26,27,28,29 et 30 – CESE 1024/2013 – TEN/505**  
**491st Plenary Session of July 2013**  
**Rapporteur: Mr Mordant (GR11-BE)**  
**DG MOVE- Vice-president KALLAS**

Essential EESC's points	Commission's position
<p>(1.1) The EESC calls on the Commission to have an assessment drawn up, overseen by all of the stakeholders concerned, of the consequences of the railway packages in relation to meeting the needs of the public, the modal shift, regional planning, development of cross-border connections, factual measures of the quality of rail services, accessibility, improvement of passenger rights and so on.</p> <p>(1.2) The EESC calls for the new "railway package" legislative initiative to be based on the contribution that the railways can make to the European project, economically, socially and environmentally.</p>	<p>The 4<sup>th</sup> railway package put forward by the Commission on 30 January 2013 contains six legislative proposals. All these proposals rely on thorough impact assessment which involved the consultation of about 500 stakeholders, a Eurobarometer survey (25000 citizens), public workshops and external studies. In line with the long term objective set in the White Paper on Transport Policy (2011), the Commission carried out the analysis of the best policy options from an economic, social and environmental point of view to make rail play its part in a competitive and resource efficient European transport system.</p>
<p>(1.3) The aim of this legislative initiative should be to eliminate "border effects" between Member States. It should allow the development of cross-border connections between neighbouring countries, by taking action in the fields of sustainable development and regional planning; putting infrastructure in place between Member States where such infrastructure is inadequate or non-existent.</p> <p>(1.4) The EESC calls on the European Union to provide for the possibility of creating cross-border bodies and of establishing the arrangements for them to intervene in the regions they cover, allowing for the tasks of services of general interest, as provided for by Article 14 and Protocol No 26 of the Treaty, to be defined and organised.</p>	<p>The Commission agrees that the so-called "border effect" is one of the elements hampering the development of rail transport in Europe. However, the objectives of the package are wider than this, addressing the barriers to individual railway companies operating in more than one member state, and seeking the benefits which will flow from moving Europe's railways to a unified system of technical standards as far as is practicable. The 4<sup>th</sup> railway package addresses these issues through simplified procedures for safety and interoperability authorisations and a greater role for the European Rail Agency (ERA). In addition, the Commission proposes to foster the cooperation between infrastructure managers by creating a European network. Finally, the 4<sup>th</sup> railway package goes alongside with the new EU infrastructure policy which tackles missing links and bottlenecks in particular in rail.</p>
<p>(1.5) The EESC calls for the Member States to retain the power to organise their</p>	<p>The Commission would like to emphasise that its proposal fully</p>

<p>national rail systems and open their domestic markets to competition in line with their geographical, demographic and historical situation and the prevailing economic, social and environmental conditions.</p> <p>(1.6) The EESC calls for the power to decide whether to award public service tasks directly to an operator or to use a tender procedure, as currently provided for in Regulation 1370/2007/EC, to be left to the competent authorities, and for these authorities to be given free rein in organising the procedure.</p>	<p>preserves the prerogatives of Member States to determine the scope of public service obligations. It introduces the mandatory award of large public service contracts through tendering procedure with the view to guarantying that competent authorities and passengers get the highest quality of service for the invested public resources. The award of contracts for the provision of services of general interest following competitive tendering procedures will also ensure that the general Treaty principles are complied with, more in particular the principles of transparency and equal treatment of all railway operators established in the EU.</p>
<p>(1.9) The EESC recommends that the Commission launch an initiative to monitor rail safety, which is essential to the development of the railways, by setting up national monitoring centres or joint safety committees. The Committee suggests ensuring that railway operating conditions are transparent, making the public authorities' approach to safety more democratic and complying with Article 91 of the Treaty, which requires the EU to achieve certain results in relation to transport safety.</p> <p>(1.10) The EESC proposes that the European Railways Agency be tasked with incorporating the question of workers' health and safety, which is essential in order to maintain a high level of operating safety for passengers, workers and those living near railway installations.</p> <p>(1.11) Furthermore, the EESC believes it is crucial that the agency be liable for all of its decisions.</p>	<p>The Commission would like to point out that since 2005 ERA has monitored rail safety performance through three activities: i) monitoring safety indicators collected annually; ii) assessing annually the achievement by individual Member States of Common safety targets and iii) discussing safety performance in the network of national safety authorities which meets regularly. The Commission proposals would reinforce ERA's competence to audit NSAs.</p> <p>The Commission also notes that workers' health and safety are important issues which can already be discussed under the current framework.</p> <p>Finally, the Commission fully agrees with EESC on the need for ERA to be liable for its decisions – but points out that such liability exists automatically by virtue of Article 340 TFEU.</p>
<p>(1.12) The EESC considers that the package's technical chapter should be prioritised, in order to boost the modal shift towards rail.</p>	<p>The Commission put forward a package composed of a coherent set of measures. There are intrinsic relations between all components of the package: the technical chapter aims at establishing a common approach to safety and interoperability rules in order to increase economies of scale for railway undertakings active across</p>

	<p>the EU, decrease administrative costs, accelerate administrative procedures, and avoid disguised discrimination. This makes sense in a Single European Rail Area which needs the other components of the package to be completed. Therefore, the Commission will continue to plead for co-legislators to jointly examine the proposals of the package.</p>
<p>(3.2) To that end, the Commission proposes to amend Directive 2012/34/EU of 21 November 2012, which is to be transposed into national law by 16 June 2015. It is worth noting that this initiative is being taken without waiting to see how effective the measures taken in the context of that recast are.</p> <p>(3.3) Similarly, it has not been possible to measure the full effects of the provisions adopted in terms of managing the operation of major corridors.</p>	<p>The Commission would like to stress that the co-legislators themselves have tasked the Commission to put forward new initiatives, in particular on domestic market opening and further separation requirements between rail operators and infrastructure managers. Co-legislators have indeed foreseen such legal requirement in Article 63 of Directive 2012/34/EU. Furthermore, it should be noted that the Commission proposals complement but do not overlap the new provisions adopted in 2012.</p> <p>As indicated for points (1.1) and (1.2), the Commission proposals are based on detailed impact assessments which take into account all available information as well as lessons learnt from the application of the existing EU framework.</p>

(1.7) In connection with the obligation to draw up the public transport plans required by the Commission, the EESC opposes any restriction on the definition of public service tasks by the competent authorities and calls for the adoption of clear targets on improving accessibility for disabled people and on passenger involvement, by way of consultation and monitoring of service quality levels.

(3.7) Furthermore, the Commission's proposal does nothing to improve accessibility for disabled people. The various parties involved should consult and listen to passengers in that respect.

While competent authorities should retain a wide margin of appreciation for the definition of public service tasks, these tasks shall also be defined on the basis of objective criteria ensuring compliance with basic Treaty principles such as necessity and proportionality of the public service obligations.

As far as accessibility to rail for disabled people is concerned, the Commission initiatives aim at strengthening the EU framework. The proposal on interoperability includes indeed new provisions such as a reference to the UN Convention on the rights of persons with disabilities, a definition of disabled person and person with reduced mobility, a register on accessibility to be associated to the register of infrastructure, restricted derogations to TSIs. In the other proposals, disability/accessibility is fully part of the basic requirements to be fulfilled in public service contracts.



<p><b>N° 22 Maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic</b>  <b>COM(2013) 195 – CESE 4581/2013 – TEN/525</b>  <b>491st Plenary Session of July 2013</b>  <b>Rapporteur: Mr Ranocchiari (GRI-IT)</b>  <b>DG MOVE- Vice-president P KALLAS</b></p>	
<b>Essential EESC's points</b>	<b>Commission's position</b>
1.1 The EESC welcomes the Commission proposal to revise – after 17 years – the current Directive on weights and dimensions of certain vehicles. The proposal intends to keep pace with technological progress in order to have cleaner and safer vehicles.	The Commission thanks the EESC for its support and appreciates its understanding of the aims of the proposal.
1.4 and 4.1.3. In what concerns the rear flaps the EESC warmly recommends their installation to be included in the current scheme of European Type Approval, avoiding the National Type Approval that would constitute a step back with respect to the WVTA (Whole Vehicle Type Approval).	This is the intention of the Commission, the services of which are also working in close cooperation to update the legislation on type approval.
1.5 The weight exemption granted only to vehicles with two axles and electric or hybrid propulsion should be extended to vehicles with three axles or more and to other vehicles utilising alternative tractions and fuels when the relevant technical solutions imply extra weight thereby reducing the payload capacity.	The Commission will be prepared to study with the co-legislators an extension to vehicles with three axles or more; similarly, it will be prepared to study with the co-legislators the appropriateness of supporting any other vehicles which reduce GHG emissions.
1.6 (onboard weighing devices) At the end of the day it will be very difficult to get a system accurate enough to be used as enforcement tool. On the contrary, the same result could be obtained redoubling the WIM (the weight in motion system integrated in the road surface) already utilised in the Member States.	<p>The Commission proposes that onboard weighing systems are used to filter vehicles possibly infringing the rules, but a sanction shall only be decided on the basis of a complete manual inspection.</p> <p>The implementation of WIM stations is also recommended for the same purpose of filtering. Member States may elect different ways of performing their duties.</p>
1.8 Nevertheless the possibility exists – with more Member States eventually allowing cross border use of LHVs – to see a domino effect, gradually admitting such vehicles right across Europe.	As there is nothing in the draft Directive obliging any Member State to make use of the derogation to authorize LHVs on their territory, it is difficult to see how this suggested domino effect were to come about. Member States are perfectly capable of

	taking appropriate societal decisions on matters that are not stipulated under EU law.
4.1.2 (rear flaps) The EESC invites the EC to avoid any possible conflict of legislation between this proposal (2 m tolerance) and the type approval legislation (Reg. 1230/2012)	Reg 1230/2012 will be updated as soon as the new directive on weights and dimensions is adopted
4.2.2. The EESC suggests a transitional period assuring a level playing field for all manufacturers	The EC considers that it is important that the society at large benefits as soon as possible from the improvements towards greener and safer vehicles. The directive will not likely be adopted before 2015, and manufacturers are already thinking about how to implement its provisions. As this is enabling legislation – and does not therefore oblige any manufacturer to make use of the new possibilities - a transitional period is not appropriate.
4.4.3. A questionable aspect of this proposal is the rationale behind the limitation of road part of transportation foreseen in Art. 11: Less than 300 km or to the closest terminal between which there is a regular service. Such a provision could be quite difficult to interpret and control. In addition to that it seems also questionable the different treatment of road journeys to/from European short sea shipping where no limits are fixed and, apparently, also a longer road distance is allowed, discriminating the other combinations of intermodal transport.	Directive 92/106 limits the road part of a combined transport operation to 300km. It may unintentionally lead to unwarranted outcomes. The proposal suggests a new provision to remedy such unwarranted outcomes.

<p><b>N°23 The green economy – promoting sustainable development in Europe</b>  <b>Own-initiative opinion - CESE 2407/2012 – NAT/590</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: Joana Agudo i Bataller (II-ES);</b>  <b>Co-rapporteur: Pedro Narro (III-ES)</b>  <b>DG ENV – MR POTOČNIK</b></p>	
<p><b>Main points of the EESC opinion</b></p>	<p><b>Commission position</b></p>
<p>○ The EESC believes that developing an inclusive green economy will be Europe's main challenge in the coming years if it wants to remain a global economic power. At the Rio+20 conference, the EU pledged its commitment to the green economy as a form of sustainable development. Now is the time for the EU to take action. This is why we need an economic development model that prioritises public investment and draws up adequate incentives for private investment to develop "green" infrastructure and R&amp;D&amp;I, with the dual purpose of promoting production in order to emerge quickly from the current recession and guiding our transition through this third industrial revolution from a leading economic and social position.</p>	<p>The Commission agrees with the EESC as already stated in several Communications: the Flagship initiative on a resource-efficient Europe (COM(2011) 21 final), the Roadmap to a resource efficient Europe (COM(2011) 571 final), A decent life for all: Ending poverty and giving the world a sustainable future" COM(2013) 92 final and a more specific Communication on green infrastructure (COM(2013) 249 final). In all these documents, the Commission is making specific proposals for steps towards a greener and more resource-efficient economy. The Commission is also planning a follow-up communication on resource efficiency for Spring 2014.</p>
<p>○ The EESC believes that the far-reaching and much-needed changes to production and consumption make it absolutely essential to involve civil society throughout the transition to an inclusive green economy at all levels, especially at the sectoral and territorial levels (European, national and regional). Participatory management is needed to minimise the resistance and detrimental effects that inevitably accompany change. It is this participation that will make sustainable progress possible on the economic, social and environmental aspects.</p>	<p>Within the boundaries of subsidiarity and the division of responsibilities, the Commission takes the opinion of various levels of the economy and society into account while developing policies. Participatory management would indeed minimise resistance to the necessary transition. Clear signals and targets that provide predictability for investors and businesses would reduce the level of disruption and detrimental effects caused by adaptation to resource scarcities. The Commission is looking into and working with participatory management processes such as the European Resource Efficiency</p>

<p>○ The EESC is concerned to note that green tax incentive policies have suffered a serious setback in recent years as a result of "fiscal austerity", which is causing a severe contraction of economic activity and the job market. The IMF has recognised that the real economic contraction resulting from these policies has been far worse than estimated so far.</p>	<p>Platform (EREP).</p> <p>The Commission recognises the importance of green tax policy. In the framework of the European Semester, 11 Member States were given the recommendation by the Council to further shift from income to resource or pollution taxation. Furthermore, 2 Member States were given country-specific recommendations (CSRs) to reduce environmentally-harmful subsidies through the tax system. These measures should also be helpful in respect of fiscal balances.</p>
<p>○ The EESC emphasises that developing an inclusive green economy will increase job creation opportunities. Green jobs should not be understood just as jobs in a few new emerging sectors, but all jobs created in connection with the "greening" of production processes and products in all sectors. A fair transition to a green economy requires active employment policies that create decent jobs, including vocational training and lifelong learning for active workers. Employing women and young people in these sectors will be the key to this type of growth.</p>	<p>Greening of the wider economy will create and preserve jobs by increasing resilience to resource pressures (whether materials, energy, water, land or other natural resources) and increasing total factor productivity and competitiveness.</p> <p>By implementing the actions foreseen in the 2012 Employment Package (COM(2012) 173 final) the Commission aims at preparing the European workforce to the skill requirements of a green economy. Actions include the strengthening of partnerships between employment services in the delivery of green job services, boosting the uptake of standardised skills certifications schemes also by upgrading qualification and training schemes.</p> <p>In the programming period 2014-2020, the ESF shall support the shift towards a green economy, through reform of education and training systems, adaptation of skills and qualifications, and the creation of new jobs in sectors related to the environment and energy (COM(2011) 607 final/2).</p> <p>The Commission is also working with Member States on green skills through the Eco-innovation Action Plan (COM(2011) 899 final).</p> <p>A Communication on SMEs and green entrepreneurship is in preparation. Cooperation with the European Investment Bank will provide EUR 10-15 billion lending to firms to support green-based innovation and resource efficiency. The Commission is also</p>

	<p>working on the framework conditions such as shifting from labour to environmental taxation with a direct impact on job creation.</p> <p>Finally, through its policies on resource efficiency, the Commission is also helping to increase green jobs (COM(2011) 571 final).</p>
<p>○ The EESC believes that an industrial policy that has been agreed by the social partners is vital in order to coordinate technological innovation efforts and to promote the changes required in the production infrastructures of many European sectors affected by the establishment of a low-carbon and resource-efficient economy. This will also entail substantial investment for businesses.</p>	<p>In order to involve the necessary stakeholders to coordinate technological innovation, the Commission has set up several Innovation Partnerships as well as the European Resource Efficiency Platform.</p>
<p>○ The EESC believes that the EU should incorporate the objectives of the sustainable development strategy in all its policies, primarily in the Europe 2020 Strategy and the seven flagship initiatives. The EU's various strategies need to be consistent with each other and the Commissioners should speak with one voice on this issue. Specifically the Commission should take the opportunity of a mid-term review of the 2020 Strategy to strengthen its sustainability aspects and integrate it completely with the European Sustainable Development Strategy. It will be necessary to define and use indicators relating to the quality of growth so that this can be monitored and evaluated.</p>	<p>The Commission believes that the Europe 2020 Strategy and its flagships incorporate the objectives of the sustainable development strategy, and take them a step further where possible.</p> <p>The Commission is aware of the importance of indicators and is working to improve them as a follow-up of the Communication on "GDP and beyond – Measuring progress in a changing world" (COM(2009) 433 final), but also through the development of resource efficiency indicators measuring the use of materials, water, land and carbon.</p>
<p>○ The EESC emphasises the important role that the European semester and the annual growth survey play in ensuring the monitoring of sustainable development policies. The EESC considers it necessary to abandon subsidies that are harmful to the environment and to establish Member State specific recommendations</p>	<p>The Commission is working towards the objective of phasing out environmentally harmful subsidies by 2020.</p> <p>In the last two years, within the European Semester exercise, the Council gave already a significant number of CSRs regarding environmental taxation, as well as a few CSRs relating to waste and water</p>

<p>regarding environmental taxation, as well as recommendations on waste water management and better recycling. Member States need to be ambitious and seek broader objectives in these areas.</p>	<p>management.</p>
<p>○ The EESC is concerned by the fact that the EU's Multiannual Financial Framework for 2014-2020 contains a significant contradiction: the economic sectors with the highest CO<sub>2</sub> emissions (housing, energy, industry and transport) are not the greatest beneficiaries of EU funding to facilitate the transition to a green economy, and this funding therefore needs to be increased substantially and its efficient and effective application ensured.</p>	<p>The Commission believes that the multiannual financial framework is well balanced and able to facilitate the transition process to a greener economy. The Resource Efficiency Flagship identifies food, housing and transport as the sectors with the highest impact in terms of resource use, and these areas have been targeted in Roadmap actions.</p>
<p>○ The EESC considers it particularly important to proceed with eco-taxation, including tax incentives for businesses that set up climate change investment funds, provided they are managed jointly with workers.</p>	<p>See above. Environmental taxes and tax incentives for green behaviour are important tools to reach our climate objectives.</p>
<p>○ With regard to EU trade policy, the EESC believes that in order to avert the risk of industrial relocation, the establishment of tariffs equivalent to CO<sub>2</sub> taxes should be considered for countries that refuse to comply with international agreements on reducing emissions.</p>	<p>The Commission firmly believes that the best way of avoiding carbon leakage and competitiveness problems is to get a comprehensive global agreement. Therefore, we need to fully concentrate on the UNFCCC negotiations at this stage. Notably, it has been agreed already in Durban and Doha to reach a global legally binding agreement with commitments for all Parties by 2015. The Commission also believes that there are better ways of addressing competitiveness concerns. We have opted to do so through the approach to allocating allowances, by allowing more free allocation of allowances, with a slower phase-in of full auctioning for energy intensive sectors and sub-sectors.</p>

<p><b>N°24 A Blueprint to Safeguard Europe's Water Resources</b>  <b>COM(2012) 673 , 670 et 672 – CESE 534/2013 – NAT/593</b>  <b>491<sup>st</sup> Plenary Session of July 2013</b>  <b>Rapporteur: Mr Cingal (III-FR)</b>  <b>Co-rapporteur: Ms Le Nouail Marlière (GR11-FR)</b>  <b>DG ENV – Commissioner POTOČNIK</b></p>	
Main points of the EESC opinion	Commission position
<p>○ The EESC welcomes the Commission's communication, but feels that the document does not propose enough pro-active measures to provide solutions to the various problems identified.</p>	<p>The Commission refers to Table 7 at the end of the Blueprint Communication which sums up the very wide range of concrete actions it proposed. These actions have been taken up by the Common Implementation Strategy under the Water Framework Directive (WFD) and are being implemented together with stakeholders and Member States.</p>
<p>○ The EESC therefore invites the Commission to acknowledge the need to:</p> <ul style="list-style-type: none"> <li>– democratise water management, i.e. to give consumers their rightful place in river basin management bodies,</li> <li>– set up a European water inspectorate to ensure that all regions are treated fairly,</li> <li>– take account of substances of concern (chemicals, nanoelements, etc.).</li> </ul>	<ul style="list-style-type: none"> <li>- Citizens are consulted for 6 months on the draft River Basin Management Plans as this is a legal requirement under the Water Framework Directive. Their place in river management bodies is determined by the Member States.</li> <li>- The Commission is not aware of instances of unfair treatment of regions in EU water policy. The Commission recalls that it is working on a horizontal initiative on environmental inspections.</li> <li>- The risks deriving from chemical substances in surface water are addressed through the list of priority substances, added to the WFD. A first reading agreement on the latest update of this list has just been reached by the Council and the EP. For groundwater, the Commission is planning to update the annexes of the Groundwater Directive in 2014.</li> </ul>
<p>1.4 The EESC invites the Commission to clarify the issue of resource sustainability. While the Water Framework Directive (WFD)<sup>11</sup> lays down an obligation not to damage water resources, the EU is seen to be allowing the development of projects to safeguard the energy supply<sup>12</sup>. This previously marginal issue risks becoming a</p>	<p>The WFD does not exclude the development of energy projects. It contains provision to frame such developments, under strict conditions on a case by case basis, when they cause a deterioration of water status or prevent the achievement of good status. Such rules apply also to shale gas. The</p>

<sup>11</sup> Directive 2000/60/EC.

<sup>12</sup> For example, the gas storage facility at Lussagnet-Izaute.

<p>recurring problem with projects to extract shale gas. The EESC feels that water resources are the top priority.</p>	<p>Commission is working on specific proposals on shale gas.</p>
<p>1.5 The EESC advises the Commission to encourage the Member States to implement strictly Article 9 of the WFD (the polluter-pays principle) in order to achieve good water quality.</p>	<p>The Commission requires Member States to respect all EU legislative provisions. Specific action concerning water pricing and the recovery of the cost of water services, including environmental costs, are part of the Blueprint.</p>
<p>1.6 The EESC invites the Commission to clarify what it means by "water stress". If it is using the conventional definition – demand for water exceeds the available resources – we are often liable to act too late (forest mortality, etc.). It is therefore necessary, as well as defining minimum environmental flows, to establish alert levels that can trigger preventative action before those minimum levels are reached, so as to avoid critical situations.</p>	<p>The Commission relies on the definition of water stress provided in the scientific doctrine.</p> <p>The Blueprint proposes to develop Guidance on the ecological flow which is the amount of water needed by nature. It is expected that the implementation of ecological flow in the river basins will prevent water stress.</p>
<p>1.7 The EESC urges the Commission to use cohesion policy instruments (ERDF, ESF, European territorial cooperation, etc.) to encourage:</p> <ul style="list-style-type: none"> <li>– local authorities to develop tertiary treatment facilities at sewage works,</li> <li>– economic stakeholders to take a closer interest in their property's resilience to climate change, by promoting natural mechanisms (soil, vegetation, etc.) to protect water resources, for example using the carbon/nitrogen (C/N) ratio as a soil quality indicator,</li> <li>– the best initiatives (LIFE action plan, etc.).</li> </ul>	<p>This type of investment can be supported through various EU funding instruments but the ultimate choice of objectives, priorities and projects lies with the Member States.</p>
<p>1.8 The EESC urges the Commission to publicise the best available techniques (BATs). The objective of closing the water cycle no longer seems unrealistic, judging by the progress made in, for example, the paper industry. In contrast, the EESC considers it necessary to establish standards and rules to reduce leakage in networks.</p>	<p>BATs are developed under the IPPC/IED Directive and are all publicly available.</p> <p>Studies launched by the Commission have demonstrated that the reduction of leakage in water distribution networks may make environmental and economic sense but not in all cases. Hence the need for this to be assessed on a case by case basis as there is no one size fits all solution to this issue.</p>
<p>1.9 The EESC urges the Commission to propose a legislative instrument that gradually increases the focus on</p>	<p>The Blueprint proposed many water efficiency measures, see its section 2.3. In the consultations leading to the</p>



<p>effectiveness in water management (metering, transport, treatment, etc.). Domestic use cannot be the sole focus, and nor can voluntary approaches. Integrated management relates to all river basins.</p>	<p>Blueprint and in the Commission's preparatory studies, no need was identified for new legislative instruments on water efficiency. The Blueprint announced that the Commission will look into the possible development of an instrument on water re-use, including of a regulatory nature.</p>
<p>1.11 The EESC reiterates its concerns regarding financial compensation for transfers, and urges the Commission to exercise the greatest possible caution. All projects must be brought to the attention of the public (see the Aarhus Convention) and be subject to open debate. The EESC notes that a transfer system would be unfair and detrimental to the most disadvantaged populations, regardless of whether or not they receive financial compensation.</p>	<p>The Commission has supported since 2007 a water hierarchy that considers alternative water supply, such as water transfers, as the last resort after all possibilities to manage water demand and increase the efficiency of water supply have been exploited.</p>
<p>3.3 However, the EESC is concerned to note that the Commission is not proposing enough innovative measures to improve the effectiveness of water management.</p>	<p>The Commission has launched in parallel to the Blueprint an Innovation Partnership on Water which is looking at innovative solutions to water management problems.</p>
<p>4.3 To this end, the EESC urges the European Commission to propose legislation establishing access to water and sanitation as a human right as set out by the United Nations, and to promote the provision of water and sanitation as vital public services for all.</p>	<p>On the basis of the first European Union citizens' initiative, the Commission will assess whether additional legislation at EU level is necessary or not to implement the human right to water.</p>
<p>4.7 It stresses that the blueprint does not envisage repairing damage that has already been done, and that the proposals are inadequate as only fish ladders or fish lifts are mentioned. It is regrettable that the blueprint does not mention the imperative need to protect headwaters and small bodies of water (pools, ponds, peat bogs, etc.).</p>	<p>The Blueprint is not meant to reiterate nor replace the existing legal requirement under the WFD which requires restoration to achieve good water status or to prevent deterioration. Headwaters and small water bodies are addressed in the Blueprint, in section 2.1.</p>

**N° 25 Fluorinated greenhouse gases (proposal for a regulation)**  
**COM (2012)643 – CESE 2497/201 – NAT/589**  
**490<sup>th</sup> Plenary Session of May 2013**  
**Rapporteur : Mr Soares (GRII-PT)**  
**DG CLIMA – Commissioner HEDEGAARD**

<b>Points of the EESC opinion considered essential</b>	<b>Commission position</b>
<p>1.1 The EESC firmly supports the Commission's efforts to strengthen legislation on fluorinated greenhouse gases (F-gases).</p> <p>1.2 The EESC stresses the urgent need to draw up an international agreement on the control of F gases that subjects all the world's economies to identical rules.</p> <p>1.13 Restrictions placed on European producers should also be placed on products imported to the EU.</p>	<p>The Commission welcomes the firm support for the strengthening of the EU legislation on fluorinated greenhouse gases and confirms its determination to continue pursuing the conclusion of an international agreement on hydrofluorocarbons (HFCs) – being the most relevant F-gases. The adoption of an ambitious F-gas regulation is an important element of this international strategy, as it demonstrates the feasibility of replacing or reducing the use of these substances and spurs the development and deployment of alternative technologies, both in the EU and globally.</p> <p>The Commission recognises the importance of ensuring that imported products have to comply with the same rules as the domestically produced products.</p>
<p>1.12 The EESC believes that it would be more appropriate to distinguish between technologies in order to organise a phasing-out rather than a phasing-down, at least in cases where this is technically feasible and financially realistic.</p> <p>1.4 The EESC calls for the financial and administrative burden of implementing the various aspects of this regulation to be reduced, especially for small and medium-sized enterprises (SMEs).</p> <p>1.5 The EESC calls for more thought to be given to life-cycle energy consumption and for the cost-benefit analysis to cover the possible disadvantages of the proposed alternative technologies.</p> <p>1.6 The Commission and Member States need to step up support for</p>	<p>In its proposal, the Commission opted for a general phase-down of the HFC supply, thus allowing industry to choose the most cost-efficient reduction options. This approach involves a low administrative burden, in particular on SMEs, as only larger suppliers of chemicals are directly concerned by the phase-down obligations.</p> <p>The phase-down schedule has been calculated on the basis of existing alternative technology reaching at least the same energy efficiency as the use of HFCs. The reduction target can therefore be met without increasing the life-cycle CO<sub>2</sub>.</p> <p>The reduced availability of HFCs under the phase-down mechanism will increase demand for alternative technologies and inherently provide a</p>

<p>industrial research and innovation, especially with regard to developing alternative technologies to F-gases.</p>	<p>market based support for the further development of such technologies.</p>
<p>1.8 It may be necessary to develop appropriate training programmes to prepare workers for alternative technologies to F-gases but the specific situation of SMEs needs to be taken into consideration. The financial and administrative burden of certification and training needs to be contained.</p> <p>1.11 All undertakings carrying out activities associated with the production, distribution or installation of appliances containing F-gases should be concerned by these training programmes, which should cover alternative technologies to facilitate technological transition.</p>	<p>The Commission is aware of the importance of a high level of qualification of persons working with F-gases, which should also cover knowledge on alternative technologies. The Commission proposal builds on the training and certification programmes, established by Member States under the current F-gas Regulation, thus limiting the additional burden for the companies concerned, among them many SMEs.</p>
<p>1.10 The Member States should develop separate collection systems for end-of-life appliances that contain fluorinated substances, in line with the principles of Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE).</p>	<p>The Commission proposal does not include a specific obligation for Member States to develop waste collection systems in order to avoid an overlap with the requirements of Directive 2012/19/EU on waste electrical and electronic equipment (WEEE), which already covers a large part of F-gas containing appliances.</p>
<p>1.3 In the ongoing economic and social crisis, protecting jobs has to be a priority. The transition to a climate- and environment-friendly economy must be based on strong social dialogue so that future changes can be managed collectively and democratically. Social dialogue, negotiation and participation are fundamental values and tools that underpin and reconcile the promotion of social cohesion and quality jobs, job creation and enhanced innovation and competitiveness in European economies.</p> <p>1.7 Companies and Member States all need to make a substantial effort to implement a socially just transition within the policies undertaken to reduce the use and production of F-gases.</p>	<p>The impact assessment accompanying the Commission proposal concluded that the overall social and economic impacts of the proposed measures will be marginal. It can be expected that the impacts on companies active in the refrigeration sector will be positive, also due to the strong position of EU companies on the market for alternative technologies.</p> <p>In the Commission's view the proposal does not contain measures that should raise social concern.</p>

<p><b>N°26 Accessibility of public sector bodies' websites</b>  <b>COM (2012) 721 – CESE 575/2013 –TEN/507</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: Mr Abildgaard (GRIII-DK)</b>  <b>DG CNECT – Vice-president KROES</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.5. recommends the expansion of the scope of the Directive to gradually cover all public body websites in accordance with the imperatives of public order, public security, public health and personal data protection</p>	<p>On hold till the results of the negotiations with the other institutions are known</p>
<p>4.1.4 The assumed rationale underlying this spill-over effect is that public sector bodies will make websites falling outside the scope of the Directive accessible at the same time as, or following, the ones explicitly covered, as a consequence of the fact that the process is already underway.</p>	<p>The assumed rationale underlying the spill-over effect takes also in consideration that 23 Member States have already national measures in place in the field of web-accessibility and it is expected that, in order to avoid different sets of requirements within their national framework, these MS would extend the requirements set by the proposal to their national measures.</p>
<p>4.1.5 is worried that the solidity of the causal links assumed to bring about this spill-over effect are weak.</p>	<p>As stated in the Impact Assessment, evidence generated by first movers in the public sector can trigger positive spill-over effects of the proposed legislation (see the European Commission's study Economic Assessment for Improving e-Accessibility Services and Products (SMART 2009/0072).</p>
<p>4.1.9 recommends, as a minimum, that the text of the Directive explicitly spells out that the full website, on which a concerned service is provided, is covered by the scope of the Directive, and not only the service function in itself.</p>	<p>The suggestions are being taken into account in the frame of further negotiations with the other institutions</p>
<p>4.1.14 As a minimum, the EESC recommends an update of the list of services drawn from the 2001</p>	<p>On hold till the results of the negotiations with the other institutions</p>

<p>benchmarking exercise with additional key services which now feature prominently in the digitalisation strategies of Member States</p>	<p>are known</p>
<p>4.1.15 recommends that the scope of the Directive explicitly covers versions of public websites designed to be accessed through mobile devices</p>	<p>The suggestions are being taken into account in the frame of further negotiations with the other institutions</p>
<p>4.1.16 recommends that functions provided through websites, which are external to the website of the public sector body in question, e.g. by the use of web-links, be explicitly covered by the scope of the Directive</p>	<p>Rejection of the point since the extension of the scope to cover functions provided through websites concerned, such as payments or geolocation services could imply the extension of the scope to websites belonging to private sector, which is not covered by this proposal. Moreover, as explained in the Impact Assessment, a full and mandatory implementation and control of the EU action is not within the scope of this proposal.</p>
<p>4.2.4 compliments the European Commission on the choice to use harmonised standards,</p>	<p>Favourable advice is being taken into account</p>
<p>4.3.2 recommends including a legal obligation for Member States to raise awareness of web-accessibility among public bodies, web-developers, and other stakeholders</p>	<p>The suggestions are being taken into account in the frame of further negotiations with the other institutions</p>
<p>4.3.3 recommends introducing a legal obligation for Member States to establish training programmes to the relevant staff of public bodies, through consultation with the social partners, in order to further facilitate the concrete implementation of the webaccessibility requirements</p>	<p>On hold till the results of the negotiations with the other institutions are known</p>
<p>4.4.4 recommends the introduction of an obligation for Member States to establish mechanisms whereby citizens, and representative organisations, can report on the accessibility and inaccessibility of</p>	<p>On hold till the results of the negotiations with the other institutions are known</p>

public body websites	
4.4.5 asks to the European Commission to consider introducing an obligation for large public sector bodies to appoint a web accessibility coordinator who can oversee the implementation of the requirements of the Directive and of related requirements.	On hold till the results of the negotiations with the other institutions are known
4.6.2 recommends that smart phone and tablet applications, to the extent that their functionality is integrated with services provided through public body websites, be explicitly covered by the scope of the Directive,	Rejection of the point since, although the EC supports the aim of ensuring the accessibility of mobile applications offering public services, this proposal is not the right to address this issues as it is focused on the accessibility of websites and the requirements and techniques vary. Moreover, it is important to highlight the risks associated to imposing accessibility for native applications since, in spite of existing efforts in the field, supporting techniques and accompanying authoring & testing tools seem not to be yet in a powerful shape to be reflected in regulation.

N°27	<p><b>eHealth Action Plan 2012-2020 – Innovative Healthcare for the 21st Century</b>  <b>COM (2012)736 – CESE 917/2013 – TEN/509</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>DG CNECT – Vice-president KROES</b></p>
Points de l'avis du CESE estimés essentiels	Position de la Commission
	<p>The Commission welcomes the support of the European Economic and Social Committee to the Commission's Communication on the eHealth Action Plan 2012-2020 - Innovative Healthcare for the 21st Century.</p>
<p>1.5 The EESC points out that the communication makes only partial references to how the new plan will be financed. A general overview is needed to establish what contribution is expected from the public sector, the private sector and – where appropriate – from patients and taxpayers in general.</p>	<p>The European financial instruments that will be used to implement the Actions of these action plan are:</p> <ul style="list-style-type: none"> <li>• Horizon 2020</li> <li>• Connecting Europe Facility (CEF)</li> <li>• Competitiveness and Innovation Programme (CIP)</li> <li>• European Regional Development Fund (ERDF)</li> <li>• Health Programme 2014-2020</li> <li>• 7<sup>th</sup> Framework programme (FP7)</li> <li>• ISA work Programme</li> </ul> <p>In addition to this European funding, public (national and regional) and private sector funding will be required also to implement the actions of this Action Plan.</p>
<p>1.9 The EESC welcomes the Commission's plans for the development of the economic fabric relating to eHealth, especially because of its support for SMEs, but the lack of detail and figures prevents a more precise assessment from being carried out.</p>	<p>We believe that these comments were taken into consideration under chapter 2.2:</p> <p><i>Despite the economic crisis, the market potential of eHealth is strong. The global telemedicine market has grown from \$9.8 billion in 2010 to \$11.6 billion in 2011, and is expected to continue to expand to \$27.3 billion in 2016, representing a compound annual growth rate of 18.6%. The well-being market enabled by digital technologies (mobile applications, devices) is rapidly growing. The convergence between wireless communication technologies and healthcare devices and between health and social care is creating new businesses. Redesigning the delivery of care and the 'silver economy' are highly promising markets.</i></p>

	<p>and chapter 5.1:</p> <p><i>Deployment as well as research and innovation of care for an ageing population, including the eHealth solutions are also addressed by the Strategic Implementation Plan of the EIP AHA. It aims at enabling citizens to live independently for longer and in better health, make the cost of care more sustainable, expand the market for innovative products and services and increase EU's global competitiveness.</i></p>
<p>4.1 The EESC welcomes the proposed eHealth Action Plan 2012-2020.</p> <p>4.2 However, the EESC believes that the plan should include a special chapter on the social aspect of providing services, covering in particular the proper approach to the digital divide, availability of technology, the ability to use it, or an analysis of social inequalities in health which run the risk of increasing. It should also cover broader development of social and health care, which could be facilitated enormously with the use of ICT.</p>	<p>The Action Plan takes these aspects into account, specifically in its chapter "3. Vision", where it is stated:</p> <p><i>"The vision of this Action Plan is to utilise and develop eHealth to address several of the most pressing health and health systems challenges of the first half of the 21st century:</i></p> <ul style="list-style-type: none"> <li><i>– to improve chronic disease and multimorbidity (multiple concurrent disease) management and to strengthen effective prevention and health promotion practices;</i></li> <li><i>– to increase sustainability and efficiency of health systems by unlocking innovation, enhancing patient/citizen-centric care and citizen empowerment and encouraging organisational changes;</i></li> <li><i>– to foster cross-border healthcare, health security, solidarity, universality and equity;</i></li> <li><i>– to improve legal and market conditions for developing eHealth products and services."</i></li> </ul> <p>Furthermore, it is stated under chapter 2.2 that <i>"eHealth can benefit citizens, patients, health and care professionals but also health organisations and public authorities. eHealth – when applied effectively - delivers more personalised 'citizen-centric' healthcare, which is more targeted, effective and efficient and helps reduce errors, as well as the length of hospitalisation. It facilitates socio-economic inclusion and equality, quality of life and patient empowerment through greater transparency, access to services and</i></p>



	<i>information and the use of social media for health."</i>
<p>5.1.1.1 In general, the EESC welcomes the Commission proposal on interoperability, although points out that it is not enough to introduce the possibility of exchanging data or documents using common medical protocols, because there are also problems of a semantic, organisational or legal nature which have to be resolved.</p>	<p>By 2015, the Commission will seek the endorsement of the eHealth Network to:</p> <ul style="list-style-type: none"> <li>• establish the semantic and technical cross-border interoperability specifications and assets necessary for the eHealth Interoperability Framework;</li> <li>• propose an EU interoperability testing, quality labelling and certification framework for eHealth systems.</li> </ul> <p>In 2013 the Commission launched a study under the upcoming Health Programme 2014-2020 aimed at examining Member States' laws on electronic health records in order to make recommendations to the eHealth Network on legal aspects of interoperability.</p>

<p><b>N°28    The Digital Agenda for Europe – Driving European growth digitally;</b>  COM (2012) 784 – CESE 959/2013 – TEN/512  <sup>490th</sup> Plenary session of May 2013  Rapporteur: Thomas McDonogh  DG: CNECT - Vice-President KROES</p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>Europe needs the Digital Agenda for both employment and economic growth and the EESC welcomes the focus areas of the review.</p>	<p>The Commission welcomes the support of the EESC for the Communication on the Digital Agenda Review. The Commission is focusing its efforts to maximise the benefits that can be derived from ICT and digital technologies; these very much tally with the priorities of the Digital Agenda and the Commission is taking steps to ensure these areas remain at the forefront of our efforts.</p>
<p>Provide affordable high-speed broadband for all Europeans (including the need for incentives in isolated areas; cost reduction)</p>	<p>The Commission has proposed a new regulatory environment to enable the delivery of high-speed broadband - offering consistency, certainty, and competition – and will complement this by investing in new infrastructure to connect online services, focusing on areas critical to the digital single market.</p> <p>The Commission is also working with Member States to encourage i.a. the use of Structural Funds for rollout of broadband infrastructures in less favoured areas of the EU.</p>
<p>Increase digital inclusion and digital literacy; develop ICT skills, close the ICT skills gap, create jobs and promote entrepreneurship</p>	<p>ICT skills are being addressed by the Grand Coalition for Digital Jobs, an initiative involving the European Commission and key stakeholders to reduce unemployment and prepare our workforce for the digital age.</p> <p>The Commission is also working on integrating ICT systematically in education programmes.</p>

<p>Build trust and strengthen cybersecurity</p>	<p>Trust and security are vital if we are to assure our citizens, businesses and public services that it is safe to go online - thus the cyber-security strategy put forward proposals to build a more secure digital world with resilient networks and systems. The Commission is actively following up on these proposals and working on advancing the adoption of the proposed regulatory instruments by the co-legislators.</p>
<p>Protect privacy and personal online safety (especially for children)</p>	<p>The proposed data protection regulation is in co-decision with the co-legislators. The Commission is also stepping up efforts in the framework of its safer Internet initiative.</p>
<p>Create a Charter of Digital Rights for users and establish an EU-wide certification and labelling scheme for European businesses</p>	<p>The Commission is working actively on improving the framework for consumers and users in the Digital Single Market and is pursuing the relevant actions of the Digital Agenda in this field.</p>
<p>Increase global competitiveness in ICT and digital services, with the goal of establishing leadership for European companies in key technologies and services.</p>	<p>The actions relating to Key Enabling Technologies and the Digital Single Market – standardisation, public procurement, entrepreneurship and the proposal for the Telecom Single Market – will help create opportunities for the take up of digital innovation in businesses, services and industry and contribute towards Europe having world-leading industries.</p>
<p>EESC is pleased with the appointment of the Digital Champions and is looking forward to seeing reports of the effectiveness of this strategy</p>	<p>The Commission is working very closely with the Digital Champions to ensure support and leverage for digital policies at the national level.</p>

<p><b>N°29 Network and information security across the Union</b>  <b>JOIN(2013) 1, COM(2013) 48 –CESE1414-2013 – TEN/513</b>  <b>490<sup>th</sup> Plenary session of May 2013</b>  <b>Rapporteur: Mr McDonogh</b>  <b>DG CNECT– Vicepresident KROES</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.5 As advised in previous opinions the EESC believes that tentative, voluntary measures do not work and there needs to be strong regulatory obligations on MS to ensure harmonisation, governance and enforcement of European NIS. Unfortunately, the EESC does not think that this proposal for a Directive provides the clear and decisive legislation needed. To provide the high common level of NIS required, the Committee believes that a Regulation, with well-defined compulsory obligations on MS, would be more effective than a Directive.</p>	<p>The Commission fully agrees that voluntary measures have failed and that a regulatory framework is needed to ensure a high level of network and information security (NIS) and a level-playing field across the European Union. A balance should, however, be found between new mandatory regulatory requirements and existing voluntary initiatives that have been successful in establishing public-private partnerships in many EU countries. In addition, EU legislation should not undermine existing efforts by Member States at national level.</p>
<p>1.6 Notwithstanding the European Commission's intent to adopt delegated acts to ensure some uniform conditions for the implementation of parts of the Directive, the Committee perceives a dearth of standards, clear definitions and categorical obligations in the proposed act; thus providing too much flexibility to MS on how they interpret and transpose critical elements. The Committee would like to see much more explicit definitions in the act of the standards, requirements and procedures for MS, public authorities, market operators and key Internet enablers to observe.</p>	<p>The proposed NIS Directive sets up a regulatory framework aiming at developing a culture of risk management and establishing clear roles and responsibilities including regarding exchange of information. The approach followed by the Commission was to avoid being too prescriptive at the level of the Directive, and to use delegated acts to secure additional clarity. This makes it possible to properly take into account existing national frameworks and to avoid unnecessary regulatory burdens and costs.</p> <p>This is complemented by actions under the Cyber security strategy adopted with the proposed Directive, and notably the setting up of the NIS Public-Private Platform<sup>13</sup> on 17 June 2013.</p> <p>The NIS platform will help the relevant companies and public administrations implement in a consistent manner the general risk management and incident reporting obligations</p>

<sup>13</sup> <https://resilience.enisa.europa.eu/nis-platform>

	proposed under the Directive.
1.7 To provide strong policy formulation and implementation for NIS in the EU, the Committee would like to see an EU-level authority for NIS created, analogous to the central authority in the aviation industry (EASA). This body would establish standards and monitor enforcement for all elements of NIS across the Union: from the certification of secure terminal devices and usage, to network security, and data security.	The Commission fully agrees with the EESC that a coordination body with some minimum operational capacity is needed at EU level. In view of the legislative process, the Commission takes good note of the EESC's Opinion that a stronger authority is needed than the one created under its proposal. It underlines, however, that a good balance should be found between the need for coordination at EU level and the autonomy of the Member States in respect of the subsidiarity principle.
1.8 The EESC is very aware of the increased risks to cybersecurity and data protection from the adoption of cloud computing in Europe. The Committee would like the proposed act to explicitly include special, additional security requirements and obligations regarding the provision and use of cloud services.	Cloud computing is one of the sectors specifically targeted by the risk management and incident reporting obligations set out in the Commission's proposal for a Directive on NIS. It is expressly referred to in Annex 2 of the proposal. The Cyber security strategy also applies across the ICT world, including cloud computing.
1.9 So that there is proper accountability for NIS, the act should make it clear that entities with obligations under the proposed Directive would have a right to hold suppliers of software and hardware liable for any defects in their products or services that contribute directly to NIS incidents.	The Commission believes that specific rules on liability would not be well placed in the Directive. General liability rules under national civil legislation may already apply.  The Commission considers that administrations and operators that comply with their risk management obligations under the proposed Directive would need to have acted diligently in managing their security risks.
1.11 Given the importance of compliance in all MS to the network and information security of the entire EU, the EESC asks the Commission to consider what Multiannual Financial Framework (MFF) funding might be targeted at NIS compliance to assist MS that need financial assistance.  1.12 Spending on Research, Development and Innovation (R&D&I) for NIS technologies should be a high priority in the EU Framework Programme for Research and Innovation 'Horizon 2020', so that Europe can keep pace with the fast-changing landscape of cyber threats.	The Commission agrees with the importance of targeted funding to NIS. Of particular interest could be the Horizon 2020 Framework Programme for Research and Innovation, which will enter into force in 2014. Horizon 2020 will support security research related to emerging ICT technologies; provide solutions for end-to-end secure ICT systems, services and applications; provide the incentives for the implementation and adoption of existing solutions; and address interoperability among network and information systems. Moreover, the Connecting Europe Facility (2014-2020) could be used for NIS infrastructures as it will provide funding for the

	<p>deployment of Digital Service Infrastructures which aim at providing trans-European interoperable services of common interest for citizens, businesses and governments.</p> <p>As regards Structural Funds, the Commission is developing a toolbox to provide policy-support tools to regional and national authorities to help them to develop a thorough understanding of the digital growth potential stemming from the Digital Agenda for Europe (DAE). NIS is one of the elements of this toolbox and aims at encouraging regional and national authorities to make it a key element in their national or regional research and innovation strategies for smart specialisation and related Operational Programmes.</p>
<p>1.13 To help provide clarity about which entities have legal responsibilities under the proposed act, the EESC would like to see an obligation on every MS to publish an online directory of all entities covered by the risk management and reporting requirements of the Directive. This transparency and public accountability would build trust and support compliance.</p>	<p>The Commission supports the EESC proposal to have an obligation on every Member State to publish an online directory of all entities covered by the risk management and reporting requirements of the Directive, and will take it into account during the legislative process.</p>
<p>4.7 Because the provision of NIS is mostly in the hands of the private sector, it is important that high levels of trust and cooperation are fostered with all companies responsible for vital information infrastructure and services. The European Public Private Partnership for Resilience (EP3R) initiative launched by the Commission in 2009 is to be applauded and encouraged. However, the Committee believes that the initiative needs to be strengthened and supported with a regulatory obligation in the NIS act to compel the cooperation of key stakeholders who fail to properly engage.</p>	<p>The Commission believes that public-private partnerships, both at national and at EU level, play a key role in advancing network and information security. For this reason, as indicated above, a public-private platform on network and information security (so-called NIS Platform), announced in the EU Cybersecurity strategy, has just been launched. The NIS platform, subsumes the former European Public-Private Partnership for Resilience (EP3R). The work of the platform will feed into the Commission recommendations on cybersecurity across the value chain, to be adopted in 2014. As explained under point 1.6 the NIS Platform is also complementing and underpinning the NIS Directive.</p>

<p><b>N°30</b></p>	<p><b>Measures to reduce the cost of deploying high-speed electronic communications networks</b>  <b>COM (2013)0147 – CESE 2600/2013 – TEN/519</b>  <b>491<sup>st</sup> Plenary Session of July 2013</b>  <b>Rapporteur Mr. McDonogh (GRI-IE)</b>  <b>DG CNECT– Vice-president KROES</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>	
<p>The EESC would like the Commission to advise how access to high-speed broadband can be recognised as a universal right for all citizens regardless of location. The Commission raised the question re inclusion of broadband in the Universal Service Obligation in 2010. An answer to this question is urgently needed to promote citizen welfare, employment and digital inclusion.</p>	<p>The Commission is working on a set of initiatives to ensure the achievement of the DAE, including the availability and take-up of high speed internet, which are expected to significantly contribute to citizen welfare, employment and digital inclusion. This set of initiatives include not only the present Regulation, but also the Connecting Europe Facility, the recommendation on costing methodologies, the review of the Recommendation on relevant Markets and, most importantly the recently adopted proposal for a Regulation laying down measures to complete the European single market for electronic communications and to achieve a Connected Continent (Single Telecom Market Regulation).</p> <p>Whilst the proposal for a Single Telecom Market Regulation does not propose to modify the relevant universal rules, its overall objectives, including in particular those aiming at fostering investments in high-speed networks, increasing consumer choice and quality as well as territorial and social inclusion are expected to have an important impact on the universal availability of broadband.</p> <p>As regards the inclusion of broadband under the universal service obligations, the 2009 Telecom Package gives Member States the flexibility, in line with the principle of subsidiarity, to define the appropriate data rate for</p>	

	<p>network connections delivering ‘functional internet access’ in the light of national conditions. Basic broadband access can therefore be part of the universal service obligations at national level in justified cases, particularly where market forces and other policy tools and financing instruments have not led to universal broadband coverage.</p> <p>Furthermore, the Commission is expected to review the scope of universal service by the end of 2014 in accordance with Article 15 of the Universal Service Directive. This review will assess the economic and societal impacts of various scenarios of universal service obligations, including the potential inclusion of mobile and/or broadband services.</p>
<p>The Committee would like the Commission to address the problem of broadband service providers who are not providing customers with the Internet connection speeds promised in their contracts. This contractual “non-conformity” and false advertising undermines trust in the digital market, hurts demand and must be tackled by strong measures.</p>	<p>End-users' rights have been significantly reinforced with the 2009 review, notably by ensuring more transparency on the minimum service quality offered. However, the Commission and several national regulatory authorities continue to find considerable discrepancies between the advertised speed of internet access services and the speed actually available to end-users. In the proposal for a Single Telecom Market Regulation, the Commission addresses this problem through the full harmonisation of rights of end-users . In particular, the proposal will reinforce users rights as regards internet connection speeds by imposing on electronic communications services providers an obligation to publish transparent, comparable, adequate and up-to-date information on the actually available data speed for download and upload in the end-user's Member State of residence, including at peak-hours.</p>
<p>The Committee notes that the proposed</p>	<p>The Commission will explore the different means under its competence</p>



<p>regulation will offer new business opportunities for the utility and transport undertakings to participate in the broadband infrastructure market. The Commission and MSs should make special efforts to encourage these firms to take advantage of this opportunity.</p>	<p>to encourage utilities and transport undertakings to exploit the business opportunities created by this Regulation. The Commission is already cooperating in the context of the Smart Grid Task Force with the relevant stakeholders from the energy and telecom sectors to encourage mutual synergies and facilitate efficient deployment of advanced communication technologies<sup>14</sup>. The proposed Regulation invites Member States to render the provision of infrastructure access by utilities operators more attractive by excluding revenues stemming from this service from the basis for the calculation of end-users tariffs for their main activity or activities, in accordance with applicable EU law (Recital 13).</p>
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<sup>14</sup> Cf. Mission and work programme of the European Task Force for the Implementation of Smart Grids into the European Internal Market, par. 2.5  
[http://ec.europa.eu/energy/gas\\_electricity/smartgrids/doc/mission\\_and\\_workprogramme.pdf](http://ec.europa.eu/energy/gas_electricity/smartgrids/doc/mission_and_workprogramme.pdf)

<p><b>N°31</b></p> <p><b>Towards a comprehensive European framework for online gambling;</b>  <b>COM (2012)596 - CESE 2514/2012 – INT/671</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur Daniela Rondinelli (GRII-IT)</b>  <b>DG MARKT – Commissioner BARNIER</b></p>	
<p><b>Essential EESC points</b></p>	<p><b>Commission position</b></p>
<p>The report welcomes the Commission's objective:</p> <ul style="list-style-type: none"> <li>- to improve administrative cooperation among Member States and regulators</li> <li>- to explore possibilities for the Member States to exchange personal data</li> <li>- to look into the opportunities supplied by the IMI Regulation</li> </ul>	<p>The Commission welcomes the Opinion. The Opinion shows convergence with the Commission's identified priority areas in its action plan, and with the planned initiatives.</p> <p>The Commission has set up an expert group of MS's gambling regulators. During these meetings discussions have focused on administrative cooperation, inter alia the areas and the type of information on which exchange of information can take place in the absence of EU legislation.</p>
<p>4.2.4 States that non-compliance of national legislation with EU law should be subject to infringement procedures. Stresses that approximation of national laws is needed</p>	<p>The Commission embarked on assessment of complaints and open infringements in October 2012: decisions on a number of cases may be taken in autumn 2013.</p>
<p>4.1.5 Calls for a mapping exercise in light of the divergent situations at national level</p> <p>4.1.10 Calls for EU action to focus on sustained cooperation between the MS and the promotion of best practices in combating illegal operators</p> <p>2.3 Calls for a common definition of illegal gambling</p>	<p>The Commission has recently launched a call for proposals for a Study on the role of regulators for online gambling: authorisation, supervision and enforcement.</p>
<p>4.3.10, 4.3.3 Deems the proposed "recommendations" soft instruments and favours more binding ones</p> <p>4.3.2 Favours the inclusion of best practices in combating and preventing illegal gambling in the recommendations</p>	<p>The two proposed Commission recommendations on consumer protection and on responsible advertising, as announced in the Communication, are also being discussed with the MS to take account of MS good practices. The Recommendations may include provisions regarding sanctions.</p>

<p>4.3.8 Calls for the broadest possible legislative guarantees to protect minors</p>	<p>Enforcement is the competence of Member States.</p> <p>An impact assessment is being drawn up.</p>
<p>1.4 Reiterates its call for a research and monitoring exercise on related addiction and illness</p> <p>4.3.13 Calls for on-going monitoring of addiction and the related disorders, to acquire data to enable national and EU legislators to adopt effective, targeted measures</p>	<p>The Commission is running a behavioural study regarding consumer protection provided online in this area.</p> <p>Regarding addiction, first results of a broad study on addictions (not just gambling), are expected shortly.</p>
<p>4.1.1 Stresses its concern about the accelerating spread of online gambling and the increase in the amount of gambling available</p> <p>Calls for effective curbs to be placed on the various forms of gambling advertising, especially on television, online and on public transport</p>	<p>Responsible gambling advertising is the subject of one of the above-mentioned Recommendations. The Commission's published Roadmap provides an indication of the scope of the Recommendations. The impact assessment being carried out will look at the different forms of advertising, as well as available data, to support the principles that will be proposed in the Recommendation.</p>
<p>4.4.4 Calls for minimum EU-wide certification for online gambling software</p>	<p>In its Communication the Commission states that it will explore the possibility of an EU standard on gambling equipment including gambling software.</p>
<p>4.5.4 Welcomes Commission's plan for a recommendation on good practice to combat betting-related match fixing. Considers the chosen instrument insufficient</p> <p>4.5.5 Calls for a common definition of sport-related corruption, competition fixing, manipulation of sports results as criminal offences</p>	<p>The Commission is participating in the negotiations in the Council of Europe on a Convention on combatting match fixing . <b>which is expected to include a definition of manipulation of sports competitions as a criminal offence.</b> The Commission is also carrying out studies and will draw up a Recommendation.</p>

<p>1.15 Concurs on the need for Member States to promote proper training for the judiciary regarding the issues inherent in fraud and money laundering through gambling</p>	<p>This is one of the actions the Commission encourages at national level.</p>
<p>4.3.1 Regrets that its request for measures to combat illegal operators was not addressed in the Communication.</p>	<p>With its proposed initiatives the Commission aims to facilitate the channelling of consumers into authorised offers and hence away from illegal gambling websites often operating outside any form of control and from outside the EU.</p>
<p>1.2 Calls on the Commission to give consideration to the jobs, new and existing ones, and the potential loss of jobs in the land based gambling sector to online gambling</p> <p>1.3 Believes that all action on gambling at EU level should aspire towards a European social model that enables people to enjoy themselves in a healthy and balanced way</p> <p>1.16 Calls on the Commission to update and review the rules it has set out in the areas of action identified in the communication in the light of developments as regards implementation of the rules by the Member States</p>	<p>The Communication envisages an evaluation of its implementation and application of the measures by the MS and stakeholders, and report on progress within 2 years.</p>

<p><b>N°32 Action Plan: European company law and corporate governance - a modern legal framework for more engaged shareholders and sustainable companies.</b>  <b>COM (2012)740 – CESE 982/2013 – INT/678</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: Mr de Lamaze (GR11-FR)</b>  <b>DG MARKT – Commissioner BARNIER</b></p>	
Points of the EESC opinion considered essential	Commission position
<p>4.1.5 The measure that could add most significantly to the administrative burden for companies is the measure on transparency requirements for remuneration policies and on the details of individual remuneration of directors, currently based on various recommendations and national governance codes, and for which the Commission's action plan proposes a binding instrument at EU level. The EESC could accept such a measure provided that its implementation does not significantly increase the legislative burden for companies, which should be rigorously examined in the prior impact assessment. The EESC also warns of the risk that divulging criteria governing variable components of remuneration for executives could endanger "business confidentiality". As well as the actual amounts paid, the EESC would stress the importance of providing shareholders with clear and complete information on how those amounts are calculated and the criteria used to determine them.</p> <p>4.1.6 One of the points which raises the most difficulties in the EESC's view is the idea of granting shareholders the right to vote on the remuneration policy and the remuneration report, and it would call for particular care to be taken regarding the arrangements for such votes. The EESC would point out that the Commission is</p>	<p>The Commission welcomes the support of the EESC for more transparency on remuneration and it agrees that there should be careful reflection on the administrative burdens linked to more transparency on board remuneration and on the issue of business confidentiality.</p> <p>The Commission will analyse these issues rigorously in the Impact assessment for this initiative and will ensure that the initiative taken strikes the right balance between, on the one hand, the need for transparency on remuneration and the administrative burdens for companies and the protection of business confidentiality on the other hand.</p> <p>The Commission welcomes the support of the EESC for giving shareholders a vote on the remuneration policy and the remuneration report.</p>

<p>somewhat vague regarding this issue and does not stipulate whether this vote would be of an advisory or a binding nature.</p> <p>1.7.1. As well as the legal and technical difficulties of implementation, a binding vote would mean a transfer of powers from the board to the shareholders. The EESC cannot support such an approach, which would profoundly alter company law, although each Member State should, it believes, be able to decide whether the vote is advisory or binding. 4.1.8 The EESC has given its opinion on this issue previously, in favour of a vote but stating that the motion on remuneration policy proposed to shareholders at their general meeting must be discussed and approved beforehand by the whole board, as is already the case in Germany.</p>	<p>With regard to the question whether this vote should be binding or advisory, the Commission takes note of the views of the EESC on this issue.</p>
<p>4.2.1 The EESC thinks it important to make progress on the SPE project, the final form of which must be compliant with the Treaty and with company law in force. Beyond the harmonisation of national legislations, a uniform instrument such as the SPE would, it believes, have a substantial leverage effect in boosting cross-border operations by SMEs. The active involvement of employees in the SPE, following the same rules as those for SEs and SCEs, is a requirement which the EESC believes cannot be called into question without undermining the project and is an essential condition for the agreement which the EESC would like to see.</p>	<p>The Commission notes that in the Action Plan it announced that it would in view of the lack of progress in the negotiations of the SPE proposal, continue to explore alternative means to improve the administrative and regulatory framework in which SMEs operate in order to facilitate SMEs' cross-border activities, provide them with simple, flexible and well-known rules across the EU and reduce the costs they are currently facing. In this context, the Commission takes note of the opinion of the EESC.</p>
<p>4.2.3 On the other hand, the EESC is very wary of any EU initiative moving towards the recognition of the concept of "group interest", which is bound eventually to jeopardise the principle of the independence of legal persons within a</p>	<p>The Commission takes note of the position of the EESC. The Commission points out that groups of companies and not single entities are nowadays the prevailing form of large companies and that the concept of group interest is already recognised in many Member</p>

group of companies, particularly when those persons are not European. Notwithstanding the Commission's cautious and reasonable position, it is also worried by an approach which might see a subsidiary's interests sacrificed in favour of the interests of the group. In any event, if the Commission is to maintain this approach, work first needs to be done on a common EU-level legal definition of the concept of "group of companies", which is a particularly delicate and arduous task given the diversity of definitions amongst the Member States.

States, which is not reflected in the EESC opinion.

The divergence of existing concepts of group interest in the EU may make it complicated for companies to operate as a group. This does not only affect the parent company in a group, but also its subsidiaries. An EU recognition of group interest could therefore create more legal security and guarantees throughout the EU for companies in groups, but also their management, employees and other stakeholders.

<p><b>No 33 Prevention of the use of the financial system for the purpose of money laundering and terrorist financing. Information and accompanying transfers of funds</b>  <b>COM(2013) 44 and 45 – CESE 1767/2013 – ECO/344</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: Mr Zeeb (GRI-LU)</b>  <b>DG MARKT – Commissioner BARNIER</b></p>	
<p><b>General comment:</b> taking into account the favourable opinion</p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>The EESC suggests involving intermediate bodies, such as professional chambers, associations or federations that represent small entities at national level, on a formal basis and task them with the provision of guidance, support and mediation services</p>	<p>Involvement of various representative bodies at national level could be ensured by the Member States when implementing the Directive, in particular in the context of risk assessment.</p>
<p>The EESC calls on the Commission to devise measures that can reconcile customer identification requirements with the increasingly common use of electronic payments and communications.</p>	<p>Taking into account the suggestions in the subsequent negotiations with other institutions.</p>
<p>The EESC urges Member States to ensure that their legislation provides for situations (such as criminal proceedings, bankruptcies or successions) in which the obligation to destroy data after 5 or 10 years should not apply, so as to prevent it from running counter to the general interest.</p>	<p>Comment directly addressed to Member States.</p> <p>As far as the Directive is concerned, the prohibition to maintain data beyond 5 or 10 years applies only for the purposes of anti-money laundering. Member States are not precluded from allowing the information to be kept, in line with national law and data protection provisions, for other purposes.</p>
<p>The EESC proposes that the directive make express provision for the obligation to keep the identity of people declaring suspicious transactions strictly confidential.</p>	<p>The Directive already contains a prohibition to disclose the fact that a STR has been made and any details regarding STRs. In addition, the Directive contains provisions to protect the personnel of the obliged entities submitting an STR.</p>
<p>Points out that the mandate of the ESAs in terms of representation and regulation is limited to the financial sector. Proposes that the Commission take responsibility at European level for analysing the risks and providing guidance for non-financial professionals who find themselves subject to anti-ML/TF obligations.</p>	<p>Reserved pending the outcome of negotiations with other institutions.</p>



<p>The EESC has doubts regarding the purely administrative nature of the sanctions. Calls on the Commission to seek appropriate legal solutions so as to ensure that the penalty system is beyond reproach.</p>	<p>Taking into account the suggestions in the subsequent negotiations with other institutions.</p> <p>The chapter on sanctions will be subject to change in order to align it with other recently adopted acts, as for example the CRD IV.</p>
<p>The EESC recommends expanding the definition of terrorist financing given in Article 1(4) of the proposal for a directive to include "all other acts" other than the offences targeted, in accordance with the wording of the fifth FATF recommendation.</p>	<p>Taking into account the suggestions in the subsequent negotiations with other institutions.</p> <p>The proposal refers to the Council Framework Decision 2002/475/JHA as amended by Council Framework Decision 2008/919/JHA and therefore covers a wide range of terrorist activities.</p>
<p>The EESC believes that the key to solving the piracy problem lies in tracing and clamping down the involved financial flows. A blacklist of financial institutions involved in piracy money laundering should be established in the EU.</p>	<p>The Commission notes that piracy as such is outside the scope of the Directive. Financial institutions are in any case subject to due diligence obligations with regard to their customers.</p>

<b>N°34 European retail action plan</b> <b>COM (2013) 36 – CESE 1696/2013 – INT/682</b> <b>491st Plenary Session of July 2013</b> <b>Rapporteur : Ms Rondinelli (GR11-IT)</b> <b>DG ENTR/DGMARKT – Vice president TAJANI Commissioner</b> <b>BARNIER</b>	
<b>Points of the EESC opinion considered essential</b>	<b>Commission position</b>
<p>1.4 The Committee welcomes the proposal to set up a permanent Group on Retail Competitiveness and hopes that the European social partners and representatives of consumer and SME organisations will be part of it.</p>	<p>The Commission welcomes the support of the Committee for its Group on Retail Competitiveness. In its Call for Interest published on 17 June 2013 the Commission invited all stakeholder groups including the social partners and SME representatives with a view to have a balanced Group.</p>
<p>1.6. The Committee recommends that Member States be encouraged to define which forms of retail can be included among the general interests (social and cultural) referred to in the Services Directive.</p> <p>4.6 With regard to actions 3 and 4, the Commission, in line with the services Directive, should encourage the Member States to assess whether and which forms of retail can achieve these social policy and cultural objectives. Therefore, the Commission should promote the inclusion of traditional independent local retail in general interest where retail reflects local culture and characteristics.</p>	<p>The Commission agrees with the Committee that Member States have to be involved in the exercise of defining best practices for commercial establishment. However, the exercise has to be carried out in full respect of the Treaty on the Functioning of the European Union and the Service Directive. Article 49 TFEU prohibits any restrictions on establishment which are not justified, necessary and proportionate. In this regard, Article 14 of the Services Directive lists the number of particularly restrictive requirements for establishment which the European Court of Justice has already found to be incompatible with Article 49 TFEU and which had to be removed by the Member States from their legislation.</p>
<p>1.11 The Commission should strive to achieve innovation and change using all the instruments available to it, as competition is a condition for change but will not trigger change on its own.</p> <p>7.5 The Commission must strive to include all small, medium and large companies in the processes of innovation and change.</p>	<p>In order to define its retail innovation initiative the European Commission sought the view of retail sector practitioners on how the retail sector can contribute to, and benefit from, innovative products, services and technologies. This was done through an expert group that includes specialists from retail companies from a comprehensive range in terms of their sizes, going from small to large firms.</p>
<p>1.5 The Committee recommends that relevant and truthful information be made available and truly accessible to consumers, in a form</p>	<p>The Commission welcomes the EESC's views. In the area of food, Regulation</p>

<p>which is both concise and easily understandable (avoiding technical or legal language).</p> <p>3.4. The Commission should establish effective, binding instruments requiring producers and distributors to provide consumers with accessible information on all features of their products, services and prices which are vital for other social, environmental, territorial and economic purposes. In addition, all information should be made available in concise, easily understandable form. They can freely decide which of these features they will give priority to and not base their choice solely on marketing aspects.</p>	<p>(EC) No 1169/2011 on food information to consumers (the 'FIC' Regulation) strengthens the existing rules on labelling to the benefit of consumers. The new requirements will apply from 13 December 2014 (the obligation to provide nutrition information - from 13 December 2016).</p> <p>For the purpose of enhancing product traceability and thus safety, the proposal for a Regulation on consumer product safety (COM[2013]78) requires manufacturers and importers of non-food consumer products to provide information on the product or, where this is not possible, on the packaging or an accompanying document allowing the identification of the product, of its manufacturer and, if applicable, its importer and the product's country of origin.</p> <p>The Commission is also working with stakeholders to improve the transparency and reliability of comparison tools. Further to the recommendations made by the Multi-Stakeholder Dialogue on Comparison tools<sup>15</sup>, the Commission has launched a dedicated study to assess the functioning, use and reliability of comparison tools. Results are expected by July 2014</p>
<p>3.6 As well as proposing methodologies for measuring and communicating the overall impact of products and organisations, the Commission should take on the task of supplementing the knowledge that shapes consumers' purchase choices. In doing so, the Commission should provide clear indications regarding (1) the extent to which products and packaging can be</p>	<p>The Commission has identified actions jointly with retailers on packaging optimisation in a Retail Forum issue paper<sup>16</sup>. In addition, the Packaging and Packaging Waste Directive 94/62/EC of 20 December 1994 applies. According to the Directive, all packaging placed on the EU market needs to comply with the Essential Requirements, which specify that</p>

<sup>15</sup> [http://ec.europa.eu/consumers/documents/consumer-summit-2013-msdct-report\\_en.pdf](http://ec.europa.eu/consumers/documents/consumer-summit-2013-msdct-report_en.pdf)

<sup>16</sup> [http://ec.europa.eu/environment/industry/retail/pdf/packaging\\_%20issue\\_paper.pdf](http://ec.europa.eu/environment/industry/retail/pdf/packaging_%20issue_paper.pdf)

<p>recycled, (2) the amount of packaging actually needed (for the purposes of transport, provision of useful information, conservation and hygiene, ensuring that the product is in good condition throughout the period of use) compared to the large amount which can be dispensed with, (3) the extent to which the production and distribution sectors comply with standards in the areas of production, environmental protection and workers' rights and (4) ease of access to after-sales services.</p>	<p>packaging weight and volume must be reduced to the minimum necessary for safety, hygiene and consumer acceptance of the packaged product. Furthermore, the Retail Forum paper concluded that a systematic life-cycle approach should be taken that ensures that individual improvements to packaging contribute to the overall product sustainability.</p>
<p>4.8 The Committee calls on the Commission, hand in hand with the Member States and in cooperation with SME organisations, to spur on SME training on integrating various types of sales alongside traditional forms.</p> <p>4.9. The growth potential of online trade cannot be predicted with any certainty because it is dependent on how the markets and institutions will regulate it. The Commission should initiate and facilitate all actions that will enhance the value of non-sale services (which do not relate directly to a specific purchase) performed by offline retail.</p>	<p>The Commission shares the position of the EESC as regards the development of commercial and non-commercial online services. The Commission has developed its priorities on this matter in its Communication 2011(942) of January 2012. These include especially the support for SMEs helping them to go online.</p>
<p>6.2 The Committee suggests promoting a distribution model for general consumer goods based on dispensers as an alternative to packaged products. The Committee asks the Commission to consult all stakeholders with a view to implementing this action, intended to reduce the production of packaging which will then have to be disposed of.</p>	<p>Action 7 of the ERAP aims to "make supply chains more environmentally-friendly and sustainable". The use of dispensers as an alternative to packaged products is a reasonable approach but addressing the sustainability of the supply chain is much broader. JRC/IPTS has recently published a comprehensive report on best environmental management practices in the retail trade sector in which the approach to make supply chains more environmentally friendly is described in detail by means of concrete measures which should be taken into consideration<sup>17</sup>.</p>

<sup>17</sup> <http://susproc.jrc.ec.europa.eu/activities/emas/documents/RetailTradeSector.pdf>

<b>No 35</b>	<b>Green paper on long-term financing of the European economy;  COM(2013) 150 – CESE 2677/2013 – ECO/347  491st Plenary Session of July 2013  Rapporteur: Mr Smyth (GRIII-UK)  DG MARKT – Commissioner BARNIER</b>	
<b>Points of the EESC opinion considered  essential</b>	<b>Commission position</b>	

<p>- “(...) urges the Commission to give greater attention to the need to finance more “socially useful” capital investment”</p>	<p>The Single Market Act II states that “the Commission will develop a methodology to measure the socio-economic benefits created by social enterprises. The development of rigorous and systematic measurements of social enterprises’ impact on the community ... is essential to demonstrate that the money invested in social enterprises yields high savings and income”. The Social Impact Measurement Sub-group (GECES sub-group) was therefore set up in October 2012 to agree upon a European methodology which could be applied across the European social economy.</p> <p>The main purpose of impact measurement is to enable social enterprises and their funders to deliver greater social impact.</p> <p>Once the GECES sub-group delivers on its objective, the Commission will study potential next steps.</p> <p>One concrete step has already been taken. The recently adopted Regulation on European Social Entrepreneurship Funds (EuSEF) (Regulation (EU) No 346/2013) will foster a stronger EU market for investments that take into account social or non-financial factors, and build thereby capacity (an 'eco-system') for the systematic assessment of such factors. Fund managers and enterprises seeking investments from the funds under the Regulation will need to identify, assess and communicate their social mission and measure achievements. The work of the GECES sub-group will be invaluable in aiding the Commission in identifying necessary next steps to aid fund managers and enterprises in this.</p>
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<p>- “(...) EU 2020 project bonds (...) were developed jointly by the Commission and the EIB. Consideration should also be given to similar joint ventures with sovereign funds”;</p>	<p>This idea needs careful technical and legal analysis. Also on the basis of the responses received by stakeholders in the consultation, the Commission will assess what type of follow-up is possible. Already today, sovereign funds can invest in Europe 2020 project bonds jointly credit enhanced by the EU budget and the EIB. A different question is whether they may serve as entrusted entities in the execution of similar joint ventures pursuant to Art. 58 of the Financial Regulation of 26 October 2012. In principle, "third countries or the bodies they have designated" may qualify as entrusted entities according to paragraph 1(c)(i) of that article. However, protection of the Union's financial interest as well as transparent, efficient and effective implementation needs to be granted. Most importantly, implementation needs to be non-discriminatory, requiring, for example, that entrusted entities are able to operate in all countries of the EU.</p>
<p>“ (...) the creation of an EU or Eurozone wide savings vehicle, perhaps offering an interest rate premium may be worth considering”;</p>	<p>This idea needs careful technical and legal analysis. Also on the basis of the responses received by stakeholders in the consultation, the Commission will assess what type of follow-up is possible.</p>
<p>“ (...). It should possible to design and market suitable low or zero tax personal savings products with appropriate annual limits so as to encourage greater long-term financial planning”;</p>	<p>To the extent that no approximation of Member States’ tax laws has taken place Member States are free to establish their own tax rules in line with their different policy objectives as long as those rules do not infringe the provisions of the Treaties.</p>
<p>“(…) the EESC welcomes the Commission’s suggestions about enhanced voting rights and dividends for long-term investors and changes to the shareholders’ Directive. In addition, consideration could be given to a co-ordinated use of capital gains tax allowances to incentivise longer-term</p>	<p>The Commission welcomes the statement. The co-ordinated use of capital gains tax requires careful technical and legal analysis, since no harmonisation so far exists in this area.</p>

<p>shareholding by fund managers”;</p>	
<p>“(…) The EESC has already proposed that the EIF’s role should be enlarged beyond providing loans to include the provision of venture capital. (…) If the EIF, like the EIB, were to be recapitalised then it could become one of the main providers of venture finance for SMEs”;</p>	<p>The EIF is already today the main provider of venture capital to SMEs in Europe. The Fund is a very significant investor in venture capital and growth funds, as well as mezzanine funds that support SMEs. It's investment activities also cover technology transfer and business incubators.</p>
<p>“Given that national and regional governments are already in the business of promoting the survival and long-term growth of SMEs through their regional development bodies, there is a case for these bodies to take on a role in the operation of such SME trading platforms. This role could range from assessing the credit worthiness of client SMEs to providing limited guarantees to institutional investors”;</p>	<p>This idea needs careful technical and legal analysis. Also on the basis of the responses received by stakeholders in the consultation, the Commission will assess what type of follow-up is possible. A European solution would be preferred to attract a wider group of investors, as proposed by the recent Commission's SME Initiative, which suggests combining ESI Funds with centrally managed EU budget funds under the new COSME and Horizon2020 programmes as well as EIB/EIF own resources to support SMEs in Europe by providing guarantees and facilitating securitisation of SME loan portfolios.</p>
<p>“In the context of engendering greater participation of institutional investors in the provision of long-term finance, corporate income taxation incentives could also play a part. A system of tapered allowances in respect of large infrastructure project investments could lead to greater institutional investor participation in them”;</p>	<p>To the extent that no harmonization has taken place, direct taxation remains the responsibility of Member States. The issue raised in this point could be assessed during the negotiations on the Common Consolidated Corporate Tax Base (CCCTB) proposal.</p>



<p>“The EESC would like to see greater emphasis placed on socially responsible investment and proposes the establishment of an observatory to monitor long-term investment conditions”.</p>	<p>This idea needs careful technical and legal analysis. Also on the basis of the responses received by stakeholders in the consultation, the Commission will assess what type of follow-up is possible.</p> <p>In addition, a proposal for a Directive of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups was presented on 16<sup>th</sup> April 2013 with the objective of increasing EU companies’ transparency and performance on environmental and social matters, and, therefore, to contribute effectively to long-term economic growth and employment.</p>
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<p><b>N°36 Unfair trading practices in the business to business food and non-food supply chain in Europe</b>  <b>COM(2013) 37 – CESE 1697/2013 – INT/683</b>  <b>491st Plenary Session of July 2013</b>  <b>Rapporteur Mr Šarmír (GRI-SK)</b>  <b>DG MARKT – Commissioner BARNIER</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.1 The EESC takes note of the European Commission's publication of this Green Paper and thinks that it reflects a positive and marked shift in the Commission's approach to unfair trading practices (UTPs).</p>	<p>The Commission welcomes the EESC's views and the general support of the Green Paper.</p>
<p>1.4 In the Committee's view, the results so far of the High Level Forum for a Better Functioning Food Supply Chain are unclear and the approaches proposed are insufficient to solve the problem of unfair practices. It would therefore urge the European Commission to come up with further initiatives.</p>	<p>The Commission takes note of the position of the EESC. On the basis of the Green Paper consultation, the Commission is currently analysing the possible problems caused by UTPs and potential resolutions for them. The voluntary initiative launched in the High Level Forum factors into this analysis.</p>
<p>1.6 The EESC is particularly pleased that the Commission explicitly casts doubt in the Green Paper on the existence of true contractual freedom where relationships are very unequal, thus concurring with the EESC view.</p> <p>1.12 The EESC recommends that any further consideration of how to address the problem of UTPs should start with the absence of contractual freedom in some relations.</p>	<p>The Commission considers the principle of contractual freedom as fundamental. At the same time, freedom of contract should not be a justification to apply unfair practices to a trading partner, for example retroactive and unpredictable changes to a contract. In its Impact Assessment, the Commission will assess the effectiveness of different policy options to address the problem of UTPs while carefully taking into account the possible implications or limitations for contractual freedom.</p>
<p>1.7 The Committee finds that the Commission's Green Paper captures very well the essence and main types of unfair trading practices. However, it firmly believes that the Commission should provide a uniform definition of UTPs similar to that already set out in Directive 2005/29/EC, since the practices referred to in the Green Paper bear</p>	<p>The policy options being analysed in the Impact Assessment reflect different approaches as to how UTPs or conversely best practices can be defined. In its evaluation of the options, the Commission will thoroughly consider which approach would be the most effective to tackle UTPs</p>

<p>some resemblance to "misleading marketing practices".</p>	<p>both at national and cross-border level.</p>
<p>1.9 In the EESC's view, the consequences of unfair trading practices are not restricted to business-to-business dealings; nor do they affect only weaker contracting parties. Consumers are also victims, as are national economic interests – a fact insufficiently highlighted in the Green Paper.</p>	<p>One question in the Green Paper dealt precisely with the possible effects of UTPs on consumers. The stakeholder feedback to this question during the public consultation, as well as other available relevant data and information, will feed into the analysis of the Commission.</p>
<p>1.8 UTPs can only be used if there is a "climate of fear" in which the weaker contracting party is frightened of losing the custom of the stronger party. The most typical example of this is the threat of delisting, with which large retailers directly or indirectly extract various unjustified and one-sided benefits from food suppliers.</p> <p>1.13 The EESC recommends that any proposals in future to regulate unequal commercial relations take the "fear factor" into account. The essential balance between contracting parties must be secured so that their relationship is a fair one. For this reason, the prime aim of UTP regulation cannot be to protect the weaker contracting party exclusively, but also the national economic interest. This would mean, for example, that food suppliers affected would not have to take an active part in administrative and legal proceedings.</p>	<p>The Commission is analysing different methods to address the fear factor and the effects of UTPs. Confidential complaints and ex officio investigations have been consistently mentioned by respondents to the public consultation as crucial requirements for an effective framework addressing UTPs. In its assessment, the Commission follows a neutral approach. This assumes that the fear factor can apply at all stages and both directions of the food supply chain in situations of significant economic imbalance.</p>
<p>1.14 The EESC calls on the European Commission to propose legislation banning UTPs. This should be based on an indicative list of the most typical such practices employed by the stronger contracting party and designed to transfer its own normal costs and risks to the weaker party.</p>	<p>The Commission is currently preparing an Impact Assessment to examine different policy options. These options range from relying on the voluntary initiative to binding legislation on the basis of a list of prohibited UTPs.</p>
<p>1.15 The EESC calls on the European Commission to work with national competition authorities in drawing up, on the basis of practical experience over recent decades, a radical revision of current – and evidently obsolete – competition rules so as</p>	<p>Under the current competition rules, National Competition Authorities (NCAs) have been able to act in a large number of cases throughout the food supply chain to the benefit of all actors in the chain. For instance, NCAs have sanctioned cartels of</p>

to promote fair competition based on the fair exchange of relevant information in this sector and take all existing dominant positions into account.

buyers acting against farmers in the dairy and meat sectors, cartels of sea food suppliers restricting supply to processors and cartels of processors or manufacturers raising prices to the detriments of consumers. NCAs also eliminated contractual restraints which limited the freedom of undertaking and pricing of retailers.

In the particular case of dominant positions, the current rules make it possible to tackle either individual dominant positions or collective dominant positions provided that the operators concerned implement a common policy.

<p><b>N°37 Approximating the laws of the Member States relating to trade marks (Recast)</b>  <b>COM (2013) 162 – CESE 3456/2013 –INT/697</b>  <b>491st Plenary Session of July 2013</b>  <b>Rapporteur Mr Hernández Bataller (GRIII-ES)</b>  <b>DG MARKT – Commissioner BARNIER</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
	<p>The Commission welcomes the strong overall support of the EESC for this proposal.</p>
<p>1.5 In general, the entire process should complete the alignment of trade mark laws within the next few years, culminating in the adoption of an EU trade mark rulebook, which should establish, inter alia, the creation of a flexible, uniform and cost-effective procedure giving interested parties the option to register trade marks on a voluntary basis and putting an end to current differences in the law.</p>	<p>In its Impact Assessment, the Commission discarded the option of going for a single trade mark rulebook as it was considered to be clearly disproportionate in view of the demonstrated needs. Such option would not take into account at all the historical development of laws in the Member States and would unduly deprive them from any kind of flexibility at national level. The Commission believes that it is appropriate and sufficient to harmonise the main procedural rules, including those where existing divergences cause major problems from the users' perspective and which are deemed indispensable for creating a harmonious, complementary system of trade mark protection in Europe.</p>
<p>2.10 In its Resolution on a comprehensive European anti-counterfeiting and anti-piracy plan, the Council called for a review of Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights. The EESC hopes that improvements will be made to the legal framework to strengthen the protection of intellectual property rights by the customs authorities and to ensure adequate legal certainty.</p>	<p>The new Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 aims at strengthening the enforcement of intellectual property rights by customs authorities and ensuring appropriate legal certainty. In particular, the list of possible infringements to be controlled by customs at the border will be wider. Furthermore, the list of protected rights is extended to trade names, topographies of semiconductor products, utility</p>

	models, devices to circumvent technological measures and non-agricultural geographical indications.
<p>3.8 and 3.9 The EESC wishes to express its surprise that the proposal to amend Regulation (EC) No 207/2009 on the Community trade mark (COM(2013) 161 final) was not submitted to it for its advisory opinion. Since this matter has a direct impact on the functioning of the internal market (Article 118 TFEU) and affects the level of consumer protection (Article 169 TFEU)</p>	<p>Contrary to the proposal for a Directive, being based on Article 114 TFEU, the proposal to amend Regulation (EC) No 207/2009 on the Community trade mark is based on Article 118 TFEU. According to the latter provision, a formal consultation of the EESC is not required. The Commission appreciates the EESC's preference for being consulted on that second proposal as well. However, in order to allow for an expeditious treatment of the trade mark package by the legislator within the remaining period it was considered appropriate to abstain from consulting the EESC on that other proposal. The Commission would like to stress that this does in no way express depreciation of the EESC' role which is highly valued by the Commission.</p>
<p>3.11.1, 3.11.2 and 3.11.3 Although the Proposal for a Directive significantly increases the number of situations in which the proprietor of the trade mark can prohibit its use by third parties (...), it falls to the court to determine the precise scope of the law in the event that the proprietor launches judicial proceedings. It will therefore be for each judicial body to establish whether or not there is a risk of confusion or improper appropriation of the protected mark by a third party, and in the event that there is, also to determine the compensation for the proprietor in accordance with the action brought. Consequently, the proposal does not offer uniform protection for the rights of proprietors to use their trade marks or for consumers, when they are affected by the inappropriate or fraudulent use of a commercial trade mark.</p>	<p>The shortcomings referred to by the EESC are an unavoidable consequence of the principle of territoriality of trade mark protection. Trade mark protection conferred by national rights registered in the Member States is restricted to the territory of the Member States concerned. It is therefore for the national courts of the Member States to ensure the enforcement of those rights on the basis of the implementing laws of the Member States. However, a uniform application of the laws in consistency with EU rules is guaranteed by the Court of Justice of the European Union through the mechanism of preliminary ruling procedure under Article 267 TFEU.</p>
<p>3.12 The complementarity between the supranational and national protection systems for the rights of trade mark</p>	<p>The Commission's evaluation of the functioning of the trade mark system in Europe clearly revealed that the existing</p>

<p>proprietors therefore implies a clear risk in terms of whether this protection is as efficient and expeditious as possible, in line with the proposal's objectives.</p>	<p>coexistence between the Community trade mark system and national trade mark systems of Member States is fundamental and necessary for the efficient functioning of a trade mark regime that meets the requirements of companies of different sizes, markets and geographical presence. The proposed measures shall provide for a genuine European trade mark system, based on a harmonious complementarity of different regimes. The new setting will improve access to trade mark protection for all users, regardless of their location, size or market. It will also contribute to increasing legal certainty, limiting the risk of litigation, and improving the level playing field for European business.</p>
<p>3.17 As to Article 45(1) on the obligation of Member States to provide for an efficient and expeditious administrative procedure before their offices for opposing the registration of trade mark application (...), there need to be more concrete provisions on the nature of this procedure and to legally establish the reasonable timeframe within which the relevant national authorities can take action.</p>	<p>The Commission doubts whether the addition of more concrete provisions would be compatible with the principles of subsidiarity and proportionality. The Commission further believes that a deeper harmonisation of practice, including on processing time, can better be achieved by convergence of practices in the context of enhanced cooperation between the offices.</p>
<p>3.18 With regard to Article 44, which establishes that the registration and renewal of a trade mark shall be subject to an additional fee for each class of goods and services beyond the first class, a maximum rate needs to be established for these fees.</p>	<p>It is not for the Commission to determine whether such an approach should be followed, as such a decision falls within the remit of the Member States' competence.</p>
<p>3.19 With regard to Article 52, which provides for cooperation between the Member States and the OHIM in order to promote convergence of practices and tools and achieve coherent results in the examination and registration of trade marks , a specific provision needs to be established, in compliance with Article 291 TFEU, granting the Commission implementing powers to adopt a binding</p>	<p>The Commission's proposal to amend Regulation (EC) No 207/2009 on the Community trade mark provides in Article 123c a clear framework for mandatory cooperation between the OHIM and Member States intellectual property offices with the aim of promoting convergence of practices and the development of common tools. It provides for the main areas for cooperation and specific common</p>

<p>"code of conduct".</p>	<p>projects of Union interest the OHIM will coordinate. It further sets up a funding mechanism enabling OHIM to finance those common projects by means of grants.</p>
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<p><b>N° 38 Disclosure of non-financial information</b>  <b>COM(2013) 207 – CESE 3548/2013 – INT/698</b>  <b>491st Plenary Session of July 2013</b>  <b>Rapporteur: Ms Pichenot (GR11-FR)</b>  <b>DG MARKT – Commissioner BARNIER</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>• <b>Conclusions</b></p> <p>1.8. The Committee welcomes the Commission's proposed amendments to the accounting directives concerning both disclosure of non-financial information and diversity on governing bodies. These limited amendments will help to improve the EU's corporate governance framework<sup>18</sup>.</p> <p>1.9. The Committee recommends that the European Parliament and the Council take account of the balance achieved with these amendments, which increase transparency regarding environmental, social and corporate governance (ESG). The Commission's proposal constitutes a flexible and appropriate mechanism for improving communication with shareholders, investors, workers and other stakeholders. This proposal is targeted only at large companies, in order to avoid imposing additional burdens on smaller businesses.</p>	<p>The Commission takes note that the EESC welcomes the proposal, which the EESC considers flexible and appropriate.</p>
<p>• <b>Recommendations</b></p> <p>1.10. The Committee recognises that a <b>balanced combination of the following elements</b> will make it possible to provide shareholders at annual general meetings with non-financial information and to inform stakeholders in large companies. This set of requirements meets the stated objectives of transparency and consistency:</p> <ul style="list-style-type: none"> <li>• substantive non-financial information is incorporated in the annual report;</li> <li>• this information relates <i>inter alia</i> to environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters;</li> <li>• the information covers the company's policies in these areas, the results of those policies,</li> </ul>	<p>The Commission takes note that the EESC considers the proposal balanced and effective in order to increase transparency of certain large companies, while undue administrative burden is kept to a minimum.</p>

<sup>18</sup> The EU corporate governance framework, [OJ C 24, 28.1.2012, p. 91](#).

<p>the risks and uncertainties involved and how the company manages them;</p> <ul style="list-style-type: none"> <li>• the mechanism covers all limited liability companies within the scope of the current accounting directives;</li> <li>• subject to a threshold such that it applies only to companies with more than 500 employees and either a balance sheet total of over EUR 20 million or a net turnover of over EUR 40 million, which exempts SMEs from the requirement;</li> <li>• businesses can follow national, EU or international frameworks setting out principles and/or indicators as well as reporting guidelines;</li> <li>• each business prioritises the information relevant to it;</li> <li>• using the "comply or explain" method makes reporting mandatory but allows businesses some latitude where in their view the lack of information is justifiable;</li> <li>• the flexibility of the instrument means that the administrative burden need not rise, particularly as it provides the option of continuing to produce a separate report that meets the same requirements and is an integral part of the annual report.</li> </ul>	
<p>1.11. Given this degree of balance, the Committee feels that this would be <b>a good time</b> to adopt the proposal for a directive amending the accounting directives:</p> <ul style="list-style-type: none"> <li>• at a time when civil societies are paying ever greater attention to businesses' impact on the community, when States and business communities are being expected to show greater transparency and when socially responsible investment is on the rise<sup>19</sup>;</li> <li>• in a context where the Member States' national legislation and recommendations on non-financial reporting are still varied but are converging, where within the last ten years</li> </ul>	<p>The Commission takes note that the EESC considers the proposal timely in a context of economic crisis as a policy instruments with a potential to strengthen the transparency, resilience and sustainability of EU companies.</p>

<sup>19</sup> Socially responsible financial products, [OJ C 21, 21.1.2011, p. 33](#).

<sup>20</sup> European company law and corporate governance, CES982/2013 - INT/678.

<p>the international benchmarks by, for example, the OECD and the ILO were revised , and ISO 26000 was established, and where there has been ongoing refinement of tools for non-financial reporting such as those developed by the Global Reporting Initiative (GRI), the European Federation of Financial Analysts Societies (EFFAS), ratings agencies and corporate analysis bodies, as well as of sectoral benchmarks;</p> <ul style="list-style-type: none"> <li>• at a time when, at both European and international scale, the lessons learned from the financial, economic, social and environmental crises are increasing the need for transparency<sup>20</sup> concerning investment, taxation and anti-corruption measures, particularly in the extractive industries;</li> <li>• now that tools have been developed to quantify the environmental impact of productive activities, such as product life-cycle analysis, environmental footprint and calculating the cost of negative externalities;</li> <li>• and now that some businesses are responding to the concerns of responsible consumers by providing more sustainable goods and services, for example by avoiding planned obsolescence and encouraging fair trade.</li> </ul>	
<p>1.12. The Committee welcomes the fact that these amendments to the accounting directives open up new <b>prospects</b>, as they:</p> <ul style="list-style-type: none"> <li>• move towards incorporating ESG issues into businesses' strategies and communications;</li> <li>• give shareholders' AGMs and responsible investment principles a more prominent role;</li> <li>• provide guarantees and degrees of flexibility that allow all businesses that see CSR as the microeconomic incarnation of sustainable development to commit to this progressive approach;</li> <li>• initiate a new approach to presentation and decision-making in business strategies, which focuses on the long term and strengthens the relationships between branches and the head of the group.</li> </ul>	<p>The Commission takes note of the EESC's analysis of implications of the proposed Directive for companies and shareholders.</p>

<p>1.13. The Committee would draw the <b>attention of the European Parliament and the Council to the following recommendations:</b></p> <ul style="list-style-type: none"> <li>• companies should outline the positive or negative effects of their actions on society;</li> <li>• companies should mention in their reports if there are workers' representatives on their boards;</li> <li>• bodies representing the workforce should be informed and consulted during the process of preparing the annual report;</li> <li>• the details in the ESG part of the report should be provided by specialists in the relevant fields, particularly with regard to the social and environmental aspects;</li> <li>• contractors should provide information on their relationship with their supply chain or value chain, inter alia with regard to labour rights and human rights;</li> <li>• businesses not subject to the directive could use this transparency-based approach on a voluntary basis to improve the way they operate;</li> <li>• Member States should incorporate the quality of non-financial reporting into their national CSR strategies;</li> <li>• when transposing the directive, Member States could, if they see fit, lower the stated thresholds to ensure that a significant number of the country's companies are included;</li> <li>• the Commission should be invited to launch or facilitate a process involving "multiple stakeholders"<sup>21</sup> with a view to more effectively establishing guidelines and reference standards to facilitate comparability and, in the longer term, harmonisation;</li> <li>• in its own promotional and awareness raising CSR policies, as laid down in the October 2011 Communication, the Commission should recommend relevant companies to use those international benchmarks for guidance on disclosure of non-financial information</li> </ul>	<p>The Commission takes note of the EESC's recommendations to the EP and the Council.</p>
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<sup>21</sup> Employee involvement and participation, CESE 2096/2012 - SOC/470.

<p>which demonstrate most affinity with its new definition of CSR.</p>	
<p>1.14. The Committee endorses the proposed amendment to the fourth directive regarding the requirement to provide information on the <b>diversity policy pursued by the company for its governing bodies</b>.</p> <p>1.15. It would stress that this does not only involve administrative and supervisory boards, and that it may be worth extending the diversity policy to cover board committees such as the audit committee.</p> <p>1.16. It points out that the ambitions regarding numbers of women on boards have not been achieved in most Member States<sup>22</sup>.</p> <p>1.17. It believes that the diversity criteria should include the involvement of employee board members from the workplace, for example from the European Works Council, appointed by the trade unions.</p>	<p>The Commission takes note of the EESC's endorsement of the proposal on transparency relating to the company's diversity policy in its governing bodies.</p>
<p>1.18. The Committee finally recommends that the Commission make this revision subject to a non-regression clause in respect of existing national legislation, and carry out an assessment of the impact of these amendments to the accounting directives on corporate practice as regards disclosing non-financial information, within five years of the entry into force of the directive.</p>	<p>The Commission takes note of the EESC's recommendations on non-regression, and impact assessment within five years.</p>

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<sup>22</sup> Gender balance on company boards, [OJ C 133, 9.5.2013, p. 68-76](#).

<p><b>N°39 State of the Customs Union</b>  <b>COM (2012)791 –CESE 998/2013 – INT/677</b>  <b>490<sup>th</sup> Plenary Session of July 2013</b>  <b>Rapporteur: Mr Simons (GRI-NL)</b>  <b>DG TAXUD – Commissioner SEMETA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.1 The Committee concurs with the broad thrust of the Commission communication. The EESC supports a solid customs union that can make a useful contribution to competitiveness and the smooth operation of the internal market in the European Union.</p>	<p>The Commission thanks the EESC for the support expressed.</p>
<p>Conclusions and recommendations in points 1.2 – 1.6</p>	<p>The Commission takes note of the comments raised and stresses that either they already are or will be taken into account in the follow-up actions envisaged by the Communication.</p>

<b>N° 40</b>	<b>Implementing enhanced cooperation in the area of financial transaction tax</b> <b>COM (2013) 71 final – CESE 1768/2013</b> <b>490<sup>th</sup> Plenary session of May 2013</b> <b>Rapporteur Stefano Palmieri (GRIT -IT)</b> <b>DG TAXUD – Commissioner SEMETA</b>
<b>Main points of the EESC Opinion</b>	<b>European Commission's position</b>

<p>1.19. In line with the positions expressed by the European Parliament, and the Committee of the Regions and consistently with its own previous opinions, the European Economic and Social Committee welcomes the proposal put forward by the Commission to introduce the world's first regional financial transaction tax (FTT).</p> <p>1.20. While recalling that it had wished to see an FTT applied at global level, the Committee believes that its application at regional level (EU11+ zone) – with the involvement of eleven EU Member States – could constitute an exceptional opportunity, which could lead to its future application worldwide.</p>	<p>The European Commission would like to thank the EESC for the support expressed in favour of its legislative initiative.</p>
<p>1.6 The Committee is pleased to point out that, in order to neutralise or at least reduce to a minimum the risk of financial activities being relocated, the Commission has – in the new FTT proposal – coupled the residence (or territorial) principle (proposed in the original version) with the issuance principle proposed by the European Parliament and strongly supported by the Committee in its previous opinion<sup>23</sup>. The Committee draws attention to the fact that cumulative application of these principles could mean that, in some cases, financial institutions in non-participating Member States would also be subject to the tax. The Committee therefore considers that, in line with the European Parliament's proposals, further consideration and negotiations with third countries should be initiated with a view to facilitating FTT collection.</p>	<p>The Commission shares the view of the Committee.</p>

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<sup>23</sup> [OJ C 181, 21.6.2012, p. 55-63.](#)



<p>1.8 In line with the European Parliament, the EESC believes that it would make sense to complement the residence and issuance principles with the "ownership principle". This would make FTT avoidance risky and expensive and secure better application.</p>	<p>The Commission takes note of the Committee's suggestion but considers the suggestion as highly problematic under the legal base of the proposal (Art. 113 TFEU).</p>
<p>1.9 The Committee regrets that a review of the micro- and macroeconomic consequences of the FTT's application is not provided for until three years after the entry in force of the legislation under consideration. It calls for ongoing checks and controls (annual monitoring) to be carried out by the Commission. This would enable the effects of the FTT to be gauged from the outset and timely corrective action as regards its application to be proposed.</p>	<p>The Commission takes note of the Committee's suggestion but considers an earlier review of the FTT's application not meaningful, given that it would be based on too short a period. Generally, any such review of the economic impact of the tax must respect a healthy cost/benefits balance.</p>
<p><b>1.10</b> Having previously criticised the insufficient evaluation documentation that accompanied the original FTT proposal, the Committee welcomes the fact that the Commission acted to partially remedy this shortcoming. The Committee points out that, when it comes to assessing the effects of this proposal in quantitative terms, the Commission needs to improve the models currently available, by adapting them to evaluation of policy alternatives. In particular, the Committee calls on the Commission services to produce estimates, where possible, correlated to the actual characteristics of the specific proposals made.</p>	<p>The Commission welcomes the Committee's suggestion. While it will try to improve the relevant quantitative analysis, it depends however on data input from the Member States.</p>
<p><b>2. The Commission's Proposal for a Council Directive implementing enhanced cooperation in the area of a common system of financial transaction tax (FTT)</b></p>	<p>The European Commission would like to thank the EESC for the support expressed in favour of its legislative initiative. The Commission welcomes the views expressed in the Committee's opinion.</p>



<p><b>N°41 Customs risk management and security of the supply</b>  <b>COM (2012) 293 – CESE 1653/2013 –INT/681</b>  <b>491st Plenary Session of July 2013</b>  <b>Rapporteur: Mr Pezzini (GRI-IT)</b>  <b>DG TAXUD – Commissioner SEMETA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>The EESC considers it vital to take a common approach to customs risk management and security of the supply chain in order to ensure uniform, non-discriminatory application of EU customs legislation by all of the authorities concerned across the whole of the customs union, which is an exclusive EU competence, under Article 3 TFEU.’’</p>	<p>The Commission fully shares the view of the EESC, and considers that following the establishment of the of the Common Risk Management Framework (CRMF) in 2006 and detailed evaluation carried out of its performance in 2012 it is vital to develop and improve its functioning further to substantially contribute to the common and harmonised approach to customs risk management and related controls.</p>
<p>The EESC strongly supports the Commission's proposals, aimed at ensuring greater effectiveness and efficiency in risk management and the movement of goods across EU borders, by means of a common strategy, equipped with appropriate IT systems with a view to EU-level risk management.</p>	<p>The Commission thanks the EESC for its support and agrees that increased effectiveness and efficiency of customs risk management can be achieved through better exploitation of information which requires equipping the customs as part of the functioning of the CRMF with appropriate and modern IT systems that can benefit all the Member States.</p>
<p>The EESC is extremely concerned that the orientation and application of the customs union – established by the 1957 Treaty of Rome and implemented in 1968 as a common policy aimed at providing a single trading area where all people and goods circulate freely and a one-stop-shop for traders to carry out customs dealings on a non-discriminatory basis throughout the EU – is still uneven, which is preventing efficient and effective customs risk management and thus slowing down trade flows and the free movement of goods in the EU.</p>	<p>The Commission takes note of this point, however would like to stress that customs risk management at the EU level is relatively new mechanism. The Common Risk Management Framework aimed towards harmonised application of risk analysis based customs controls through common risk criteria and standards and harmonised treatment of authorised economic operators (AEO) has become fully operational only in recent years. It is not unusual that implementation of new complex mechanisms at the level of the EU brings levels of unevenness. In this context the European Commission conducted detailed assessment to identify the main elements creating potential weaknesses, gaps and variances of the implementation of CRMF which needs to be addressed as</p>

	a matter of priority.
<p>The EESC recommends that common technical standards be developed to ensure uniform implementation of high-quality risk management at all points along the EU's external borders, accompanied by an EU drive to ensure advanced professional training, which takes account of the various obligations pertaining to the many different national circumstances.</p>	<p>The Commission shares the view of EESC and will follow this recommendation as part of the process of elaborating and bringing forward a coherent strategy and action plan on risk management and security of the supply chain, as requested by the Council in its Conclusions (8761/3/13, Rev.3 of 18. June 2013). It will continue to work together with the Member States towards identifying and implementing the most effective and efficient ways to ensure a harmonised and high quality risk management at all points along the EU external borders. Account will be taken of specific local, regional and national risk management characteristics.</p>
<p>The EESC stresses the need to ensure the full interoperability of the various data bases that operate within the European market surveillance system – on the basis of a common strategy and with substantial support from EU programmes for technological development – in order to ensure real-time information-sharing between the various authorities at the different levels, inter alia to bolster efforts to combat the potential risk of health, environmental and social dumping.</p>	<p>The Commission takes note of the suggestions of the EESC to enhance information sharing of relevant data between the various authorities.</p> <p>With regards to the European market surveillance systems, already existing tools such as RAPEX and ICSMS are made available to Customs where needed. In addition, information of those databases could also serve as a source for measures to be introduced into the EU Customs Risk Management system (CRMS).</p> <p>Furthermore, Member States already have systems in place to exchange data, provided by economic operators, between customs and competent authorities. The European Commission is developing a “Single Window” to facilitate this exchange on a European level. As a first step a connection between customs systems and the Commission system TRACES (used for controls on live animals and products of animal origin) will be introduced.</p> <p>The Commission will also work together with the Member States in ensuring that the strategy and action plan on risk management and security of the supply chain will address the issue of inter-agency information</p>

	<p>sharing at national and EU level. Although the actions still have to be elaborated, in the Commission's view they should provide clear ways of enhancing the synergies between CRMF and other sectors/authorities.</p>
<p>The EESC calls for EU action to be stepped up towards developing skilled human resources and boosting management capabilities, including through measures to iron out disparities in control burdens and the establishment of a common customs support team that would intervene promptly, on request, in difficult situations.</p>	<p>The Commission entirely shares the view that the existing variances in skills, expertise and availability of adequate human resources need to be addressed with adequate measures at national, and/or if more appropriate by the EU level support. The European Commission believes that at EU level, better pooling of the capacity and resources of Member States is required to achieve EU risk management objectives more effectively at all points of the external border. The Strategy and Action Plan should address these aspects.</p>
<p>The EESC deems it essential to strengthen the partnership between customs authorities, carriers and authorised economic operators (AEO), reinforcing its status and benefits, in order to ensure optimal cooperation in risk management, through the transmission of data in a single instalment, without unnecessary bureaucratic duplication.</p>	<p>The Commission believes that economic operators playing different roles in the supply chain are of a vital importance in ensuring the sustainability of the customs union and the EU single market. The Commission agrees that, in return to their investments made to secure their own part of the supply chain within the AEO programme and providing high level data quality for customs risk assessment, there is a need to offer to them more tangible benefits. The Strategy should address these aspects.</p>
<p>The EESC calls for an overhaul of the system of governance here, comprising all national and EU authorities, agencies and EU warning and information systems, to ensure more structured and systematic cooperation between customs and other authorities operating in the internal market.</p>	<p>The Commission takes note of this and would like to explain that the actions to ensure more structured and systematic cooperation between customs and other authorities operating in the Internal Market will be put forward as part of the strategy of the supply chain, taking account, in particular of the proposed Regulation on market surveillance of products (COM(2013)75 final) and the implementation of the Commission Communication COM(2013) 76 final, setting out a multi-annual plan for the surveillance of products in the EU</p>
<p>The EESC calls for the package of actions set out in the multiannual plan for market</p>	<p>The Commission is undertaking all necessary efforts to coordinate the</p>

surveillance to be implemented in a coherent and coordinated way, in order to prevent duplications of controls, different criteria being applied, multiple requests being made for the same data, differing visions among the various market control and surveillance authorities, and a lack of interoperability.

package of actions set out in the multiannual plan in order to make the surveillance of the single market for products more efficient and operational. This action plan was created involving the relevant competent Commission services to avoid possible duplications of controls, different criteria etc. when applying those actions.

<p><b>N°42 Consumer product safety</b>  <b>COM(2013) 78 – CESE 1600/2013 –INT/684</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: Mr Hernandez Bataller (GR11-ES)</b>  <b>DG ENTR –Vice-president TAJANI</b>  <b>DG SANCO – Commissioner MIMICA</b></p>	
<b>Points of EESC considered essential</b>	<b>Position of the Commission</b>
<p>2.1. The EESC supports the Commission's proposal to establish a legal framework providing a high level of consumer protection and requiring consumer products to be safe.</p>	<p>The Commission thanks the Committee for its support for the proposal.</p>
<p>2.2. The Committee considers a regulation to be the appropriate instrument for this consolidation of existing legal texts, bringing them into line with the new legislative framework for the marketing of products. The regulation will enable the same level of safety to be established in all EU countries, with common criteria.</p>	<p>The Commission agrees with the Committee.</p>
<p>2.3. As the regulation is the only instrument that allows adoption of the same measures with the same support for the same levels of risk in all the countries of the EU, it is important that it uses terms that can be interpreted in the same vein in all the countries of the EU.</p>	<p>The Commission agrees with the Committee. The Commission has carefully ensured that the terminology used in this Regulation matches the wording and definitions of the currently existing legislative framework which governs the manufacturing and placing on the market of non-food products. The Commission chose to propose a Regulation with the precise objective of eliminating differences in interpretation between Member States.</p>

<p><b>N°43    Manufacture, presentation and sale of tobacco and related products</b>  <b>COM (2013)788 – CESE 2012/0366 –SOC/478&lt;</b>  <b>491st Plenary Session of July 2013</b>  <b>Rapporteur: Mr. Rodriguez Garcia-Caro (GRI-ES)</b>  <b>DG SANCO, Commissioner BORG</b></p>	
<p><b>Points of EESC considered essential</b></p>	<p><b>Position of the Commission</b></p>
<p>EESC in principle welcomes this legal basis, considering it appropriate in the light of the objectives of the proposal, which the EESC fully shares, in particular that of preventing people, especially young people, from taking up smoking. Nevertheless the EESC notes that on some occasions, for example in the European Parliament's Committee on Legal Affairs, misgivings have been expressed regarding this legal basis, notably on the grounds that the objective can be sufficiently achieved by the Member States.</p>	<p>The Commission welcomes the support from the EESC as regards the objective to discourage especially young people from taking up smoking. The Commission recalls that the legal base of the proposal is Article 114 TFEU, the choice of which has also been confirmed by the European Court of Justice with regard to the current Directive. This legal base is appropriate to update the existing level of harmonisation provided for in the current Directive, to remove obstacles to the internal market due to divergent regulatory developments in the Member States, and to prevent circumvention of internal market rules. The Commission proposal updates or extends provisions to ensure the functioning of the internal market which only measures at EU level can achieve, while aiming at a high level of health protection throughout the EU.</p>
<p>The EESC fully agrees with the European Commission that the right to health must take priority over all economic considerations. In that context, the EESC is strongly in favour of promoting public education and awareness-raising plans and campaigns concerning the serious health effects of smoking. Nevertheless, scepticism remains as to whether the proposed measures will help with the gradual process of quitting smoking. Thus, the Committee recommends that the measure under examination be extended to stress the importance at EU level of school-based educational and counselling strategies, to ensure that every child or young person is correctly, fully and regularly informed of the realities of smoking and its harmful effects, and of the carcinogenic effects of exposure to</p>	<p>An effective tobacco control policy consists of a wide range of mutually supportive measures. The Commission acknowledges that awareness raising and educational campaigns play a role in reducing tobacco consumption, as a complement – not a replacement – of other policy measures. In any case, this particular proposal deals with harmonisation of legislation under Article 114 TFEU and this legal basis cannot be extended to cover measures such as awareness raising campaigns.</p>



<p>environmental tobacco smoke (ETS).</p>	
<p>The Committee recognises that a considerable number of jobs will be at risk EU-wide in all sectors along the value chain of agriculture, production, packaging and retail of tobacco and related products. The EESC calls for necessary attention to be paid to preventing these labour market risks and strongly recommends that all available forms of transitional and restructuring aids be used, in particular training schemes for workers together with scientific, technical and innovation support enabling enterprises and farms to move towards new kinds of products, in order to maintain jobs. It should be noted that tobacco cultivation contributes to rural employment. The cohesion and structural funds, regional funds and funds for research and innovation should be used effectively in Member States impacted most by this possible restructuring, particularly in the current context of economic crisis.</p>	<p>The Commission recalls that the estimated consumption drop (around 2% within five years along the whole tobacco supply chain) is very moderate. In addition, some benefits are expected for the industry through reduced costs (one production line) and the solid measures aimed at reducing illicit trade. Moreover, money not spent on tobacco will be spent on other products or services which are more labour intensive than tobacco production. Therefore, the effects on employment are estimated to be positive overall.</p> <p>Tobacco farmers can benefit from a range of restructuring measures under the EU's rural development policy, such as investment aid for farms converting into alternative crop production, diversification into non-agricultural economic activities, support for business creation and vocational training.</p>
<p>There will be a sharp increase in illicit trade (i.e. smuggling and counterfeiting) by criminal networks, leading to a reduction in sales of legal tobacco, a fall in tax revenues from tobacco products, a threat to consumer safety as a result of the absence of health and quality controls and easier access to tobacco for minors.</p>	<p>A reduction in tobacco consumption has the potential to impact on tax revenues for governments. However, experience from the past shows that governments often compensate for this decrease by increasing the tax rates.</p> <p>The Commission estimates that the proposed rules on packaging do not increase the risk of illicit trade. During the public consultation, no evidence was presented to substantiate any such claims. In any event, the proposal foresees effective measures against illicit trade. The Commission is therefore of the view that its proposal will reduce illicit trade. This should also have a positive impact on tax revenue.</p>
<p>The inclusion of health warnings covering 75% of both faces of the pack, together with the new information texts covering 50% of the sides (Article 9), are not based on definitive scientific evidence.</p>	<p>Various studies have shown the effectiveness of large pictorial health warnings in raising awareness of the health risks of tobacco, in motivating smokers to reduce consumption or to</p>

	quit, in increasing the likelihood of not smoking following a quit attempt, and in deterring young people from starting to smoke.
The same applies to the restrictions on ingredients requiring the removal of characterising flavours (Article 6), which are not based on scientific evidence such as reduction of the toxicity or addictiveness of those ingredients, but on the subjective criterion of reducing the attractiveness of tobacco and on subjective stereotypes as to the type of tobacco smoked by different age groups or sexes.	A significant number of scientific studies show that certain tobacco additives make cigarettes more appealing. With respect to characterising flavours, scientific studies and market data have shown that additives can facilitate uptake of tobacco consumption or affect consumption patterns.
The grant of wide powers to the Commission to further develop essential aspects of the Directive by means of delegated acts will encroach on the sovereignty of the Member States and thus breach the principle of subsidiarity. The EESC cannot accept delegated acts that go beyond what is expressly permitted in Article 290 TFEU.	In order to make this Directive fully operational in view of technical, scientific and international developments, the power to adopt acts in accordance with Article 290 TFEU has been deemed necessary. The delegations of power in the proposal provide for clear and concise criteria, giving limited discretion to the Commission. This is also an area that is being address in the context of inter-institutional discussions.
Such a disproportionate increase in the size of health warnings will lead to unilateral expropriation of producers' legitimate intellectual and industrial property rights, since they will not be able to use their registered trademarks.	There is no absolute right to use trademarks. Limitations on trademarks may be justified provided that the measure is proportionate and that differentiation of products remains possible. This has been confirmed by the European Court of Justice. Under the proposal, manufacturers may continue to use their trademarks on the non-regulated surface of the package. This will allow companies and consumers to distinguish between products and brands.

<p><b>N°44 Smart Borders package</b>  <b>COM (2013) 95, 96 &amp; 97 - CESE – SOC/4831662/2013</b>  <b>Session plénière de 22 May 2013</b>  <b>DG HOME - Commissaire MALSTROM</b></p>	
<p><b>Points de l'avis du CESE estimés essentiels</b></p>	<p><b>Position de la Commission</b></p>
<p>2.5 Significant attention should be given to public perception of the two systems and their functioning, with rules being properly explained to third-country nationals. The EU and the Member States should engage with third-country authorities to ensure that prospective travellers have access to information and support, especially regarding their rights. The package needs a properly funded communication dimension.</p>	<p>The proposal for the RTP establishes an obligation for the Member States to provide the general public with all relevant information in relation to the applications for access to the RTP.<sup>24</sup> Special attention is to be given to the Rights of TCN's. Though not mentioned expressly in the proposal, the "general public" should include according to the Commission the citizens of relevant third countries. Furthermore, both the proposal for RTP and the EES contain specific provisions on the data subject right of information including about their data protection related rights.</p>
<p>2.6 The EESC invites all relevant actors and institutions to consider fundamental rights as the two systems are further developed and implemented. Despite the rather technical nature of the two systems, there is a significant impact on the fundamental rights and freedoms of individuals/all third-country nationals coming to the EU. The EESC welcomes the attention given to data protection/data privacy issues (...).</p>	<p>In general and similarly to the already existing large-scale IT systems in the area of justice, freedom and security, the Commission has attached high importance to the fundamental rights and freedoms when preparing the proposals for the development and implementation of Smart Borders. The monitoring and evaluation mechanisms embedded therein should guarantee that they are effectively observed.</p>
<p>2.7 The EESC draws attention to the significant differences in institutional frameworks and capabilities between Member States, several of which implement their own versions of the two systems. A transformation on such a scale, involving a significant number of institutions and people, is challenging if not risk-prone. The institutions involved should make sure that the transition does not affect travellers in any way.</p>	<p>The establishment of the Smart Borders would be challenging on many fronts, including the overall management of the project as such. In order to overcome the risk posed by the different institutional and technical frameworks and capabilities as mentioned in the EESC Opinion, and building on the experience with the development of related large-scale IT systems (SIS II in particular), the Commission is convinced that the uniform approach is desirable for the development of the EES and RTP, both technically speaking and in terms of budgeting. The development of the system(s) would be undertaken by eu-LISA (the EU Agency for operational management of large-scale IT systems in the area of freedom, justice and security) and</p>

<sup>24</sup> Art. 20 of COM (2013) 97 final

	<p>substantial EU funding has been anticipated too. The Commission considers that the centralised approach, at least up to the point of the uniform interface as reflected in the proposals,<sup>25</sup> is indispensable not only for preventing technical complications which would have a potential to affect the travellers but also cost overruns.</p>
<p>2.8 In the light of previous experiences, the EESC would also like to draw attention towards the problem of costs and their estimation. Such systems are notably costly and we must ensure that spending here is proportional and effective. Moreover the initial estimates should be as accurate as possible.</p>	<p>The cost-estimate for the development and implementation of the EES and RTP as well as their cost-effectiveness were carefully scrutinized during the thorough impact assessment preceding the proposals. The experience with similar projects, namely SIS II and VIS has been duly taken into account. In particular, the proposed centralised approach to the systems' technical set-up and the development and operational management of the systems by eu-LISA, as well as the expected benefits that they would bring in financial terms should ensure that the investment to be made is proportionate and effective. It must be however borne in mind that the original cost-estimates as generated by the impact assessment might eventually change depending on the progress made both in the negotiations as well as the development of Smart Borders.</p>
<p>2.9 The EESC wishes to invite further reflection on the differentiation of travellers, which is a key strand of the "smart borders" policy programme. It is possible that differentiation will result in practice in quasi discrimination. Access to the Registered Travel Programme (RTP) will depend on status, income, language skills and education. This risk can be mitigated if the relevant authorities take an inclusive view of the types of acceptable activities and affiliations of prospective travellers.</p>	<p>The Commission has proposed the RTP with the objective to strike the balance between the competing needs to reinforce security and facilitate mobility, while trying to avoid creating an excessive workload for the Member States administrative capacities. The RTP shall ensure that border crossings are fast and simple for the growing number of regular travellers that constitute the vast majority of third country nationals crossing the external borders. It is addressed to those travellers that are likely to cross the borders several times a year and who would be pre-enrolled in the programme (e.g. business travellers, workers on short term contracts, researchers and students, third country nationals with close family ties to EU citizens or living in regions bordering the EU). The underlying principles for the RTP eligibility are the intensity of travelling substantiated by the traveller's</p>

<sup>25</sup> Article 6(c) of COM(2013)95 final and Article 21(b) of COM(2013) 97 final.

	<p>interests/engagement in the EU and his/her reliability, not the "status, income, language skills and education". Moreover, in order to ensure a balanced approach to security and protection of fundamental rights, the proposed RTP eligible criteria have been aligned with the criteria defined in EU law for multiple-entry visas<sup>26</sup>. It has to be recalled that multiple-entry visas have already been issued for years and the criteria for their issuance have been well tested.</p>
<p>2.10 The EESC notes the lack of relevant and specific data on mobility. Apart from the absence of accurate figures on short-term travellers who become over-stayers, there is a lack of qualitative data that could help in understanding this phenomenon. The policy should not rely only on the quantitative data to be gathered after the systems are in place. More resources are needed in order to research the uses and abuses of the current system.</p>	<p>The main purpose of the EES is a more effective calculation and monitoring of authorised stays of third country travellers, not to identify and address the root causes for irregular migration. The current lack of accurate figures on over-stayers is due to the absence of an effective mechanism for such purposes at EU level. The EES would complement the existing EU border management policies by enhancing checks at external border crossing points and combatting irregular migration. The data to be gathered for the purpose of statistics and reporting provides useful input into the policy shaping in the in the given area, but would not necessarily determine it.</p>
<p>2.11 The EESC encourages the EU and the Member States to pay proper attention to the training of personnel working directly with travellers, especially consular officials and border officers. These should be very well trained and able to assist travellers through procedures which are technically challenging and psychologically sensitive.</p> <p>3.6 Third-country nationals can request to be recorded in the RTP at consulates, common application centres and any border crossing point. This is helpful to the applicant, but is also a management challenge. All the staff involved should be informed and properly trained in how the systems work.</p>	<p>The Commission considers continuous training on staff conduct and expertise an important part of their implementation. Besides the training on the technical use of the Central Repository under RTP which would be performed by eu-LISA<sup>27</sup>, the Member States shall deploy appropriate staff in sufficient numbers to carry out the tasks relating to the examination of RTP applications, in such a way as to ensure reasonable and harmonised quality of service to the public. Furthermore, the competent authorities shall provide adequate training to their staff and shall be responsible for providing them with complete, precise and updated information on the relevant Union and national law.<sup>28</sup> In general, a training of consular officers is being provided in accordance with the VISA Code<sup>29</sup>. In addition, the relevant and standardised</p>

<sup>26</sup> Article 24(2) of Regulation (EC) No 810/2009 establishing a Community Code on Visas

<sup>27</sup> Article 62 of COM(2013) 97 final

<sup>28</sup> Article 18 (2)(3) of COM(2013) 97 final

<sup>29</sup> Article 38 of Regulation (EC) No 810/2009 establishing a Community Code on Visas

	<p>training of the border guards has been secured at EU level as well, be it through the Schengen Borders Code<sup>30</sup> or FRONTEX<sup>31</sup> and CEPOL<sup>32</sup> Agencies. Article 25(4) of the EES proposal provides that before being authorised to process data stored in the EES, the staff of the authorities having a right to access the EES shall be given appropriate training about data security and data protection rules. A similar provision is foreseen in the RTP proposal under Article 39(4).</p>
<p>2.12 While acknowledging the advantages of collecting biometrical data, the EESC notes the impact that fingerprinting has on regular or non-regular travellers. The psychological impact is detrimental to the motivation to travel and generally to the individual's relationship with the host society. Moreover, fingerprinting is traditionally associated with criminal activities and with policing practices. The EESC calls for further consideration of biometrical data gathering as part of the two programmes and of ways to limit its adverse effects.</p>	<p>While acknowledging the crucial importance of biometrics for reliable identification of persons, the Commission has proposed the use of biometrics by EES only after a three years' transitional period in order to allow Member States to adapt the border check process and handling passenger flows to avoid increasing waiting times at the border<sup>33</sup>. The experience with the use of biometrics in the Visa Information System will also allow for better understanding and handling the sensitivities connected with the collection and verification fingerprints.</p>
<p>3.1 The EESC considers that the right to be informed should be made effective, especially where the use of personal data is concerned. (...)</p>	<p>Similarly to other large-scale IT systems, special attention has been paid to the rights of the data subject and data protection aspects and the supervision thereof. The proposals contain provisions on the liability, rights of persons, remedies and the supervision of the lawfulness of processing the data by both the national supervisory authorities as well as the European Data Protection Supervisor. A joint report of their activities will be sent to the European Parliament, the Council, the Commission and the eu-LISA every two years.</p>
<p>3.2 The EESC considers that a more detailed picture is needed on JHA Databases and information schemes. The European Commission should provide on a regular</p>	<p>The legal basis governing the functioning and management of large-scale databases explain in detail what kind of information is exchanged and for what purpose and include</p>

<sup>30</sup> Regulation (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders

<sup>31</sup> Regulation (EU) No 1168/2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

<sup>32</sup> Council Decision 2005/681/JHA establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA

<sup>33</sup> Recital 10 of COM(2013) 95 final

<p>basis, possibly yearly, a consolidated monitoring report of the activity of all schemes involving data and information exchange in the JHA policy domain indicating what kind of information is exchanged and for what purpose.</p>	<p>provisions on the monitoring, reporting and evaluation of their activities on a regular basis. Regular reports on the technical functioning of the systems including the security thereof should be submitted by eu-Lisa; the Commission should produce regular overall evaluations of the systems including an examination of results achieved against objectives, an assessment of the continuing validity of the underlying rationale, the application of the relevant Regulation and the security of the systems. The technical reports for the EES and the RTP should be presented every two years and the overall reports should be presented every four years similarly to the parallel reporting obligations that apply for other large-scale IT system, namely SIS II and VIS.</p>
<p>3.3 The EU should encourage national governments to properly support the institutions designated to exercise monitoring and overview responsibilities over the entry/exit system.</p>	<p>The proposed Regulation establishing the EES invites the Member States to ensure that each authority entitled to access EES data takes the measures necessary to comply with this Regulation and cooperates, where necessary, with the supervisory authority<sup>34</sup>. Furthermore, the Member States should provide eu-LISA and the Commission with the information necessary to draft the reports on the technical functioning of the systems and the overall evaluations of the systems<sup>35</sup></p>
<p>3.4 The EESC welcomes the gradual shift in granting access to the RTP from the country-based approach to the individual approach. It recommends that an interview with the applicant should be the rule, especially in situations where further clarifications are needed. The EESC also draws attention to the logic of profiling (automated decision making) and data-mining associated with JHA Databases and Smart Borders and considers that the potential use of race, ethnicity or other sensitive grounds as a basis for statistical data veillance is difficult to reconcile with non-discrimination principles, secondary legislation and fundamental rights</p>	<p>The RTP proposal stipulates that the interview with applicant is conducted as a general rule<sup>36</sup>. Moreover, in the spirit of purpose limitation and adherence to fundamental rights, the proposed legal basis lays down clear criteria to be used during the decision making process and excludes the collection/use of information of race or ethnicity. When using the RTP, the competent authorities should ensure that the human dignity and integrity of the persons whose data are requested are respected and should not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.<sup>37</sup></p>

<sup>34</sup> Article 31 of COM(2013) 95final

<sup>35</sup> Article 46of COM(2013) 95final and Article 63 of COM(2013) 97 final

<sup>36</sup> Recital 23 and Article 5(3) of COM(2013) 97 final

<sup>37</sup> Recital 19 and Article 19 of COM(2013) 97final

obligations.	
<p>3.5 The EESC advocates a more inclusive definition of frequent travellers that covers any cultural, economic and social activity. It encourages the Members States to take into account the full diversity of social life. We should avoid giving preferential treatment to any socio professional category.</p>	<p>In order to take into account the whole range of interests, the drafting of the proposals was preceded by a broad consultation involving the large spectrum of stakeholders. With the underlying objective to make it as easy as possible for frequent travellers to come to the EU as well as to ensure that it remains an attractive destination and would help boosting economic activity and job creation, the Commission has listed the purposes for journey in the RTP proposal in a non-exhaustive way to make sure that it doesn't a priori prevent any potential socio-professional group from participating on the programme.<sup>38</sup></p>
<p>3.7 The EESC thinks that the proof of sponsorship and/or private accommodation could be burdensome. If it is maintained, it should at least have a minimal and standard format to be used across EU. This way Member States will not use the statement as a deterrent.</p>	<p>The Member States <b>may</b> require applicants to present proof of sponsorship and/or private accommodation by completing a form drawn up by the Member State concerned; the RTP proposal doesn't establish the use of such a form as a rule. If applied, the form should be requested for the next two trips as a maximum<sup>39</sup> and should retain in the view of the Commission a minimal format as it shall in principal contain only basic data related to sponsorship and/or private accommodation. Moreover, a specimen of the form shall be notified to the Commission which will then have the necessary overview of the approach taken by each and every Member State and make the notified form available to the Member States and the public via a constantly updated electronic publication.<sup>40</sup></p>
<p>3.8 As a matter of principle, the issuing of the supporting documents needed to complete the RTP application should not entail unnecessary and excessive costs to the applicant and the organisations involved. The costs incurred by individual applicants and supporting organisations should be calculated as part of the interim evaluations.</p>	<p>As mentioned in point 2.9., the Commission envisaged aligning the RTP eligibility criteria with those applicable to multiple-entry visas. The RTP suggested supportive documents correspond where relevant to those required for completing a multiple-entry visa application and the proposal therefore doesn't imply additional significant financial burden for an applicant.</p>
<p>3.9 Regarding the period in which the relevant authorities must make a decision, we</p>	<p>The proposal stipulates that an admissible application shall be decided on by the</p>

<sup>38</sup> Article 9 and Annex II of COM(2013) 97 final

<sup>39</sup> Article 9(5) of COM(2013) 97 final

<sup>40</sup> Articles 60(1) and 60(4) of COM(2013) 97 final



<p>recommend setting a maximum period of 25 days, while encouraging authorities to make a decision as soon as possible.</p>	<p>competent authorities within 25 calendar days from the date of submission<sup>41</sup>. Moreover and by contrast to the decision taken on the short-term visa application in accordance with the VISA Code as applicable, the proposal does not allow this period to be extended which is an improvement from the applicant's perspective. The Commission supports the preference of EESC for the fastest possible processing of the application. However, the internal work-flow and processing the application falls within the remit of the Member States.</p>
<p>3.10 The criteria for rejecting an RTP application should be clarified. It is not clear on what grounds the level of threat to public policy, internal security and public health is assessed. This opens the way for arbitrary decisions. This evaluation is performed by thousands of individuals who have very diverse backgrounds, training and levels of information about the traveller, his activities and home country. Moreover, listing the threat to the international relations of a Member State as a reason for rejection is questionable.</p>	<p>The grounds for rejection of an RTP application that the third country national should not constitute a threat to public policy, internal security public health and the international relations of any of the Member States are not new concepts but constitute the grounds foreseen under EU law for refusal of entry into the Member States. These are standard concepts well developed by the case-law of the ECJ and applied on daily basis in relation to border control as harmonized and further explained by the Schengen Borders Code.<sup>42</sup></p>
<p>3.11 It is very important that unsuccessful applicants (non-admissible application/rejected application) can effectively appeal against the decision. The EESC encourages the Commission and the Member States to assist individuals who are willing to exercise their right of appeal.</p>	<p>The right of unsuccessful applicants to appeal against the decision rejecting their application represents one of the basic rights provided by the proposal. Without prejudice to the right to judicial review, in accordance with the procedural law of the Member State that has taken the final decision on the application, the applicant whose access has been refused to the RTP shall have the right to a review of the refusal for challenging or correcting potential errors in accordance with the right to effective remedy. Appeals shall be conducted against the Member State that has taken the decision on the application and in accordance with the national law of that Member State. In the standard form to be used for notifying and motivating refusal or revocation of an access to a registered traveller, Member States shall provide applicants with information regarding</p>

<sup>41</sup> Article 13 of COM(2013) 97 final

<sup>42</sup> Article 5(1)(e) and Article 2(19) of Regulation (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders

	the procedure to be followed in case of review <sup>43</sup> .
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<sup>43</sup> Article 15(3) and Annex IV of COM(2013) 97 final

<p><b>N°45      Protecting businesses against misleading marketing practices and ensuring effective enforcement</b>  <b>COM (2012)702 – CESE 1233/2013 – INT/675</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: Mr PEGADO LIZ;</b>  <b>DG JUST – Vice-president REDING</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.3      In view of the apparent urgency to take an immediate position on this issue and the estimated magnitude and seriousness of these practices in economic terms at the European level, the EESC accepts that the Commission should immediately present a specific legislative proposal on this issue, based on an impact assessment.</p>	<p>The Commission welcomes the EESC overall support to the Communication and, in particular, the fact that the EESC acknowledges the need for immediate legislative action in this area. The European Commission is currently conducting a thorough impact assessment to assess the best way forward.</p>
<p>1.5      Given its nature, the EESC believes that the appropriate legal basis should include, but cannot be limited to, the Treaty's provisions on the internal market and its scope of application should not be restricted to cross-border transactions.</p>	<p>The evidence shows that the main problem in relation to misleading marketing practices is the lack of effective enforcement, with a considerable number of cases stemming from cross-border problems. This urges an internal market solution, with a focus on cross-border transactions, whilst promoting better enforcement at national level too.</p>
<p>1.7      However, the EESC believes that the best way to achieve coherent and consistent rules prohibiting misleading marketing practices would be a joint review of Directive 2006/114/EC and Directive 2005/29/EC to address business-to-business and business-to-consumer relations at the same time, preserving the specificities of each within a common framework, for which reason it urges the Commission to start action in the</p>	<p>The Commission would like to draw the EESC attention to the fact that a comprehensive review of both Directives (2006/114/EC and 2005/29/EC) was conducted and led to the Communication, which was the basis of this EESC opinion, and to a separate report on the functioning of Directive 2005/29/EC on unfair commercial practices (COM(2013)138). Based on wide inputs from Member States and stakeholders, these two documents</p>

<p>short term.</p> <p>3.1.9 However, the EESC believes that a more coherent approach would have extended the concept of unfair commercial practices, in the form of misleading and aggressive practices, together with the black list annexed to Directive 2005/29/EC, to business-to-business relations.</p>	<p>show that there is no need to extend consumer protection rules to business-to-business situations, as this would involve unnecessary and disproportionate regulatory compliance costs. On the other hand, the review indicates that there is a need for a targeted legislative action in the business-to-business area to tackle the specific problem of misleading marketing practices.</p>
<p>1.8 The EESC urges the Commission to develop and enforce complementary measures to improve information and dissemination; cooperation between administrative authorities, public-private platforms and stakeholder representative organisations; and rapid reaction mechanisms in order to put a stop to these practices and ensure damage compensation, namely through the immediate creation of a European judicial system for group action, which was announced over thirty years ago and then successively delayed.</p>	<p>The Commission welcomes this comment from the EESC and would like to point out that a more structured cooperation among national enforcement authorities is a key element of its strategy to combat misleading marketing practices.</p>
<p>3.1.1.1 It is clear that some advertising companies act improperly in the way they publicise their products and try to attract their customers. Nevertheless, it is important that the Commission to stress the fact that, although many complaints about misleading practices involve companies carrying out this type of activity, this does not mean that. Even in the particular case of directory companies, it is not a legitimate activity which is essential to the economic life of the companies that use them to advertise</p>	<p>The Commission fully shares the comments of the EESC and highlighted in its Communication that large part of the business-to-business advertising market appears to function well - regulated by the current mix of self-regulation and mandatory provisions. Moreover, advertising remains a very important and legitimate element of any business strategy. The focus of Commission's action is on traders who are clearly in bad faith and exploit companies' trust in the single market.</p>

their activities.	
3.1.4 The EESC regrets that the Communication was not preceded by a proper impact assessment. This would have provided more forceful arguments for the options proposed since its cost and benefits have not in fact been clearly identified or evaluated.	Wealth of evidence gathered in the preparation of the Communication already allowed the Commission to present a mature understanding of the problem and a possible way forward. Before moving further ahead, the European Commission is currently carrying out a very rigorous impact assessment of possible policy options and their expected costs and benefits.
3.1.5.1 In fact, the practice under consideration is commercial communication in the wider sense; it is not advertising but an aggressive and fraudulent sales tactic, which has to be situated in the much wider context of unfair or abusive trading practices, and even of criminal law.	<p>The Commission believes that the commercial practices under consideration are covered by the notion of advertising within the meaning of Article 2 of Directive 2006/114/EC which is defined as "the making of a representation in any form in connection with a trade, business, craft or profession in order to promote the supply of goods or services [...]". Since all misleading marketing practices involve a type of good or service offered in return, they fall, in the Commission's view, under the provisions of Directive 2006/114/EC.</p> <p>Based on the available information, such practices usually are misleading rather than aggressive, as the main dishonest element is the lack of/unclear information about the consequences of replying to the communication.</p>
3.1.6 Furthermore, in its <i>Green Paper on unfair Trading Practices in the Business-To-Business Food and Non-Food Supply Chain in Europe</i> <sup>44</sup> , the Commission rightly warns against the risk of conflict and overlap between multiple EU	The Commission would like to underline that there is a close coordination among the relevant services. The Green Paper on unfair trading practices concerns a separate matter, i.e. mostly abusive contractual provisions between actors in the supply

<sup>44</sup> COM(2013) 37 final.

<p>actions targeting the same groups and similar uncoordinated arrangements, generating further confusion during the transposition of legal acts by the Member States.</p>	<p>chain, mainly in the food sector. The issues covered by that initiative are mostly related to an unequal bargaining power in contractual relationships and are different from marketing techniques misleading about the consequences of a reply to a communication. These problems should therefore be addressed separately.</p>
<p>3.1.8.1 Furthermore, it is not just SMEs but also professionals, NGOs, libraries, private educational establishments and even some public authority departments who have been the targets of these practices. This is why they must, where appropriate, be included in its scope by extending the concept of "trader" to cover all those who could be targeted by these practices and who are not protected by other legislative instruments.</p>	<p>The Commission agrees that NGOs and other similar entities are also affected by misleading marketing practices and this aspect will be duly taken into consideration when preparing the legislative proposal.</p>
<p>4.4. The EESC also believes that training, information and good practice sharing activities need to be established for all businesses to alert them to the inherent dangers.</p>	<p>The Commission shares the EESC's views on this and is currently also assessing the impact of measures such as awareness-raising or specialised trainings.</p>
<p>4.6. The EESC would also add that the Commission will have to take the international dimension of these practices into consideration in the context of its representation to the OECD. The EU and its Member States are encouraged to discuss with the OECD the extension of its <i>Guidelines for Protecting Consumers from Fraudulent Commercial Practices Across Borders</i> to include B2B.</p>	<p>The Commission agrees that the international dimension of misleading marketing practices is equally important. This aspect will also be duly taken into consideration when designing appropriate policy solutions.</p>



<p><b>N°46 Protecting businesses against misleading marketing practices and ensuring effective enforcement (communication);</b>  <b>COM (2012)702 –CESE 1233/2013 – INT/675</b>  <b>490<sup>th</sup> Plenary Session of May 2013</b>  <b>Rapporteur: Mr Pegado Liz (GR11-PT)</b>  <b>DG JUST –Vice-president REDING</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.3 In view of the apparent urgency to take an immediate position on this issue and the estimated magnitude and seriousness of these practices in economic terms at the European level, the EESC accepts that the Commission should immediately present a specific legislative proposal on this issue, based on an impact assessment.</p>	<p>The Commission welcomes the EESC overall support to the Communication and, in particular, the fact that the EESC acknowledges the need for immediate legislative action in this area. The European Commission is currently conducting a thorough impact assessment to assess the best way forward.</p>
<p>1.5 Given its nature, the EESC believes that the appropriate legal basis should include, but cannot be limited to, the Treaty's provisions on the internal market and its scope of application should not be restricted to cross-border transactions.</p>	<p>The evidence shows that the main problem in relation to misleading marketing practices is the lack of effective enforcement, with a considerable number of cases stemming from cross-border problems. This urges an internal market solution, with a focus on cross-border transactions, whilst promoting better enforcement at national level too.</p>
<p>1.7 However, the EESC believes that the best way to achieve coherent and consistent rules prohibiting misleading marketing practices would be a joint review of Directive 2006/114/EC and Directive 2005/29/EC to address business-to-business and business-to-consumer relations at the same time, preserving the specificities of each within a common framework, for which reason it urges the Commission to start action in the short term.</p> <p>3.1.9 However, the EESC believes that a more coherent approach would have extended the concept of unfair commercial practices, in the form of misleading and aggressive practices, together with the black list annexed to Directive 2005/29/EC, to business-to-business relations.</p>	<p>The Commission would like to draw the EESC attention to the fact that a comprehensive review of both Directives (2006/114/EC and 2005/29/EC) was conducted and led to the Communication, which was the basis of this EESC opinion, and to a separate report on the functioning of Directive 2005/29/EC on unfair commercial practices (COM(2013)138). Based on wide inputs from Member States and stakeholders, these two documents show that there is no need to extend consumer protection rules to business-to-business situations, as this would involve unnecessary and disproportionate regulatory compliance costs. On the other hand, the review indicates that there is a need for a targeted legislative action in the business-to-business area to tackle the specific problem of misleading marketing practices.</p>



<p>1.8 The EESC urges the Commission to develop and enforce complementary measures to improve information and dissemination; cooperation between administrative authorities, public-private platforms and stakeholder representative organisations; and rapid reaction mechanisms in order to put a stop to these practices and ensure damage compensation, namely through the immediate creation of a European judicial system for group action, which was announced over thirty years ago and then successively delayed.</p>	<p>The Commission welcomes this comment from the EESC and would like to point out that a more structured cooperation among national enforcement authorities is a key element of its strategy to combat misleading marketing practices.</p>
<p>3.1.1.1 It is clear that some advertising companies act improperly in the way they publicise their products and try to attract their customers. Nevertheless, it is important that the Commission to stress the fact that, although many complaints about misleading practices involve companies carrying out this type of activity, this does not mean that. Even in the particular case of directory companies, it is not a legitimate activity which is essential to the economic life of the companies that use them to advertise their activities.</p>	<p>The Commission fully shares the comments of the EESC and highlighted in its Communication that large part of the business-to-business advertising market appears to function well - regulated by the current mix of self-regulation and mandatory provisions. Moreover, advertising remains a very important and legitimate element of any business strategy. The focus of Commission's action is on traders who are clearly in bad faith and exploit companies' trust in the single market.</p>
<p>3.1.4 The EESC regrets that the Communication was not preceded by a proper impact assessment. This would have provided more forceful arguments for the options proposed since its cost and benefits have not in fact been clearly identified or evaluated.</p>	<p>Wealth of evidence gathered in the preparation of the Communication already allowed the Commission to present a mature understanding of the problem and a possible way forward. Before moving further ahead, the European Commission is currently carrying out a very rigorous impact assessment of possible policy options and their expected costs and benefits.</p>
<p>3.1.5.1 In fact, the practice under consideration is commercial communication in the wider sense; it is not advertising but an aggressive and fraudulent sales tactic, which has to be situated in the much wider context of unfair or abusive trading practices, and even of criminal law.</p>	<p>The Commission believes that the commercial practices under consideration are covered by the notion of advertising within the meaning of Article 2 of Directive 2006/114/EC which is defined as "the making of a representation in any form in connection with a trade, business, craft or profession in order to promote the supply of goods or services [...]".</p>

	<p>Since all misleading marketing practices involve a type of good or service offered in return, they fall, in the Commission's view, under the provisions of Directive 2006/114/EC. Based on the available information, such practices usually are misleading rather than aggressive, as the main dishonest element is the lack of/unclear information about the consequences of replying to the communication.</p>
<p>3.1.6 Furthermore, in its <i>Green Paper on unfair Trading Practices in the Business-To-Business Food and Non-Food Supply Chain in Europe</i><sup>45</sup>, the Commission rightly warns against the risk of conflict and overlap between multiple EU actions targeting the same groups and similar uncoordinated arrangements, generating further confusion during the transposition of legal acts by the Member States.</p>	<p>The Commission would like to underline that there is a close coordination among the relevant services. The Green Paper on unfair trading practices concerns a separate matter, i.e. mostly abusive contractual provisions between actors in the supply chain, mainly in the food sector. The issues covered by that initiative are mostly related to an unequal bargaining power in contractual relationships and are different from marketing techniques misleading about the consequences of a reply to a communication. These problems should therefore be addressed separately.</p>
<p>3.1.8.1 Furthermore, it is not just SMEs but also professionals, NGOs, libraries, private educational establishments and even some public authority departments who have been the targets of these practices. This is why they must, where appropriate, be included in its scope by extending the concept of "trader" to cover all those who could be targeted by these practices and who are not protected by other legislative instruments.</p>	<p>The Commission agrees that NGOs and other similar entities are also affected by misleading marketing practices and this aspect will be duly taken into consideration when preparing the legislative proposal.</p>
<p>4.4. The EESC also believes that training, information and good practice sharing activities need to be established for all businesses to alert them to the inherent dangers.</p>	<p>The Commission shares the EESC's views on this and is currently also assessing the impact of measures such as awareness-raising or specialised trainings.</p>
<p>4.6. The EESC would also add that the Commission will have to take the</p>	<p>The Commission agrees that the international dimension of misleading</p>

<sup>45</sup> COM(2013) 37 final.

international dimension of these practices into consideration in the context of its representation to the OECD. The EU and its Member States are encouraged to discuss with the OECD the extension of its *Guidelines for Protecting Consumers from Fraudulent Commercial Practices Across Borders* to include B2B.

marketing practices is equally important. This aspect will also be duly taken into consideration when designing appropriate policy solutions.

<p><b>N°47 Free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union</b>  <b>COM(2013) 228 – CESE 4005/2013 – INT/700</b>  <b>491st Plenary Session of July 2013</b>  <b>Rapporteur: Mr Farrugia (GRI-MT)</b>  <b>DG JUST– Vice-president REDING</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>3.1.2 The EESC underlines, that the public documents identified in the proposal should indeed be the first of a series of public documents that should be subject to a simplification process directed to enhance intra-EU mobility, cross-border activities, and the functioning of the EU single market.</p>	<p>COM agrees with this point and refers to Art. 21 of the proposal which reflects this already.</p>
<p>3.1.3 The EESC thinks that the future simplification exercises with regard to public documents should target important public documents such as those relating to intra-EU mobility of workers or vulnerable persons such as persons with disabilities in so far that such public documents are not accounted for by other EU Directives.</p>	<p>The review clause of Art. 21 of the proposal allows for future extension of its scope to categories of public documents which are not yet covered. On that basis, both of the examples mentioned by the EESC could be examined in view of a possible future extension of the scope of application of the instrument.</p>
<p>3.2.6 The EESC thinks that 'reasonable doubt' should be rendered unequivocal to remove uncertainty. The EESC proposes the following amendment:</p> <p>"2. The reasonable doubt referred to in paragraph 1 relates to:</p> <p>(a) the authenticity of the signature,</p> <p>(b) the capacity in which the person signing the document has acted,</p> <p>(c) the identity of the seal or stamp."</p>	<p>Prevention of fraud and forgery of public documents is an important element of the proposal. Careful attention was given to have a balanced approach of establishing safeguards which do not hamper the proposal's simplification measures. However, authorities should have a minimum of flexibility as to examining the authenticity of public documents in exceptional situations of reasonable doubt. The three elements mentioned are indicators for such reasonable doubt, but would not necessarily be the only ones. As this is not a static concept and conceived as an exceptional procedure, COM does not see the need to narrow down the concept of reasonable doubt.</p>
<p>3.2.7 The EESC recommends that in the event a Member State makes an official request with regard to arising of reasonable doubt to the relevant</p>	<p>The COM shares the EESC's objective of having full transparency for the persons concerned by means of a procedure triggered by reasonable</p>

<p>authorities of the Member State where the document was issued, it should explicitly inform the person on the reasons of why such a request is being made.</p>	<p>doubt about the authenticity of a document. The COM however considers that this objective is already ensured by Art. 18 of Regulation (EU) No 1024/2012 ('the IMI Regulation') according to which IMI actors have to inform data subjects about processing of their data in IMI.</p>
<p>3.2.8 The EESC recommends that after an initial implementation phase COM should reduce the stated maximum period to two weeks.</p>	<p>COM considers the proposal's deadline of one month as balanced. However, it shares the EESC's view that a reduction of the deadline could be envisaged once the IMI system is well implemented. Therefore, the question whether or not it is appropriate to shorten the deadline could be considered as part of the review of the proposal (Art. 21).</p>
<p>3.2.9 The EESC recommends that COM benchmarks MS performance with regard to implementation of the proposal on an annual basis.</p>	<p>The proposal has sufficient flanking measures to ensure effective implementation of the future instrument (exchange of best practices e.g. on fraud prevention within the European Judicial Network in Civil and Commercial Matters, meetings of Central Authorities, establishment of guidance on the use of EU multilingual standard forms, establishment of templates and a repository of public documents).</p>
<p>3.6.2 The EESC emphasises that Article 19 titled 'Data protection' must ensure that the exchange and transmission of information and documents by MS pursuant to the proposal are to reflect the EU's principles with regard to data protection.</p>	<p>COM agrees with this point which is reflected in Art. 19 of the proposal.</p>

<p><b>N°48    Une vie décente pour tous: éradiquer la pauvreté et offrir au monde un avenir durable</b></p> <p><b>COM (2013) 92 ; CESE 2417/2012 - REX/372;</b></p> <p><b>490th Plenary session of May 2013</b></p> <p><b>Rapporteur Mme Evelyne PICHENOT (GRIII-FR);</b></p> <p><b>DG DEVCO – Commissioner PIEBALGS</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>The Committee subscribes to the Commission’s communication and believes that we need a better understanding of how these three dimensions of sustainable development interact in order to identify fair, moderate and effective solutions.</p>	<p>The Commission supports the need to focus on the interrelatedness of the three dimensions of sustainable development, and welcomes that the EESC supports the Communication’s in underlying approach to integrate the future agenda for poverty eradication and sustainable development in the post 2015 agenda at the global level.</p>
<p>The Committee underlines the important of an inclusive process towards a joint EU approach on post-2015 and reiterates the importance to actively involve Civil Society in this regard.</p>	<p>The Commission has been and will remain engaged in a close dialogue with Civil Society and will ensure that its voice is heard on the international level. In this regards, the Commission will continue to organise various consultative events.</p>
<p>The Commission must ensure that Civil Society proposals are reflected in the preparations of the European Year of Development.</p>	<p>The Commission will ensure that the Civil Societies priorities are adequately reflected in the preparations of the European Year of Development.</p>
<p>The Committee stresses the permanence of the Millennium Declaration arguing that this declaration retains its full political and symbolic scope as a pact defining a commitment to 2015 and beyond between all countries, rich and poor.</p>	<p>The Commission concurs with the EESC’s emphasis to ensure the permanence of the Millennium Declaration which is indeed one of the most far reaching agreements on the major challenges related to poverty eradication and development.</p>
<p>The Committee makes the point that one</p>	<p>The Commission reaffirms that the</p>

<p>distinctive feature of the new SDGs is that they are intended to be universal, applying to all countries, and to take account of planetary boundaries.</p>	<p>post-2015 agenda – including the SDGs – should be global in aspiration and coverage and universally applicable.</p>
<p>The Committee underlines that transparency and accountability in partner countries, the building blocks of the future agenda.</p>	<p>The Commission agrees that accountability and transparency must lie at the heart of a post-2015 framework.</p>
<p>The Committee stresses that the Millennium goals need to be brought up-to-date and tailored to the challenges of the 21st century, taking stock of the experience gained so far.</p>	<p>The Commission reaffirms its view that a post-2015 framework should remain committed to finish the unfinished business of the MDGs but also go beyond and focus on inclusive and sustainable economic growth as well as the sustainable management of natural resources and include equity, equality and justice.</p>
<p>The Committee makes clear that the mobilisation of domestic fiscal resources and the channelling of migrant remittances into productive activity are essential if progress is to be made towards locally defined objectives.</p>	<p>The Commission would like to underline that the responsibility for achieving a post-2015 agenda remains first and foremost national. Accordingly, the mobilisation of domestic resources will continue to be the primary source for financing.</p>
<p>The Committee urges the Union and the Member States to maintain their commitments and to ensure that the 0.7% average target is reached when the new phase begins</p>	<p>The EU and its Member States recently reaffirmed the central role of international public finance and underlined the importance to respect the EU's undertaking to commit 0.7% of GNI to official development assistance (ODA), as part of the global efforts.</p>
<p>The Committee underscores that the positive role of private businesses for sustainable development should be exploited.</p>	<p>The Commission reiterates its position that there is a need to engage with the private sector in order to leverage action towards the delivery of global public goods as expressed in the Agenda for Change.</p>
<p>The Committee calls for better global governance in order to deliver on global public policies on the three dimensions of</p>	<p>The Commission agrees that strong global governance based on an effective multilateral system is</p>

sustainable development.	necessary if a post-2015 framework is to be successfully implemented.
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N°49	<b>The role of civil society in EU-Serbia relations</b> <b>Avis exploratoire à la demande de la Commission</b> <b>CESE 241/2012 – REX/381</b> <b>491st Plenary Session of July 2013</b> <b>Rapporteur: Mr Sibian (GR11-RO)</b> <b>Co-rapporteur: Mr Lechner (GR11-AT)</b> <b>DG ELARG : Commissioner FÜLE</b>	
<b>Points of the EESC opinion considered essential</b>	<b>Commission position</b>	
<p>1.11 The EESC recommends that the newly adopted Law on Public Procurement, which has created obstacles for CSOs when competing for public tenders, be reviewed. The law introduces mandatory financial guarantees that CSOs cannot have. This might prevent them from competing in public tendering procedures, not only in the area of social services but also of health and educational services.</p>	<p>The Commission does not share the justification for this recommendation. In the EU the use of performance guarantees for public contracts is not regulated by the <i>acquis</i> but is left to national legislation where they are quite commonly used. We understand that the new Serbian Law on Public Procurement generally requires bank guarantee for the fulfilment of contract obligations. However, according to information provided by the Serbian authorities, this requirement seemingly only applies to contracts above €2.5 million for goods and €5 million for works. Given that the average value of Public Procurement contracts in Serbia is around 30.000€, the risk that this requirement may prevent CSOs from competing in public tendering procedures seems rather limited.</p>	

<p><b>N°50 Protection of the euro and other currencies against counterfeiting by criminal law;</b>  <b>COM(2013) 42 – CESE 2896/2013 –ECO/346</b>  <b>490<sup>th</sup> Plenary Session of July 2013</b>  <b>Session Rapporteur Mr De Lamaze (GRIII-FR)</b>  <b>DG JUST and OLAF – Vice-president REDING and Commissioner SEMETA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>In relation to minimum sanctions:</p> <p>1.1 The EESC does not agree with the arguments put forward by the Commission to justify this proposal. In the absence of scientific data to back up the assertion that disparities in sanctions for currency counterfeiting encourage "forum shopping" on the part of counterfeiters, the Committee believes that revision of the 2000 framework decision to set a minimum penalty within the EU is not entirely justified, and feels that the expected "deterrent effect" of such a measure is debatable.</p> <p>1.3 The EESC questions the need for such an approach to law enforcement, which, by definition, runs the risk of prejudicing people's fundamental rights and freedoms; it also doubts that it would be effective inasmuch as, even if a minimum penalty were set, sentencing would still be subject to differences of interpretation depending on the legal traditions of Member States and judges' discretion.</p>	<p>The Commission does not share the EESC's view as regards minimum sanctions. The Commission impact assessment report substantiates that the level of penalties for currency counterfeiting is not sufficiently dissuasive in all Member States and that there are important differences between the relevant criminal law sanctions in place in Member States. This could have a substantial negative impact on the protection of the European single currency. The minimum sanctions contribute to a consistent EU wide system for the protection of the euro.</p> <p>Any of the proposed criminal law measure was carefully assessed and designed in view of its possible effects on the protection of fundamental rights.</p> <p>Full attention has been given to ensure that the measures do not go beyond what is necessary to achieve this objective and are thus proportionate. In particular explicit safeguards in the instrument itself have been laid down, specifying the right to an effective remedy and to a fair trial, including the rights of the defence, ensuring an equivalent level of effective judicial protection by national courts.</p>

	<p>The Commission's opinion is backed in particular by the opinion of the Economic and Financial Committee (EFC) of 24 May 2013 and the opinion of the European Central Bank (ECB) of 28 May 2013 which welcomes the fact that the proposed directive takes into account the ECB's view that the criminal law framework should be reinforced by strengthening and harmonising the penalty regime, including by setting standards for minimum penalties.</p> <p>However, the EESC can be informed that the general approach of the Justice and Home Affairs (JHA) Council does not contain a minimum minimum sanction.</p>
<p>In relation to investigative tools:</p> <p>1.6 The EESC is concerned that, with regard to procedure, the draft directive does not provide for any graduation in the tools used by the investigating services according to the severity of the offence, as it does in the penalties imposed. The Committee therefore feels that the draft directive needs to specify that the investigative tools used for organised crime should be used only for the most serious offences.</p>	<p>Following the EESC's concerns, the JHA Council, supported by the Commission, amended and completed in its general approach of 7 October 2013 (doc 14085/13 DROIPEN 114 of 27 September) recital 22 as follows: "To ensure the success of investigations and prosecution of currency counterfeiting offences, those responsible for investigating and prosecuting such offences should have the possibility to make use of effective investigative tools such as those which are used in combating organised crime or other serious crime. Such tools, where appropriate, could include, for example, the interception of communications, covert surveillance including electronic surveillance, the monitoring of bank accounts and other financial investigations. Taking into account, inter alia, principle of proportionality, the use of such tools in accordance with national law should be commensurate with the nature and gravity of the offences under</p>

	investigation.”
<p>In relation to the criminalisation of citizens who received counterfeit banknotes or coins in good faith:</p> <p>1.5 The EESC, as the institutional representative of European civil society, would highlight the fact that offenders may be essentially law-abiding individuals who find themselves in the position of needing to get rid of counterfeit currency that they have unknowingly received. Given the risk of imposing disproportionate sanctions on such people who have turned from victims into unwilling "criminals", the EESC feels that the intent behind the action is a key consideration that the proposal for a directive does not properly highlight in its recitals.</p>	<p>Passing on counterfeit banknotes and coins with the knowledge that they are counterfeit constitutes criminal behaviour whether the banknotes have been received in good or bad faith. However, following the EESC's concerns, the JHA Council, with the support of the Commission, has added a paragraph to Article 6 on sanctions for natural persons which stipulates that Member States have to provide for effective, proportionate and dissuasive criminal sanctions, but not necessarily a maximum sanction of at least five years if the counterfeit currency was received without knowledge that it is counterfeit.</p>