



Comité économique et social européen

Bruxelles, le 17 septembre 2009

SUITE AUX AVIS

adoptés par le Comité économique et social européen
lors des sessions plénières
du premier trimestre 2009

Relevé trimestriel présenté
par la Commission européenne

ACTION TAKEN ON OPINIONS

adopted by the European Economic and Social Committee
at its plenary sessions
in the first quarter of 2009

Quarterly review presented
by the European Commission

SUIVI ACCORDÉ PAR LA COMMISSION AUX AVIS
DU COMITÉ ÉCONOMIQUE ET SOCIAL EUROPÉEN
RENDUS AU COURS DU 1er TRIMESTRE 2009

(janvier, février et mars 2009)

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PARTIE A: Avis exploratoires

<p>22. Partnerships between education establishments and employers Exploratory Opinion asked by CZ Presidency COM (2008) 424 final – EESC 630/2009 - March 2009 Rapporteur: Mr MALOSSE (Empl./FR) Co-Rapporteur: Mr PÎRVULESCU (Var. Int./RO) DG EAC – Mr FIGEL'</p>	
<p>General Remark:</p> <p>No specific follow-up to the opinion of the EESC is envisaged; the opinion of the EESC to the topic « partnership between education and training institutions and employers » has been requested by the Czech Presidency. The partnership between education and training institutions is one of the key topics of the Czech Presidency in the field of Education. A flagship conference on this theme has been organised in Prague on 6-7 April 2009, the opinion of the EESC has been fed into the conference and the rapporteur of the EESC, Mr MALOSSE, has participated in one of the panel discussions.</p> <p>This opinion feeds also into the Council Conclusions that are being finalised by the Czech Presidency and adopted at the Council Meeting of 11-12 May 2009.</p> <p>Overall the opinion is in line with our work and activities. The EESC considers an approach based on partnership between the worlds of education and of work as very relevant.</p>	
Main Points of the EESC Opinion	Commission Position
<p>1.4 A new European process to promote partnerships between employers and education establishments (“Prague Process”).</p>	<p>The Commission shares the view that Education has to be more open to society, and an important aspect in this context is better communication and interaction between the worlds of education and of work.</p> <p>A very concrete measure is the University-Business Forum, launched by the Commission begin of 2008, which aims to provide on European level a platform for a structured dialogue between the different stakeholders in order to support the Member States and other stakeholders in their efforts to improve the cooperation between Higher Education and Business. The recently adopted Communication of the Commission “<i>A new partnership for the modernisation of universities: the EU Forum for UNIVERSITY-</i></p>

	<p><i>BUSINESS Dialogue” (COM(2009)158 final))</i> takes stock of what has been learned from the first year of the Forum about the challenges and barriers to university-business cooperation, the issues to be addressed and good practices and approaches which could be more widely used; it makes proposals for the next steps in the Forum's work and outlines concrete follow-up actions to strengthen university-business cooperation.</p> <p>The initiative of the Czech Presidency, which applies the concept of partnership to all levels of education, is fully in line with our approach.</p> <p>The Commission welcomes the positive opinion of the EESC on partnership, however it do not think that it is appropriate to launch a new process. It could be rather confusing to add to the Bologna and Copenhagen Processes. As an alternative, the Commission proposes that partnership should be supported in all strands of the LLP programme and in the policy cooperation between the Commission and Member States.</p>
5.3 An overall policy framework subject to the approval, evaluation and monitoring of the social partners, the European Parliament, the European Council and the EESC.	The overall policy framework is defined by the <i>“updated strategic framework for European cooperation in education and training”</i> .
5.3 European tools for identifying markets and sectors with a high demand for skilled staff.	These tools will be developed in the framework of the New Jobs for New Skills Initiative.
5.3 The exchange of best practice including both technical education, life-long training and research.	The exchange of best practice is an important element of most of our activities as for example: Clusters and Peer Learning Activities under the Education and Training 2010 Work Programme; University-Business Cooperation.

5.3 European grant facilities funded by the EU, Member States and the private and voluntary sector and concerning all sections of the general public, especially minorities and disadvantaged young people; this could involve work experience, and projects to promote employability and innovation.	Lifelong Learning Programme (LLP) provides funding for such activities. Possibility might exist to reinforce certain priorities.
5.3 The development of common reference systems for degrees and professional qualifications, and of cross-border networks of local initiatives;	The development of the European Qualification Framework for lifelong learning (EQF) and the National Qualification Frameworks covers this point.
5.3 The creation of European networks of mediators to facilitate partnerships.	A proposal in the Communication on – University-Business Cooperation relates to the set-up of relevant dialogue structures on national level and their possible networking on European level. The LLP provides funding for relevant projects/networks.
5.3 An alignment of existing European funds and programmes to achieve this objective.	The reflection on the next generation of programmes is still at an early stage, however partnership related activities should get higher priority and visibility under the new programming period.

35. The role of forests and the forest-based sector in meeting the EU's climate commitments Exploratory Opinion – EESC 626/2009 – March 2009 Rapporteur: Mr KALLIO (Var. Int. / FI) DG ENV – Mr DIMAS	
Main points of the EESC Opinion	Commission Position
(2.1) first tiret: Revision of the EU Emissions Trading Directive. The directive sets out guidelines concerning land use, land-use changes and forestry for greenhouse gas reporting and emissions trading. The carbon stored in wood products and in forests themselves form an important part of	Statement factually incorrect. The ETS directive does not set out such guidelines. However, the ETS directive obliges the Commission, within three months of the signature by the Community of an international agreement on climate change, to submit a report assessing, among other things, the appropriate

greenhouse gas reporting.	modalities for including emissions and removals related to land use, land use change and forestry in the Community.
(6.4) The EU should submit a proposal to the Copenhagen Climate Conference in 2009 that reporting on the amount of carbon stored in wood products be included as a mandatory part of carbon balance calculations in the post-Kyoto period from 2012 onwards.	The EU's various submissions on land use, land-use change and forestry (LULUCF) include provisions for accounting for harvested wood products, as part of accounting for forest-related activities (most notably forest management). A lack of agreement among Member States has prevented the EU from taking a firm position on the calculation methodology or the mandatory nature of accounting.
(8.7) Standards for sustainably produced forest biomass must be linked to the Europe-wide MCPFE criteria so as to avoid unnecessary work and duplication.	The Commission and Member State representatives participate in the related activities of the MCPFE, aiming to make use of any relevant outcome.
(9.2) As loss of forests increases carbon dioxide emissions, the EU should support the development and adoption of the so-called REDD-instrument so that it may be used in the calculation of land-use greenhouse gases in the post-Kyoto period from 2012 onwards. This requires the setting of a price which reflects the value of accumulated carbon, so that the Member States may use emissions trading to exercise some influence in preventing tropical forest loss.	The EU has been supporting the development of the REDD process both in the negotiations and financially. The Commission has published a Communication on the subject.
(9.3) The EU should support the further development of the FLEGT system and its expansion worldwide. Preventing illegal logging would slow the rate of tropical forest loss and the increase in carbon dioxide emissions this causes.	As a follow-up to the FLEGT regulation, the EU has put forward a "Proposal for a regulation of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market", which is being discussed in Council and Parliament.
(9.4) Through international agreements and organisations, data is already being compiled on European forest resources, the carbon it fixes, the carbon cycle, the diversity of forests, their products and their protective effects.	Such efforts are already foreseen, as stated in the recent White Paper on Adaptation: "in the framework of the EU Forest Action Plan, a debate should be launched on the options for an EU approach on forest protection and forest

<p>However, more knowledge and research is urgently needed. In developing the community's monitoring systems, as in the new FutMon project, use must be made of existing and evolving national, pan European and global monitoring systems and landowners must be guaranteed full data protection when information is being processed or published. The EU must use its research framework programmes to support further research into these areas and to facilitate data transfer through both basic and applied research and development projects.</p>	<p>information systems".</p>
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<p>57. European Civic Service Exploratory opinion asked by the French Presidency COM (2008) 424 final – EESC 345/200 - February 2009 Rapporteur: Mr JANSON (Work./SE) Corapporteur: Mr SIBIAN (Var. Int./RO) DG EAC – Mr FIGEL'</p>	
Main points of the EESC Opinion	Commission Position
<p>1.1 Reference to the Council Recommendation of 20 November 2008 on the Mobility of Young Volunteers across the EU.</p>	<p>The Commission welcomes the opinion of EESC on the mobility of young volunteers with the reference to the Council Recommendation on the Mobility of Young Volunteers across the EU, approved by the Council in November 2008. Mobility of young people in general and of young volunteers in particular is an important means of enhancing young people's active participation in society and their European citizenship.</p>
<p>1.4 Member States should launch cooperation between organisers of voluntary activities, whereby the existing forms of voluntary activities would include a transnational element.</p>	<p>The Commission supports and welcomes this view as it takes up the key idea of the Council Recommendation, as proposed by the Commission.</p>

<p>1.7 It is important to ensure a better cooperation between the existing national and European programmes (health insurance coverage and accident insurance).</p>	<p>The Council Recommendation on the Mobility of Young Volunteers takes these issues up. The proposed closer cooperation between organisers of volunteering will necessarily lead to a reduction of technical obstacles to cross-border volunteering. The Recommendation also calls on Member States to examine further relevant social protection provisions through the appropriate existing EU fora with a view to making full use of the possibilities under EU and national legislation.</p> <p>These issues are in the hands of the Member States. EU law in the field of social security provides for the co-ordination and not the harmonisation of social security schemes. This means that each Member State is free to determine the details of its own social security system, including which benefits shall be provided, the conditions of eligibility, how these benefits are calculated and how many contributions should be paid. Community provisions, in particular Regulation (EEC) No 1408/71, establish common rules and principles which must be observed by all national authorities when applying national law.</p>
<p>1.7 The EU could consider developing a brand for exchange programmes meeting the Union's quality standards. Quality of voluntary activities is important and needs to be ensured by the appropriate means.</p>	<p>The Commission agrees that exchange activities of quality should benefit Young people. Actually, the Youth in Action programme already provides opportunities for voluntary activities with high standards of quality, through the European Voluntary Service, which is a reference for national programmes.</p>
<p>1.9 The EU should initiate and support research as well as develop the statistical components.</p>	<p>The Commission actively supports research on volunteering. It has launched a study on "Volunteering in the EU", whose results are expected by the end of this year.</p>

<p>4.2.1 The EU should set ambitious objectives which aim at people's broader participation in civil society.</p>	<p>The EU has been setting ambitious objectives to enhance their participation since the adoption of the White Paper "A New Impetus for European Youth" in 2001. Common objectives were fixed in Council Resolutions in 2003 and 2005 and the participation of young people has steadily been improved. Volunteering is an excellent means of active participation. In its Communication "An EU Strategy for Youth – Investing and Empowering, a Renewed Open Method of Coordination to Address Challenges and Opportunities" the Commission makes proposals to ensure full participation of youth in society.</p>
<p>4.2.1 EESC recommendations of its opinion of 2006 on voluntary activity in Europe (see point 2.5).</p>	<p>In response to this opinion the Commission has launched a mapping study on volunteering in the EU. In addition the Commission intends to propose 2011 as European Year on Volunteering. These two steps will pave the way for further developments.</p>
<p>4.2.2 EESC proposes a “European Citizenship Initiative”, an initiative that would combine policies and programmes on volunteering beyond youth, thereby contributing to the concept of “active ageing”.</p>	<p>The Commission agrees with this observation and is currently considering an initiative on volunteering for the elderly.</p>
<p>4.2.4 Target to a greater extent disadvantaged people and in particular young people with fewer opportunities.</p>	<p>The Commission supports and advocates the creation of volunteering opportunities for young people with fewer opportunities. Member States have agreed to give these young people a particular focus when implementing the Council Recommendation.</p>

<p>4.2.6 It is important to ensure a better cooperation between the existing national and European programmes (mutual recognition of civic service experience and young people's qualifications).</p>	<p>The Commission is currently implementing the AMICUS Preparatory Action with the aim of:</p> <ul style="list-style-type: none">-promoting the development of a European framework to facilitate the interoperability of existing civic service and volunteering opportunities for young people in the Member States;-allowing a testing and evaluation phase by way of specific European cooperation projects in the field of youth transnational civic service and volunteering.
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PARTIE B: avis faisant l'objet d'une réponse substantielle

3. The European Economic Recovery Plan Supplementary Opinion – EESC 637/2009 – March 2009 Rapporteur: Mr DELAPINA (Work./AT) SG – President BARROSO	
Main points of the EESC Opinion	Commission Position
<p>The EESC supports the European Economic Recovery Plan and considers it to be the right economic policy reaction to the coming challenges.</p> <p>More specifically the EESC notes that the recovery plan seems to have recognised the need for an active, counter-cyclical macroeconomic policy to stimulate domestic demand. Not least, the EESC agrees with the fact that the objectives of the Lisbon strategy plan play a key role in the current short-term crisis management measures.</p> <p>The Commission is asked: (a) to provide an overview of the state of implementation of the national programs, (b) to list the instruments available for accelerating the progress of these measures and (c) to assess the extent to which the necessary coordination of national policies is functioning properly or whether there are undesirable developments</p>	<p>The Commission welcomes the Committee's overall support for the European Economic Recovery Plan, which combines short-term measures, including a sizeable fiscal stimulus by Member States, according to their fiscal space, with an acceleration of structural reforms, as set out in the Lisbon Strategy.</p> <p>The Commission welcomes the important role of the Committee in effectively establishing a dialogue with the social partners and other stakeholders. Close cooperation between all stakeholders is indispensable to address the current crisis effectively.</p> <p>The Commission President has provided an preliminary overview of the implementation of national recovery plans to the June European Council. The main conclusion of this preliminary assessment is that national recovery plans meet the conditions of the EERP, as agreed by the December European Council, which confirms the added value of EU co-ordination. There are so far no indications of negative spill-over's and/or roll-back of previous reforms.</p>
<p>A concern of the EESC is the relatively small scale of the EU's economic recovery plan (1.5% of GDP over two years) and the fact that the package includes much less new</p>	<p>The size of the discretionary financial stimulus of Member States over 2009 and 2010 has increased from 1.2% earlier this year (as foreseen by the EERP) to 1.8% of</p>

<p>money than the amount of € 200 bn.</p>	<p>GDP to date. This brings the total European fiscal stimulus to underpin growth and employment, including the support of the automatic stabilisers, to 5% of EU GDP or over € 600 bn. Consistent with the EERP, the size of the fiscal expansion varies amongst Member States, according to their fiscal room for manoeuvre.</p>
<p>The EESC thinks that there is now a need for a globally coordinated reorganisation of the financial markets aimed at building confidence.</p>	<p>The Commission agrees that the stabilization of the financial sector, globally, is a crucial precondition for recovery and preventing any recurrence of the failures that led to the current crisis. This underscores the importance of a well-coordinated EU position for the next G20 in September in Pittsburgh in this context.</p> <p>An important step forward is to develop a genuine European supervisory framework to build trust and coherence among European supervisory authorities. The Communication that the Commission presented on 27 May sets out a renewed European supervisory architecture.</p> <p>The approach the Commission proposes builds on the de Larosière report and includes the creation of a new European Systemic Risk Council (ESRC), chaired by the President of the ECB, to oversee the overall stability of the financial system and to identify risks and recommend action to overcome them, whilst also linking up to global bodies such as the IMF and the FSB.</p> <p>The Commission would like to stress that restoring the confidence will be an ongoing process for the next years.</p>
<p>The EESC underlines the importance of restoring the confidence of consumers and investors by means of an effective demand</p>	<p>The Commission agrees with the importance of an effective demand stimulus, which is one of the key elements</p>

stimulus. The EESC considers that fiscal measures to stimulate the economy cannot be budget-neutral in the short term. On the other hand, debt financing need not mean a corresponding rise in the budget deficit, since stimulating economic activity also increases public revenue.	of the EERP. At the same time the Commission would like to emphasise that financial sustainability over the medium-to longer-term remains crucial, particularly in light of the EU's demographic trends. This means, in principle, that discretionary fiscal stimuli should be reversed as soon as the economic recovery picks up with a view to consolidating public budgets.
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4.	Proposal for a decision of the European Parliament and of the Council on interoperability solutions for European public administrations (ISA) COM (2008) 583 final – EESC 334/2009 – February 2009 Rapporteur: Mr PEZZINI (Empl./IT) Informatics DG – Mr KALLAS	
	Main points of the EESC Opinion	Commission Position
	1.6 The EESC calls for the ISA programme to be flanked by a substantial Community initiative committing the Member States and the Commission to binding instruments giving new certainty and vigour to a reinforced Common Interoperability Framework.	The Commission is endeavouring to ensure commitment to a reinforced common interoperability framework together with Member States as the issues at framework level are located in the area of shared competence. It does so through various activities, such as e.g. the European Interoperability Framework (EIF) and the European Interoperability Strategy (EIS), and through various instruments, such as e.g. the ICT Policy Support Programme of the Competitiveness and Innovation Framework Programme and the IDABC programme, and in the future the ISA programme.
	1.7 In addition to the common framework, it is essential for the new European Interoperability Strategy to define Community policy priorities requiring efforts to be stepped up in the area of framework instruments and common services, as well as clear budget forecasts.	The Commission endeavours to ensure that the EIS, which is presently being developed as part of the IDABC programme, defines Community policy priorities in the area of interoperability and that derived actions are carried out, be it in the area of frameworks and common services or any other area identified by the EIS. Budgetary allocations will be considered at

	action level and indicated in the rolling ISA work programme specified in Article 9.
<p>1.8. The EESC believes digital convergence needs to be achieved which ensures:</p> <ul style="list-style-type: none"> • fully interoperable equipment, platforms and services; • security and reliability rules; • identity and rights management; • accessibility and ease of use; • use of linguistically-neutral technical architectures and IT systems; and • a major assistance and continuous-training initiative for users, particularly the weakest groups, <p>to prevent "digital exclusion" and ensure high levels of reliability and confidence in the relationship between users and service providers.</p>	<p>The Commission believes that the issues raised by the Committee are of high importance. The Commission already contributes to such achievements in various ways within other initiatives and programmes. Within its competence the Commission will likewise make contributions through the ISA programme. However, as the ISA programme will mainly provide back-office solutions for public administrations, action related to interaction between such administrations and the end users, e.g. the weakest groups, will have to be left to the service providers at national level who deliver the public services.</p>
<p>1.9 The EESC feels there is a need for greater coordination and cooperation with other Community programmes helping to develop new ideas and solutions in the field of pan-European interoperability.</p>	<p>The Commission agrees with the Committee and will strengthen the present inter-programme coordination and cooperation even further, in line with Article 8(4) of the proposal.</p>
<p>1.10 The EESC stresses the importance, particularly in the field of eGovernment, of open software, to guarantee the security and durability of software, the confidentiality of information or payments and the availability of the source code. It feels that the use of open-source software should be encouraged as it enables software solutions which are of great value to public administrations to be studied, changed, redistributed and reused.</p>	<p>The Commission agrees with the Committee that open source software in many ways is beneficial to public administrations and encourages public administrations to use such software whenever it meets their needs and is comparable with commercial equivalents.</p>

1.11 The EESC feels that the reference European Interoperability Framework needs to be consolidated under a multidimensional approach covering political aspects (a joint vision of shared priorities), legal aspects (synchronising law-making), and technical, linguistic and organisational aspects.	The Commission agrees that the EIF, currently being revised under the IDABC, should consider all the aspects mentioned by the Committee and will, in line with the Committee's recommendation 1.7, endeavour to reach agreement on a joint vision of shared priorities and the ensuing actions, including possible legal issues, within the context of the EIS.
1.12 The EESC believes that a European method of calculating the value for money provided by interoperable PEGS put in place by public administrations needs to be introduced.	The Commission generally agrees that the value for money should be established for public services. However, as the ISA programme will mainly provide back-office solutions for public administrations, the assessment of the value for money for services related to the interaction between such administrations and the end users falls outside the scope of the ISA programme.
1.13 The EESC considers that an information and training campaign is a pre-requisite for the success of the initiative. European-level social and civil dialogue and regular pan-European on-line services conferences are also essential to disseminate support and give direction to the work of administrations in the various countries in a joint development framework.	Based on communication strategies to be developed under the ISA programme, the Commission intends to inform and involve various stakeholders, first and foremost public administrations, e.g. through conferences and workshops but also by means of e.g. electronic platforms. Although the ISA programme does not specifically foresee training campaigns, the Commission will consider such initiatives if the need occurs and consequently welcomes the Committee's suggestion.

5. EMU@10: successes and challenges after 10 years of Economic and Monetary Union COM (2008) 238 final – EESC 633/2009 - March 2009 Rapporteur: Mr BURANI (Empl./IT) DG ECFIN – Mr ALMUNIA	
Main points of the EESC Opinion	Commission Position
3.2.1 Further on (page 7), the Commission	On Point 3.2.1 the position is that the

<p>regrets that "the euro is often used [by the public] as a scapegoat for poor economic performances that in reality result from inappropriate economic policies at the national level", thus rightly making a distinction between economic trends and euro issues. It would have been more useful in terms of promoting the euro to explain that the single currency is suffering – as are most other currencies, to a greater or lesser degree - from a global economic trend which is affecting monetary policy.</p> <p>4.5. Lastly, the Commission turns to economic governance, now possible thanks to the work of the Eurogroup, which has been even more effective now that it can count on a permanent president. However, internal governance of the euro is not enough to ensure its stability and prestige: the above comments highlight the need for "external governance", which will only be possible (see points 4.2.2 and 4.4 above) if the Eurogroup and the ECB can play an institutional role in international organisations, particularly the International Monetary Fund. It is no longer acceptable for authorities which represent the single currency overall not to be entitled to vote.</p> <p>6.4. As regards external policy, the Commission sets out an agenda intended to enhance the euro area's international role, implementing a strategy which is "commensurate with the international status of its currency". Moreover, it reiterates the call, already made on many occasions in the past, for it to "speak with a single voice" in all international currency forums. The EESC</p>	<p>financial and economic crisis has brought evidence that the existence of a single currency and monetary policy in Europe should be seen as major strength. The existence of a single central bank has facilitated the coordinated interventions in money markets. Fiscal stimulus is more effective in the absence of offsetting exchange rate movements in a single currency area. Benefits of coordination are larger in a single currency area, as spill-over effects are stronger. Finally, the EU-backing of the fiscal framework enhances its credibility and reduces the risk of 'non-Keynesian' responses to fiscal stimulus.</p> <p>On Points 4.5 and 6.4, the Commission would agree that a stronger representation of the euro area in international organisations has become more urgent with the crisis. The crisis points to a need for stronger global governance in general, but, being the second largest currency union in the world, the euro area is naturally disposed to be a major global player in this regard. Euro area countries should coordinate within an overarching strategy for the EU as a whole and speak with one voice in the international dialogue (on exchange rate policies, global imbalances and global financial system). Of course the Commission stands ready to contribute, together with the ECB and the Eurogroup, to efficiently represent the euro area.</p>
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stresses once again its full support for the agenda: the fact that the euro's governing authorities cannot participate in global monetary institutions is **unacceptable** in both operational and – above all – political terms.

5.1.1 The EESC feels that the prospects for action in each of the above areas are largely dependent on the Member States and their social partners. At the same time, it calls on the Commission to launch a study on **the long-term possibilities of achieving integration of the goods and services markets**, both in the euro area and throughout the Community. Whatever principles the Commission might wish to uphold, **integration has an inherent, natural limit** which can never be crossed: despite the necessary endeavours to harmonise or remove competition and legislative barriers there will always be differences of social context, taxation, labour markets and language which cannot be eliminated.

6.5.2 The Commission plays a key role in EMU governance: not just a supportive role ensuring effective operation but also in terms of budget and macroeconomic surveillance. The Commission proposes to step up its work and make it more effective, and to enhance its role in international forums. These roles will become wider and more effective with the **new Treaty**, which enables the Commission to **"adopt measures"** specific to EMU member countries on budgetary discipline and economic policy guidelines, as well as giving it surveillance tasks. In addition, Article 121 of the new Treaty gives the Commission the power to issue "warnings" to a Member State when it deviates from the broad guidelines.

6.5.9 In addition to addressing the crisis, there is now an urgent need to **look back into**

On point 5.1.1, the Commission recalls that a range of in-depth studies on the cost and benefits of the internal market have been carried out in the past. The results, which are strongly supported by economic research, suggest that the internal market yielded a substantial increase in international trade, competition, economies of scale, innovation incentives and productivity. In view of this, the Commission does not perceive an urgent need for a new study.

On point 6.5.2, one of the proposals in EMU@10 is to review the competitiveness position of the euro area Member States on a regular basis by way of an extension of the usual surveillance activities in the framework of the Stability and Growth Pact and the Lisbon Strategy. The rationale for this step resides in the substantial divergence across the euro area in terms of Member States' current account positions – which became a more urgent issue with the financial crisis. The Council mandated the Eurogroup last autumn to carry out such regular 'competitiveness reviews'. This does not require revisions of the Treaty, as Article 99 stipulates that "Member States shall regard their economic policies as a matter of common concern" and "shall coordinate them within the Council".

On point 6.5.9, while the Commission has sympathy for the proposals to regulate

<p>the past for the roots of the crisis. Clear rules must be established on provision of mortgages and credit cards, more effective surveillance systems must be put in place, covering the diverse and non-transparent "non-bank" sector, and a further assessment needs to be made of whether it is right to allow onto the securities market a large quantity of non-transparent products whose nature and reliability even the experts are unable to discern. It is not a question of abandoning the market economy, rather of giving it some rules.</p>	<p>mortgages and other financial products in a pan-European setting, it is not obvious that these should be addressed (solely) to the Member States of the euro area.</p>
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<p>6.</p>	<p>Regulation of the European Parliament and of the Council concerning type-approval requirements for the general safety of motor vehicles COM (2008) 316 – EESC 37/2009 - January 2009 Rapporteur : Mr RANOCCHIARI (Work./IT) DG ENTR – Mr VERHEUGEN</p>	
	<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
	<p>1.2 The Commission's intention of repealing over 150 directives and replacing them with the proposed regulation appears at first sight very interesting and is certainly conducive to the simplification desired. However, if it is not correctly calculated, this option could risk adding a new layer of procedures that might not always be compatible with the present ones, thus exacerbating the difficulties and burdens for industry and Member State authorities.</p>	<p>The Regulation will not add a new layer of procedures. System or component type approvals to the existing Directives will simply be replaced by approvals to the implementing Regulations to the General Safety Regulation, which will in most cases be approvals to an existing UNECE Regulation. Text has been added to Article 4 of the Regulation to clarify this point.</p>
	<p>1.4 The EESC contends, in fact, that simplification of the type-approval process and procedures, which the Commission sets out to achieve by introducing harmonised rules, could be effected through the incremental incorporation of current and future UN/ECE regulations into Annex IV of the aforementioned directive on European approval as and when these standards need bringing into line with technical progress.</p>	<p>As part of the implementation of the General Safety Regulation, it is indeed planned to make more than 50 UNECE Regulations mandatory. These UNECE Regulations will be incorporated into Annex IV of Directive 2007/46/EC.</p>

<p>1.5 On the matter of advanced safety technologies: since appropriate technical specifications are not available for all of them and to the same degree, the EESC would prefer these to be dealt with in individual proposals that take on board current developments at the UN/ECE working parties in Geneva.</p>	<p>Proposals on advanced safety systems are being developed at UNECE working parties in Geneva and these will eventually become UNECE Regulations which would be adopted as implementing measures under the General Safety Regulation, in the same way as other UNECE Regulations. The introduction timetable for such systems is longer, to allow time for the technical provisions to be finalised.</p>
<p>1.6 On the question of standards for tyres, the EESC accepts the industry proposal, which respects the timescale of the Commission proposal, but simplifies it by having two introduction cycles instead of the five envisaged.</p>	<p>Clearly we would like to have had a simpler implementing timetable, but after discussion with the industry it was clear that the lead times that were feasible for the different technologies were very different. The final timetable represents a balance between the need to introduce environmentally beneficial measures as soon as possible, and the need to ensure that the industry is given a realistic timetable for the introduction of new designs and the management of existing stocks</p>
<p>1.8 in the absence of the necessary cost-benefit analysis of some of the solutions proposed, the EESC thus fears that the considerable extra costs to the industry, and hence to consumers, will further slow down the replacement of Europe's vehicles in circulation, which has already been hit by the current economic crisis.</p>	<p>The Commission's impact assessment and the associated studies drew on all available research into the costs and benefits of the areas under discussion. It is accepted that there are still questions over the cost-effectiveness of introducing systems such as Automatic Emergency Braking and Lane Departure Warning for certain categories of vehicle. Therefore new text has been introduced into Article 15 (3) (a) which would allow exemptions for certain vehicles if a cost benefit analysis showed that the application of such systems would not be appropriate in such cases.</p>

1.9 Finally, the EESC recommends that the Member States' type-approval inspection authorities now look with renewed vigilance at the safety requirements for vehicles – and especially the tyres of vehicles – that will be imported into Europe after the regulation under discussion has been adopted.	Article 14 sets out general requirements concerning penalties for infringements of the provisions of the Regulation. The requirements apply equally to vehicles and components produced outside the EU and those produced within the EU.
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7. Proposal for a Directive of the European Parliament and of the Council on machinery for pesticide application, amending Directive 2006/42/EC of 17 May 2006 on machinery COM (2008) 535 final - EESC 41/2009 – January 2009 Rapporteur: Mr JÍROVEC (Var. Int./CZ) DG ENTR – Mr VERHEUGEN	
Main points of the EESC Opinion	Commission Position
The EESC fully endorses the document presented by the Commission.	The Commission welcomes the support for the proposal.
The EESC welcomes the changes, which constitute increased health, safety and environmental protection in the use of pesticide application equipment throughout the Community and the whole EEA.	The Commission welcomes the support for the proposal.
It harbours some reservations as a result of a lack of clarity regarding the impact on jobs in countries that have not yet incorporated the directive into domestic law.	The meaning of this reservation is not fully clear and is not explained in the report. The impact on jobs when the Directive is implemented will be neutral or marginally positive, since the machinery concerned will incorporate improved protective devices, thereby creating a market for certain components manufacturers.

<p>8. Think Small First: A "Small Business Act for Europe" COM (2008) 394 final – EESC 38/2009 – January 2009 Rapporteur: Mr MALOSSE (Empl./FR) Co-rapporteur: Mr CAPPELLINI (Var. Int./IT) DG ENTR - Mr VERHEUGEN</p>	
Main points of the EESC Opinion	Commission Position
<p>1.3: A binding legal instrument to govern application of the <i>Think small first</i> principle, ensuring, by way of maximum compulsion, the effective, practical implementation of these governance principles, at EU level and in the Member States and regions;</p> <p>2.5 While welcoming the positive initiatives contained in the Small Business Act, the Committee regrets the form that the Commission has opted for (a simple communication) which entails no obligations in terms of deadlines or means of implementation, or any proposal guaranteeing the effective implementation of <i>Think small first</i>.</p>	<p>The SBA is a politically binding instrument. The Member States committed to its implementation at the highest political level. The Competitiveness Council Conclusions from December 2008 adopted an SBA Action Plan subsequently endorsed by the European Council.</p> <p>The current form of the SBA reflects the results of the vast consultation process that the Commission conducted during the conception phase. Moreover, as far as the Commission actions are concerned, a rigorous and transparent process is in place; a roadmap is available online and is regularly updated. As to the Member States, these have the possibility to choose the implementation model that best suits their institutional set-up and business environment.</p>
<p>1.3 : A <i>roadmap</i> accompanied by a precise timetable and suitable means for implementing specific, large-scale SBAE initiatives.</p>	<p>As far as the Commission actions are concerned, such a <i>roadmap</i> has been put in place and is available online. The Competitiveness Council SBA Action Plan has a special emphasis on short term measures with a particular focus on the current economic crisis.</p>
<p>1.3: clear commitments on reducing red tape, particularly as regards the <i>once only</i> principle for all administrative formalities;</p> <p>3.2.4 ensure the establishment of a quantity-based obligation to ease the administrative burden for companies on the internal market – an obligation that requires EU-legislation</p>	<p>The Commission has presented a clear commitment to reduce 25% of administrative burdens by 2012. As far as the Member States are concerned, by May 2009, 24 of them have introduced national targets for the reduction of admin burden.</p>

red tape to be cut by 25% by 2012.	
<p>1.3 : Reorganisation of the Commission's services to provide SMEs with a genuine partner.</p> <p>5.1 : Reorganising the Commission's services so that, as happened with the SME Task Force, SMEs will have access to a visible and accessible political partner dedicated solely to SMEs and to protecting their interests within the EU institutions, particularly during the decision-making process.</p>	This is currently the role of the SME Envoy of the Commission.
1.3: European tools to act as a lever to promote capitalisation, networking, investment and life-long learning in SMEs.	The Enterprise Europe Network is such a tool. The Commission is also itself organising events, conferences, etc., the best example being the first European SME week in May 2009.
<p>1.3: A coherent policy framework across all EU policies so that SMEs are considered the rule rather than the exception;</p> <p>3.2.1 ensure that legislation at all levels is designed with a view to the specific situation and needs of the various types of SME; all new EU legislation on companies should be subject to the prior consultation of the relevant intermediary organisations, including the social partners and social economy organisations</p> <p>4.6: Integrate the SME dimension into all Community policies: the Committee points out that, beyond political discourse, it is still the large company model that too often predominates in the legislative process.</p>	<p>A requirement to perform an SME test is now part of the Commission Impact Assessment Guidelines. All draft Commission proposals affecting SMEs, irrespective of the policy area, are subject to the SME Test that aims to ensure a coherent approach by systematically considering the interests of SMEs in impact assessments.</p> <p>The SME Test comes on top of the work of the SME Envoy for integrating the SME dimension into all Community policies.</p>
1.3 :National interpretation of the SBAE's objectives, including by means of legislation.	The Commission is in favour of such an approach.
1.3: Return to the practice of permanent consultation of intermediary organisations and the social partners.	The SME Envoy is having regular meetings with the business organisations representing the interests of SMEs at the European level.

	These meetings offer the opportunity to inform the organisations about upcoming Commission initiatives as well as to collect their feedback.
2.7: Many of the specific measures proposed are either already in the pipeline or were announced some time ago. The major, useful proposals, such as the statute for a European Private Company, the Directives on late payments and reduced VAT, and the block exemption on State aid are fairly symptomatic of this situation.	The SBA sets a coherent framework for the development of the SME policy encompassing a whole range of issues impacting on the business environment. Thus, it includes new initiatives, but also existing ones. In many cases, the latter have received a new impetus favourable to SMEs thanks to the SBA as this is the case in particular for the Directive on Late Payments or the General Block Exemption.
4.4: Developing more evenly the <i>Enterprise Europe network</i> to make it a genuine European network for information and cooperation.	The Enterprise Europe network covers all Member States and their regions through the coordination of nearly 600 local partners.
4.6: The Committee reiterates its scepticism as to the merits and effectiveness of systematically exempting small companies from the scope of certain legislation; it prefers proportionality in the implementation of legislation;	The Commission shares the view that systematic exemptions for SMEs would be counter-productive. In the SME Test, the issue of introducing exemptions or other SME specific rules is considered as a last resort for ensuring a level playing field for SMEs.
5.1 : Assigning to a European Commissioner full responsibility for implementation of the European Small Business Act;	Commission Vice-President Günter Verheugen, is in charge of the implementation of the SBA at Community level.

<p>9. Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee. Regulatory aspects of nanomaterials</p> <p>COM (2008) 366 final - EESC 331/2009 - February 2009</p> <p>Rapporteur: Mr PEZZINI (Empl./IT)</p> <p>DG ENTR –Mr VERHEUGEN</p>	
Main points of the EESC Opinion	Commission Position
Ensure that there is a coherent and user-friendly framework into which the various Community regulations fit.	The Commission is engaged in developing guidance and other instruments for implementation that will facilitate the

	implementation of current regulation. It will assess the need to review regulation in order to better cover in regulation specific features of nanotechnology. The Commission intends to present a new report on regulatory issues by mid 2011.
Identify and address the emerging needs of market operators, supervisory authorities, workers in the sector and end users, through dynamic mapping of needs and gaps and setting out what action is needed at EU and Member State level to address these.	Stakeholders as defined by the EESC are actively involved in the Commission's work on developing instruments for regulation and assessment of need for new regulation. Furthermore, it is foreseen that a new action plan will be presented under the authority of the new Commission, which will address needs, gaps and future action.
Set up a permanent European reference structure for N&N and nanomaterials, with a European focal point for promotion and coordination ¹ that also covers the risk assessment and prevention aspects.	<p>The Commission intends to take position on a permanent European reference structure on the basis of the outcome of the current "European Observatory" R&D project. However, any structure should have to fit with the competences of existing structures, such as the EFSA, the EMEA or the ECHA.</p> <p>It draws attention to the fact that such a structure already exists in the field of worker protection, i.e. the European Agency for Safety and Health at Work, Bilbao).</p>
Strengthen interdisciplinary education and training measures, including risk assessment and prevention, and European centres of excellence in this area.	The Commission intends to address this request in the follow-up Action Plan for Nanotechnologies, to be presented under the authority of the new Commission.
Develop a European system of benchmarking for initiatives in the area of risk assessment and prevention, in Europe, in the USA, in Japan and in the emerging economies.	The Commission is in constant dialogue with its international counterparts, in particular through the OECD, and various regulatory dialogues, intended to share experience, join forces in developing tools and data for risk assessment.

¹ See OJ C 185, 8.8.2006, p. 1.

	<p>The Commission takes part in the Strategic Approach to International Chemicals Management (SAICM), a policy framework to promote chemical safety around the world, in which nanotechnology and manufactured nanomaterials have been identified as emerging policy issues</p>
<p>Bolster the standards of European leadership in sustainable and safe nanotechnology applications, in terms of metrology and testing and validation of existing protocols, inter alia by making use of pre-normative and co-normative research.</p> <p>Support the harmonisation of European technical standards, with clear and transparent mandates, with a view to feeding this in to the work of ISO/TC 229 at international level, thus facilitating world trade.</p>	<p>The Commission shares the importance attached by the EESC to standardisation.</p> <p>The Commission has given a programming mandate to the European Standards Bodies, and is preparing a follow-up standardisation mandate.</p> <p>In its mandates, the Commission highlights the need for the European standards bodies to participate in international work, for instance on definitions and exposure assessment.</p>
<p>Facilitate structured dialogue with civil society, on a sound and transparent basis, to provide a united European voice in this field, which is vital to our future on the global stage.</p>	<p>The Commission will continue to promote a structured dialogue, in particular through projects under the 7thFP, involvement of stakeholders in its activities, and initiatives such as the Conferences "Safety for Success."</p>

10.	<p>Regulation of the European Parliament and of the Council laying down harmonisation conditions for the marketing of the constructions products COM(2008) 311 final - EESC 329/2009 - February 2009 Rapporteur: Mr GRASSO (Var. Int./IT) DG ENTR – Mr VERHEUGEN</p>
Main points of the EESC Opinion	Commission Position
<p>1.1 The Committee is convinced of the importance of ensuring full application of the principle of the free movement of goods, which is enshrined in the Treaty and enhanced by the common framework launched in July 2008 and subsequent sectoral regulations, so that products lawfully</p>	<p>The Commission welcomes the recognition and support offered by the Committee for these principles and the objectives of the Proposal.</p>

<p>marketed in a Member State can also be marketed without hindrance throughout the EU, with guarantees in terms of health, safety and environmental protection over the entire life cycle of the product, from conception to disposal.</p> <p>1.2 The Committee welcomes the Commission's initiative aimed at revising EU legislation on construction products – specifically the CPD Directive (89/106) – to bring it into line with current needs, update its content and establish a certain, unambiguous European legal framework.</p>	
<p>1.3 The Committee firmly believes that, from the design stage, ecosystemic quality must be factored into the range of characteristics and structural conditions of housing and/or building structures by using natural resources sparingly, improving people's housing conditions and instilling a more responsible approach into the procedures, practices and techniques involved in meeting quality and safety requirements for workers and end users.</p>	<p>The Commission welcomes these important principles and invites all stakeholders concerned to implement them in their daily activities, already within the context of currently applicable rules.</p>
<p>1.4 The Committee feels that the European system of construction product standardisation needs to be bolstered, by supporting standardisation bodies and incorporating into standards the aspects of work safety, product use and disposal.</p>	<p>The Commission welcomes the support of the Committee for the consolidation of the European standardisation efforts in this field and the recognition of the need for a reform, to be taken into consideration in the context of the foreseen wholesale review of the European standardisation framework.</p>
<p>1.5 The Committee feels that the huge potential of innovative construction products, in terms of mitigating the negative effects of climate change and improving housing comfort, should be incorporated into the culture of construction professionals, construction companies and consumers, as a practical, effective means of contributing to environmental protection and energy-saving.</p>	<p>The Commission welcomes these important principles and invites all stakeholders concerned to implement them in their daily activities, already within the context of currently applicable rules.</p>

<p>1.6 The Committee reiterates that the free movement of goods should be an essential driver for competitiveness and the economic and social development of the European single market and that reinforcement and updating of the requirements for the marketing of safe, healthy products should ensure quality for European consumers and industry players.</p>	<p>The Commission welcomes the recognition and support of the Committee for these fundamental principles constituting the base of the Proposal.</p>
<p>1.7 The Committee believes it important to ensure a harmonised EU regulatory framework for the marketing and manufacturing of construction products in the single European market (EEA).</p>	
<p>1.8 The Committee attaches particular importance to the need to restore the credibility of the CE mark and improve the system for accrediting notified bodies. A legal framework should be developed which provides consistency, comparison and coordination in the decentralised system, effective market surveillance, and unambiguous, simplified definitions and procedures.</p>	<p>The Commission welcomes the recognition and support of the Committee for these objectives, instrumental for the success of the Proposal.</p>
<p>1.9 The Committee recommends that adequate financial resources are allocated to fund EU training and information programmes, targeting all the public and private bodies involved – particularly through trainer-training campaigns – as well as a flanking programme to monitor implementation.</p>	<p>The Commission welcomes the support of the Committee for the allocation of adequate financial resources for these purposes, and emphasises also the need of sufficient human resources to administer such activities.</p>

<p>1.10 The provisions specifically designed to simplify procedures are essential, particularly for SMEs and micro-enterprises, providing simplified access to the CE mark system and setting up Solvit¹ at national product contact points (PCP), to facilitate problem-solving.</p>	<p>The Commission welcomes the recognition and support of the Committee for these simplification efforts, instrumental for the success of the Proposal.</p>
<p>1.11 The Committee feels that the new rules and technical annexes should be accompanied by technical guides on developing the basic requirements of activities linked to the use of environmentally-friendly primary and secondary materials and innovative products.</p>	<p>The Commission acknowledges the need for subsequent guidance in the context of implementing the future regulation. References should be made here to circumstances mentioned above under point 1.9, since the efficiency of offering this guidance will inevitably be linked to the availability of resources for these purposes.</p>
<p>1.12 The Committee stresses the need for a sector-specific application of the Rapex rapid alert system to construction products and calls for cases of infringement and fraud to be published in the Official Journal of the EU and on an EU web portal for construction products.</p>	<p>The Commission welcomes the support for a quick and efficient implementation for Rapex. The Commission also recognises the needs for efficient communication using the modern technologies. The publication of the outcomes of criminal procedures, however, will remain under the national rules governing such procedures.</p>
<p>1.13 The Committee thinks that the time frames for implementation of the Regulation are too tight to allow for its full and effective application and that they should be carefully assessed inter alia in relation to the training and information requirements involved in assimilating the imposed changes.</p>	<p>The Commission understands the concerns brought forward, but underlines also that the schedule for the adoption of the Regulation has been updated since the Committee opinion, owing to the developments within the co-decision procedure. As for now, one should not expect the Regulation to be adopted before 2010, which necessarily will delay the full implementation respectively.</p>
<p>1.14 Finally, the Committee calls on the Commission to present a two-yearly report to the Parliament, Council and EESC on the implementation of the Regulation, with a chapter dedicated to health and safety requirements for construction products and related cases of infringement and fraud.</p>	<p>The Commission acknowledges the need for reporting of the implementation of the Regulation after its full entry into force. The Commission draws the Committee's attention on the result of the first reading vote in the European Parliament, where the carried amendment 82 foresees this kind of reporting, although in a more limited context.</p>

11.	<p>Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan</p> <p>COM (2008) 397 final – EESC 337/2009 – February 2009</p> <p>Rapporteur: Mr ESPUNY MOYANO (Empl./ES)</p> <p>DG ENV – Mr DIMAS - DG ENTR – Mr VERHEUGEN</p>
Main points of the EESC Opinion	Commission Position
<p>The Committee overall welcomes the Action Plan, including a range of new proposals, such as extended energy and environmental labelling, as well as the 'greening' of public procurement practices.</p> <p>However the Committee called attention to the vulnerability of business and especially SMEs at a time of economic and financial crisis and to the imperative need to implement the Action Plan in a way that will promote not only sustainability, but also economic recovery.</p>	<p>The objective of the Action Plan is precisely to facilitate the transition to a low-carbon economy while strengthening the competitiveness of industry. In particular, by rewarding consumers' eco-friendly behaviours and producers' best performing products, the new framework for product policy will underpin European industry efforts to stay at the leading edge in global markets.</p> <p>A number of elements will favour SMEs. In the implementation of the Ecodesign Directive, the use of standards, benchmarks and the introduction of periodical reviews will enhance regulatory stability and facilitate compliance by SMEs. The enhanced labelling will provide easy access to information concerning the environmental and energy performance of products, which will result in substantive savings for SMEs. Harmonized rules for public procurement will make it easier for SMEs to have access to it. Specific initiatives will be developed to help SMEs adopting energy efficient solutions (eg, training, tailor made dissemination material). Furthermore, actions under the Small Business Act (SBA) and associated also to the Environmental Compliance Assistance Programme for SMEs (ECAP) were devised in order to assist SMEs to turn environmental challenges into business opportunities.</p>

<p>The Committee considers that the Action Plan suffers to some extent from a lack of clarity as regards content and scope and calls for it to be implemented in cooperation with the economic sectors concerned and to take proper account of scientific criteria that are solid, clear and applicable in practice.</p>	<p>The SCP/SIP Action Plan outlines the overall strategy of the Commission to foster sustainable consumption and production and a sustainable industrial policy. A number of legislative proposals were presented together with the Communication to notably create a coherent legal framework to improve the energy and resource efficiency of products and to foster the demand for better products. These proposals for, in particular, the recast of the Ecodesign and Energy Labelling Directives, Ecolabel and EMAS reviews are presently going through the co-decision process., and once agreed, are expected to provide the coherent frame for implementation of the strategy. All implementing measures developed under these frameworks will be subject to careful assessment and consultation of stakeholders, notably in terms of impact on SMEs.</p>
<p>Support measures need to be taken, especially in the field of Research and Development and Innovation, in particular relevant to be boosted in times of crisis.</p>	<p>The Action Plan includes actions aiming at facilitating for industry to improve environmental performance. This includes boosting eco-innovation and setting appropriate framework conditions for environmental industries, including policies on innovation, research and access to finance. Building on the Action Plan, the European Economic Recovery Plan prioritizes fiscal stimulus to measures aimed at improving energy efficiency and investing in clean technologies.</p>
<p>In particular, the Committee was concerned that the proposed establishment of a "Retail Forum" might compromise the interests of small suppliers to the advantage of large retail business. The EESC therefore called on the Commission to involve all economic and industrial sectors concerned on an equal footing.</p>	<p>The Retail Forum is open to participation by stakeholders other than retailers, including small suppliers. Indeed, both at its launch on 3 March and in the first meeting setting its roadmap, representatives from producers, other industrial stakeholders as well as consumer and environmental organisations and Member States participated. Retailers play an important role when it comes to supporting more sustainable consumption patterns,</p>

	<p>through information, selling practices, and their own 'behaviour', and a number of good practices, including from other stakeholders, will be shared under the Retail Forum. The Commission welcomes further sectoral initiatives aiming to foster SCP/SIP, such as the Food SCP/SIP Roundtable that has recently been initiated. It considers, and is working at, that initiatives from both angles can well complement each other.</p>
<p>With respect to the eco-design proposal, the EESC wishes to draw attention to the fact that environmental requirements should be defined in terms of the aims they are supposed to achieve, rather than the technical solutions that can be found through eco-design. It is important to consider the product life-cycle, and to establish indicators and an appropriate methodology to reach product improvement.</p>	<p>The Ecodesign Directive indeed follows the lifecycle approach, and its criteria are related to the environmental and economic impact, and improvement potential of products. Requirements set under the Directive are, in general, performance related rather than defining technical solutions. Building on the work for energy-using products, it will be extended to establish requirements for priority 'energy related' products with significant potential for improvement. The life-cycle approach does guide the Commission's environmental product policies also beyond the ecodesign proposal and its related implementing measures.</p>
<p>With regard to providing information to consumers, the EESC points out that labelling is an important tool, but not the only means. In particular in the food sector, there are already many requirements, and that there is a need to harmonise provisions in the area.</p>	<p>The Commission fully supports recognizing the importance of consumer information. Its proposals for revising the Ecolabel Regulation and the Energy Labelling Directive are guided by the intention to avoid a proliferation of labelling schemes. Work with retailers and producers aims, inter alia, at optimising consumer information, for instance by promoting the ecolabel, but also by addressing other means to provide quality-assured consumer information and improve awareness. This is one of the objectives of the Food SCP Roundtable, an initiative supported by the Commission.</p>

<p>Lastly, the EESC wishes to point out that the product requirements under the SCP/SIP Action Plan should also apply to imported products not to discriminate European producers in their own internal market.</p>	<p>This is the case, as the requirements established by implementing measures under the Ecodesign Directive apply to all products placed and/or put into service on the EU market, hence also imported products produced by non-EU producers.</p>
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<p>12. White paper on damages actions for breach of the EC antitrust rules COM(2008) 165 final – EESC 611/2009 – March 2009 Rapporteur: Mr ROBYNS DE SCHNEIDAUER (Empl./BE) DG COMP – Mrs KROES</p>	
Main Points of the EESC Opinion	Commission Position
<p>1.1 Access to effective judicial protection is a fundamental right laid down in the European Charter of Fundamental Rights. The EESC, therefore, stresses the need to promote people's access to such protection, in particular when it comes to securing compensation for breaches of antitrust rules, which harms not only competitors who play the game fairly, but also consumers, SMEs and employees of the companies involved, in that their jobs and purchasing power are jeopardised. The EESC welcomes the Commission White Paper, which it supports in this regard. The Committee highlights the need for more effective means allowing victims of breaches of antitrust rules to receive full compensation for the damage suffered, in line with ECJ case-law. A balanced system that pays attention to the interests of all is essential for society as a whole.</p>	<p>The Commission welcomes the EESC's recognition of the need to improve the effectiveness of the fundamental right of victims of competition law infringements to be compensated for the harm they suffered.</p> <p>This is an objective the Commission is committed to achieve, and the White Paper contains concrete suggestions in order to make more effective the legal framework under which such victims can secure compensation for breaches of antitrust rules.</p>
<p>1.4 With regard to collective actions, the Committee considers it necessary to put in place the appropriate mechanisms to launch such actions effectively, adopting a European approach on the basis of measures grounded in European legal culture and traditions, aiding access to justice for the entities qualified by law and victims' groups. Follow-up measures should</p>	<p>The Commission would like to emphasize that the White Paper suggests two complementary mechanisms of collective redress that meet the benchmarks set by the EESC: they allow effective compensation also for those victims that suffered a low-value or scattered damage. They also avoid elements of collective redress systems which in other jurisdictions are</p>

<p>provide appropriate safeguards against the introduction of features that in other jurisdictions have demonstrated to be more likely to be abused. The EESC calls upon the Commission for coordination with other initiatives to facilitate redress, namely the DG SANCO initiative currently under way.</p>	<p>perceived to lead to excesses. In addition, the White Paper introduces further safeguards against abuses.</p> <p>Damages actions for breach of the EC antitrust rules present several specificities concerning victims (not only consumers but often also SMEs) and the complex legal and factual analysis that make it appropriate to devise specific solutions for these victims. However, the Commission is committed to ensure a consistent approach in its policy initiatives on collective redress.</p>
<p>1.7 The EESC calls on the Commission to follow up the White Paper and to propose the appropriate measures to achieve the White Paper's objectives, whilst respecting the principle of subsidiarity but without application of that principle making it harder to overcome existing barriers to access to effective mechanisms for victims to claim for damages caused by breaches of competition rules.</p>	<p>The Commission welcomes the EESC's call for follow-up measures to achieve the White Paper's objectives.</p> <p>The debate at the EESC as well as the contribution of stakeholders within the public consultation will be a valuable input in devising possible measures at the EU level aimed at fostering effective compensation for victims of EC competition law infringements. Such measures would be in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty.</p>
<p>3.6.3 When evaluating measures related to the actual and full compensation the EESC expects the envisaged framework on guidance for quantification of damages to set pragmatic guidelines for the use of the courts of Member States, as described in the White Paper.</p>	<p>The Commission agrees that quantification of damages is one of the most complex exercises claimants and judges are faced with in antitrust damages actions. In the White Paper, the Commission committed to drawing-up a framework with pragmatic, non-binding guidance for quantification of damages in antitrust cases.</p>

13. Report on Competition Policy (2007) COM(2008) 368 final – EESC 612/2009 – March 2009 Rapporteur: Mr BARROS VALE (Empl/PT) DG COMP – Mrs KROES	
Main points of the EESC Opinion	Commission Position
<p>1.3. The Committee notes in particular with reference to the financial services sector that issues of inadequate and even lax regulation and supervisions create unacceptable systematic imbalances and risks and they affect healthy competition, protect wrongdoers and damage society as whole. The Committee considers that competition policy will have to address these matters.</p>	<p>The Commission would first like to emphasise that its actions and interventions since autumn 2008 demonstrate that competition policy is playing a key role in tackling – in a coordinated and coherent way - the challenges arising from the crisis. The Commission's interventions in individual State aid cases – including particular conditions imposed on aid granted - have contributed to stabilising financial markets and minimising distortions of competition. To this end, the Commission has also adopted specific new State aid rules and clarified the application of the existing legal framework, taking into account the exceptional circumstances of the crisis.</p> <p>However, competition policy cannot address or resolve all aspects related to the financial crisis. Other actors, not least the European Central Bank and the regulatory and supervisory authorities, have a key role to play.</p>
<p>1.7. While welcoming the Commission's approach whereby competition policy is placed within a wider policy framework, it considers that the Commission further clarify the ways or means of further embedding competition in the Lisbon Strategy.</p>	<p>The Commission would first like to point out that competition policy is fully embedded in the Lisbon Strategy, contributing significantly to its overall objectives: growth and jobs. The Integrated Guidelines approved by the Council which form the broad basis for Member States' National Reform Programmes as well as for reforms at the EU level include all aspects of competition policy (see Integrated Guideline No 13). Moreover, at the EU level the first Community Lisbon Programme (2005-2007) included key reforms in the State aid area as a priority. Examples are the new rules for aid to research, development, innovation and risk capital. The current Community Lisbon</p>

	<p>Programme, the objectives of which were endorsed by the Spring European Council in 2008, also includes competition policy as one of the key elements (see in particular objectives 5 and 8 of the Programme). The country-specific recommendations endorsed by the European Council and adopted by the Council, the need to undertake further reforms in the competition area remain a key challenge for several Member States.</p>
<p>1.9. The Committee notes, with respect to the financial sphere, that while the Report addresses the issues of payment cards, the Commission fails to put forward any measures to remedy the competition problems in this highly concentrated industry.</p>	<p>The Commission agrees that the payments card sector is highly concentrated and that competition policy remedies may be necessary to address problems in this area. The Commission has devoted particular attention to this part of the financial services sector, especially following the conclusion in January 2007 of its sector inquiry into retail banking. On this basis, the Commission has engaged in intensive competition enforcement efforts related to the payment cards sector. The enforcement action has mainly concerned multilateral interexchange fees (MIFs) which are ultimately borne by merchants and consumers (both cardholders and non-cardholders). For example, as announced at the beginning of April 2009, as part of the Commission's enforcement drive, MasterCard decided to cut its cross-border MIFs and repeal recent scheme fee increases. As regards the behaviour of Visa (the other Member of the duopoly in the payment card sector) on the payment cards market, the Commission will continue its ongoing competition investigation and will monitor the behaviour of other market players to ensure that competition is effective in this market to the benefit of merchants and consumers.</p> <p>Likewise, with respect to the SEPA Direct Debit system developed by the European Payment Council the Commission and the ECB have issued a statement clarifying that a general per transaction multilateral interchange fee (MIF)</p>

	<p>does not seem necessary for direct debit transactions. This has clarified the framework for a long term financing model for SEPA Direct Debit and thereby facilitated the Decision taken by the EPC on 31 March 2009 to launch the SEPA Direct Debit system.</p>
<p>2.4 The Committee considers that the section of the Report dealing with information technology omits to provide information as regards the aims or measures to be adopted as part of the Commission's ongoing enforcement activities in this sector.</p>	<p>The Commission would firstly like to emphasise that it cannot prejudge the outcome of ongoing antitrust enforcement proceedings in its annual reports on competition policy. In this context, the Commission would like to draw attention to antitrust enforcement cases it is currently pursuing in the information technology sector. These include its Intel, Rambus and Microsoft investigations. In each case the Commission has issued preliminary charges in the form of so-called statements of objections. In respect of the Committee's queries regarding the aims of these proceedings, the Commission would in general point out that the main consideration at stake in its application of competition policy in the information technology sector is the protection of innovation and consumer choice as well as the preservation of a level playing field.</p>
<p>3.1.1. With reference to globalisation and recent events, the Committee is of the opinion that the Commission needs to develop a generation of competition policy which must be linked to trade policy.</p>	<p>The Commission agrees with the Committee that competition policy, in an increasingly globalised world economy, must also adopt a global outlook. The Commission responds to this challenge by reinforcing and extending its relations in the area of competition policy with partners all over the world in both bilateral and multilateral fora.</p> <p>As regards bilateral cooperation in the area of competition, the Commission would like to underline that it cooperates with numerous competition authorities on a bilateral basis and in particular with the authorities of the European Union's major trading partners. The European Union has entered into dedicated cooperation agreements in competition matters with the United States, Canada and Japan. An agreement</p>

	<p>with South Korea is expected to be signed in the next months. The Commission is also engaged in a structured dialogue with China to share experience and views on competition matters and provide technical and capacity-building assistance to China.</p> <p>Moreover, the Commission draws attention to the fact that the Free trade agreements it has negotiated usually contain basic provisions on cooperation in competition matters. These agreements have been concluded with many countries (in particular Latin America and the countries involved in Euro-Mediterranean cooperation). In this context, the Commission would also like to refer to the ongoing negotiations on Free Trade Agreements (FTA) with Ukraine, India and South Korea, and on the trade part of the Association Agreement with Central America. The Commission is acting to ensure that anti-competitive practices (including State aid) do not erode the trade and other economic benefits sought through those agreements. Nevertheless, competition policy cannot by itself address all problems arising in the context of international trade. Nor can it replace trade policy. EU trade policy can and does, when justified, activate instruments such as countervailing subsidies and antidumping duties to address instances of unfair trade between the EU and third countries.</p>
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<p>15. Proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation</p> <p>COM(2008) 426 final - EESC 49/2009 – January 2009</p> <p>Rapporteur: Mr CROOK (Work/UK)</p> <p>DG EMPL - Mr ŠPIDLA</p>	
Main points of the EESC Opinion	Commission position
1) The EESC <u>welcomes the draft directive</u> and the fact that many of its provisions and its scope basically follow the Race Equality Directive (2000/43/EC). However, it believes that in certain areas the <u>directive offers lesser protection</u> than that which already exists under the race equality and gender directives.	The Commission does not intend to table a formal written amended proposal. However, in certain cases the Commission will, as far as possible, take into account the remarks of the EESC in the framework of the discussions now being held in the Council in order to improve further the text of the draft Directive. See the comments on specific remarks.
2) The directive should clarify that discrimination on the grounds within the directive includes <u>discrimination on grounds of association</u> with persons of a particular religion or belief, disability, age or sexual orientation	Accept – the Coleman case, which justifies this suggestion, was decided after the presentation of the proposal for a new Directive.
3) The ability to provide preferential treatment should also apply to persons with disabilities subject to the same justifiability tests of those applicable to age, as provided in Article 2(6).	The Commission will take into account these remarks and will support this suggestion in the Council.
4) Regarding the possibility to make justified differences of treatment in the provision of financial services, the same requirements for transparency should apply for age and disability as apply for gender in Directive 2004/113.	The Commission will take into account these remarks.
5) The exception in Article 3(1) b) limits the application of the Directive to individuals "only insofar as they are not performing a professional or commercial activity". Without a definition of "professional or commercial", a lack of clarity will weaken the impact of the directive. If the aim is to exempt private transactions, then this can be read from the reference in recital 17 and	The Commission will take into account these remarks, but it believes that a clarification in main text of the Directive is necessary.

from the fact that only goods and services "available to the public" are covered.	
6) <u>Article 3(2)</u> as a whole should be reconsidered, and any final formulation should state that national laws relating to marital status, family status or reproductive rights must be implemented without discrimination against any persons on any of the grounds within the directive.	<p>This provision is justified both for political reasons (too divergent legal situations in Member States) and for reasons concerning the limits of EU competence. Member States remain free to decide whether or not to institute and recognise legally registered partnerships for people of same sex. However once national law recognises such relationships as comparable to that of spouses then the principle of equal treatment applies.</p> <p>The exception on reproductive rights does not exclude the right to equal treatment in access to health care regarding reproductive health in general.</p>
7) The <u>exception of Article 3(3) concerning education</u> could unduly limit the impact of this directive in eradicating discrimination and harassment in schools and other educational institutions. The directive should state explicitly that all national responsibilities concerning education must be exercised without discrimination.	<p>Article 149 of the EC Treaty provides for full respect of Member States' responsibilities for the content of teaching and the organisation of education systems. Nevertheless, the related provisions of the draft Directive are important as they would guarantee that students are not discriminated in their daily life at school.</p>

<p>8) In Article 4 the duty on providers of goods and services to take measures in anticipation of the needs of persons with disabilities and to provide reasonable accommodation is too limited.</p> <p>The EESC is concerned about the three limitations to the duty to ensure effective non-discriminatory access - provided in Article 4(1)(a) - namely that measures taken to meet access needs should not a) impose a disproportionate burden, b) require fundamental alteration, or c) require the provision of alternatives.</p> <p>The Committee believes that it is sufficient to require anticipatory measures to be "reasonable", and to make the duty under 4(1)(a) subject to the single proviso that such measures should not impose a disproportionate burden.</p>	<p>The Commission does not agree that the duties on providers of goods and services are too limited. It is not appropriate to impose a disproportionate burden to providers of goods and services.</p> <p>However, regarding the duty to ensure effective non-discriminatory access - provided in Article 4(1)(a) - the Commission is prepared to take into account the EESC remarks in the framework of the discussions in the Council on how this provisions could be further clarified and improved.</p>
<p>9) The equality bodies to be designated under Article 12, unlike bodies designated under the race and gender directives, would not cover the field of employment.</p> <p>This should be addressed by means of a new recital encouraging Member States to give to the bodies designated under Article 12 competences in the field of employment too.</p>	<p>The Commission will take into account these remarks. It supports in substance the concern of the Committee, but it has to evaluate how to achieve this objective.</p>
<p>10) The EESC recommends that progress toward full recognition of multiple discrimination could be made in two ways:</p> <p>a) an additional recital in the proposed directive encouraging Member States to ensure that legal procedures are available to deal with situations of multiple discrimination, specifying in particular that</p>	<p>The general position of the Commission regarding the insertion of a binding provision on multiple discrimination is that it would need further analysis. As already announced in its Communication on non-discrimination of 2 July 2008 (COM(2005)224), the Commission has started this process on the basis of a study</p>

<p>national legal procedures shall enable a complainant to raise all aspects of a multiple discrimination claim in a single legal claim.</p> <p>b) a recommendation by the Commission stating the need to take account of multiple discrimination in drafting and enforcing national laws which, while not binding on Member States, would need to be taken into consideration by national courts.</p>	<p>and is now discussing the results and national approaches with Member States in the context of the work of the Governmental Expert Group on non-discrimination.</p> <p>However, since the EESC is not suggesting the inclusion of a binding provision, the Commission is ready to take into account its remarks.</p>
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<p>16. The social and environmental dimension of the Internal market Own-initiative Opinion – EESC 36/2009 – Janvier 2009 Rapporteur: Mr ADAMCZYK (Work./PL) SG – President BARROSO</p>	
Main points of the EESC Opinion	Commission Position
<p>The EESC notes that although not an end in itself, the internal market is an instrument which is contributing to the growing wellbeing of EU citizens, increasing their prosperity, their access to goods and services and improving the quality and security of their jobs, giving them the opportunity to travel, live, work and study anywhere within the EU's borders. The Committee also stresses the greater opportunities which the internal market is providing to business.</p>	<p>The Commission welcomes the Committee's overall support for the Single Market. The Commission agrees that the Single Market has a crucial role to play at the heart of the economic growth and jobs agenda, particularly in the context of driving recovery from the current economic crisis. A report on progress made under the Single Market Review was published in December 2008 (SEC(2008) 3064).</p>
<p>The Committee considers that for Europe's long-term competitiveness, the internal market must also take environmental dimension into account. The Committee stresses that new standards, rules, products and ideas must therefore take this major challenge into consideration, even though this may lead to inevitable tensions in some industries.</p>	<p>The Commission agrees that Europe's future competitiveness depends on delivering on the longer-term structural reform objectives identified under the Lisbon strategy for growth and jobs – such as building Europe's knowledge base, boosting energy security and adapting to a low-carbon economy. The European Economic Recovery Plan (EERP) adopted by the European Council in December 2008 on the basis of Commission proposals puts a strong emphasis on the need to ensure that the measures the European Union and its Member States are taking to</p>

	<p>get through the present crisis will prepare the ground for a smooth transition to the European economy of the future. In particular, the Commission has stressed, most recently in the Communication of 4 March (COM(2009)114) that it is crucial to maintain the pace of efforts to shift to a low carbon economy: when the upturn starts green technologies and products should be the lead markets. The Commission is monitoring progress regularly and will take into account the results of the EERP in preparing the post 2010 Lisbon Strategy.</p>
<p>The Committee considers that in their approach to the deepening of the internal market, the European institutions must take into consideration the legitimate interests of business and the need to respect the fundamental social rights, including the right to bargain collectively. In this respect, the Committee calls for the resolution of certain ambiguities related to the application of EU law, and in particular a review of the Posting of Workers Directive or the conclusion of an additional agreement between the social partners. The Committee also however notes that before considering new regulations, there is an urgent need to take measures to ensure the proper implementation of the Posting of Workers Directive.</p>	<p>As announced in the Renewed Social Agenda for opportunities, access and solidarity (COM (2008) 412 final), in October the Commission organised a Forum with the social partners and the Member States at which the questions raised in the wake of rulings by the European Court of Justice (in the Laval, Viking and Rüffert cases) were discussed. The Commission appreciates the support that the Committee has expressed for this initiative as well as the fact that it shares the opinion that the proper implementation of the Directive is of the utmost importance. The Commission is also supporting the Member States in making effective use of the opportunities offered by the existing Directive on the Posting of Workers, whilst remaining committed to ensuring that there is no contradiction between the fundamental freedoms of the Treaty and the protection of fundamental rights, inter alia by assessing the different options for the information exchange needed to enhance administrative cooperation, including an electronic information exchange system.</p>
<p>The Committee notes the importance of the SOLVIT network, as a mediator between the institutions and the public, but is notes that</p>	<p>In its annual reports on the functioning of the SOLVIT network, the Commission has flagged the problem of understaffing in a</p>

<p>the network is heavily underfinanced and understaffed and calls for its role and operations to be reassessed.</p>	<p>number of SOLVIT centres and urged the Member States concerned to remedy the situation. Unfortunately, understaffing has turned into a structural problem in some Member States. Since SOLVIT staff is part of the national administrations it is not possible to address this problem via funding from the EU budget. Currently, the Commission is implementing the Single Market Assistance Services action plan (see Commission staff working paper SEC(2008)1882) aimed at creating better synergies between the existing public assistance services. This will alleviate some of the problems faced by understaffed SOLVIT centres through a closer cooperation with the Citizens Signpost Service.</p>
<p>The EESC notes that that labour market integration is the best safeguard against social exclusion and calls on the Commission to work together with the social partners to make better use of Europe's labour force potential in our rapidly changing societies. The Committee considers that one problem which still needs to be resolved is that of the mutual recognition of qualifications.</p>	<p>The Commission notes that Directive 2005/36/EC provides the necessary regulatory framework to ensure that professional qualifications are recognised in all Member States. The Commission is active in ensuring that it is transposed and properly implemented by all Member States, and provides assistance to professionals facing difficulties to practice their profession in another Member State.</p> <p>The Commission would also like to note that it is currently preparing a Green Paper for presentation before the summer which will launch a wide-ranging public debate on new approaches to promoting cross-border mobility of young people.</p>
<p>The Committee considers that in the environmental field it would be useful for the Commission to update a number of relevant areas eg quality standards.</p>	<p>The Commission continues its work on the introduction of quality standards in different environmental fields, with view to enhance environmental quality. Setting standards and letting others implement them in the best way has long been the core of environment policy, and can allow reduction in administrative</p>

	<p>burden. Significant efforts have taken place in the fields of water for establishing environmental quality standards for surface water (2008/105/EC Directive priority substances, repealing at the same time provisions in 5 existing Directives that had addressed this issue partially), air (Directive 2008/50/EC of the European Parliament and of the Council on ambient air quality and cleaner air for Europe, streamlining EC ambient air quality legislation by merging five separate legal instruments), wastes (Directive 2006/12/EC on wastes, 91/689/EEC on hazardous wastes and Regulation EC 1013/2006 on shipments of wastes).</p> <p>The Commission is using several policy instruments to harness the power of the single market to move the EU towards a low-carbon, resource-efficient economy. The Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan aims at this, encompassing legislation including the Eco-Design Directive, Energy Labelling Directive and use of voluntary measures to promote diffusion of environmentally preferable products in the single market.</p>
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<p>18. Proposition de Règlement du Parlement européen et du Conseil modifiant le règlement (CE) n° 1927/2006 portant création du Fonds européen d'ajustement à la mondialisation COM (2008) 867 final – CESE 627/2009 – Mai 2009 Rapporteur: M. PARIZA CASTAÑOS (Trav./ES) DG EMPL – M. ŠPIDLA</p>	
Points de l'avis du CESE estimés essentiels	Position de la Commission
Le Comité propose qu'une évaluation du Fonds européen d'ajustement à la mondialisation (FEM) soit menée 12 mois après la publication du Règlement afin de	La Commission est favorable à une clause de révision du Règlement afin que le FEM puisse s'adapter aux évolutions du contexte économique. C'est pourquoi sa Proposition

<p>faire le point sur la situation économique et l'emploi, ainsi que de revoir les procédures et la gestion du FEM.</p>	<p>contient déjà une telle clause de révision.</p> <p>Néanmoins, elle juge préférable de ne pas préciser la période à la fin de laquelle la révision du FEM doit intervenir. Cela introduirait en effet une rigidité non nécessaire qui – justement – empêcherait une révision du FEM au moment le plus opportun.</p>
<p>Le Comité estime que le plafond annuel des dépenses liées au FEM, qui est aujourd'hui de EUR 500 millions, devrait être doublé temporairement pour faire face à l'augmentation prévisible du nombre de demandes de contributions.</p>	<p>La Commission juge que le plafond annuel en vigueur sera suffisant pour absorber la hausse des contributions du FEM qui résultera de l'élargissement temporaire de son champ d'application aux licenciements liés à la crise économique actuelle.</p> <p>Par ailleurs, dans son Plan européen pour la relance économique, la Commission s'est engagée à revoir les moyens budgétaires alloués au FEM à la lumière de la mise en œuvre des nouvelles règles qui le régiront.</p>
<p>Le Comité considère que le délai entre la soumission d'une demande de contribution auprès du FEM et le versement de cette contribution est trop grand. Il en conclut que le FEM devrait être doté de son propre budget pour réduire les délais induits par la procédure budgétaire actuelle.</p>	<p>Il n'appartient pas à la Commission de modifier à elle seule l'Accord Interinstitutionnel qui régit la procédure budgétaire du FEM pour la période 2007-2013.</p> <p>Toutefois, la Commission a annoncé, dans le Rapport annuel sur les activités du FEM en 2007, qu'elle entendait tout mettre en œuvre pour accélérer le traitement des demandes de contribution et simplifier ses procédures internes afin que le FEM soit en mesure d'aider les travailleurs concernés aussi rapidement que possible.</p>
<p>Le Comité propose que les partenaires sociaux – aux niveaux européen, national, régional et de l'entreprise – jouent un rôle plus actif à toutes les phases du processus de demande de contribution auprès du FEM</p>	<p>La Commission a tenu compte de la suggestion du Comité et a proposé au Parlement et au Conseil d'inclure, parmi les mesures menées au titre de son assistance technique, des actions d'information sur l'usage du FEM auprès</p>

	<p>des partenaires sociaux européens et nationaux.</p> <p>D'autre part, la Commission est consciente du rôle prépondérant des partenaires sociaux dans les situations de licenciements massifs. C'est pourquoi sa Proposition ne vient pas modifier la disposition du Règlement en vigueur qui impose à l'Etat membre faisant appel au FEM de fournir une description des procédures menées pour consulter les partenaires sociaux dans le cadre de cette demande de contribution.</p>
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<p>20. Proposal for a Directive of the European Parliament and of the Council on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Directive 86/613/EEC</p> <p>COM(2008) 636 final – EESC 631/2009 – March 2009</p> <p>Rapporteur: Ms SHARMA (Empl./UK)</p> <p>DG EMPL - Mr ŠPIDLA</p>	
Main points of the EESC Opinion	Commission position
1.2.1 Self employment by its very nature has many unique qualities, and it is not possible to consider the self-employed in the same way as employees, nor is it possible to consider the self-employed as a general term for entrepreneurs.	The Commission agrees that there should be no alignment of the self-employed and assisting spouses maternity leave system with the one for employees and that self-employed women should have the choice of maternity protection.
1.2.2 The Committee understands that it is difficult to conceive how maternity provision for self-employed women could function. The business and responsibilities associated with self employment mean a long leave of absence cannot be taken without extensive planning, financial security or appropriate personnel to manage the work.	The Commission believes that self-employed women must have the choice to benefit, or not, from maternity leave.
1.3.1 In general the directive does not address the lack of recognition of "assisting spouses",	One of the main aims of the proposal is to improve the recognition of the contribution of

<p>the quality and quantity of their contribution to a business, or policy measures to support these women. The directive does not propose any measures that will improve the social or financial standing or the social protection of assisting spouses.</p>	<p>assisting spouses to the family business.</p> <p>This is done mainly by giving them the right to benefit from an equivalent level of social protection as the self-employed worker.</p>
<p>1.3.2 There is a need to respect Member States' competence in this area and leave them to develop ways to bring such "workers" into their existing employment and insurance arrangements, and via that into social protection schemes. The EU can best add value here by supporting the sharing of information and good practice under the Open Method.</p>	<p>Gender equality is a fundamental principle of the Community (Article 2 EC). Furthermore, the elimination of inequalities between women and men is a task of the Community in all its activities. On the other hand, Article 141 EC gives the EC a clear competence to adopt measures needed to ensure the principle of equal treatment between women and men.</p> <p>The proposal has a solid legal base and respects fully Member States competences. It does not interfere in national competences on the organisation of social security, but only ensures the principle that, for the sake of gender equality, assisting spouses should be given a level of protection equivalent to the self-employed worker.</p>
<p>1.3.3 The Commission should conduct research into the reasoning behind the lack of participation of assisting spouses in the formal economy or voluntary social protection provisions, as well as difficulties in cases where the assisting spouses are separated but are still partners in business.</p>	<p>The Commission agrees that more research in this field is necessary.</p> <p>The proposal foresees the obligation to report on the application of the Directive 6 years after its adoption. This will be the occasion to assess whether the voluntary approach taken by the proposal has reached its objectives.</p>

21. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the results of the negotiations concerning cohesion policy strategies and programmes for the programming period 2007-2013 COM(2008) 301 final – EESC 634/2009 - March 2009 Rapporteur: Mr CEDRONE (Work./IT) DG EMPL – DG REGIO - Mr SPIDLA – Mrs HÜBNER	
Main points of the EESC Opinion	Commission Position
The opinion focuses particularly on governance and partnership, highlighting the role that civil society organisations can and must play in implementing cohesion policy at local and regional level. The EESC proposes several ideas for improving effectiveness in this area.	The partnership principle is fundamental for the successful implementation of cohesion policy. Already in the negotiation phase, the Commission paid special attention to applying that principle, with the result that different types of partners (including NGOs, universities or regional development agencies as well as social partners) were involved. The Commission takes note of the proposals of the EESC opinion concerning this issue.

23. The external dimension of the EU's energy policy Own-initiative opinion – EESC 52/2009 – January 2009 Rapporteur: Ms SIRKEINEN (Empl./FIN) DG TREN – Mr PIEBALGS	
Main points in the EESC opinion	Commission position
1.2 + 4.1: The Committee proposes security of supply of energy and an active and responsible energy and climate policy as the two pillars for an external energy strategy.	The EU integrated energy and climate change policy, adopted by the European Council in March 2007, identifies security of supply, sustainability and competitiveness as its three objectives and sees the external action as contributing to reaching these objectives.
1.3: The Committee states that the EU needs a developed strategy on external energy policy and a practical action plan.	A number of external priorities have been outlined in the Energy Policy for Europe Action Plan 2007-2009. The Second Strategic Energy Review, which concerns primarily energy security, put forward a

	five-point EU Energy Security and Solidarity Action Plan with elements pertaining also to external energy relations.
1.3 + 1.8.3 + 5.1-5.4: The Committee urges for reciprocity on access to networks and conditions for investments, including access to upstream investments and requiring third countries, in the context of contract negotiations, to apply certain rules on its markets.	<p>The Commission sees interdependence between consumers and producers as a key feature of the current energy situation and acknowledges the need for more robust international legal frameworks, based on balance of commitments and benefits, within energy and across economic sectors.</p> <p>The Commission believes that energy provisions in international and bilateral agreements should be based, if appropriate, on the EU's energy acquis and the principles of the Energy Charter Treaty, as well as other existing international commitments on energy such as in the framework of the WTO. The Commission actively promotes these principles in its contacts and cooperation activities with third countries.</p> <p>While governments often play an essential role in energy contract negotiations, nonetheless such contracts are typically concluded between two commercial entities. Whether or not the Member States' government representatives are involved, such contracts have to respect applicable legal frameworks. These will also include the rules of the third internal energy market package related to the acquisition of control of a transmission system or a transmission system operator by third country entities, following the formal adoption of the package.</p>
1.4 + 3.1: The Committee underlines that internal energy policy measures can decisively increase security of supply and decrease external energy dependence.	The Commission agrees that internal and external elements of the energy policy are interlinked. The Commission argues that in the long-term, the EU's 20-20-20 strategy makes sense from an energy security as

	well climate protection and competitiveness viewpoints. In the short and medium term, action in Europe to reduce vulnerability, as set out in the 2 nd Strategic Energy Review, strengthens Europe in its external dealings.
1.8: The Committee sees that the most crucial requirement in the external energy policy is that the EU acts together.	Commission agrees that speaking with one voice on external energy issues is vital in achieving the EU's energy objectives. Effective planning and coordination is particularly relevant to ensure commonality of message and action at Community and Member States level. The EU response to the recent gas crisis between Russia and Ukraine is a concrete example of speaking and acting in a common and coordinated way.

24. Facing the oil challenges Opinion asked by the EP – EESC 46/2009 – January 2009 Rapporteur: Mr OSBORN (Var. Int./UK) DG TREN – Mr PIEBALGS	
Main points of the EESC Opinion	Commission Position
Paragraph 1.7: The EESC states fiscal measures should "push up the price of oil" in relation to other energy sources.	The Commission considers that fiscal measures should be used to make that the price of energy sources fully reflect the impacts they have on the environment.
Paragraphs 4.2+4.4+5.6: The EESC stresses the comprehensive measures still to be undertaken to improve energy efficiency.	The Commission fully supports this idea. Indeed the Commission has proposed draft legislation on this regard (e.g. the recast of "buildings" directive, tyres labelling Directive, etc.) and will present a revised Energy Efficiency Action Plan this year.
Paragraph 4.5: In order to reduce the use of fossil fuels in households (for cooking, heating) the EESC advocates replacing those with electricity or sustainable grown wood.	The Commission believes that reducing all energy consumption in households is key for reaching the EU's our energy and climate objectives. This is why it has proposed a recast of the Directive for

	promoting energy efficiency in buildings and other measures such as the extension of the scope of the Eco-design Directive to cover energy related products.
Paragraph 1.8+5.4: The EESC favours a floor price for carbon to be established under the ETS, aiming to give greater certainty to the market.	The Commission aims at market-based mechanism for setting the price of emission allowances. Use of potentially distorting practices, e.g. price floors, should be rather discouraged and limited to special circumstances as provided for in the revision of the ETS Directive adopted in December.

<p>25. Proposition d'un Règlement (CE) Parlement Européen et du Conseil modifiant les règlements (CE) n° 549/2004, (CE) n° 550/2004, (CE) n° 551/2004 et (CE) n° 552/2004 afin d'accroître les performances et la viabilité du système aéronautique européen</p> <p>Proposition de Règlement du Parlement Européen et du Conseil modifiant le règlement (CE) n° 216/2008 dans le domaine des aéroports, de la gestion du trafic aérien et des services de navigation aérienne, et abrogeant la directive 2006/23/CE</p> <p>COM(2008) 390 final - CESE 44/2009 – Janvier 2009</p> <p>Rapporteur: M. KRAWCZYK (Empl./PL)</p> <p>DG TREN – M. TAJANI</p>	
Points de l'avis du CESE estimés essentiels	Position de la Commission
Paragraphes 4.1.2-6: Le Comité accepte le schéma de régulation de la performance et souligne la nécessité de faire approuver les objectifs nationaux par la Commission . En outre, il confirme l'importance de l'indépendance du "Performance Review Body" et des autorités de surveillance nationales.	Le Parlement Européen a adopté le 25 Mars la résolution législative en première lecture, qui avait été pré-négociée avec le Conseil. Entretemps, le Conseil a confirmé formellement cet accord, et le texte a été publié au JO. L'accord a tenu compte des observations du CESE.

<p>26. Proposal for a Directive of the European Parliament and of the Council amending Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities COM(2008) 650 final – EESC 619/2009 – March 2009 Rapporteur: Mr MORDANT (Work./BE) DG TREN – Mr TAJANI</p>	
Main points of the EESC Opinion	Commission Position
<p>Paragraph 1.1: The EESC considers that the Commission proposal is difficult to implement, and that it will give rise to enormous additional costs and an increased administrative burden. Furthermore, it fails to fulfil one of the key objectives of Directive 2002/15/EC establishing minimum requirements in relation to the organisation of working time.</p> <p>Paragraphs 1.3 and 1.4: The need to include all self-employed drivers within the scope of Directive 2002/15/EC.</p> <p>The EESC considers that the aims of the directive can only be achieved by applying minimum social protection standards in the road transport sector to everyone carrying out mobile transport activities, regardless of their status.</p>	<p>The European Parliament voted in 1st reading in May 2009 in favour of a rejection amendment presented by the EMPL committee, and, as is foreseen in its rules of procedure, has sent back the file to the EMPL committee.</p> <p>The Commission will take all appropriate steps once the newly elected European Parliament has taken office and decided as to whether it applies rule 203 (1) – unfinished business lapses, which would mean that 1st reading starts from scratch - or rule 203 (2) – exceptions from that rule are to be decided by the conference of presidents – to this file.</p>

<p>27. Proposal for a Directive of the European Parliament and of the Council on labelling of tyres with respect to fuel efficiency and other essential parameters COM(2008) 779 final - EESC 620/2009 – March 2009 Rapporteur: Mr RANOCCHIARI (Work/IT) DG TREN – Mr PIEBALGS</p>	
Main points of the EESC Opinion	Commission Position
Paragraphs 1.5 and 4.5: The Committee supports the change of the format of the proposal from a Directive into a Regulation.	The Commission is of the opinion that changing the format of a Directive into a Regulation could be accepted. The Commission considers that this would reduce transposal costs and ensure that the application date of the labelling scheme apply to all stakeholders without delay.
Paragraph 1.4 and 4.3.2: The Committee suggests providing an alternative solution to display the label on the tyre tread in order to address the situations where stickers will be lost or damaged during the delivery.	The Commission believes that the inclusion of the label on the existing stickers displayed on the tyre tread is the most appropriate way to ensure maximum visibility of the label at lower costs. Stickers are used on a daily basis by retailers so that they will always be visible. The additional costs for suppliers of including the label on existing stickers was estimated to be less than 1 Euro cent per tyre. A specific provision could also be foreseen requesting the tyre supplier to send, on demand from the retailer, a new sticker when it has been lost or damaged
Paragraph 4.3: The Committee regrets that 'only stickers are used' as the proposed means of presenting the information to consumers.	The Commission's proposal does not only require that the information on tyre parameters is provided on stickers at point of sale but also in all 'technical promotional literature' (see article 4(3) and Article 2(4)).
Paragraph 1.3: The Committee considers the mandatory display of information on the original equipment tyres (Article 6 of the proposal) superfluous.	The Commission believes that it is important that end-users are provided with information on the performances of the original equipment tyres due to fact that a high number of consumers change their tyres like for like with the original ones when they are worn out..

Paragraph 5.2 (a): The Committee recommends that tyres manufactured before this legislation enters into force be exempted on the ground that it will be technically impossible to label the '80 million tyres circulating at any one time in the distribution chain of the European market.'	<p>The Commission's proposal (Articles 4(1) and 5(1)) only requires that those tyres which are <u>delivered</u> from the suppliers to the retailers as <u>from 1 November 2012</u> are equipped with a sticker. This means that the stickers will enter gradually at point of sale starting from 1 November 2012.</p> <p>In addition, the costs to monitor the validity of the production date moulded into the sidewall would be disproportionably high for Member States.</p>
Paragraph 5.2 (b): The Committee underlines that the industry needs at least 18 months' lead time to implement the adopted measures.	The Commission estimates that, if the co-decision procedure develops as expected, the industry would have between two and three years to implement the measures after their entry into force.

<p>28. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1692/2006 establishing the second 'Marco Polo' programme for the granting of Community financial assistance to improve the environmental performance of the freight transport system ('Marco Polo II') COM(2008) 847 final – EESC 623/2009 – March 2009 Rapporteur : Mr LIOLIOS (Var. Int./EL) DG TREN – Mr TAJANI</p>	
Main points in the EESC opinion	Commission position
1.3 The EESC thinks that the budget provided (EUR 60 million) may not be sufficient to shift 25 billion tonne-kilometres of traffic.	<p>European Parliament has adopted on 23rd of April a legislative resolution in the 1st reading, which has been pre-negotiated with the Council. This 1st reading agreement is expected to be formally adopted and published in the OJ in September 2009.</p> <p>The agreement has taken due account of the opinion of the EESC.</p>

29.	Communication from the Commission on the Second Strategic Energy Review – An EU Energy Security and Solidarity Action Plan COM(2008) 781 final – EESC 621/2009 – March 2009 Rapporteur: Ms SIRKEINEN (Empl./FIN) DG TREN – Mr PIEBALGS
Main points of the EESC Opinion	Commission Position
<p>Overall strategy: 1.2 (indent 1) - All EU instruments that can ease the risks of security of supply must be put effectively and urgently into use.</p>	<p>The Commission agrees with this view. A prime purpose of the Commission's 2nd Strategic Energy Review was indeed to set out a European approach to energy security. This broad agenda, supported by the European institutions, advisory bodies and stakeholders, is being pursued.</p>
<p>1.2 (indent 2) - After decisions on the recent legislative proposals the emphasis should be on implementation, avoiding new legislative proposals in order to keep the legislative framework as stable and predictable as possible.</p>	<p>The Commission recognises the importance of a stable and predictable European legislative and regulatory framework. The Commission would submit new proposals only if they are deemed necessary and following the so called "better regulation" principles.</p>
<p>Energy efficiency: 1.2 (indent 3) - Of the five areas of the action plan energy saving, whereby energy efficiency is a central tool, should be the first priority, as it has a big potential for cost-effective actions. 1.2 (indent 8) - A plethora of measures are needed to enhance energy saving, but overregulation on the EU-level should be avoided.</p> <p>1.2 (indent 9) - EU needs to become the frontrunner in energy efficiency technologies.</p> <p>1.2(indent 10) - The Commission studies the feasibility of individual targets, whenever is possible, for different strands of energy use as an effective measure to enhance energy efficiency, in particular for services and products with an internal market dimension.</p>	<p>As announced in the Commission Communication: 'Energy efficiency: delivering the 20% target' (COM (2008)772 final), the Commission will evaluate the European Efficiency Action Plan and prepare a revised Plan. This revised Plan will focus on energy supply, transmission, and all energy consuming sectors (households, services, industry and transport). Beyond these areas, the Commission will review and assess other measures that are conducive to reaching the energy saving target for 2020. The preparation of this revised Plan will provide an opportunity to assess priorities and means of achieving results.</p>
<p>Infrastructures: 1.2(indent 4) - The Commission</p>	<p>In this vein, the Commission set out a number of</p>

<p>should pick priorities amongst its high number of intents for action.</p> <p>1.2(indent 5) - The problems of isolated energy markets need to be addressed with particular urgency and the TEN-E completed.</p> <p>1.2(indent 6) - In addition to infrastructure investments, the large investment needs in power generation and the fundamental research to be carried out by 2050 merit more attention.</p>	<p>energy security infrastructure priorities in the second Strategic Review. While implementation may proceed at different speeds, these infrastructure developments remain priorities for the EU's energy security.</p> <p>The Commission attaches a large importance to address the problems of isolated energy markets. This is why the Baltic Energy Market Interconnection Plan, is one of the priorities in the second Strategic Energy Review. The Commission is working to reach an agreement on a plan by July 2009.</p> <p>The Commission also agrees that the large investment needs in power generation need more attention. This is the reason why the Commission will shortly propose a revision of Council Regulation EC N° 736/96 on notification of investment projects in the gas, electricity and petroleum sector. The improved process will help to establish greater transparency regarding the development of energy infrastructure.</p> <p>The Commission also deems that research is essential. The Strategic Energy Technology Plan underlines the importance of research in achieving the EU's energy objectives and the need to make sure that research in the EU is planned and carried out in as effective a way possible.</p>
<p>External relations : 1.2(indent 7) - In external relations, EU needs to develop a responsible and sustainable global energy approach, in parallel with policies for Europe's own energy security</p>	<p>The Commission agrees with the EESC that energy security is one driver of relations between the EU and external partners, a powerful one bringing interdependence clearly to the fore. In practice, issues of energy efficiency, sustainable development, climate, security etc, are closely linked with energy security, in both consumer and producer countries, and must be encompassed in any long-term cooperation.</p>
<p>Energy mix: 1.2 (indent 11) Decisions on the</p>	<p>The EU competence as regards decisions on the</p>

future of nuclear energy should be done urgently, in light of big investment needs in electricity generation.	future of nuclear energy concerns safety and security mainly. A clear regulatory framework needs to be in place for investment decisions. The Commission presented in November 2008 a draft directive on nuclear safety, which, once adopted, will provide a binding Community framework and also be a model for countries outside the EU. The Commission also promotes the respect of the highest internationally recognized standards on nuclear safety and security in third countries, including in the ENP region, through the Instrument for Nuclear Safety Cooperation.
2.1.: (indent 12) - The vision for 2050 need to include the global situation, as forming the framework conditions for EU's ambitions.	The Commission agrees with the ESC. EU is part of a global world confronted with the same climate and energy challenges, which will call more and more for global solutions, for which EU may take leadership.

30. Proposal for a Directive of the European Parliament and of the Council on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products (recast) COM(2008) 778 final – EESC 622/2009 – March 2009 Rapporteur: Mr PEZZINI (Empl/IT) DG TREN – Mr PIEBALGS	
Main points of the EESC Opinion	Commission Position
1.5 The Committee recommends, before any extension to new groups of "energy-related products", that a clear, transparent sector-by-sector impact assessment and cost-benefit analysis be undertaken that is agreed upon by all stakeholders and based on scientific evidence.	The impact assessment undertaken by the Commission on the proposal clearly justifies the extension to energy-related products. Moreover, a very detailed impact and cost-benefit analysis will precede all implementing measures.
1.6 Furthermore, the Committee considers that it would be helpful to preserve the efficacy of Directive 92/75/EEC whilst improving and perfecting its dynamic reclassification mechanisms.	The Commission agrees that the focus on energy consumption aspect of the label must be preserved along with the label's objective to provide accurate, relevant and comparable information to consumers. Specific requirements for the layout of the label and

	energy efficiency classes are part of the implementing measure for each product group.
1.8 The EESC believes that for other products or services that do not consume energy but are related to energy consumption other information and environmental tools may prove more appropriate.	The scope of the proposal is linked with that of the Ecodesign Directive which will also be extended to energy related products. These two initiatives complement each other and are part of the Commission's integrated policy for promoting products protecting the environment and with low energy consumption. The impact assessment on the proposal clearly showed that these products can provide significant energy savings.
1.11 With respect to the provisions relating to public procurement, the Committee advises caution when imposing binding measures and considers it important to give Member States room for manoeuvre and ensure a proper balance, including voluntary Green Public Procurement schemes.	The Commission believes that the wording of the Commission's proposed article on procurement provides sufficient flexibility for Member States to shape their own public procurement policy.
4.6 The Committee suggests that an ad hoc sectoral directive could be passed, as the Commission did when it issued a proposal for a directive on the labelling of tyres with respect to fuel efficiency.	The Commission notes that the tyre labelling directive is independent from the energy labelling proposal because the automotive sector falls under the exception in the directive.

31. Industrial emissions COM (2007) 844 final – EESC 47/2009 – January 2009 Rapporteur: Mr BUFFETAUT (Empl./FR) DG ENV- Mr DIMAS	
Main points of the EESC Opinion	Commission Position
(4.1.2) "It is important to retain the current approach: BATs represent techniques that enable regulatory requirements to be met on a case-by-case basis and, among other objectives, industrial emissions to be monitored, protecting the environment while taking account of the costs and benefits of	The Commission agrees that Best Available Techniques (BAT), and in particular the BAT Reference documents (BREFs) have a key role to play in achieving consistency in tackling industrial emissions and protecting the environment. Whilst the current approach has clearly achieved this in part there remains

<p>applying these techniques. Regulations must still be applicable to all at the same time throughout the Union, in order to avoid overall confusion concerning the review dates of the permits, the review dates of the sector BREFs, or the degree of conservatism of the sectors concerned. BATs must also help to reduce distortions of competition."</p>	<p>significant variation across the EU that requires a strengthened role of BAT and BREFs in the future.</p>
<p>(4.1.3) "As part of the review, the role of BREFs needs to be clarified. They do not set emission levels, but must remain a benchmark and a tool for progress, making it possible, among other objectives, to comply with the emission limit values or environmental standards (water, air soil) defined elsewhere. It is worth recalling that, as stated in the 2005 BREF Outline and Guide, "BREFs do not prescribe techniques or emission limit values". The definition of emission levels is a matter for EU economic and environmental policy. Lastly, these tools should not stand in the way of the necessary flexibility reflecting local and technical conditions."</p>	<p>The Commission agrees with the Committee's conclusion that the role of the BREFs needs to be clarified. The BREFs provide emission levels associated with the best available techniques (BAT-AELs). These emission levels should be achieved through the setting of emission limit values within individual permits in order to increase the uptake of BAT across the EU. This will further contribute to other Community measures including the Thematic Strategy on Air Pollution. Furthermore, the Commission agrees with the need to retain flexibility to take into account local and technical conditions. However, deviation from BAT should be possible only in specific and well justified cases.</p>
<p>(4.3.1) "An installation may be covered by several BREFs at the same time. It must therefore be ensured that the periodic revision of BREFs and the pace at which permits are reconsidered, which may lead to changes in the binding requirements are compatible with installation break-even cycles. Here again, only legislative type regulation/programming is appropriate to the situation. Emerging techniques will fit in all the better if the issues are specified in advance. By the same token, BATs will be all the more effective if they can be progressively adjusted, but it would be inconceivable to impose investment changes at the same rate as BREF revisions. It is therefore up to the European legislator to establish a coherent calendar for progress, in the light of</p>	<p>The revision of BREFs is a necessary part of ensuring that developments in BAT over time are included within the documents themselves. This allows Member States, competent authorities, industry and the wider public to be provided the most recent information on BAT to be used in the setting of permit conditions.</p> <p>The reconsideration and, where necessary, updating of permit conditions is also necessary in order to ensure that IPPC installations employ BAT to prevent and minimise pollution. As laid down for in the Commission's Proposal, such reconsideration may be made with the same levels of flexibility and transparency in mind as when setting the initial permit conditions taking into account local and technical conditions.</p>

<p>recorded performances and technical advances: such a task should not be delegated to the Seville process."</p>	
<p>(4.7) "The proposal for a directive suggests greater use of comitology, particularly in defining the criteria for derogating from BREFs. What role then will stakeholders play? And what role will the IEF and the Seville office have? It is to be feared that European industry will in the future be increasingly reluctant to supply the Seville IPPC office with relevant information on BATs, whereas this cooperation has so far been unanimously hailed as a European success story. Furthermore, comitology is a rather opaque procedure little to the liking of the European Parliament. The comitology procedure should therefore be restricted to the amendment of secondary elements of legislation."</p>	<p>The criteria taking into account local conditions (local environment, geographical location and technical characteristics of the installation concerned) remain unchanged from the existing IPPC Directive. However, the application of these criteria is presently subject to a wide variety of interpretation across the EU. In order to address the shortcomings in the application of the current legislation and ensure consistency in implementation, the criteria set for deviating from BAT might need to be further specified on technical grounds. The comitology procedure would therefore be the most appropriate tool for this purpose.</p> <p>The Commission agrees with the Committee's assessment that the cooperation in the BREF determination process is a European success story. Consequently, the role of stakeholders, including the Seville office and the IEF remains unchanged in the BREF process within the Commission's proposal.</p>
<p>(4.8) "The new text stipulates that sites must be returned to the state they were in before an installation began operating. The wide variety of soil types in Europe entails applying the subsidiarity principle, leaving more scope for the national authorities. The best option would therefore appear to be leave the site in the condition required for its approved future use."</p>	<p>The provisions concerning the protection of soil and groundwater have been made on the basis of the polluter pays principle and in order to achieve the objectives of the Thematic Strategy on Soil Protection. The requirements within the proposal consequently require that the operation of an IPPC installation does not lead to a deterioration in soil or groundwater.</p> <p>The assessment of contamination is undertaken at an installation level providing adequate opportunity to take into account local soil conditions.</p>
<p>(4.10) "In the interests of consistency, the proposal for a directive should be brought into line with the other environmental regulations, by proposing 2020 instead of 2016 as the date</p>	<p>The Directive is phased to come into effect in different phases ending on 01 January 2016 for the Large Combustion Plant sector. This acknowledges the fact that large parts of the</p>

for its entry into force."	<p>existing regulatory framework are maintained in the recast.</p> <p>For the Large Combustion Plants (LCP) sector, a long transitional period for implementation of the new emission limits until 2016 is proposed. Electricity producers have been aware of these requirements for some time. The standards proposed are based on BAT as described in the BREF on LCP adopted in 2006. The Commission believes a further 10 year period running until 2016 to implement these standards provides sufficient time for adaptation without serious economic impacts or threats to energy supply while leading to significantly higher environmental and health benefits than the compliance costs.</p>
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32. Community Eco-management and audit scheme COM(2008) 402 final - EESC 340/2009 – February 2009 Rapporteur: Mr PEZZINI (Empl./IT) DG ENV – Mr DIMAS	
Main points of the EESC Opinion	Position de la Commission
<p>The EESC feels that the proposed legislation is still too complex and that a further creative effort is needed to establish the conditions necessary for market mechanisms to recognise the environmental added value of EMAS, and for public authorities to simplify the entire administrative framework and encourage more environmentally-friendly product design, providing for new forms of protection, particularly for SMEs.</p>	<p>The Commission accepts that the regulation might be complex for SME's. However the regulation contains a large number of provisions addressed to the other actors in the EMAS scheme: Competent Bodies, environmental verifiers, Accreditation and Licensing Bodies, Member States and Commission. These provisions are indispensable for maintaining EMAS as the standard of excellence in environmental management systems. In order to help SME's implementing EMAS, the Commission has agreed to publish a user's guide for organisations in all Community languages.</p>
<p>The EESC calls for greater coordination between the proposed legislation and all the environmental policy instruments and rules, avoiding overlaps and duplication.</p>	<p>Both Member States and Commission shall consider how registration under EMAS in accordance with the Regulation can be taken into account in the development of new legislation,</p>

	can be used as a tool in the application and enforcement of legislation and can be taken into account in public procurement and purchasing. On top of that, Member States are equally obliged to take measures facilitating organisations to become or remain EMAS registered (regulatory relief and deregulation). The Commission believes that these provisions guarantee sufficient coordination between the revised EMAS regulation and other environmental policy instruments.
In particular, organisations, especially small ones, need to be given incentives to participate in EMAS: by offering them easier access to available funding and information, public institutions and green public procurement; by establishing and promoting technical assistance measures; by simplifying procedures and mechanisms; and by reducing burdens and technical costs of assessment, registration and management.	The Commission accepts this opinion and has agreed a revised proposal accordingly, containing further provisions promoting the participation of organisations, notably SME's, in the scheme.

33.	Community Ecolabel scheme COM(2008) 401 final – EESC 338/2009 – February 2009 Rapporteur: Mrs GAUCI (Empl/MT) DG ENV – Mr DIMAS	
Main points of the EESC Opinion		Commission Position
<p>With regard to the assessment procedure as such, the Committee believes that article 7.2 providing for a “shortened criteria development procedure” may permit watered-down backdoor entry to the EU scheme. It is essential that stakeholders are assured of similar high standards of transparency and stakeholder consultation.</p> <p>The Committee insists that the management of the scheme be improved. The bureaucratic processes embedded in the scheme need to be rationalised, allowing it to be run in a more</p>		<p>The Commission believes that the risk of watered-down criteria is very low. The shortened procedure is only available subject to the agreement of all Member States and subsequent agreement of the criteria is based on Commission Decision with Comitology, i.e. meaning interservice consultation, and Regulatory Committee vote and EP scrutiny.</p> <p>The Commission agrees with this fully. The text has, in this regard, been revised since the first proposal was published. Competent bodies roles have been more clearly defined, as has the exact</p>

business-like way. In other words, who does what needs to be more clearly defined.	role of the Commission in the criteria development process.
The Committee believes that an Ecolabel on all food products, fresh and processed, would be the first step towards a genuine greening of the supply chain. The Committee however believes that the Ecolabel of foodstuffs should only be granted if the whole life-cycle of the product is taken into account. The proposal does not make clear which types of food product the Commission believes should be covered by the regulation.	A modified proposal has been agreed that takes into account these concerns. Food and drink will be within the scope of the Ecolabel in theory, but their development will be based on a further feasibility study, looking at the suitability of the EU Ecolabel to cover food and drink products. Any subsequent criteria development on such products will be based on full life-cycle thinking, and will only be undertaken following agreement of the Regulatory Committee. (i.e. with a mandate based on Commission Decision procedure.)

34. Proposal for a Regulation of the European Parliament and of the Council concerning trade in seal products COM (2008) 469 final – EESC 339/2009 - February 2009 Rapporteur: Mr NARRO (var. Int./ES) DG ENV - Mr DIMAS	
Main points of the EESC Opinion	Commission Position
1.1. The EESC welcomes the Commission's initiative to bring about the harmonised regulation of trade in seal products. The current state of affairs in this area is unsustainable, and significant changes should be promoted at international level.	The compromise text as agreed by the institutions in first reading indeed aims at harmonising the internal market. Methods applied in the killing and skinning process of seals have been for some time the subject of close attention by large parts of the public, Governments of EU Member States as well as the European Parliament. Some EU Member States, such as Belgium and the Netherlands, have introduced legislative measures on the placing of the markets of products derived from seals and others had announced their intention to follow. This measure agreed under co-decision is therefore necessary to avoid disparate national rules at the European Level and to consolidate the fragmented European market.

<p>1.2 Given the lack of a specific legal basis in the Treaty for dealing with animal welfare issues, the Committee considers the choice of Article 95 of the TEC "fragmentation of the internal market" to be the right one under which to take legislative action in this field. Community case-law confirms the legitimacy of this decision.</p>	<p>During the co-decision process, the Institutions agreed to further strengthen the recourse to Article 95 of the EC Treaty. Seal products are used for obtaining products such as meat, oil, blubber, organs, fur skins and articles which are sold commercially on different markets, including the Community market. It is difficult or impossible for consumers to distinguish some of the products like omega-3 capsules and garments incorporating processed seal skins and fur from similar products not derived from seals. Citizens will now be reassured not to find any seal product on the market anymore derived from commercial hunting activities.</p>
<p>1.3 The Committee proposes delaying the entry into force of the derogations system, and suggests that the Commission present a detailed progress report in 2012 on laws governing seal hunting, to serve as the basis for the possible granting of derogations from 2012 onwards.</p> <p>1.4 The ban should be complete during the first three years of application of the new arrangements, with the sole exception of hunting by Inuit communities for subsistence purposes.</p>	<p>During co-decision, concerns were raised about the full application and enforcement of the animal welfare criteria linked to the derogation system as originally proposed by the Commission. The agreed compromise text therefore abandons the original concept and focuses on prohibiting the placing on the market of seal products for commercial purposes within and import into the European Union.</p> <p>However, limited exemptions will allow the marketing of seal products from hunts traditionally conducted by the Inuit and other indigenous communities and which contribute to their subsistence.</p> <p>It will also allow for the placing on the market of by-products resulting from hunting for the purpose of controlling the seal populations, especially to maintain the balance with available fish stocks.</p> <p>Finally, it is to be noted that the transit of seal products through the EC territory will not be affected.</p> <p>The reporting period for Member States, which was originally set at 5 years, has been shortened to 4 years to enable the Commission, on the</p>

	basis of those reports, to report to the European Parliament and the Council on the implementation of the Regulation at shorter intervals, i.e. within twelve months of the end of each reporting period concerned.
1.5 In order to ensure that the measures set out in the proposed legislation are feasible, it is crucial that the Commission be able to set up effective systems for scrutiny. Scrutiny cannot be managed exclusively by the State applying for a derogation. The Commission must ensure that the stipulations of the relevant legal provisions are properly applied in the field.	<p>As said earlier, the derogation system has disappeared from the text. The specific conditions for the placing on the market under the limited exemptions, as described above, will have to be further specified in implementing rules. The latter will be adopted by the Commission through comitology, following Parliamentary scrutiny.</p> <p>In addition, with the aim of facilitating enforcement operations carried out by the relevant national authorities, the Commission will issue technical guidance notes providing non-binding indications about the codes of the Combined Nomenclature which may cover seals products subject to the Regulation.</p>
1.6 The Committee calls on the Commission to carry out studies into the possible effects of climate change on species conservation.	The EU has robust conservation legislation and has specific tools for seal conservation that are complementary to the measures included in the proposal. Furthermore, the Convention on International Trade in Endangered Species (CITES) monitors and reviews the conservation status of species which are in international trade. Listing under CITES would be the adequate response, if the seals became endangered.

36.	Proposition de règlement du Conseil relatif à un cadre juridique communautaire applicable aux infrastructures européennes de recherche (ERI) COM (2008) 467 final – CESE 40/2009 – Janvier 2009 Rapporteur: M. STANTIČ (Empl. / SI) DG RTD – M. POTOČNIK	
Points de l'avis du CESE estimés essentiels		Position de la Commission
La création de nouvelles infrastructures de		Prise en compte de l'avis favorable et

<p>recherche au niveau mondial sera susceptible de renforcer substantiellement l'espace européen de la recherche et d'empêcher ainsi la "fuite des cerveaux" européens. Cependant, la concentration de grandes infrastructures dans les seuls États membres développés attirera, du moins à court terme, des chercheurs de l'Europe entière. À long terme, il serait possible de compenser ces potentielles répercussions négatives pour certains pays en assurant une répartition géographique adéquate des infrastructures européennes de recherche ainsi que la possibilité d'y accéder aussi librement que possible.</p>	<p>de la recommandation.</p>
<p>Le CESE appelle les États membres à emboîter le pas à l'initiative de l'ESFRI et de la Commission et à élaborer dans les meilleurs délais leur feuille de route nationale pour le développement et la modernisation des infrastructures de recherche.</p>	<p>Prise en compte de la suggestion dans les relations entre la Commission et les Etats Membres.</p>
<p>Le CESE propose qu'en accroissant les moyens du huitième programme-cadre pour la recherche et le développement, la Communauté participe plus activement au cofinancement des infrastructures européennes de recherche. Ainsi, grâce à l'effet de levier conféré par une prise de participation dans leur propriété, la Communauté pourra plus aisément garantir une plus grande dispersion géographique ainsi que le libre accès à un cercle de chercheurs européens aussi large que possible.</p>	<p>Prise en compte de la suggestion dans le cadre des négociations ultérieures concernant FP8 pour le co-financement des opérations. La participation de la Commission comme membre d'un ERI n'est cependant pas envisagée à ce stade.</p>
<p>Le Comité recommande que la politique européenne de cohésion et ses instruments financiers, c'est-à-dire les fonds structurels, accordent une plus grande priorité au développement de nouvelles installations de recherche et d'innovation. Il invite en outre la Commission et les États membres à développer d'autres politiques et instruments destinés à inciter le secteur privé à investir davantage dans l'infrastructure de recherche.</p>	<p>Prise en compte de l'avis favorable concernant l'accroissement de l'utilisation des fonds structurels dans le domaine de la recherche et de l'innovation.</p> <p>Prise en compte de la suggestion concernant le développement d'outils additionnels pour plus d'investissement du secteur privé (cadre de propositions ultérieures).</p>

<p>Le Comité entend mettre particulièrement en exergue la question des coûts de fonctionnement et d'entretien des infrastructures européennes de recherche qui doivent être pris en charge après l'investissement initial. Ces coûts, qui peuvent atteindre annuellement 20 % du montant investi, peuvent compromettre le concept de libre accès pour les chercheurs de pays n'appartenant pas à l'infrastructure européenne de recherche concernée. Aussi convient-il de prévoir également un cofinancement de ce fonctionnement courant par des fonds européens dans le cadre du huitième programme-cadre pour la recherche et le développement.</p>	<p>Prise en compte de la suggestion dans le cadre des négociations ultérieures concernant FP8.</p>
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<p>37. Cooperation and transfer of knowledge between research organisations, industry and SMEs – an important prerequisite for innovation Own-initiative Opinion – EESC 330/2009 - February 2009 Rapporteur: Mr WOLF (Var. Int./DE) DG RTD – Mr POTOČNIK</p>	
Main Points of the EESC Opinion	Position of the Commission
<p>The Committee recommends that those working in industry and SMEs be systematically informed about which knowledge and technology resources are available in universities and research organisations in the EU and how relevant contacts can be established. Accordingly, the Committee recommends that the Commission should work to set up a Europe-wide (internet) search engine, bringing together and complementing existing information systems, thus fulfilling the specific demand for information better than hitherto.</p>	<p>The Commission acknowledges the need to ensure that industry (including SMEs) is able to access information regarding knowledge and technology resources in universities and research organisations in the EU. Where appropriate, the Commission will work with stakeholders from research and industry to improve such access.</p>
<p>The Committee supports efforts towards free internet access to scientific publications. However, this will usually be associated with higher costs for the public purse. Efforts should therefore be made to secure reciprocal</p>	<p>The Commission welcomes the EESC's support for free internet access ("open access") to scientific publications, and fully supports the view that scientists' freedom of</p>

<p>arrangements between EU Member States and with non-European countries. This should not restrict research performing organisations' and their scientists' freedom of choice in publishing their results in whichever journal or whichever forum best serves the purpose of getting their results disseminated and recognised worldwide.</p>	<p>choice should not be restricted.</p> <p>However, the Commission underlines that open access does not always lead to "<i>higher costs for the public purse</i>", as only "gold" (paid) open access leads to extra costs, whereas "green" open access (self-archiving) does not.</p> <p>The Commission also recommends clarification regarding the "<i>reciprocal arrangements between EU Member States and with non-European countries</i>"; it is not entirely clear what agreements are meant and how these would address the potential problem of extra costs.</p>
<p>The Committee recommends that further thought be given to free access to research data, but that limits be set on how far such an enterprise should go. This should not mean premature open access to any data that arises from the research process, including what is known as raw data. The Committee recommends that the Commission proceed cautiously and step by step, involving the relevant researchers.</p>	<p>The Commission supports the view expressed by the EESC that further discussion is needed on the question of access to research data.</p> <p>Indeed, the Commission Recommendation on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public research organisations (COM(2008)1329) underlines that an appropriate balance must be sought between protection of research results and granting access to them.</p> <p>Accordingly, the Commission underlines that open access to data may in some cases be desirable, for example to allow peer review or replication.</p>
<p>In view of the different working cultures of research performing organisations and industry, the Committee recommends that a fair balance of interests be ensured. This includes the tension between prompt publication of results and the need for confidentiality, as well as intellectual property rights including patents.</p>	<p>The Commission welcomes and supports the need to maintain a balance between the need for publication of research results, and the need to maintain confidentiality and protect results, where appropriate, using suitable intellectual property rights.</p> <p>The Commission Recommendation on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public</p>

	research organisations (COM(2008)1329) recommends that Member States "promote the broad dissemination of knowledge created with public funds by taking steps to encourage open access to research results while enabling, where appropriate, the related intellectual property to be protected."
The Committee therefore welcomes the fact that the Commission has now made clear, with its recommendation concerning the handling of intellectual property, that it certainly does not wish to interfere with cooperation partners' freedom to make contractual arrangements even when contract research is involved. The Commission's recommendations should be a help, but not become a straitjacket.	The Commission recognises the rights of cooperation partners to negotiate freely the ownership of intellectual property in contract research arrangements (subject to compliance with any relevant legislation, such as the Community Framework for State Aid for Research and Development and Innovation) and is pleased that this issue has been resolved satisfactorily. The Commission Recommendation is intended to provide voluntary guidance to Member States and stakeholders, and is not intended to restrict their activities in any way.
The Committee repeats its recommendation that a European Community Patent be introduced, with an appropriate grace period that does not infringe novelty status.	<p>The Commission welcomes the EESC's recommendation for the European Community Patent. The Communication "Enhancing the patent system in Europe" COM(2007) 165 final in April 2007 reiterated the Commission's view that the creation of a single Community patent continues to be a key objective for Europe.</p> <p>Since then the Commission has been supporting the efforts of respective Council Presidencies to reach agreement on this file along with a unified patent litigation system for patents in Europe.</p> <p>Under the proposal for a Community patent from the Commission COM(2000) 412 final, the Community patent would be granted under the provisions of the European Patent Convention (EPC), also known as the Munich Convention. Competence in most areas of substantive patent law in the EPC lies with Member States, including the laws relating to</p>

	disclosures affecting the novelty of patent applications.
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	<p>The Commission therefore does not have a position on the grace period, but instead works with Member States towards achieving a common position of the EC and Member States where appropriate, such as in the context of international negotiations on patent law harmonisation.</p>
<p>When it comes to developing research infrastructure, such as accelerators, radiation sources, satellites, earth-based astronomical equipment, or fusion facilities, research performing organisations are not primarily suppliers of new knowledge, but rather principals and customers. The Committee recommends that the experience arising so far from the EU's and Member States' existing rules on aid, budgets, procurement and competition be thoroughly reviewed to see that they are conducive to the purpose of keeping the skills and specialist knowledge gained by industry under such contracts and using them to make Europe more competitive, and indeed for subsequent follow-on contracts, or whether new kinds of industrial policy instruments are needed in this area.</p>	<p>The Commission is keen to ensure that EU rules and policy instruments are maintained effectively to ensure that they are fit for purpose, and undertakes reviews of such rules and instruments as considered appropriate.</p>

<p>38. Towards joint programming in research: Working together to tackle common challenges more effectively COM (2008) 468 final – EESC 614/2009 – March 2009 Rapporteur: Mr ZBOŘIL (Work./CZ) DG RTD - Mr POTOČNIK</p>	
<p>Main Points of the EESC Opinion</p>	<p>Position of the Commission</p>
<p>EESC welcomes the Communication mentioning it ... "calls for the implementation of a process led by the Member States to step up their cooperation in the R&D area in order to better confront major societal challenges of European or worldwide scale, where public</p>	<p>The Commission welcomes the EESC conclusion and expects the high level GPC (Groupe de Programmation Conjointe) of Member State representatives to lead the process of Joint Programming, particularly during difficult times which press for greater</p>

research plays a key role".	<p>efficiency than ever in creating value from research money which predominantly comes through national programmes.</p> <p>In December 2008, the Council, in its conclusions, recognised the necessity of a pilot Joint Programming initiative on neurogenerative diseases, in particular Alzheimer's and invited the Commission to submit a proposal for a Council recommendation to prepare for this pilot initiative as soon as possible in 2009. It is expected that Council adopts the recommendation by the end of 2009.</p>
The EESC cautions against an unduly top-down approach. It is vital to employ a bottom-up approach in keeping with participants' strategic interests and their ability to share their best science and research capacities.	The Commission welcomes the line adopted by Council, which subordinates the identification of themes for Joint Programming to broad consultations of the different regional, national and European scientific communities and of the private sector where appropriate. In its supporting role to the work of the GPC, it offers any desired assistance to facilitate the access to, and the use of relevant information.
The Committee recommends that the relevant experience should be drawn from such programmes (i.e. from existing cross-border cooperations and joint projects) to be exploited in this new strategic programming concept.	The Commission has provided the GPC with a state of play of existing practices and papers for addressing Framework Conditions that would facilitate the implementation of Joint Programming initiatives. These largely come from lessons learned through ongoing cooperations, from within the framework programmes or from other cross-border arrangements.

<p>39. European metrology research and development programme COM (2008) 814 final – EESC 617/2009 – March 2009 Rapporteur: Mr PEZZINI (Empl./IT) DG RTD - Mr POTOČNIK</p>	
Main Points of the EESC Opinion	Commission Position

<p>Regulation and standardisation are achieved through measurable systems based on internationally-accepted applied metrology. The EESC therefore suggests involving the European Standards Organisations [...] and national bodies, along with accreditation bodies, in developing new systems right from the outset.</p>	<p>These organisations were involved in the stakeholder consultation for the impact assessment² and will send a representative as a member of the EMRP Research Council (see 5.2 b) of this opinion). They would have no other direct means to participate in EMRP.</p>
<p>The EESC calls for every endeavour to be made to achieve close integration in European metrology research between:</p> <ul style="list-style-type: none"> - the research community, - industry, - universities, scientific bodies and higher education, - the results of technology platforms, - organised civil society, <p>because it feels that excluding any form of "closed shop" in this way is the only means of achieving internationally-accepted results at European level.</p>	<p>EMRP is an integrated programme based on the existing national structures. EMRP addresses issues related to market failure which would not stimulate industry participation. The science community is encouraged to participate and invited to submit a proposal for potential topics and to participate in the EMRP projects.</p> <p>Via the researcher excellence grants, any organisation (but NMI or DI) or any individual researcher will participate to an EMRP project in a NMI or DI.</p>
<p>The EESC believes that the governance system needs to be better defined. Clearly, an ambiguous governance system can affect progress in research and the results hoped for.</p>	<p>The governance system of the EMRP is detailed by the Byelaws and Rules of Procedures for EURAMET e.V. as partly cited under point 5.2 of this opinion and was established based on the wishes of the participating national programmes.</p>
<p>The EESC feels that the EMRP Research Council should be empowered to control, through binding opinions addressed to the EMRP Committee, the types of research to be funded, the annual work programme and selection of the pool of independent evaluators for the proposals, and that a Commission observer should monitor the evaluation panels, as under FP7.</p>	<p>The EMRP is an initiative on the basis of Article 169 of the EC Treaty and therefore falls in the frame of indirect centralised management of Community contribution which implies – contrary to other FP7 tools – a delegation of tasks to the Dedicated Implementation Structure which is EURAMET e.V. The EMRP Research Council is the advisory body and can not be in charge of delegated tasks to EURAMET e.V.</p>

² SEC(2008)2949

In the EESC's view, the preparatory proposals for the forthcoming 2014–2020 FP RTD should include a genuine, ongoing Community programme, coordinated and managed by the Commission, which is based on ongoing consultation of the stakeholders most concerned and takes into account in particular the needs of industry, universities and research and standards	<p>The Commission takes this view into consideration while preparing the proposal for the forthcoming FP RTD.</p> <p>Additionally, a thematic field dedicated to metrology in the forthcoming FP RTD (like in FP5) was considered as one option in the impact assessment for the EMRP proposal.³</p>
bodies as well as international aspects of metrology research, especially in relations with international bodies such as the ISO, the OECD and other reference bodies like the IUAP ⁴ .	

<p>40. Proposal for a Regulation amending Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community COM(2008) 580 final - EESC 45/2009 - January 2009</p> <p>Rapporteur: Mr HENCKS (Work./LU)</p> <p>DG INFSO - Mrs REDING</p>	
Main points of EESC Opinion	Commission Position
Point 1.4: Welcomes the new reductions in maximum prices.	The Commission welcomes this recommendation of the EESC.
Point 1.6: Regrets that the proposal on roaming data services only applies to wholesale and not also to retail.	The Commission acknowledges that prices at the retail level are high but this is a relatively new service with some competitive constraints (such as WIFI). The decrease in the wholesale rates and the bill shock transparency measures should help to tackle this problem.
Point 1.7: Believes it is vital to strengthen consumers' rights to information so as to offer better protection and more transparency with regard to prices.	The Commission welcomes this recommendation and notes that this has been addressed in the proposal.

³ See FN1.

⁴ International Union of Pure and Applied Physics.

Point 4.3: Supports the new measures and congratulates the Commission on its necessary and proportionate initiative.	The Commission welcomes the EESC's opinion.
Point 4.16: Has considerable doubts as to whether the use of alternative means of accessing data services such as public wireless Internet access can provide necessary competitive pressure. The EESC would have preferred the Commission to take immediate address to address price in this market as well.	The Commission has decided to wait before taking action at the retail level because unlike voice and SMS, there are some competitive constraints to data services. Moreover, transparency measures as well as a wholesale cap should put further pressure on retail prices. The Commission will have to report on developments by June 2010.
Points 4.17 - 4.18: With regards to the cut-off limit, the Commission proposal raises technical problems that risk leaving consumers high and dry.	The Commission has accepted the compromise proposal of the European Parliament and Council which gives better consumer protection, and is confident that the solution proposed is technically feasible.

41. Proposal for a Directive of the European Parliament and of the Council amending Council Directive 87/372/EEC on the frequency bands to be reserved for the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community COM (2008)762 – EESC 335/2009 - February 2009 Rapporteur: Mr HERNANDEZ BATALLER (Var. Int./ES) DG INFSO - Mrs REDING	
Main points of EESC Opinion	Position of the Commission
Points 4.1 – 4.5. (except 4.2): The Committee reaffirms its support for the Commission's proposal, considering that if the liberalisation of the 900 MHz frequency band is to be achieved, Community-level legislation is required. Furthermore, it states that the proposal will boost competition in the internal market and enhance economic, social and territorial cohesion in the Union.	The Commission welcomes the favourable opinion of the Committee. The main follow-up action will be the adoption of a Commission Decision under the Radio Spectrum Decision No 676/2002/EC, which will effectively open up the 900 MHz and 1800 MHz bands for UMTS systems operating alongside GSM systems, as specified in the technical annex of the Decision.
Point 4.2: Concerning the measures Member States can adopt in relation to rights of use in order to address any distortions of competition,	The Commission can clarify that Member States have to perform such public consultations, in line with the rules of the

the Committee restates the need for periods of public consultation before such measures are adopted.	electronic communications regulatory framework (see in particular article 14 of Authorisation Directive 2002/200/EC).
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<p>42. Proposal for a Decision of the European Parliament and of the Council establishing an audiovisual cooperation programme with professionals from third countries MEDIA Mundus COM(2008) 892 final – EESC 624/2009 - March 2009 Rapporteur: Mr HERNÁNDEZ BATALLER (Var. Int./ES) DG INFSO - Mrs REDING</p>	
Main points of EESC Opinion	Commission Position
Point 1.2: The Commission should be able, when implementing the programme, to set the general implementing guidelines and selection criteria.	The Commission welcomes this recommendation of the EESC.
Point 1.3: The EESC agrees with the programme's general aims. The programme's specific goals should be explained in greater detail, as they are too general, focusing as they do on the cross-border and transnational aspects.	The Commission considers that further detail should be provided in the guidelines for implementing the programme.
Point 1.3.1: Special support should be given to incorporating new technologies into the production, distribution and marketing of audiovisual works in their different digital applications and into the circulation of audiovisual works (including new platforms such as VoD and IPTV).	The Commission welcomes this recommendation of the EESC. MEDIA Mundus will pay special attention to new technologies, under actions envisaged in the fields of training, distribution and circulation.
Point 1.4: The financial framework of EUR 15 million is too limited to meet the programme's ambitious general aims and should thus be substantially increased so as to provide the European audiovisual industry with more effective support, whilst strictly applying budgetary discipline and the principles of sound financial management.	The Commission appreciates this recommendation. The budget takes account of the current financial crisis, however.

Point 1.5: The Commission, in close cooperation with the Member States, should ensure that the programme is implemented in such a way that it dovetails with and complements other relevant Community policies, programmes and measures.	The Commission will pay particular attention to consistency and complementarity between the programme and other relevant Community policies, instruments and actions.
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43. Proposition de règlement du Conseil relatif à la conservation des ressources halieutiques par des mesures techniques COM (2008) 324 – CESE 336/2009 - Février 2009 Rapporteur: M. SARRO IPARRAGUIRRE (Act. Div./ES) DG MARE - M. BORG	
Points de l'avis du CESE estimés essentiels	Position de la Commission
Le Comité juge nécessaire la simplification envisagée dans la proposition de règlement à l'examen. Il relève néanmoins qu'il ne s'agit pas uniquement d'une simplification et que, à des fins d'harmonisation, la Commission introduit également des modifications aux mesures techniques instaurées.	La Commission, avait pour mandat de simplifier et d'harmoniser les mesures techniques en tenant compte des particularités régionales. Cela se traduit parfois par des modifications, peu importantes, des mesures existantes.
Le CESE estime que l'harmonisation prévue suppose nécessairement de modifier certaines des mesures techniques et doit par conséquent être précédée d'études scientifiques, tant biologiques que socioéconomiques.	L'essentiel des modifications apportées ont fait l'objet d'études scientifiques préalables.
Compte tenu de la nature très technique des mesures envisagées dans la proposition de règlement, le CESE considère qu'il ne doit pas se prononcer sur les propositions de modification tant que ces études n'auront pas été réalisées. Il estime également que l'efficacité des nouvelles mesures techniques doit au préalable être vérifiée par des pêcheurs professionnels à bord des embarcations et sur les lieux de pêche.	L'essentiel des modifications apportées ont fait l'objet d'études scientifiques préalables. Toutefois, ces modifications n'ont pas toutes été testées par les pêcheurs dans toutes les zones de pêches, ce qui est difficilement envisageable en raison de l'étendue géographique très étendue de cette proposition de règlement.
Le CESE est d'avis que l'ensemble des mesures techniques doivent être incluses dans ce règlement du Conseil à l'examen pour éviter ainsi que certaines d'entre elles soient	La Commission veut éviter que la micro-gestion des mesures techniques soit traitée à un niveau politique.

intégrées à des règlements ultérieurs de la Commission.	
Étant donné la complexité du texte et des mesures techniques proposées, le CESE estime qu'une annexe avec des graphiques devrait être incluse dans la proposition de règlement pour en faciliter la compréhension.	La Commission est disposée à étudier la possibilité d'inclure des graphiques, mais seulement si ces illustrations sont indispensables à la compréhension du texte juridique pour éviter toute confusion à la lecture du règlement.
Le Comité est d'avis qu'il serait raisonnable d'interdire la commercialisation dans l'UE des produits de pêche des pays tiers dont la taille est inférieure à celle autorisée dans la Communauté.	La Commission partage ce point. Ceci est d'ailleurs proposé dans l'article 1(c) de la proposition.
Les ressources aquatiques vivantes capturées alors que leur taille est inférieure à la taille réglementaire ne doivent pas être détenues à bord ni transbordées, débarquées, transportées, stockées, vendues, exposées ou mises à la vente, mais sont rejetées immédiatement à la mer. Le CESE attire l'attention de la Commission sur les effets que pourrait avoir cette disposition sur les rejets. Il semble contradictoire que d'un côté, l'on prétende interdire les rejets, et que de l'autre, il soit interdit de conserver certaines captures à bord.	Cette disposition existe déjà dans les règles actuelles. Afin de réduire significativement les rejets, la Commission propose de réduire largement le nombre d'espèces faisant l'objet d'une taille minimale et de ne se focaliser que sur les espèces principales qui orientent la stratégie de pêche.
S'agissant de la règle du filet unique, le CESE se montre préoccupé par les conséquences qu'elle peut engendrer. La Commission devrait tenir compte du fait que pour les pêches pluri-espèces qui nécessitent l'utilisation de plus d'un maillage, les pêcheurs devront retourner au port pour changer d'engin de pêche plus fréquemment qu'ils ne le font à présent, ce qui impliquera des coûts d'exploitation supplémentaires qui affecteront la rentabilité déjà ébranlée des flottes.	Le filet unique doit être la règle générale pour des raisons d'efficacité de contrôle. Toutefois, la Commission est prête à examiner des dérogations (si justifiées) mais, en raison de leur caractère spécifiques, dans le cadre des futurs règlements régionaux.

<p>Le Comité fait part de sa préoccupation quant à cette mesure, étant donné que la Commission, en la généralisant, ne tient pas compte des spécificités des différentes zones et pêcheries, ce qui peut engendrer l'apparition de cas d'insécurité juridique, a fortiori lorsqu'il n'est pas précisé s'il s'agit de captures dirigées sur une espèce ou accessoires. Le CESE estime que la mise en œuvre d'autres types de mesures, telles que des interdictions de pêche spatio-temporelles, pourrait avoir des effets plus positifs que les mesures proposées.</p>	<p>Cette proposition de règle d'obligation de changer de lieu de pêche lorsqu'il y a des rejets ou que les limites de captures accessoires ne sont pas respectées est considérée comme une règle importante pour diminuer les rejets. Il s'agit également de raisonner sur les captures au lieu des débarquements.</p> <p>Cependant la Commission est prête à examiner des dispositions particulières pour des pêcheries spécifiques. Ces possibles adaptations devront être traitées dans les futurs règlements régionaux.</p>
<p>Le Comité approuve les dispositions que propose la Commission afin de valider les mesures de conservation urgentes adoptées par les États membres et qui concernent l'ensemble des navires de pêche communautaires ou les mesures s'appliquant uniquement aux navires de pêche battant leur pavillon. Néanmoins, afin d'éviter d'éventuels abus de la part de certains États membres, il conviendrait de permettre à des acteurs ou organismes indépendants de vérifier la pertinence et la nécessité de ces mesures.</p>	<p>Même si cela ne figure pas dans la proposition, la Commission veillera à ce que les mesures prises par les États Membres soient pleinement justifiées et non discriminatoires.</p>
<p>Le Comité est également favorable à ce que soient exclues du champ d'application de la proposition de règlement du Conseil les opérations de pêche menées exclusivement à des fins de recherche scientifique, à condition qu'elles soient réalisées avec l'autorisation de l'État membre du pavillon concerné. Le Comité n'estime toutefois pas nécessaire que le navire accueille à bord un observateur de l'État membre côtier au cours des opérations de pêche aux fins de recherche scientifique menées dans ses eaux.</p>	<p>Cet article vise à améliorer la transparence des opérations de pêche menées à des fins de recherche à bord de navires scientifiques ou professionnels. Il ne s'agit pas d'une obligation mais d'une possibilité offerte aux États Membres afin d'éviter toute suspicion d'un État Membre sur le bien fondé des recherches menées dans ses eaux par d'autres États membres.</p>

<p>44. Proposal for a European Parliament and Council Directive amending Directive 2006/116/EC of the European Parliament and of the Council on the term of protection of copyright and related rights COM (2008) 464 final - EESC 39/2009 – January 2009 Rapporteur: Mr GKOFAS (Var. Int./EL) DG MARKT – Mr MCCREEVY</p>	
Main Points of the EESC Opinion	Commission Position
In its points 4.1 to 4.4, the EESC recommends the Commission to extend the term of protection for fixations of performances from the current 50 to 85 years.	<p>Favourable opinion noted.</p> <p>Although the original Commission proposal asks for an extension of 95 years, the EP, in a plenary vote on 23 April (377 in favour, 178 against and 37 abstentions) adopted a proposal that would limit the extension to 70 years. As this proposal is identical to the text that emerged from a trilogue held on 31 March, a 70 year extension is now the most likely outcome.</p>
Points 4.5, 4.6, 4.22 and 4.23 indicate that the EESC supports the setting up of a fund into which record producers should set aside 20% of revenues they earn in the extended period for distribution to performers. The fund should be for the benefit of 'anonymous' and less well-known performers.	<p>Favourable opinion noted.</p> <p>The 20% fund for session players is contained both in the EP text voted on 23 April and in the text that emerges from trilogue. According to this text the fund is exclusively for the benefit of those musicians who suffered a 'buy out' (non-recurring remuneration) at the start of their careers (cf. recital 8 of the amended proposal).</p>
Further accompanying measures, the "use it or lose it clause" and the "clean slate", are welcomed by the EESC. (point 4.17)	<p>Favourable opinion noted.</p> <p>The "use it or lose it" clause is already contained in the Commission proposal and the "clean slate" has been introduced by the European Parliament in its vote on 23 April; the provision is also in the text that emerges from trilogue.</p>
The EESC agrees with the Commission proposal in its choice of partial retroactivity for the application of the term extension.	<p>Favourable opinion noted.</p> <p>Partial retroactivity is the approach already</p>

<p>(point 4.20).</p>	<p>chosen in the 1993 Term directive (Directive 93/98EEC, Article 10(2)). The relevant provisions on partial retroactivity are now contained in Article 10(5) of the text voted in the EP on 23 April.</p>
<p>The EESC considers it necessary to have an exception for SME's as regards the fund for session musicians (point 4.27).</p>	<p>The SME exception was removed by Council and the EP text voted on 23 April introduced a recital on micro-enterprises. This recital entails a guarantee for micro-entities that is equivalent to that contained in the original COM proposal. The EP vote, as noted above, reflects the trilogue.</p>
<p>The EESC asks for the issue of 'orphan works' to be addressed so as to allow popular traditional songs to enter the public domain. (point 4.19).</p>	<p>The Commission is already examining the situation of 'orphan works' via a Green Paper and public consultation. The results of this consultation will be contained in a Communication to be made public before the end of 2009. The Commission also points out that songs only enter the public domain once the authors' copyright (life plus seventy years) has expired. Therefore, the extension of the performers' term has little or no impact on the 'public domain'.</p>
<p>The EESC is concerned about the workings and tariffs used by collecting societies vis-à-vis users and right holders. Indeed, a large part of the EESC opinion (points 4.7 to 4.16) relate to collecting societies.</p>	<p>The issue of governance and administration of collecting societies and their tariffs is not part of the proposal for the extension of term of protection.</p> <p>However, the Commission will monitor the working of collecting societies, especially those entrusted with operating the new fund, as part of its obligations under Article 1a of the amended proposal.</p>
<p>The EESC supports a harmonisation of co-written works (points 4.2 and 4.3) as contained in the Commission proposal.</p>	<p>Favourable opinion noted.</p>

<p>45. Proposal for a Directive of the European Parliament and of the Council amending Council Directives 77/91/EEC, 78/855/EEC and 82/891/EEC and Directive 2005/56/EC as regards reporting and documentation requirements in the case of mergers and divisions COM (2008) 576 final – EESC 332/2009 – February 2009 Rapporteur: Mrs SÁNCHEZ MIGUEL (Work./ES) DG MARKT - Mr MC CREEVY</p>	
Main points of the EESC Opinion	Commission Position
The EESC considers that simplifying EU legislation – and company legislation in particular – is a positive step overall, because European companies and especially SMEs which make up an important part of the economic fabric of the EU, are over-burdened with red tape.	Favourable opinion noted.
The EESC points out that this simplification process must not under any circumstances give rise to legal uncertainty for players in the single market.	The Commission agrees that simplification of company law should not lead to creating legal uncertainty. The importance that harmonised rules can have with a view to legal certainty was also stressed in the Communication of 10 July 2007 (COM(2007)394) on which the proposal for a directive is based.
The EESC expresses its understanding for the Commission's interest in protecting shareholders as owners of the company, but considers that it should not neglect other interested parties whose rights could be affected by legal transactions in order to maintain transparency and ensure that economic and social actors have confidence in the European single market. It therefore supports the European Parliament's position on the issue which pointed out the need to take into account the interests of all interested parties (investors, owners, creditors and employees).	The Commission agrees that interests of other parties need to be taken into due account. In the compromise text agreed between the European Parliament, the Council and the Commission and approved by the European Parliament on 22 April, a new recital therefore has been introduced to clarify in particular that any possibility, for shareholders, to waive reports currently provided for should be without prejudice to the systems of protection of the interests of creditors of the companies involved as well as to rules aimed at ensuring the provision of necessary information to the employees of the companies involved and to public authorities, such as tax authorities, controlling the merger or

	division.
<p>The EESC considers that the proposal to allow documents to be made available to shareholders and creditors on the Internet rather than being published through a register cannot be seen as safeguarding either shareholders' or creditors' rights if it recommends doing away with the intrinsically public system of registering documents. It fears that it will have as effect that it will no longer be possible to use this information as reliable evidence in the context of any dispute. Ensuring transparency in this type of transaction should take precedence over economic savings, and should therefore be safeguarded more effectively.</p>	<p>As shown in the impact assessment accompanying the Commission proposal, more than half of the European citizens are regular internet users. Therefore, the Commission continues to believe that publication of documents via the internet constitutes a suitable alternative to traditional publication methods. However, in order to meet concerns voiced not only by the EESC but also by the European Parliament and a number of Member States, the text agreed between the European Parliament, the Council and the Commission and approved by the European Parliament on 22 April provides that Member States should be able to designate an Internet site which companies may use free of charge for such publication. Furthermore, it is clarified that Member States can provide for measures guaranteeing the security of the site and the authenticity of the documents.</p>
<p>The EESC welcomes the proposal to avoid duplicating the accounting reports for listed companies, as they are drafted in line with established procedures and as they also involve the stock exchange authorities.</p>	<p>Favourable opinion noted.</p>
<p>The EESC considers, however, that this measure should not extend to non-listed companies, when all shareholders from all companies involved unanimously agree, as this seems to distort the aim of the legislation.</p>	<p>As indicated above, in the text agreed between the European Parliament, the Council and the Commission and approved by the European Parliament on 22 April, it has been clarified that this possibility should be without prejudice to the systems of protection of the interests of creditors and employees and the information needs of public authorities. Furthermore, the introduction of such a waiver, according to the compromise, will not be mandatory but left to Member States.</p>
<p>The EESC considers that the proposed</p>	<p>The Commission recalls that the possibility</p>

<p>amendment to the Second Directive 77/91/CEE creates problems with a view to transparency, particularly on the safeguards that should apply to all interested parties. Having no 'objective' report on the company's assets at the very least, as reflected in the value of the company's nominal share capital, is surely getting off to the wrong start.</p>	<p>to exempt from the reporting requirement under the Second Directive already exists today in the case of mergers. The proposed modification therefore only aims at aligning the system for divisions with that for mergers. Furthermore, in both cases the directive will only provide for a Member State option to grant such an exemption. The Commission therefore does not share the EESC's view that the proposed measure which in the meantime has also been approved by the European Parliament and the Council will lead to an excessive reduction in transparency.</p>
<p>The EESC considers that the possibility for creditors to oppose mergers or divisions until they have obtained guarantees (as long as they have evidence of an outstanding claim on the companies that are involved in the transactions), has been one of the ways of maintaining confidence in market transactions and ensuring they run smoothly. In the EESC's view, requiring creditors to apply to the appropriate administrative or judicial authority in order to obtain adequate safeguards, and to credibly demonstrate that the satisfaction of their claims is at stake and that no adequate safeguards have been obtained from the company effectively diminishes creditor protection rules.</p>	<p>The Commission does not agree that the proposed modification which in the meantime has also been approved by the European Parliament and the Council diminishes creditor protection. The proposal only specifies the level of minimum protection that Member States have to grant to creditors under the rules of the Third and Sixth Directives, and aligns the wording of these Directives with the parallel rule in the Second Directive.</p>

<p>46. Proposition de directive du Parlement européen et du Conseil concernant l'accès à l'activité des établissements de monnaie électronique et son exercice ainsi que la surveillance prudentielle de ces établissements, modifiant les directives 2005/60/CE et 2006/48/CE et abrogeant la directive 2000/46/CE COM(2008) 627 final – CESE 333/2009- Février 2009</p> <p>Rapporteur: M. MORGAN (Empl./UK)</p> <p>DG MARKT – M. McCREEVY</p>	
Points de l'avis du CESE estimés essentiels	Position de la Commission
Point 1.3 in fine: "Cette directive a pour objectif d'éliminer les obstacles à l'invention et à l'innovation. Le CESE souscrit à cet objectif".	Prise en compte de l'avis favorable
Points 1.8 et 4.2: "le régime proposé est adéquat et proportionné".	Prise en compte de l'avis favorable
Point 4.3.1: "Les limitations à l'investissement du fonds de trésorerie ne s'appliquent à l'heure actuelle qu'aux établissements de monnaie électronique hybrides. Pour une sécurité accrue des clients, ces dispositions devraient s'appliquer à toutes les institutions de monnaie électronique".	Prise en compte des suggestions dans le cadre des négociations ultérieures avec les autres institutions
Point 4.3.2: " Les établissements de monnaie électronique ne peuvent pas détenir de fonds de clients en dépôt. Les sommes reçues doivent être immédiatement converties en monnaie électronique. Cette mesure de protection n'est pas clairement précisée dans la directive".	Prise en compte des suggestions dans le cadre des négociations ultérieures avec les autres institutions
Point 4.3.3: " L'article 9 devrait être modifié de façon à rendre explicite l'exigence selon laquelle les fonds propres en rapport avec l'encours des engagements en monnaie électronique doivent être spécifiquement protégés dans le cas des établissements hybrides".	Prise en compte des suggestions dans le cadre des négociations ultérieures avec les autres institutions et, tout en particulier, dans le cadre du suivi à la proposition faite au point 4.3.1

Point 4.3.4: " L'article 5.4 permet qu'aucun frais ne soit facturé pour le remboursement à la date d'échéance d'un contrat, cependant que l'article 5.5 autorise à facturer des frais en cas de résiliation anticipée. Il conviendrait de retirer cette dernière disposition car il n'y a pas de distinction entre le remboursement en cours de contrat ou à son échéance, et il est vraisemblable que cela résulte en un modèle de résiliation de contrat qui ira à l'encontre de l'exigence prudentielle de connaissance du client".	Rejet: en cas de remboursement partiel avant le terme du contrat, l'émetteur doit être en mesure de pouvoir réclamer au titulaire un défraiement qui soit proportionné au coût de la transaction. Le même raisonnement s'applique également aux cas de résiliation anticipée lorsque le contrat a été passé pour une durée déterminée.
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47. Proposal for a Directive of the European Parliament and of the Council amending Directives 2006/48/EC and 2006/49/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management COM(2008) 602 final – EESC 615/2009 - March 2009 Rapporteur: Mr BURANI (Empl./IT) DG MARKT– Mr MCCREEVY	
Main Points of the EESC Opinion	Commission Position
The Committee approves the Commission's initiative, which is in line with its ongoing work on modernising measures to improve and update the legislative framework of the Basel Agreement. It also agrees in general with the implementing provisions proposed, with the exception of certain individual aspects that do not alter the general framework.	Favourable opinion noted.
Hybrid capital instruments, that contain features of both equity and debt, are currently subject to national rules that ought to be harmonised in order to achieve a reasonably level playing field at international level.	Favourable opinion noted.
On the subject of connected clients, the	The proposed treatment of interbank

<p>notion of risk arising from the difficulties of a company upon which another is financially dependent has been introduced and reporting requirements have been simplified, harmonised and restructured. In the area of significant risks, the main innovation is the introduction of a single limit of 25%, also including inter-bank deposits. The EESC believes that this last rule, probably inspired by the catastrophic scenario of recent times, should be revised, given the important regulatory function of the liquidity of these deposits and their relatively minor risk levels, in normal periods, compared with other types of exposure.</p>	<p>exposures has been based on a thorough analysis conducted well before the crisis erupted. The analysis has revealed that interbank exposures are not risk free and pose a significant risk to financial stability. The crisis has provided further evidence in this respect, confirming the correctness of these conclusions. The analysis has also revealed that larger and more sophisticated institutions should not have any major problems to diversify or collateralise their exposures. Hence, retaining the current exemption for all interbank exposures did not seem appropriate. Nevertheless, in order to limit the possible negative impact on the liquidity market, a set of numerous exemptions has been introduced in the proposal. In order to address concerns expressed by smaller and less sophisticated institutions, an alternative quantitative threshold of EUR 150 million has been introduced.</p>
<p>The proposal introduces a rule whereby issuers, intermediaries and managers who directly negotiated, structured and documented the original agreement giving rise to obligations must undertake to maintain a minimum material economic interest of 5%. This rule was seemingly inspired by the bad experience with American CDOs (collateralised-debt obligations), although their origins and characteristics differ from normal securitisations. The EESC wonders what the impact of this new measure might be on market liquidity.</p>	<p>In order to address the concerns about possible negative effects of the proposal on market liquidity, a provision has been introduced in paragraph 8, stipulating that competent authorities may decide to temporarily suspend this requirement during periods of general market liquidity stress.</p>
<p>Member States are given the possibility of excluding intra-group exposures from the calculation of exposure when the counterparties are established in the same Member State. The Committee is well aware of the legal reasons against extending the rule to counterparties resident in other Member States, but would</p>	<p>As a matter of fact, Art 113(4)(c) does allow Member States to exempt intra-group exposures (including cross-border intra-group exposures) in so far as the respective undertakings are covered by the supervision on a consolidated basis to which the credit institution itself is subject. In addition, a new paragraph (3a) has been</p>

<p>argue that in normal conditions, the failure to include foreign counterparties could affect the overall evaluation of the exposure of the company in question. A reasonable solution might be to extend the exemption to the entire group on the basis of a case by case assessment, suspending that possibility in the event of signs of critical problems.</p>	<p>introduced in Art 156 by the European Parliament that requests the Commission to review and report on the application of Article 113(4) including whether exemptions should be a matter of national discretion, and to submit a report to the European Parliament and the Council together with any appropriate proposals by 31 December 2011. With respect to the potential elimination of the national discretion under Art 113(4)(c) and its potential application at the EU level, according to Art 156(3a), the review shall in particular take into account the efficiency of the group's risk management while ensuring that sufficient safeguards are in place to ensure financial stability in all Member States in which an entity of a group is incorporated.</p>
<p>With reference to the rule in the previous point, and also more generally, the Committee would reiterate its opposition to the principle of giving Member States the choice of whether or not to adopt certain provisions. This is contrary to the principle of harmonisation and the need for a level playing field when it comes to competition.</p>	<p>A new paragraph (3a) has been introduced in Art 156 by the European Parliament that requests the Commission to review and report on the application of Article 113(4) including whether exemptions should be a matter of national discretion, and to submit a report to the European Parliament and the Council together with any appropriate proposals by 31 December 2011. Before this date, and in order to enhance the consistent application of the large exposures provisions across the EU, the CEBS has been requested to develop guidelines such as on the interpretation of the definition of 'connected clients', the treatment of exposures to schemes and underlying exposures in the schemes and develop guidelines on the reporting requirements in the large exposures regime.</p>

<p>The EESC thinks that special attention should be given to the risk posed by potential exposure from the use of as yet unused credit lines on credit cards. This exposure could rapidly become significant in times of restrictions on consumer and mortgage credit.</p>	<p>In terms of exposures arising from securitised claims arising from credit cards, please note the following: On 1 October 2008, the Commission proposed numerous technical amendments that were approved by the European Banking Committee and are currently under scrutiny by the European Parliament. One of these amendments proposed to remove the possibility to assign a 20% risk weight to unrated liquidity facility with an original maturity of one year or less. Instead, it is being proposed that a conversion figure of 50% is applied to these exposures regardless of the maturity to reflect an increased level of risks that these liquidity facilities pose to the institutions.</p>
<p>The draft directive introduces a series of new rules on supervisory mechanisms, designed to increase the efficiency of controls. First, consideration is given to "systemically relevant branches", which are to be placed under supervision in the host country when the situation is recognised as being critical, subject to the agreement of the countries concerned. The EESC agrees, but would stress that measures are needed to deal with sudden, unforeseen events.</p>	<p>In terms of measures that are needed with sudden, unforeseen events, as anticipated by the Commission's Communication from 4 March, the Commission is currently working on developing a White Paper on Early Intervention due in June 2009 that would suggest several concrete recommendations how to prevent a crisis.</p>
<p>Lastly, the EESC is pleased to note the establishment of the colleges of supervisors established by the consolidating supervisor and including authorities of the countries where the companies of a certain group are based. This initiative will improve the efficiency of supervision over groups and speed up the adoption of appropriate measures when necessary.</p>	<p>Favourable opinion noted.</p>

<p>48. Green Paper – Copyright in the Knowledge Economy COM (2008) 466 final - EESC 613/2009 – March 2009 Rapporteur: Mr RETUREAU (Work./FR) DG MARKT– Mr McCREEVY</p>	
Main Points of the EESC Opinion	Commission Position
The EESC seems to argue for a more harmonised approach to the existing exceptions listed in Directive 2001/29 on the harmonisation of certain aspects of copyright and related rights in the information society, where only 1 out of 21 exceptions is mandatory.	The Commission notes the position of the EESC which seems to favour more harmonisation of the exceptions.
In relation to an exception on libraries and archives, the EESC feels that the conditions for digitisation and making available of works vary greatly among Member States and are too restrictive in nature.	The Commission notes the position of the EESC.
On teaching and research exception, the EESC stress that consideration should be given to the idea of amending the Directive to enable the online lending of works for research and education purposes under conditions that are well defined, both legally and technically. The current exceptions are too restrictive.	The Commission notes the position of the EESC.
With reference to orphan works, the EESC the Committee gives a somewhat contradictory approach. On the one hand it says that there is no need for a specific directive on the orphan works, and on the other it states that a directive or the addition of a new chapter to the current Directive would be the appropriate.	The Commission welcomes the favourable opinion on an instrument dealing with orphan works.
On an exception for people with disability, the EESC favours a less restrictive approach to the one currently used in Europe as regards the nature of the disability and difficulties in	The Commission notes the position of the EESC.

accessing works.	
The EESC considers that the user-created content is a topical issue and is in favour of licensing solutions such as creative commons or wikipedia. A balance needs to be struck between the new forms of dissemination, new copy technologies, the needs of the knowledge society and the rights of authors.	The Commission welcomes the balanced approach suggested by the Committee.

49. Proposal for a Regulation of the European Parliament and of the Council on cross-border payments in the Community COM(2008) 640 final - EESC 616/2009 – March 2009 Rapporteur: Mr BURANI (Empl./IT) DG MARKT– Mr McCREEVY	
Main Points of the EESC Opinion	Commission Position
Point 1.1 and 2.3 The Committee welcomes the broad thrust of the Commission proposal, which aims primarily to extend the range of transactions covered by the regulation on cross-border payments systems to direct debits.	Favourable opinion noted.
Point 1.2 and 4.3.2 : In the interests of transparency, the EESC would urge the Commission to provide information on the details, methodology and sources of the studies it has referred to in order to reach its various conclusions. Knowledge of the facts is a prerequisite for balanced decision-making.	The Impact Assessment, which accompanies the proposal, gives all the details and makes references to any documents, sources and studies used.
Point 1.3, 4.3, 4.3.1 and 4.3.3: The EESC does have some reservations regarding the direct debits. (...) The conditions for national transactions are calculated to cover costs with low margins but cannot be extended to the more costly international transactions. The EESC would suggest that direct debits should be temporarily excluded from the regulation. (...) The EESC would draw attention to the	This issue has been addressed at a later stage in the negotiations between the institutions. The final text of the Regulation introduces temporary provisions concerning multilateral interchange fees for direct debit transactions. This should enable a successful launch of the cross-border direct debits, offer the legal certainty for payment service providers and allow them to create a

<p>fact that the new regulation should enter into force on 1 November 2009. This deadline may prove too short for medium- and long-term economic plans to be drawn up. Legal certainty regarding the Multilateral Interchange Fee (MIF) is an essential prerequisite for the drafting of these plans.</p>	<p>business model compatible with EU competition rules.</p>
<p>Point 1.4 and 4.6: The proposal also contains two requirements for Member States: the first is to establish an authority responsible for payments systems if no such authority already exists, the second is to put appropriate structures in place for dealing with complaints. (...) In such cases, EESC warns against creating new structures that would duplicate or overlap with the functions carried out by pre-existing structures.</p>	<p>The Commission shares the view that it is essential to avoid the duplication of structures. This issue has been addressed at a later stage in the negotiations between the institutions and is now included in the text of the Regulation.</p>
<p>Point 1.5 and 4.7 : A further request to the Member States concerns the adoption of "effective, proportionate and dissuasive penalties" for failure to comply with or violations of the provisions of the regulation. The EESC is in agreement, but would point out that information on the comparative study of measures taken in the various countries would give an idea of how seriously each Member State is treating the regulation.</p>	<p>Favourable opinion noted.</p> <p>The text of the Regulation requests the Member States to provide the information on penalties to the Commission. Further cooperation between the Member State authorities within the framework of the Payments Committee should facilitate the convergence of penalties within the Community.</p>
<p>Point 4.2 Article 2(1) specifies that the regulation refers exclusively to electronic means of payment: paper-based payment instruments such as cheques and drafts are therefore excluded. The EESC agrees with this decision</p>	<p>Favourable opinion noted.</p>

<p>Point 4.5 : Article 5 introduces an important innovation: the obligation to report transfers of up to EUR 50 000 is removed as of 1 January 2010 and of any amount as of 1 January 2012. This requirement, intended as a means of collecting the data necessary for balance of payments accounting, was a source of confusion and was costly. The Member States will be able to collect the information via other systems. The EESC thoroughly approves of this provision.</p>	<p>Favourable opinion noted.</p>
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<p>50. Proposal for a Decision of the European Parliament and of the Council establishing a Community programme to support specific activities in the field of financial services, financial reporting and auditing COM (2009) 14 final – EESC 618/2009 - March 2009 Rapporteur: Mr BURANI DG MARKT– Mr MCCREEVY</p>	
Main Points of the EESC Opinion	Commission Position
<p>The Committee welcomes the Commission's initiative to provide increasingly sophisticated instruments for supervising the financial sector, in line with the recommendations of the de Larosière Group. It notes, however, that there have been no innovations to the missions or functions of the three legal structures that will benefit from grants or the committees that will receive financial contributions. Thus the financial contributions serve to improve the present situation, which indicates satisfaction with the structures as such, but also the need to improve or bolster the services they provide.</p>	<p>The proposed Community programme includes the three EU Committees of Supervisors among its beneficiaries. One of its objectives is to allow them to carry out a certain number of projects in relation to supervisory convergence and cooperation. This should be considered as a first step in the strengthening of the supervision of the financial sector in the EU. In its Communication of 4 March 2009, entitled "Driving European Recovery" , the Commission has announced its intention to bring forward the necessary legislative proposals to implement the recommendations set out in the report of 25 February 2009 of the High Level Group on financial supervision chaired by Jacques de Larosière. In the final version of the compromise, the Commission agrees to present a report to the</p>

	European Parliament and the Council on such proposals as soon as possible and no later than 1 July 2010.
<p>The two bodies operating in the field of financial reporting, IASCF and EFRAG are founded on high-quality international accounting standards, which are partly incorporated into Community law. According to the Commission they ensure that "investors, creditors and other stakeholders have access to timely, reliable and relevant information about the financial conditions of companies". This statement is belied by the facts. Before any reforms are undertaken, decision makers must answer the question as to whether the failure was due to deficient accounting standards or to carelessly applied accounting rules.</p>	<p>There is almost universal agreement that accounting standards did not cause the crisis, although there is an ongoing debate about whether and the extent to which they have aggravated the downturn (procyclicality). IASB is currently addressing these issues.</p> <p>Considering the lead times linked to legislative process and the clear need to improve the funding regime of the IASCF and of EFRAG, delay would undermine the objective of improving the functioning of the standards-setting process. We are therefore pursuing improvements in the IASCF's (and EFRAG's) governance and funding in parallel, as well as ensuring that substantive issues related to accounting standards are addressed on an urgent basis.</p>
<p>In the most sensitive sector where major deficiencies were identified, i.e. the securities markets, where IASCF and EFRAG rules apply, the Commission explicitly stresses the vital importance of independence from "undue influence from parties with a stake" and "non-diversified, voluntary funding from interested parties". (...) since these bodies require resources to carry out their sensitive function, is a "grant" enough to ensure their independence? The EESC believes that this question deserves further analysis.</p>	<p>Financial independence is a pre-condition for independent functioning. The Commission agrees that it is not enough, but it is necessary. In additionally, IASCF and EFRAG are currently undergoing governance reforms to enhance their independence and the efficiency of their functioning. The Commission continues to pursue such reforms. The current text agreed by European Parliament and Council provides for additional safeguards to ensure that those reforms are continued.</p>
<p>The same considerations apply equally to auditing regarding the grant to PIOB, the body that oversees the process leading to the adoption of ISA (International Standards for Auditing) and other public interest activities of IFAC (International Federation of Accountants).</p> <p>The possible introduction of ISA into Community law (Directive 2006/43/EC)</p>	<p>The Commission shares the aim of ensuring the high-quality of audit standards. The IFAC reforms in 2003 and 2007 are considered as sufficient regarding the governance of audit standard setting. However the financial independence of the PIOB has to be ensured as well. Therefore, the Commission's answer to the EESC's question of whether Community co-financing is an appropriate</p>

<p>justifies the interest in the neutrality of rules and the fact that the Commission is represented by two of the ten members on PIOB's management bodies</p>	<p>mean to ensure the PIOB's independence is affirmative. At the same time, the Commission will continue to encourage other international jurisdictions (e.g. the US and Japan) to contribute to the neutral funding of the PIOB.</p>
<p>To conclude on the subject of "grants", the EESC agrees with the Commission on the need to provide the bodies responsible for international standards with sufficient means to ensure the efficiency and independence of their work. This point is made repeatedly, in more or less explicit terms, which is a clear indication that there is an underlying problem. These bodies were established by the sectors in order to set rules and standards for the sectors themselves; they remain private sector bodies, even when these rules and standards are incorporated into public law.</p>	<p>The Commission takes note of the EESC's opinion and refers to the response given above regarding the governance reform of the relevant bodies.</p>
<p>At this stage, it becomes difficult, within a single body, to separate the public interest from the activities carried out on behalf of the sectors which have legal control over that body.</p>	
<p>Financial contributions for the Committees of Supervisors are specifically intended for the training of staff of national supervisory authorities and the management of information technology projects. As has already been explained, these committees are independent advisory bodies set up by the Commission and made up of the national authorities. Staff training (recommendation 19 of the de Larosière Report) and project management are undoubtedly important and are also entirely for the benefit of Member States: the EESC cannot understand why these actions should not be financed by the Member States themselves rather than from Community resources.</p>	<p>The Commission has thoroughly examined the options to solve the current problem of gap between the steeply increasing tasks entrusted to the Committees of Supervisors and the lack of their financial resources. Carefully weighting the pros and cons of each option (including additional financing from Member States), the goals to be reached and the limited timeframe for achieving them, it was clear that Community co-financing is the best way to go forward. The Commission invites the EESC to consult the ex ante evaluation annexed as Commission working document to the proposal.</p>

<p>At the end of its proposal, the Commission mentions the need to introduce a flexibility criterion when selecting the beneficiaries of grants: further analysis of the arrangements for dealing with the crisis could reveal the need to set up new bodies or give new responsibilities to the existing ones. It might therefore prove necessary to add a new beneficiary to one that has already been identified. The EESC has no objection to this but would recall the need to avoid any unnecessary increase in the number of bodies involved in the programme. It would be better, as far as possible, to extend the functions of existing bodies.</p>	<p>The Commission takes note of the EESC's opinion.</p>
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53. Proposal for a Council Regulation on the protection of animals at the time of killing COM (2008) 553 final – EESC 341/2009 - February 2009 Rapporteur: Mr ALLEN (Var. Int./IE) DG SANCO - Mrs VASILIOU	
Main points of the EESC Opinion	Commission Position
<p>4.4 The proposal in art. 4(2) to allow a derogation on ritual slaughter is inconsistent with the overall objective of the regulation which is to improve the protection of animals at slaughter. Innovative technology such as the Stun Assurance Monitor allows those who wish to slaughter with prior electrical stunning in compliance with Halal rules to accurately monitor how much electrical charge is given to an animal. This ensures that it is properly stunned but still alive prior to slaughter. The monitor records each stun carried out and the voltage given to the animal. It has a real contribution to make to animal welfare. Furthermore the introduction of a labelling system indicating the method of slaughter would encourage the use of the Stun Assurance Monitor. It is important that the Commission would actively support research into systems that would convince religious groups with regard to stunning thereby protecting animal welfare at slaughter.</p>	<p>The Commission reject this part of the opinion.</p> <p>It is true that electrical stunning is accepted by certain Muslim representatives but a number of others consider prior stunning unacceptable. In addition Jewish communities usually do not accept any form of prior stunning. The respect of freedom of religion is of paramount importance for the Commission and derogation from stunning should be kept for the slaughter of animals taking place in the framework of a religious rite.</p>
<p>4.6 Small slaughterhouses have recently had to incur significant expenditure in order to upgrade to comply with the "hygiene package". To avoid threatening their viability, funding should be made available towards expenses incurred by compliance with this regulation.</p>	<p>The Commission reject this part of the opinion.</p> <p>The Commission has conducted an impact assessment that evaluates the economic consequences of the proposal on the meat sector. The major impact identified concerns requirements applicable to the design, the construction and the equipment of slaughterhouses. For that reason the Commission has introduced a transitional period of ten years, which would make economic effect negligible. Therefore the</p>

	Commission believes that no funding is necessary to meet the requirements of its proposal.
4.7 The establishment of reference centres should be compatible and linked to existing scientific and research facilities in the member state. It is important that no duplication takes place and that adequate financial resources are provided to ensure the effective operation of the system. Training programmes should be harmonised at EU level.	The Commission will take into account this suggestion in the framework of the future negotiations with other institutions.
4.11 The Committee welcomes the proposal in art 8 that stunning equipment shall not be placed on the market without appropriate instructions concerning their use and maintenance in the manner which ensures optimal conditions for the welfare of animals. Research should be carried out to ensure that an automatic monitoring system be available. The regulation does not specify what manner of licensing shall apply to ensure that stunning equipment placed on the market is independently verified to justify the claims of the manufacturers.	<p>The Commission will take into account this suggestion in the framework of the future negotiations with other institutions.</p> <p>During the discussion in the Council, it was suggested that assessment of equipment should be provided by the national reference centre.</p>
4.12 The Committee is of the view that imports from third countries should meet equivalent standards in order not to distort competition. This matter is referred to in Art 10 but it needs to be made stronger and clearer. Also there must a declaration of intent that such a policy will be implemented	The Commission will take into account this suggestion in the framework of the future negotiations with other institutions.

54. Proposal for a Council Recommendation on a European action in the field of rare diseases
COM(2008) 726 final – EESC 346/2009 – February 2009
Rapporteur: Mrs CSER (Work./HU)
DG SANCO – Mrs VASSILLIOU

Main points of the EESC Opinion	Commission Position
1.5 – 2011 is too early for national plans to be prepared in the requisite detail.	The Commission agrees with this point, and the date has been changed to 2013.
1.10, 1.11 & 3.3.12 – National centres for rare diseases should be established.	The Commission supports this point, and it is addressed in article 15 of the Directive on Cross-Border Healthcare.
1.13 & 3.3.11– Develop long-term sources of funding.	<p>Funding for rare disease treatment is for Member States to consider. The Commission hopes that these proposals will help to support the importance of such investment, as well as helping to make best possible use of the funds that are available through European cooperation.</p> <p>Regarding additional Community funding, the limits on the current health programme are due to the overall Financial Perspectives set by the Parliament and the Council.</p>
1.14, 1.15, 1.17, 3.3.17 & 3.3.20 – Civil society organisations and social partners should be involved.	The Commission has asked the EESC for proposals on which civil society organisations and social partners it considers appropriate to involve, and a response is currently awaited.
3.3.20 – Civil society organisations and social partners should be involved in the advisory committee on rare diseases.	With regards to the composition of the Committee of Experts, the Decision establishing the committee will stipulate that there shall be representatives of patients' organisations as well as representatives of current and past Community projects. It will also be possible for international and professional organisations and other associations acting in the field of rare diseases to be given observer status.
1.19 – The EESC would like to be involved in the continuous evaluation of such implementation.	The Commission will share the implementation report with the EESC.

<p>55. Proposal for a Council Recommendation on Patient safety, including the Prevention and Control of Healthcare Associated Infections- COM (2009) 837 final - EESC 632/2009 – March 2009 Rapporteur: Mr BOUIS (Var. Int./FR) DG SANCO - Mrs VASSILIOU</p>	
Main Points of the EESC Opinion	Commission Position
<p>The Committee would particularly stress the need for each Member State to set up a HCAI control committee – to work in conjunction with hygiene task forces – charged with drawing up a national strategic programme, subject to regular assessment, which could be applied at regional and healthcare institution levels.</p>	<p>The Commission rejects this view because this work is meant to be undertaken by the inter-sectoral mechanism mentioned in Part I, Section III (2).</p>
<p>The Committee feels that bolstering anti-HCAI structures and encouraging healthcare institutions to adopt an infection prevention and control policy is of utmost urgency. The same attention should be given to outpatient care.</p>	<p>The Commission agrees that HCAs are not confined to healthcare institutions only. The Commission would support that adapted infection prevention and control recommendations are developed for long-term and rehabilitation facilities, and for ambulatory care practices and primary care, e.g. general practitioners.</p> <p>The Commission will communicate its support for this within the framework of its negotiations with the Council.</p>
<p>The Committee welcomes the willingness of patient organisations and representative bodies to be involved in framing patient safety policies and programmes at all levels; this requires effective transparency in on-site monitoring and publication of the relevant information.</p>	<p>The Commission accepts this view that the involvement of patients and patient organisations in patient safety policy-making is dependent upon transparency and the availability of information.</p> <p>The Commission will communicate its support for this within the framework of its negotiations with the Council.</p>

<p>The Committee thinks that the legal status of qualitative and quantitative data on HCAI and other adverse effects should be ascertained, given that certain data can be used in court in the case of legal action. A balance needs to be struck between upholding patient rights and encouraging in-depth analysis of adverse events by risk-management professionals and structures.</p>	<p>The Commission accepts this view but would argue that Article 152 does not provide the necessary legal basis for action at Community level in this respect. The Commission would however point to the opinion of the European data protection supervisor on the proposals amending the current pharmacovigilance system that could be of relevance in this context.</p> <p>Therefore, this proposal can recommend that Member States clarify the legal position, as in the Commission text, but should not attempt to interfere in their legal systems.</p>
<p>The Committee, conscious of evaluation procedures in a climate of confidence, would emphasise that any reporting system should be distinct from disciplinary systems and procedures applicable to medical, paramedical, administrative or service staff.</p>	<p>The Commission accepts this view but would argue that the text it proposed already addresses this point sufficiently.</p>
<p>Mindful of the need for patients to be properly informed on risk and safety levels, the Committee would call for welcome booklets to be produced, highlighting recommendations on good hygiene practice and the measures taken.</p>	<p>The Commission accepts this view but would argue that the text it proposed at Annex II, Section 2 (1) (e) already addresses this point sufficiently..</p>
<p>Given that the cornerstone of any prevention strategy is fostering the education and training of staff involved in patient safety, the Committee thinks that the training of staff specialised in the field of hygiene would be consolidated by better defining the content of the training received by doctors, nurses and all other hospital staff.</p>	<p>The Commission accepts this view - indeed there is a need for education and training for <i>all</i> healthcare staff, as well as specialised education and training for infection control staff – but would argue that the text it proposed at Annex II, Section 2 (1) (d) already addresses this point sufficiently.</p>

<p>The Committee would stress the need for health professionals to be receptive to comments by patients and/or their relatives in respect of their failure to comply with hygiene procedures. In tandem with raising patient awareness of hospital hygiene rules, health professionals should also be made aware of the need to listen to and take on board the comments and wishes of patients and their relatives.</p>	<p>The Commission accepts this view. Behavioural changes to comply with hygiene procedures can be achieved through education and training of healthcare staff, as well as through putting in place the necessary organisational structures. Patient should feel empowered to play an active role in the prevention and control of HCAs through monitoring that hygiene practices are upheld in the care they receive.</p> <p>The Commission will communicate its support for this within the framework of its negotiations with the Council.</p>
<p>The Committee believes that curbing HCAI also requires:</p> <p>environment monitoring by a bio-hygienist technician, focused on air treatment, water monitoring, disinfecting materials and the microbiological aspect of surfaces;</p> <p>strict compliance with the hand-hygiene procedures by healthcare providers, patients and their visitors;</p> <p>monitoring of the catering aspect of healthcare facilities, with microbiological tests to check the conformity of supplies and prepared products, cold and hot chains, food processing and disposal systems, and the hygiene practices of kitchen and food service staff;</p> <p>close monitoring of cleanliness of hospital, surgery and treatment premises which may require a regular change of cleaning products;</p>	<p>The Commission accepts these principles, although these detailed actions are in a broad sense covered by Annex II, Section 2 (1) (a) <i>'Implementing standard and risk-based infection prevention and control measures in all healthcare settings'</i>. More detailed infection prevention and control recommendations covering these aspects will be developed in the form of guidance by ECDC</p> <p>The Commission will communicate its support for this within the framework of its negotiations with the Council.</p>
<p>very close monitoring of hot and cold water supplies and water that has been treated for medical use.</p>	

<p>The Committee regrets that the Commission recommendation does not make sufficient reference to the obligation to analyse adverse events. A certain number of systems, such as the morbidity-mortality review, could improve healthcare safety if implemented regularly.</p>	<p>The Commission accepts this view that the need to analyse adverse events could be made clearer.</p> <p>The Commission will communicate its support for this within the framework of its negotiations with the Council.</p>
<p>The Committee deems the exchange of information – based on observations and good practice implemented in the framework of Commission-Member State coordination – a suitable means of classifying, codifying or even standardising certain practices; moreover, this could help establish benchmarks that could be extremely useful in the construction or renovation of healthcare facilities.</p>	<p>The Commission accepts this view that EU cooperation could possibly be used to allow benchmarking that could drive healthcare systems improvement.</p> <p>The Commission will communicate its support for this within the framework of its negotiations with the Council.</p>
<p>The Committee notes that the Commission has called on the Member States to establish an inter-sectoral mechanism within one year of the adoption of the recommendation, and will check to see if this is carried out.</p>	<p>The Commission does not have a problem with this. In <i>'PART II: REPORT BY THE COMMISSION'</i>, the Commission proposes to monitor the progress of implementation of the Council Recommendation (if adopted) on the basis of information provided by the Member States.</p>

<p>56. Green Paper – Migration & Mobility COM (2008) 423 final –EESC 344/2009 - February 2009 Rapporteur: Mr SOARES (Work./PT) DG EAC – Mr FIGEL'</p>	
<p>Main point of the EESC Opinion</p>	<p>Commission Position</p>
<p>3.4.2. Encourage the Member States to use the Open Method of Coordination to help collate and disseminate good practice and support pioneering initiatives.</p>	<p>The proposed Updated strategic framework for European cooperation in education and training (COM (2008) 865) identifies equity and active citizenship as a long-term strategic challenge to be addressed in the years to 2020. The facilitation of peer learning on best practice in the education of the</p>

	children with a migrant background is proposed as a short-term priority theme to be highlighted in the work within the Open Method of Coordination for 2009-2010.
3.5.1/3.5.4. Directive 77/486 should be substantially amended and should not only consider issues surrounding language, but also address the integration of children and young people into education systems in a more comprehensive and consistent manner.	In the light of the analysis of the consultation launched by the Green Paper, the Commission will consider the content of the Directive 77/486/EEC and will reflect on whether to retain, repeal or amend it.

59. Proposal for a Council directive amending Directives 92/79/EEC, 92/80/EEC and 95/59/EC on the structure and rates of excise duty applied on manufactured tobacco COM(2008) 459 final – EESC 635/2009 - March 2009 Rapporteur: Mr CHREN (Var. Int./SK) DG TAXUD -Mr KÓVÁCS	
Main points of the EESC Opinion	Commission Position
Conclusion 1.4: The EESC endorses the approach of the European Commission, which gives more freedom to the Member States in adopting decisions in line with their own policy goals, such as wider range for the specific part of the tax burden levied on cigarettes, or more generous rules for setting minimum tax floor for cigarettes.	The Commission welcomes this conclusion.

<p>Conclusion 1.5: The EESC recommends that the proposed 90€ minimum excise should be reduced or the 4 year period should be extended to 8 years (1 January 2018). Considering different traditions and social differences among Member States, it has to be noted that in some countries, especially in those that joined the EU just recently, the raising of minimum excise duty from 64€ to 90€ per 1000 cigarettes could bring several negative consequences. Some of these countries still did not reach even the level of minimum excise duty as required by the current directives.</p>	<p>To the extent, this conclusion can be understood as referring to smuggling and similar illegal activities originating in third countries, those problems should be tackled primarily by reinforcing border controls. Moreover, attenuating the proposed increases (through the choice of lower minimum amounts or longer transitional periods) would not change the position of a number of high taxing Member States, representing large markets and which are already today more and more affected by the said illegal activities, although they do not share borders with third countries,</p> <p>Also, the changes of the proposed increases, suggested through conclusion 1.5, would weaken the intended internal market effects, of limiting cross-border shopping and smuggling within the Community.</p>
<p>The 90€ minimum excise duty for all retail prices constitutes an increase of 41% in a period of 4 years and is at least 300% higher than the expected consumer prices increase in the EU. There is a chance that such a radical step would negligibly reduce consumption, reduce potential budget revenue, reduce consumers' purchasing power, empower smuggling and illegal activities and increase inflation.</p>	<p>As concerns the consumers' purchasing power, the Commission proposal is accompanied by an impact assessment of the proposed increases in rates. This impact assessment concludes that, except for BG and RO, cigarettes would not become more expensive in terms of local purchasing power in the new Member states as compared to the EU-15.</p> <p>As concerns inflation the relative weight of expenditure on cigarettes in the global price index should not be overestimated and the overall impact will in general be quite limited, especially since it is spread over periods of 5 years and more.</p>

<p>Conclusion 1.6: It has to be noted that few of the proposed actions will lead to a closer harmonisation of tax rates within the European Union. It is very likely that, given the proposed actions, the absolute and relative differences in taxation among Member States will not disappear.</p>	<p>The Commission cannot agree with this statement and refers to the Impact assessment which accompanies the proposal.</p>
<p>Conclusion 1.7: The proposed increasing of the minimum excise incidence from 57% to 63% would lead to further divergence of excise duties in absolute terms and could have serious inflationary impacts, as is shown in the Commission Impact Assessment. Given the effects of this proportional minimum requirement, not only its proposed increase, but the reasons for its very existence should be again analyzed and reconsidered.</p>	<p>High taxing Member States benefit from an "escape clause" and do not have to increase further their rates. This is already the case under the current legislation and the proposal maintains this clause. Therefore the proposed increase would not lead to further divergence.</p>
<p>Conclusion 1.8: The replacement of the Most Popular Price Category (MPPC) with weighted price average (WAP) as a benchmark for proportional minimum requirement would hardly lead to more transparency on the market, neither to better predictability of the government revenues, nor to more harmonisation on the cigarettes market. Therefore, the question whether the Commission's proposal could not be further simplified, arises.</p>	<p>National markets are no longer dominated by one most popular brand. Therefore the concept of the "most popular price category" should be abandoned in favour of a "weighted average price of all cigarettes" for determining the tax base. Weighted average prices reflect the whole market, are more predictable and are a better benchmark to set minimum requirements.</p>
<p>Conclusion 1.9: The issue of the best type of tax levied on tobacco products still remains open. The emphasis on the proportional tax rate may have positive effects on eliminating the black market, however, this effect depends on various factors, and thus is not unequivocal.</p> <p>The preference of the purely specific tax rate may help achieving higher tax revenues and lead to a higher minimum tax floor to assist towards health policy goals and tax approximation within the Internal Market.</p>	<p>The proposal provides more flexibility to Member States to apply specific duties, however is up to the Member States to choose the best type of tax in function of their objectives.</p>

<p>Conclusion 1.10: The requirement of a mandatory minimum excise tax incidence (of 38% and 42% respectively) for all fine-cut tobacco, instead of current minimum tax set either as a percentage of the retail selling price or as a fixed rate per kilogram would result in a mandatory ad valorem excise duty structure and abolish the current freedom of structure for fine-cut tobacco, and thus can not be recommended.</p>	<p>It proposed to align partly the minimum rates for fine-cut tobacco to the minimum rate for cigarettes is proposed.</p> <p>Member States can comply with the proposed minimum requirements either by applying either an ad valorem excise duty or a specific excise duty or both (a mixed structure). Consequently the current freedom to choose between different tax structures for fine-cut tobacco is maintained.</p>
<p>Conclusion 1.11: The linkage between tax and health policy is, to a large extend, conditioned by linking the tobacco excise tax revenues to activities aimed on elimination of the negative consequences of tobacco consumption. However, given the total funding of such activities today, it is quite clear that most of the tobacco excise duty revenues is being spent on activities and policies with no connection to such health policy goals. It is thus quite clear that the fiscal goals are still the primary objectives of the excise duties on tobacco products.</p>	<p>The proposal aims to contribute to creating a high level of health protection by increasing minimum taxes on cigarettes in particular, bearing in mind that higher prices lead to lower consumption. Member States remain free to compound this effect by allocating the tobacco excise tax revenues to activities aimed at tobacco control.</p>

<p>60. Une politique commune de migration pour l'Europe COM (2008) 359 final – CESE 324/2009 - Février 2009 Rapporteur: M. PARIZA CASTAÑOS (Trav./ES) DG JLS – M. BARROT</p>	
Points de l'avis du CESE estimés essentiels	Position de la Commission
<p>1.1 Le CESE a suggéré, pour la politique de l'immigration, que le Conseil de l'Union européenne abandonne la règle de l'unanimité et adopte ses décisions à la majorité qualifiée. De même, il a proposé la codécision du Parlement et préconisé que le traité de Lisbonne inclue l'immigration dans la procédure ordinaire. Compte tenu des</p>	<p>La Commission partage l'avis du CESE et considère en particulier que l'abandon de la règle de l'unanimité et la codécision sont des éléments importants pour le développement d'une politique d'immigration légale plus cohérente, ambitieuse et efficace.</p>

<p>circonstances actuelles qui peuvent retarder l'approbation du traité de Lisbonne, le Comité propose à nouveau que le Conseil adopte la procédure passerelle pour faire avancer l'entrée en vigueur du système de majorité qualifiée et de codécision.</p>	
<p>1.4 Plusieurs années se sont écoulées depuis la proposition de la Commission d'instaurer une méthode ouverte de coordination (MOC), qui a été approuvée par le CESE² et le Parlement, mais pas par le Conseil. Le CESE souscrit à la proposition de la Commission relative à une méthodologie commune, mais estime que ce n'est qu'un premier pas vers la création d'une méthode ouverte de coordination. Le Comité estime que les principes communs doivent devenir des indicateurs objectifs communs à intégrer dans les "profils nationaux d'immigration". Chaque État membre élaborera un rapport annuel et la Commission rédigera un rapport annuel de synthèse qu'elle transmettra au Parlement. Le CESE estime qu'il devrait également être consulté. Sur la base du rapport de Commission, le Conseil européen de printemps procédera à une évaluation politique et formulera des recommandations.</p> <p>1.5 Les partenaires sociaux, les organisations de la société civile et les Parlements nationaux devront participer à l'élaboration du rapport annuel de chaque État membre, conformément aux procédures nationales respectives. Le CESE souligne la nécessité d'assurer la publicité et la promotion de ces rapports annuels et d'y sensibiliser les citoyens.</p>	<p>Le Pacte européen sur l'immigration et l'asile a invité la Commission à proposer une méthode de suivi de sa mise en œuvre. Aussi, la Commission va présenter en juin une Communication qui décrit la méthode qui sera à la base de l'élaboration d'un rapport annuel sur la mise en œuvre du Pacte. Ce rapport de la Commission servira de base à un débat annuel au Conseil Européen (à partir de 2010). Il pourra être accompagné de recommandations.</p>
<p>4.2 Néanmoins, le CESE relève l'absence de principes dérivés des droits fondamentaux. Étant donné que la politique et la législation de l'immigration (admission, frontières, visas, retour, conditions de séjour etc.) de l'UE et de</p>	<p>Dans sa Communication, la Commission fait expressément référence aux droits fondamentaux et indique que <i>"cette politique doit reposer sur les valeurs universelles de dignité humaine, de liberté,</i></p>

<p>ses États membres doivent respecter la dignité humaine et les droits fondamentaux, le CESE propose d'ajouter une nouvelle section intitulée: "Droits de l'homme", qui inclurait deux nouveaux principes: <i>[Droits fondamentaux et Etat de droit et libertés fondamentales]</i></p>	<p><i>d'égalité et de solidarité défendues par l'UE, et notamment le respect intégral de la charte des droits fondamentaux et de la convention européenne de sauvegarde des droits de l'homme".</i> Avec cette référence explicite dans l'introduction, une section séparée n'est pas nécessaire car il va alors de soi que le respect des droits fondamentaux sous-tend toute la politique commune d'immigration.</p>
<p>5.17 Il existe actuellement un réseau national de points de contact sur l'intégration, placé sous la coordination de la Commission et qui s'avère être une expérience très positive. Le CESE souligne l'importance de l'échange et de l'analyse de l'expérience et des bonnes pratiques des États membres ainsi que de la mise en œuvre par le Conseil de la Méthode ouverte de coordination. Cela implique de développer des indicateurs communs et des systèmes statistiques appropriés que les États membres devront utiliser pour évaluer les résultats des politiques d'intégration.</p>	<p>La Commission a rappelé à plusieurs reprises dans sa communication sur la politique commune en matière d'immigration l'importance qu'elle accordait aux évaluations et aux indicateurs. Ceux-ci ont également été mis en avant dans son rapport pour la Conférence ministérielle de Vichy des 3-4 novembre 2008 portant sur le renforcement des actions et des outils pour relever les défis de l'intégration.</p> <p>De plus, la Commission réfléchit à la possibilité de réaffirmer l'importance des indicateurs et des évaluations dans son futur programme de Stockholm.</p>
<p>5.23 Le CESE a fait valoir dans différents avis qu'il y avait lieu de modifier la directive 2003/86/CE relative au droit au regroupement familial, celle-ci étant très restrictive, ne respectant pas les droits fondamentaux et constituant un obstacle à l'intégration.</p>	<p>En octobre 2008, la Commission a présenté son rapport sur l'application de la directive 2003/86/CE (COM(2008)610 final) dans lequel elle a indiqué que la transposition de cette directive n'avait pas toujours été bien réalisée. A la suite de ce rapport, elle va publier avant la fin de l'année un Livre Vert lançant une large consultation afin de soulever les questions pour lesquelles la directive dans sa forme actuelle ne donne pas une réponse suffisamment précise.</p>

<p>5.24 Il faut également mettre en place avant mars 2009 le Forum européen de l'intégration, comme l'a proposé le CESE, proposition qui a été soutenue lors de la Conférence préparatoire d'avril 2008. Les États membres doivent faciliter la participation des membres du forum.</p>	<p>Le Forum européen pour l'intégration, ainsi que le site internet sur l'intégration ont été lancés le 20 avril 2009. Ils seront des plateformes transnationales pour l'échange d'informations et de bonnes pratiques et participeront à une meilleure implication de la société civile dans l'élaboration des politiques en matière d'intégration. La Commission se réjouit que le Forum soit organisé en coopération étroite avec le CESE.</p>
<p>5.36 Il faut limiter la fuite des cerveaux, améliorer la formation et l'éducation, renforcer les marchés du travail locaux, promouvoir un travail décent et optimiser le rôle des transferts d'argent afin d'éviter ainsi l'immigration irrégulière.</p> <p>5.37 L'on pourrait établir, avec les États membres intéressés, des "partenariats de mobilité" avec les pays tiers qui permettraient l'immigration légale de leurs citoyens en Europe.</p> <p>5.38 Il faudrait prévoir des systèmes d'immigration circulaire au moyen de mesures légales et opérationnelles qui octroieraient aux immigrants en situation régulière un droit d'accès prioritaire à un futur séjour régulier dans l'UE.</p>	<p>Le développement de l'Approche Globale des migrations vise à prendre en compte tous les éléments qui composent le phénomène migratoire et en particulier le développement des pays d'origine.</p> <p>La Commission est donc active dans cette voie. Des partenariats pour la mobilité ont déjà été signés avec Cap Vert et la Moldavie par exemple et cette pratique sera bientôt évalué et étendue à d'autre pays.</p>

<p>5.43 Le CESE demande à la Commission si elle dispose de données suffisantes pour évaluer l'impact de la politique des visas sur la réduction de l'immigration irrégulière. L'exigence du visa de courte durée pour les citoyens de certains pays tiers peut réduire l'immigration irrégulière en provenance de ceux-ci mais peut aussi accroître le nombre de personnes victimes des réseaux de trafic et de traite des êtres humains. En outre, la politique des visas peut conduire à des limitations à caractère discriminatoire de la mobilité des personnes, raison pour laquelle il faut que les autorités consulaires adoptent une gestion appropriée, transparente et rapide et de nature à éliminer la corruption.</p>	<p>Le Pacte européen sur l'immigration et l'asile appelle les Etats membres à renforcer la coopération entre leurs consulats et à créer des services consulaires communs pour les visas.</p> <p>De plus, dans sa communication du 13 février 2008 (COM(2008)69 final), la Commission a ouvert le débat sur un système d'entrée/sortie qui permettrait d'obtenir une meilleure vue d'ensemble des ressortissants de pays tiers qui entrent dans l'espace Schengen et qui en sortent, ainsi que sur un système d'enregistrement des voyageurs permettant de faciliter et d'accélérer les déplacements des voyageurs fréquents originaires de pays tiers ayant passé avec succès un examen préalable.</p>
<p>5.51 Le CESE souhaite que l'efficacité du contrôle des frontières ne soit pas exclusive du respect du droit d'asile, car de nombreuses personnes qui ont besoin d'une protection internationale arrivent aux frontières extérieures par des canaux clandestins. Le Comité adoptera un autre avis sur le système européen commun d'asile.</p>	<p>La Commission partage l'avis du CESE et indique que le Pacte européen sur l'immigration et l'asile reprend ces éléments et demande aux Etats membres de former leurs gardes frontières aux modalités de la protection internationale.</p>
<p>5.62 La Commission propose de conférer une dimension européenne aux politiques de retour et de garantir la reconnaissance mutuelle des décisions en la matière. Dans son avis, le Comité a estimé qu'une reconnaissance mutuelle des décisions en matière de retour, dans le respect des garanties des droits fondamentaux de l'État de droit, est très problématique tant que l'on ne dispose pas d'une législation commune en matière d'immigration et d'asile.</p>	<p>La Commission rappelle que le Conseil et le Parlement ont adopté la directive "retour" en décembre 2008 (2008/115/CE). Cette directive harmonise les politiques de retour au niveau européen et doit être transposée avant le mois de décembre 2010. Une fois transposée, cette directive améliorera les reconnaissances mutuelles des décisions de retour des Etats membres.</p>

5.65 Il faut s'assurer que les pays d'origine réadmettent leurs ressortissants, ce à quoi les obligent les conventions internationales. Il convient également d'évaluer les accords de réadmission existants en vue d'améliorer leur application et de faciliter la négociation d'accords futurs.	La Commission rejoint le CESE sur ce point et travaille à l'évaluation des accords précédents ainsi qu'à développer de nouveaux accords de réadmission pour permettre le retour des ressortissants de pays en tiers en séjour irrégulier dans de bonnes conditions.
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62. L'instrument européen pour la démocratie et les droits de l'Homme (IEDDH) Own-initiative Opinion – EESC 53/2009 – January 2009 Rapporteur: Mr IULIANO (Work./IT) DG RELEX - Mrs FERRERO-WALDNER	
Main points of the EESC Opinion	Commission Position
Point 4.1. To give greater prominence to the protection of economic, social and cultural rights, especially the international right to work	The Commission will emphasize the importance of this point in the formulation of the new EIDHR Strategy Paper 2011-2013.
Point 5.4. To regularly consult EESC	In addition to the existing working relations, the Commission is ready to develop such relations with the Committee which the EESC is proposing to set up.

63. Transatlantic Relations: How to improve the participation of civil society Own-initiative Opinion – EESC 640/2009 – March 2009 Rapporteur: Ms Carr (Work./EE) Co-Rapporteur: Mr KRAWCZYK (Empl./PL) DG RELEX - Mrs FERRERO-WALDNER	
Main Points of the EESC Opinion	Commission Position
1.7 The Transatlantic Economic Council has important work to do in the near future:	The Commission shares the view that protectionism cannot be an answer to the current economic crisis. During the G-20

<ul style="list-style-type: none"> ▪ The resort to protectionism exacerbated the Great Depression of the 1930s. The TEC will need to play a role in monitoring protectionist tendencies, in Europe, the United States and around the world. 	<p>London summit, participants agreed that the WTO will be informed about any protectionist measures and called on the WTO <i>“together with other international bodies (...) to monitor and report publicly on our adherence to these undertakings on a quarterly basis”</i></p> <p>The role of the TEC is to work towards achieving transatlantic economic integration by enhancing regulatory cooperation between the EU and the US and reducing non-tariff barriers in transatlantic trade and investment. As such, the Commission will seek, where appropriate, to put on the agenda of the TEC in a timely manner issues relevant to supporting the G-20 process and management of the ongoing economic crisis.</p>
<p>1.11 The EESC strongly recommends setting up funding mechanisms for the Transatlantic dialogues (TABD, TACD, TALD and TAED), and including the TALD and TAED into the Group of Advisors for the TEC.</p>	<p>The Commission is open to the idea of drawing in stakeholders from other subject areas (e.g. labour or environment), but stakeholders should have internal mechanisms in place that allow them to develop joint recommendations. The advisors group as now organised draws on those transatlantic dialogues which are currently active. The group of advisers to the TEC can be modified by the EU-US Summit.</p> <p>With regard to funding, the Commission would like to recall that its grant funding is allocated on a competitive basis and that the Commission does not generally give operating grants. Instead, active transatlantic dialogues may apply for funding under our regular Calls for Proposals. Indeed, in the recent call N° RELEX C1/2008/TD an environmental dialogue project on climate change and security was selected (http://www.iiss.org/programmes/transatlant</p>

	ic-dialogue-on-climate-change-and-security/). The next call will be published in 2010.
<p>6.1 The Transatlantic Dialogues established in the second half of the 1990s have been unequally active and unequally involved in the EU-US cooperation structures, especially in the EU-US Summits, which had a unilateral focus on Transatlantic Business Dialogue (TABD). Furthermore, the Group of Advisors for the Transatlantic Economic Council only includes the TABD, the Transatlantic Consumer Dialogue (TACD) and the Transatlantic Legislators Dialogue (TLD). The two other dialogues – the Transatlantic Labour Dialogue (TALD) and the Transatlantic Environment Dialogue (TAED) were excluded without consultation with the stakeholders involved.</p>	<p>The Commission believes that this part of the EESC opinion gives an incorrect impression that the Commission or the US unilaterally “suspended” labour and environmental dialogues. The Commission would like to reiterate that as long as stakeholders have internal mechanisms in place that allow them to develop joint recommendations, their involvement in the TEC process could be considered.</p> <p>Furthermore, in 2007 at the time when the TEC was being established, only three transatlantic dialogues were actively functioning. For that reason, and because the enlargement of the TEC advisers group requires endorsement by both the EU and the US, TAED and TALD are not currently part of the TEC advisers group.</p>
<p>6.2 In this context the European Parliament in its resolution of 8 May 2008 on the Transatlantic Economic Council called for the chairs of the TALD and the TAED to be included in the Group of Advisers. The EESC strongly supports this call by the European Parliament and calls on the TEC to revise its Working Arrangements, which were adopted by the TEC co-Chairs in Berlin on 28 June 2007.</p>	<p>As already said above, with regard to the involvement of stakeholders in the TEC process, currently three transatlantic dialogues act as formal advisers to the TEC – TABD, TACD and TLD – where each dialogue speaks with one voice. The Commission is open to the idea of drawing in stakeholders from other subject areas (e.g. labour or environment), but stakeholders should have internal mechanisms in place that allow them to develop joint recommendations. The advisers group as now organised draws on those transatlantic dialogues which are currently active.</p>

<p>6.9 The EESC calls on the European Commission to organise, in the near future, a meeting with all stakeholders involved in transatlantic relations in order to take stock of the new situation and to exchange views and to co-ordinate actions on the new initiatives to be taken. The EESC offers active involvement in such an initiative as far as participation of civil society is concerned.</p>	<p>The Commission is strongly committed to conducting a transparent and open policy-making process. Therefore, stakeholders, or the EU bodies, are always encouraged to get involved in preparation of the TEC agenda or Commission's communications (e.g. the stakeholder consultation held in the context of the Commission's 2005 Communication on a stronger EU-US Partnership and a more Open Market for the 21st century).</p>
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PARTIE C: avis faisant l'objet d'un autre type de réponse

Avis pour lesquels, en l'état, la Commission n'est pas en mesure de formuler des remarques

**52. Livre vert sur la cohésion territoriale
COM (2008) 616 final –Mars 2009
Rapporteur: M. OLSSON (Act. Div./ES)
DG REGIO et EMPL – Mme HÜBNER et M. SPIDLA**

La Commission ne souhaite pas donner de suite à cet avis.

**58. Proposition de directive du Conseil modifiant la directive 2006/112/CE en ce qui concerne les taux réduits de taxe sur la valeur ajoutée
COM (2008) 428 final –CESE 347/2009 - Février 2009
Rapporteur: M. SANTILLÁN CABEZA (Trav./ES)
DG TAXUD – M. KOVÁCS**

La Commission prend note de l'avis favorable du CESE et estime qu'aucun suivi ne sera nécessaire car le Conseil a déjà adopté la proposition.