

**THE COMMISSION'S RESPONSE TO OPINIONS OF THE**  
**EUROPEAN ECONOMIC AND SOCIAL COMMITTEE**  
**DELIVERED IN THE SECOND QUARTER OF 2005**

**(April, May and June 2005)**

## CONTENTS

### PART A : Exploratory Opinions<sup>1</sup>

| No                          | TITLE   | REFERENCES     | DG RESP. | P. |
|-----------------------------|---|----------------|----------|----|
| 31.<br>4th<br>quarter<br>04 | The environment as an economic opportunity  | EESC 1446/2004 | ENV      | 6  |
| 1.                          | The role of sustainable development within the forthcoming financial perspectives | EESC 528/2005  | S.G.     | 8  |
| 33.                         | Mode 4 negotiations (movement of physical persons)                                | EESC 695/2005  | TRADE    | 10 |

### PART B: Opinions giving rise to a substantive response

| No                          | TITLE   | REFERENCES                              | DG RESP. | P. |
|-----------------------------|---|---|----------|----|
| 36.<br>4th<br>quarter<br>04 | Guidelines for EU policy to support research                        | COM(2004) 353 final<br>EESC 1647/2004   | RDT      | 13 |
| 2.                          | Dangerous substances – CMR  | COM(2004) 638 final<br>EESC 378/2005    | ENTR     | 18 |
| 7.                          | Medicinal products for paediatric use                               | COM(2004) 599 final<br>EESC 525/2005    | ENTR     | 19 |
| 8.                          | Industrial change in the mechanical engineering sector              | Own-initiative Opinion<br>EESC 526/2005 | ENTR     | 24 |
| 9.                          | Community Programme for Employment and Social Solidarity – PROGRESS | COM(2004) 488 final<br>EESC 386/2005    | EMPL     | 25 |
| 11.                         | Organisation of working time  | COM(2004) 607 final<br>EESC 527/2005    | EMPL     | 27 |
| 12.                         | Integrated guidelines for growth and jobs                           | COM(2005) 141 final<br>EESC 675/2005    | EMPL     | 29 |

<sup>1</sup> The numbers in the left-hand column correspond to the numbers on the contribution request list (note SC(2005) 32 of 28 June).

|     |  |                                      |                |    |
|-----|--|--------------------------------------|----------------|----|
| 13  | Managing economic migration (Green Paper)          | COM(2004) 811 final<br>EESC 694/2005 | EMPL<br>JLS    | 30 |
| 16. | Supervision/control of radioactive waste shipments | COM(2004) 716 final<br>EESC 696/2005 | TREN           | 33 |
| 17  | European Pollutant Register                        | COM(2004) 634 final<br>EESC 383/2005 | ENV            | 35 |
| 18. | Financial Instrument for the Environment (LIFE+)   | COM(2004) 621 final<br>EESC 382/2005 | ENV            | 36 |
| 19. | European Fisheries Fund                            | COM(2004) 497 final<br>EESC 532/2005 | FISH           | 38 |
| 22. | Legal protection of designs                        | COM(2004) 582 final<br>EESC 691/2005 | MARKT          | 45 |
| 23. | Pharmaceutical product patents                     | COM(2004) 737 final<br>EESC 689/2005 | MARKT<br>TRADE | 46 |
| 24. | Funds (General provisions)                         | COM(2004) 492 final<br>EESC 389/2005 | REGIO          | 49 |
| 25. | Cohesion Fund                                      | COM(2004) 494 final<br>EESC 390/2005 | REGIO          | 52 |
| 26. | European Regional Development Fund                 | COM(2004) 495 final<br>EESC 391/2005 | REGIO          | 54 |
| 30. | Simplifying and modernising VAT obligations        | COM(2004) 728 final<br>EESC 531/2005 | TAXUD          | 56 |
| 31. | Food additives other than colours and sweeteners   | COM(2004) 650 final<br>EESC 384/2005 | SANCO          | 57 |
| 35. | Communities' own resources system                  | COM(2004) 501 final<br>EESC 533/2005 | BUDG           | 58 |

## **PARTIE C: Opinions calling for a different type of response**

### **a) Agreement between the Commission and the EESC**

| <b>No</b>                               | <b>TITLE</b>   | <b>REFERENCES</b>                       | <b>DG RESP.</b> | <b>P.</b> |
|---|--|---|-----------------|-----------|
| 50.<br>4 <sup>th</sup><br>quarter<br>04 | Administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO programme) | COM(2004) 384 final<br>EESC 1436/2004   | JLS             | 60        |
| 34.                                     | EU-India relations   | Own-initiative Opinion<br>EESC 530/2005 | RELEX           | 61        |

### **b) Opinions on which the Commission has made certain comments**

| <b>No</b>                               | <b>TITLE</b>   | <b>REFERENCES</b>                        | <b>DG RESP.</b> | <b>P.</b> |
|---|--|--|-----------------|-----------|
| 11.<br>4 <sup>th</sup><br>quarter<br>04 | Framework for State aid – public services  | Own-initiative Opinion<br>EESC 1632/2004 | COMP            | 61        |
| 54.<br>4 <sup>th</sup><br>quarter<br>04 | A more efficient common European asylum system : the single procedure as the next step | COM (2004) 503 final<br>EESC 1644/2004   | JLS             | 63        |
| 6.<br>1st<br>quarter                    | XXXIIIrd Report on Competition Policy (2003)   | SEC (2004) 658 final -<br>EESC 143/2005  | COMP            | 65        |
| 3.                                      | Nominal quantities for pre-packed products   | COM(2004) 708 final<br>EESC 379/2005     | ENTR            | 68        |
| 6.                                      | Tourism policy in the enlarged EU  | Own-initiative Opinion<br>EESC 375/2005  | ENTR            | 70        |
| 10.                                     | The role of civil society in helping to prevent undeclared work                        | Own-initiative Opinion<br>EESC 385/2005  | EMPL            | 72        |
| 20.                                     | Priorities of the Single Market - 2005-2010  | Own-initiative Opinion<br>EESC 376/2005  | MARKT           | 73        |
| 27.                                     | European grouping of cross-border cooperation (EGCC)                                   | COM(2004) 496 final<br>EESC 388/2005     | REGIO           | 75        |
| 32.                                     | Mediation in civil and commercial matters  | COM (2004) 718 final<br>EESC 688/2005    | JLS             | 76        |

**c) Opinions on which the Commission is not yet in a position to comment**

| <b>No</b>                               | <b>TITLE</b>  | <b>REFERENCES</b>                        | <b>DG RESP.</b> | <b>P.</b> |
|---|---|--|-----------------|-----------|
| 20.<br>4 <sup>th</sup><br>quarter<br>04 | Coexistence between genetically modified crops, and conventional and organic crops                  | Own-initiative Opinion<br>EESC 1656/2004 | AGRI            | 78        |
| 4.                                      | Business-to-business electronic markets (Communication)   | COM(2004) 479 final<br>EESC 377/2005     | ENTR            | 78        |
| 5.                                      | European industrial districts and the new knowledge networks  | Own-initiative Opinion<br>EESC 374/2005  | ENTR            | 78        |
| 14.                                     | Information and measurement instruments for Corporate Social Responsibility in a globalised economy | Own-initiative Opinion<br>EESC 692/2005  | EMPL            | 78        |
| 15.                                     | The large retail sector – trends and impacts on farmers and consumers                               | Own-initiative Opinion<br>EESC 381/2005  | ENTR            | 79        |
| 21.                                     | Money laundering  | COM(2004) 448 final<br>EESC 529/2005     | MARKT           | 79        |
| 28.                                     | Programme of support for the European audiovisual sector (MEDIA 2007)                               | COM(2004) 470 final<br>EESC 380/2005     | INFSO           | 79        |
| 29.                                     | Quality assurance in higher education   | COM(2004) 642 final<br>EESC 387/2005     | EAC             | 79        |

**A. EXPLORATORY OPINIONS**

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| <p><b>31. The environment as an economic opportunity</b><br/> <b>4<sup>th</sup> EESC 1446/2004 – October 2004</b><br/> <b>quarter DG ENV – Mr DIMAS</b><br/> <b>04</b></p>   |  |  |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>  |  |
| <p>Summary of the debate concerning the part to be played by the environment in the Lisbon Strategy, in terms of whether consideration of the environment hinders or helps economic development.</p>   | <p>The Commission has taken a clear stance in this debate, addressing environmental aspects (especially eco-innovation) in its Communication to the spring European Council ‘A new start for the Lisbon Strategy’ (COM(2005) 24 final). The spring 2005 European Council endorsed this approach and was strongly in favour of eco-innovation and environmental technology (Presidency conclusions, paragraph 19).</p>  |  |
| <p>The EESC points out that certain economic sectors are dependent on the environment, and that the combined challenges of climate change and emerging economies have to be addressed. It draws attention both to industrial production and to the agriculture, transport and energy sectors. It calls for vocational training and dialogue on both the economic and social fronts to prepare for the necessary changes.</p> | <p>The Commission agrees broadly with the EESC’s analysis, particularly as regards the key sectors of activity. The conclusions of the spring 2005 European Council also highlight energy and transport as two areas in which eco-innovation should be encouraged.</p> <p>The Environmental Technologies Action Plan (COM(2004) 38 final) includes targeted training measures for those involved in technical development, as well as dialogue with economic and social stakeholders, e.g. through the European Panel on Environmental Technologies.</p> |  |
| <p>The EESC identifies several types of environmental technologies, according to the extent of innovation and integration in production processes. Support must be given to the different types of environmental technologies, taking into account their full life cycle and the market conditions for their development.</p>  | <p>The EESC’s analysis reflects the Commission’s approach within the Environmental Technologies Action Plan, aiming inter alia to improve market conditions by making long-term economic choices easier, e.g. by setting long-term performance targets for some key products, services and processes.</p>  |  |
| <p>The EESC underlines the fact that</p>   | <p>The impact studies undertaken by the</p>  |  |

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| <p>companies are becoming more aware of sustainable development as an asset in global competition, especially in sectors which are dependent on the environment, like tourism.</p> <p>It points to the importance of legislation, since environmental awareness among consumers is not sufficient to achieve a reorientation of the market, and urges compliance with the proportionality rule. The automotive sector is an example of environment-friendly technological development imposed by legislation. To be economically viable, environmental technologies have to be adopted in mass production.</p> | <p>Commission ahead of its proposals adhere strictly to the principles of proportionality and cost-effectiveness.</p>  |
| <p>The EESC calls for good practices in eco-innovation to be given prominence and for the development of a proper network for the exchange of information on environmental technologies involving the different stakeholders. Clients and consumers have to be mobilised just as much as the professionals.</p>  | <p>The Commission, particularly in the implementation of the Environmental Technologies Action Plan, will consider how best to improve the exchange of information and good practices in this sector, and how to mobilise the end-users of environmental technologies. The web portal, set up by the European Environment Agency with a list of databases in this field, constitutes a starting point.</p> |

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| <p><b>1. The role of sustainable development within the forthcoming financial perspectives</b><br/> <b>EESC 528/2005 – May 2005</b><br/> <b>SG - Mrs WALLSTRÖM</b></p>  |   |
| <p><b>Main points of the EESC Opinion</b></p>   | <p><b>Commission Position</b></p>   |
| <p>The EESC expects the importance of sustainable development to be reflected in the implementation of the budget in real terms, and not only by doing the same things in the same way under new headings. It is of utmost importance that the new financial perspectives clearly reflect the Lisbon goals and sustainable development. To this end, a significant restructuring of expenditure must take place irrespective of the level of own resources finally decided upon. If the financial perspectives do not direct EU development in the right direction, there is little hope that other policies or later financial adjustments will succeed in doing so.</p> | <p>Sustainable development was at the heart of the Commission communication on the Financial Perspectives of February 2004 (COM(2004) 101). Competitiveness, cohesion and the sustainable management and protection of natural resources were all brought under the framework of sustainable development. This was reflected by the Commission in the proposed structure of the next Financial Perspectives. It is indeed the case that the substance of action needs to reflect sustainable development goals. However, the form of the budget, within the structure of the Financial Perspectives, can also send an important message about the Union's priorities.</p> |
| <p>The EESC shares the view of the Commission in giving priority to growth and employment in the Lisbon perspective of the years up to 2010. However, competitiveness and economic growth are not final goals in themselves, but tools for promoting social and environmental goals. The priority areas of the sustainable development strategy as well as other areas with recognised unsustainable trends – climate change, transport, public health, natural resources, eradication of poverty, population ageing and dependence on fossil fuels – must be treated as priorities in budgetary policies as well.</p>  | <p>The Commission shares the view of the EESC that policy must tackle the key priorities for sustainable development, and that budgetary means are a key tool to this end. The best use of resources comes from effective prioritising and by organising policy delivery to maximum effect. This lies behind the proposed shift in the balance of the budget in favour of growth-oriented policies under the Lisbon strategy. It is also the goal of policy reform such as current CAP reforms and the use of cohesion spending to further the Lisbon strategy.</p>   |
| <p>A budget heading as such is mostly neither "sustainable" nor "unsustainable". The effects on sustainable development depend on the detailed design of programmes, objectives and criteria for projects to be financed. The key instrument for ensuring policy coherence with sustainable</p>   | <p>The Commission is committed to careful assessment of its initiatives. The use of impact assessments has now become standard practice for items under the Commission Work Programme, with an analysis of the economic, environmental and social</p>   |



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| <p>development goals is impact assessment on every single programme in the budget and the objectives, including criteria such as the impact of the project on the environment, health, creation or loss of jobs and EU competitiveness. In this context, support for unsustainable activities in particular should be stopped.</p>   | <p>impact of new proposals. Constant monitoring of implementation and evaluation of results is also essential.</p>  |
| <p>The EESC stresses the key role of knowledge, R&amp;D and new technology. By putting real emphasis on this and providing adequate resources, Europe has a unique chance to enhance productivity, competitiveness, growth and employment in the face of fierce competition from other parts of the globe, and also to ease the stress on the environment and natural resources by using more eco-efficient technological solutions to peoples' needs which safeguard health and security.</p> | <p>The Commission considers it essential that the EU budget make a real contribution to the investment needed to secure growth and jobs for the long term, particularly as regards investing in areas highlighted in the Lisbon strategy. An approach at the European level can deliver real added value, for example by stimulating Europe-wide research or tackling cross-border bottlenecks.</p> |

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| <p><b>33. General agreement on trade in services (GATS) – Mode 4 negotiations (movement of physical persons)</b><br/> <b>EESC 695/2005 - June 2005</b><br/> <b>DG TRADE – Mr Mandelson</b></p>   |   |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>   |
| <p>5.3 and 6.6 The Committee stresses the importance of extending to workers affected by Mode 4 the terms of the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up<sup>2</sup>, which in itself is a legal reference point.</p>  | <p>The EU already extends to workers affected by Mode 4 the terms of the said Declaration. The revised offer presented by the EU within the GATS negotiations provides that Community and national legislation and regulations governing work-related entry, residence and social security apply to workers entering the EU under Mode 4.</p>   |
| <p>6.2.1.1 Intra-Company Trainees category: the Committee thinks that the “training” nature of these relationships should be clearly defined to avoid the risk that they might be transformed into underpaid work in the service sector that would be in breach of national training regulations – whether in the form of legislation or collective agreements – or of international labour standards.</p> | <p>The Commission considers that this recommendation is already taken into account by the specific criteria indicated in the European Union’s offer, including the possibility of asking the company taking on the trainee to submit a training programme for prior approval.</p> <p>The training of graduate trainees must be geared to development of their career or instruction in techniques or methods of work. It is possible that host companies in the EU could be asked to submit a programme covering the training period, by way of preliminary approval, in order to prove that the person is there for training purposes.</p> |
| <p>6.2.5 1) The Committee considers that steps should be taken without delay to determine the applicability of the Directive on the posting of workers in the context of the GATS Mode 4 as regards the temporary movement of workers;</p>   | <p>The Commission wishes to make the following clarification: Mode 4 concerns the <i>temporary</i> presence in the EU of service suppliers contracted to provide a specific service, whereas the Directive on the posting of workers deals with the movement of workers already established in the EU. These are therefore two separate issues.</p>   |

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[http://www.ilo.org/dyn/declaris/DECLARATIONWEB.INDEXPAGE?var\\_language=EN](http://www.ilo.org/dyn/declaris/DECLARATIONWEB.INDEXPAGE?var_language=EN).

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| <p>6.2.5 2) the Committee considers it necessary to clarify which legislative reference framework is to apply to the liberalisation of services within the single market (see Bolkestein draft directive), a matter which, in recent months, has been at the centre of a particularly contentious debate.</p>   | <p>The Commission emphasises, once more, that the Bolkestein directive is not relevant to the GATS negotiations, as two quite separate and distinct processes are involved. The purpose of the GATS is to remove barriers to market access and discrimination among service suppliers. Such barriers have already been removed within the internal market since the EC Treaties guarantee the free movement of service providers. In the GATS context, there is no debate about the country of origin principle. The GATS is in fact based on the principle of the country of destination, even for the provision of a service of very short duration.</p> |
| <p>6.3 The EESC is in principle favourable to the proposal made by the European Service Forum to create a GATS Permit. This would make the movement of service providers both from and to the EU smoother and also make monitoring of the use of Mode 4 more transparent.</p>   | <p>The Commission views this recommendation as highly ambitious. Given the state of the negotiations, it would be more realistic at the WTO level to envisage a discussion on guidelines for GATS permits. Even this option would be problematic for the EU, owing to the fact that visa policy is still a prerogative of the Member States alone (the EU itself has exclusive competence in respect of trade negotiations).</p>   |
| <p>6.4 Many developing countries face a shortage of, for example, nurses who move to developed countries where there are shortages of skilled personnel. The EESC proposes that the European Union and the Member States should develop rules or practices (as the health sector in the UK has done, particularly in the nursing profession, where a code of ethics for recruitment policies has been drawn up) to avoid a situation whereby developing countries lose their competent and specialised workforce and thus their ability to take care of the needs of their own populations.</p> | <p>The Commission is aware of these problems and shares the EESC's concerns. Nevertheless, it is also important to stress that it is the developing countries themselves which are seeking commitments within the scope of Mode 4 to enable their specialists to provide services abroad. Moreover, numerous studies show the positive impact of the contributions sent to their country of origin by persons working temporarily abroad, and their positive impact on the level of development of those countries. Lastly, in its proposed revised offer on trade in</p>  |

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|  | <p>services to the WTO, the EU has deliberately excluded the health sector. The EU's revised offer therefore does not contain any commitments in respect of nurses.</p> |
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**B. POINTS ON WHICH THE COMMISSION HAS GIVEN A SUBSTANTIVE RESPONSE TO THE COMMITTEE'S SUGGESTIONS**

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| <p><b>36.<br/>4<sup>th</sup><br/>quarter<br/>04</b></p>  | <p><b>Science and technology, the key to Europe's future - Guidelines for future European Union policy to support research</b></p> <p><b>COM (2004) 353 final – EESC 1647/2004 - December 2004</b></p> <p><b>DG RTD – Mr POTOČNIK</b></p>  |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>  |
| <p>3.2.1 Doubling of the necessary Community resources. In line with the Commission's proposal, the budget for all the activities together should be doubled. This also ties in with the recommendation made by the Committee in its Opinion on the 6th framework programme.</p>   | <p>The Commission is very happy to note that the EESC supports the efforts to provide this necessary and substantial increase of funding for the future research budget at EU level.</p>   |
| <p>4.5 Strengthening of thematic priorities and mobility. As already stated, the Committee supports the Commission's proposal to double the resources available for the 7th framework programme and the Euratom programme (compared with the budget for the current 6<sup>th</sup> framework programme). This increase ought to cover mainly the thematic priorities/actions/projects (including those of Euratom), as well as the mobility plan (including support for new researchers and for high-level experts).</p> | <p>The Commission's proposals for FP7 for 72.7 billion euro over the period 2007-13 (and 3.1 billion euro for 2007-11 under the Euratom programme) represent a doubling of the budget compared on an annual basis with FP6.</p> <p>The proposals include substantial budget increases for both the "cooperation" programme (to support collaborative research in priority themes) and "people" programme (which includes mobility and training actions). The "collaboration" programme represents around 60% of the total proposed budget, and the "people" programme around 10%.</p> <p>The proposal for the "people" programme includes activities for the initial training of researchers and for lifelong learning and career development.</p> |
| <p>3.4 Tools to promote research (structure of projects). Whilst supporting the Commission's intention to establish effective methods of implementation, the Committee is still concerned about clarity, simplicity, continuity and flexibility. Specifically,</p>   | <p>The Commission intends to make proposals for ensuring continuity between the new framework programme and its predecessor, while bringing in the necessary clarification and simplification. This process has already been started under the current</p>   |

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| <p>applicants must be able to adjust the structure and size of projects to best suit the task at hand. Otherwise, projects will be established whose size and structure are determined by the prescribed policy tools rather than by optimum scientific and technical requirements. The tools must serve R&amp;D working methods and objectives – never the reverse. The application process and administrative effort involved must be worthwhile.</p>  | <p>framework programme. It is clear that the « size » and « critical mass » of projects are not absolute concepts, but depend on the subject-matter and the specific objectives of each project. There may be a range of tools available for a given topic, but in individual cases the work programmes can determine more accurately the instrument which is best suited to attaining the research objectives set, in the interest of avoiding excessive « oversubscription ».</p>   |
| <p>3.8 Last but not least, the Committee welcomes and supports the Commission's plan to use the most effective means of implementation and to improve the operation of the framework programme. The Committee feels there is an urgent need for measures that require less red tape and are better suited to the scientific community and industry – in line with internal rules, experiences and working conditions. The most important stakeholders in the European Research Area are researchers with their passion for discovery. They need scope to develop and an optimum environment in which to operate. It is essential to bear that in mind.</p> | <p>The Commission agrees fully with the EESC. It is now looking at possible ways of implementing FP7 so as to adapt the existing methods and adopt the best practices to make it easier to participate in research projects, especially from the point of view of individuals.</p>  |
| <p>4.3.1 Subsidiarity : In keeping with the subsidiarity principle, national scientific and technological capacity-building and basic funding to promote excellence is the responsibility of individual Member States.</p>   | <p>The Commission supports the EESC's views on national research infrastructure; it is nevertheless the case that the different scientific communities are increasingly in need of centres of expertise (e.g. big telescopes) or research-oriented services (e.g. large scientific databases) whose cost and/or development effort exceeds the capacity of States (certain projects even have a global dimension, like the particle accelerator), or whose joint development would allow for significant economies of scale (e.g. super-computers); moreover, the networking of such centres and opening them up across borders are activities which are known to have strong added European value.</p> |

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| <p>4.3.2 Structural Funds and the European Investment Fund. Effective and targeted support can be given through the EU's Structural Funds and the European Investment Fund, if such an approach is necessary and appropriate. For this reason, and also with the cohesion policy in mind, the Committee supports the Commission's intention to take full advantage of complementarity between the Framework Fund and the Structural Funds, but also recommends that this should be extended to include the European Investment Fund. Some of the funds from these sources could be used to build up research capacity and infrastructure.</p> | <p>The activities of <i>Research Infrastructures</i> represent one of the key areas of synergy between the Framework Programme and the Structural Funds.</p> <p>The FP7 will further emphasise greater complementarity with the SF in this area but will target mainly large-scale infrastructure.</p> <p>More specifically, it is foreseen that FP7 would concentrate on funding the engineering stage of such infrastructures. The main target group would be research infrastructures developed under the ESFRI (European Strategic Forum for Research Infrastructures) Road Map, which is planned to be ready in 2005.</p> <p>Moreover, a greater effort will be made to match the planning/engineering and implementation phases of research infrastructures. It is foreseen that the engineering phase would be covered by the FP while the construction phase would be funded by the SF.</p> <p>Finally, the aim will be to align eligible and supported activities between the SF and the FP to bring the greatest benefits to the research community.</p> |
| <p>4.3.3 For this to happen, sufficient funding will have to be provided to kick-start R&amp;D measures in the new Member States, as scientific institutions in those countries are not yet in a position to come up with their share of funding for EU-supported projects. Appropriate national schemes for supporting research and development activity should additionally be provided.</p>  | <p>It is planned to introduce « exploratory awards », which have been used in previous framework programmes, to facilitate the participation of smaller entities, including the new Member States. Such a facility would be managed in the Member States.</p>  |

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| <p>4.6.2 Continuity. Once again, it should be emphasised that special attention needs to be paid to this aspect. Generally speaking, there should be as much continuity as possible in the transition from the Sixth to the Seventh Framework Programme. The changes in eligibility criteria, application procedures, assessment criteria, legal conditions, instruments and cost models which have previously accompanied transitions between successive Framework Programmes have tended to obstruct scientific and industrial activity, particularly in the case of SMEs. In order to ensure continuity, radical innovations in instruments and procedures should be avoided. Instead, existing instruments and procedures should be simplified and fine-tuned on the basis of previous experience and recommendations. The main objectives should therefore be continuity, simplification, clarity and flexibility for applicants in the choice of instruments.</p> | <p>The question of continuity has already been raised in the Marimon report and in the Five Year Assessment. The Commission fully appreciates how important this is for project participants because continuity will also have a beneficial impact on the implementation of the framework programme by the Commission departments. A particular effort will be made to simplify the practical aspects of participation in the framework programme.</p> <p>The Commissioner responsible for research has proposed that a «sounding board» be created for smaller entities that might be able to help the Commission test procedures and practices connected with participation in projects, so as to simplify them and make them more effective.</p> <p>As far as the choice of instruments is concerned, the Commission made its position clear in the response to the Marimon report on 27.08.04.</p> |
| <p>4.8 Small and medium-sized enterprises (SMEs). SMEs are either already making a substantial contribution to the process of innovation, or have the potential to do so in the future. The conditions for participation by SMEs in thematic priorities should therefore be simplified and made more flexible, for example through flexible classification and selection of themes and instruments (CRAFT, Collective Research, EUREKA).</p>  | <p>The Commission is keen to develop the innovative capacity of SMEs in order to strengthen their competitiveness. Having SMEs closely and fruitfully involved in European research is an important way to achieve this objective. SMEs already take part in a large number of joint research activities as well as specific projects, allowing them to entrust some or all of their research work to specialist bodies.</p>   |



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| <p>Generally, in the fields of both high and low technology, programming and adaptation of aid instruments should be more geared than previously to enabling eligible SMEs to participate. Aid instruments such as Specific Targeted Research Projects (STREPs) are a particularly appropriate means of achieving this, as they are more accessible to smaller groups and projects, and are conducive to a bottom-up approach.</p>  | <p>To meet the growing demand from SMEs, it is necessary to reinforce specific activities substantially, and to facilitate and promote the effective participation of suitable SMEs in joint research activities. To this end, the obstacles to their participation should be more systematically reduced, in particular through simplification of the administrative and financial rules. Also, greater account should be taken of their needs and potential in determining the research topics and themes. Lastly, more flexibility should be allowed in choosing the most appropriate instrument.</p> |
| <p>4.14 European Research Council (ERC): as already mentioned in a recent Opinion, the Committee supports the Commission's plan to set up a European Research Council (ERC) to coordinate and support basic research, with the support of the scientific community. The ERC should have full autonomy and should operate on similar lines to successful counterparts in Member States and the USA. In order to exploit the interplay between research categories, the Committee recommends that leading industrial researchers should be involved in the ERC.</p> | <p>The Commission envisages that a Scientific Governing Council will be set up as an independent body of eminent and respected personalities in European research, to provide the guarantee of scientific quality in the implementation of this new initiative. The members of the Scientific Governing Council would represent research in all its breadth and depth in Europe, including industrial research.</p>  |

**2. Proposal for a Directive of the European Parliament and of the Council amending, for the twenty-ninth time, Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (substances classified as carcinogen, mutagen or toxic to reproduction – c/m/r)  
COM(2004) 638 final – EESC 378/2005 - April 2005  
DG ENTR – Mr VERHEUGEN**

| <b>Main points of the EESC Opinion</b>  | <b>Commission Position</b>   |
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| <p>The Committee supports the limitations on marketing and use of the substances newly classified as carcinogen, mutagen or toxic to reproduction (c/m/r).</p> <p>However, it regrets the linking of unrelated products in a single text.</p> | <p>This directive is intended to preserve the Internal Market while guaranteeing a high level of protection of consumer health.</p> <p>The Commission favours the “substance-based” approach, assembling within a single text all the substances which, as a result of their known c/m/r properties, must be prohibited from being placed on the market for use by the general public.</p> <p>The alternative “use-based” approach proposed by the EESC would seem to be extremely difficult to implement, since the use of chemical substances and preparations may not be readily detectable, or may be excessively widespread and present in a vast range of unconnected industrial sectors, and is undoubtedly in a strong state of flux due to the very marked technological advances in this field.</p> <p>The designated approach therefore enables those responsible for placing substances on the market and the general public to find very easily the exhaustive list of c/m/r substances to which marketing restrictions apply, without having to undertake a complex search of legislation at either Community or national level.</p> |

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| <p><b>7. Proposal for a Regulation of the European Parliament and of the Council on medicinal products for paediatric use and amending Regulation (EEC) No 1768/92, Directive 2001/83/EC and Regulation (EC) No 726/2004</b><br/> <b>COM(2004) 599 final – EESC 525/2005 - May 2005</b><br/> <b>DG ENTR – Mr VERHEUGEN</b></p> |  |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>  |
| <p>The EESC questions whether the legal basis for the proposal, more specifically Article 95 of the EC Treaty for implementing objectives established under Article 14(2) (free circulation of goods), is the most appropriate basis in an area of implementation with significant public health implications.</p>             | <p>The proposal is based on Article 95 of the EC Treaty. Article 95, which prescribes the codecision procedure described in Article 251, is the legal basis for achieving the aims set out in Article 14 of the Treaty, which includes the free movement of goods (Article 14(2)), in this case human medicinal products. While taking account of the fact that any regulations on the manufacture and distribution of medicinal products must be fundamentally aimed at safeguarding public health, this aim must be achieved by means that do not impede the free movement of medicinal products within the Community. Since the Amsterdam Treaty came into force, all legislative provisions adopted by the European Parliament and the Council in this field have been adopted on the basis of that Article, since the differences between the national legislative, regulatory and administrative provisions on medicinal products tend to hinder intra-Community trade and therefore directly affect the operation of the internal market. Any action to promote the development and authorisation of medicinal products for paediatric use is justified at a European level with a view to preventing or eliminating these obstacles.</p> |
| <p>The EESC hopes the Commission will soon draw up another proposal that focuses on the demand for pharmaceuticals, rather than on supply. The objective would be to create an operational tool that facilitates</p>   | <p>The Commission proposal includes a number of measures relating to the provision of information and coordination of Member State resources. These include: the European</p>  |

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| <p>and encourages data collection and dissemination on the availability and use of medicines; setting up epidemiological and prescriptive use databases; as well as establishing guidelines through the increased involvement of health professionals and patient associations, thereby simultaneously extending the application of the open method of coordination to this sector.</p>  | <p>database of clinical trials conducted on children (Article 40 of the proposal); the survey of existing uses of paediatric medicinal products (Article 41 of the proposal); an inventory of the therapeutic needs of the children of Europe (Article 42 of the proposal); and a European network of investigators and centres with expertise in performing studies on children (Article 43 of the proposal). The European network could, within its legally defined remit, develop guidelines on medicines for children. It should be noted that the proposed Paediatric Committee (Article 4 of the proposal) will include representatives of health professionals and patients.</p> <p>No separate initiative is foreseen in this domain.</p> |
| <p>The EESC suggests that the Commission reconsider whether, and under what procedures, scientific researchers and doctors should have access to the information on clinical trials that is available on the European Clinical Trials Database (EudraCT).</p>  | <p>In the context of a likely modified proposal following the first reading in the European Parliament, the Commission is carefully considering the transparency measures relating to the proposed paediatric regulation, including the information on clinical trials that is available on the European Clinical Trials Database (EudraCT).</p>  |
| <p>The EESC welcomes the proposal to set up a paediatric study programme, Medicines Investigation for Children in Europe (MICE), to provide Community funding for research carried out by groups, companies and paediatric hospital networks on the paediatric use of unpatented medicines, or observational or cohort studies in their post-registration phase. The EESC would, however, have preferred orientation guidelines and a more precise definition of the Paediatric Committee's role in this respect. This would avoid lengthy discussions as to who should identify priority therapeutic fields requiring further information on paediatric use, the assessment of priority needs and the specific studies to be conducted,</p> | <p>The Commission's explanatory memorandum acknowledges that public funding for studies into the paediatric use of medicines not covered by a patent is required. The explanatory memorandum states that the Commission will investigate setting up M.I.C.E. The Commission is of the opinion that all EU research activities must take place within the context of the Research and Development Framework Programme. Under the "health" thematic priority of its FP7 proposal, the Commission has therefore clearly mentioned "research on child health" as one of the strategic issues which should be addressed across activities. Among the different</p>   |

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| <p>particularly in view of the considerable differences in current medical practice in the Member States.</p>   | <p>activities where child health research could be addressed, it is in particular envisaged to put a special emphasis on the specificities of children when it comes to translating clinical outcome into clinical practice. It is also envisaged to give specific support to clinical studies which could provide evidence for the appropriate use of off-patent products currently used off-label in paediatric populations.</p>   |
| <p>The EESC proposes a shortened marketing authorisation procedure for older medicines.</p>   | <p>It should be noted that the proposal includes a provision (Article 30) for medicines already authorised through the mutual recognition and decentralised procedures to have paediatric data assessed by the European Committee on Human Medicinal Products. This would lead to an Opinion of the Committee which would then lead to a Decision of the European Commission which would be binding on Member States. It should also be noted that the existing variation regulation will apply to existing medicines and therefore a simple procedure exists which can be used to add new paediatric information to the Product Information (see Article 28 of the proposal).</p> |
| <p>The EESC considers it necessary to specify that in cases where grounds are established for adopting orphan medicine procedures for a subcategory of the paediatric population, the market authorisation holder may opt for either of the two procedures.</p> | <p>The procedures for authorisation of orphan medicinal products are the same as for all other medicinal products, and they are not the subject of this regulation. Furthermore, there are already provisions in the EC pharmaceutical legislation to allow, where necessary, the early authorisation of orphan medicinal products, such as the provisions on accelerated assessment or conditional marketing authorisation of Regulation (EC) No 726/2004 (Article 14).</p>   |

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| <p>The EESC emphasises the importance of publishing research results and approved changes to the package leaflet, and including information for paediatric use for all unpatented medicines with the same active ingredients.</p> | <p>Article 57(1)(l) of Regulation (EC) No 726/2004 tasks the European Medicines Agency with setting up a European database of authorised medicinal products. This database is in the process of being established and should largely fulfil this request of the EESC. Regarding labelling of generic medicines, it is established practice within the EU that the labelling of generic products should follow that of the innovator: hence new labelling on paediatric use for one product should, in principle, be carried across to the labelling of other products containing the same active substance.</p> |
| <p>The EESC hopes that expeditious application of this regulation in the EU will also have a positive impact on paediatric therapies available in the least developed countries.</p>  | <p>It should be noted that the EC decision on whether to authorise a medicinal product is often used as the basis of decision in resource-poor countries. Furthermore, if a manufacturer develops a medicine for the children of Europe, it is more likely that that medicine will then become available for children outside Europe. Through these mechanisms, the proposal should lead to an improvement in child health for children outside, as well as inside, the EU.</p>   |
| <p>The EESC calls for dialogue with international authorities in order to avoid any unnecessary duplication and repetition of clinical studies.</p>   | <p>The EESC will want to be informed that a confidentiality agreement between the European Medicines Agency, the European Commission and the US Food and Drug Administration was signed in September 2003. In September 2004 a scheme of parallel scientific advice between the European Medicines Agency and the US FDA was also instituted. Through these means, and others, the European Medicines Agency will be able to ensure that the proposed Paediatric Committee is able to take account of studies on children requested by the US FDA and hence meet its guiding</p>                                |

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|  | objective, set in Article 1 of the proposal, of not “subjecting children to unnecessary clinical trials”. |
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**8. Industrial change in the Mechanical Engineering Sector  
Own-initiative Opinion - EESC 526/2005 - May 2005  
DG ENTR – Mr VERHEUGEN**

| <b>Main Points of the EESC Opinion</b>  | <b>Commission Position</b>  |
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| <p>The Committee stresses the importance of the mechanical engineering sector in the EU economy, while regretting that it has not been included in the Commission’s “flagship” sectors at present. It considers that this sector can play a significant role in the realisation of the Lisbon agenda, particularly as it comprises mostly SMEs. It takes the view that, in order for the sector to maintain its current strong performance and safeguard its future competitiveness level, the European Commission should pay special attention to the sector’s needs and address the following issues:</p> <ul style="list-style-type: none"> <li>▪ Setting up of an overall agenda that would qualitatively reinforce the performance of the sector.</li> <li>▪ The perceived growing mismatch between European-funded R&amp;D and the needs of the sector, in view of the fact that current projects address inadequately the needs of SMEs and mid-range companies.</li> <li>▪ The improvement of regulatory framework conditions through initiatives based on the principles of better regulation, detailed impact assessment, simplification and effective enforcement at national level. Improved access to financial markets and instruments.</li> <li>▪ Freedom of access to and investment in third-country markets.</li> <li>▪ Active engagement of the Commission in a dialogue with social partners and national authorities.</li> </ul> | <p>The Commission agrees on the broad thrust of the Committee’s Opinion and acknowledges the importance of the mechanical engineering sector. It considers that the Committee’s Opinion largely confirms the correctness of its sectoral approach adopted for its forthcoming Industrial Policy Communication.</p> <p>Indeed, in preparing its Communication, DG ENTR undertook a closer examination of many industrial sectors in Europe, including mechanical engineering. This sectoral screening revealed that all the Committee’s pertinent recommendations touch upon issues which are equally relevant to other European industrial sectors.</p> <p>The Communication on Industrial Policy, to be published later in 2005, will address all the issues identified in the EESC’s Opinion, giving them even more weight, as they will refer not only to the mechanical engineering sector but to a much wider industrial base.</p> |



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| <p><b>9. Proposal for a Decision of the European Parliament and of the Council establishing a Community Programme for Employment and Social Solidarity - PROGRESS</b><br/> <b>COM (2004) 488 final - EESC 386/2005 - April 2005</b><br/> <b>DG EMPL – Mr Spidla</b></p>  |  |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>  |
| <p>2.3.1 : Coherence of the PROGRESS programme with other areas of Community action. The EESC feels that Article 15 of the proposed decision is inadequate in that it covers only a narrow policy area (research, justice and home affairs, culture, education, training and youth), and it ought to have referred to other areas such as regional and cohesion policy.</p>  | <p>The Commission will, as far as possible, take account of the EESC's comments and views on the coherence of the PROGRESS programme with other areas of action.</p>   |
| <p>2.3.2 : Complementarity of the PROGRESS programme with other areas of Community action. The EESC believes that PROGRESS should also be linked to other policy areas which have an impact on the employment situation and social inclusion, equal opportunities, etc. It proposes extra coordination with strategies and activities relating to economic, financial and competition policy (Article 15(1) and (2)).</p>  | <p>The Commission will, as far as possible, take account of the EESC's comments and views on the complementarity of the PROGRESS programme with other areas of action.</p>   |
| <p>2.4.2. and 2.4.4 : Funding and distribution of the PROGRESS programme's resources. The EESC wants it to be made clear that adequate financial resources will be made available to achieve the objectives of both the European Employment Strategy and the social policy agenda (budgetary <i>status quo</i>: the financial allocation for PROGRESS appears to be insufficient); the division of funding between the different sections of the programme should be more specific. The EESC also thinks that the equal opportunities element is under-funded.</p> | <p>The Commission will not be altering its proposal on the funding of the PROGRESS programme for the time being. That depends on the financial perspective and the overall agreement reached.</p> <p>The Commission is not fundamentally opposed to a change in the division of funding or to a reduction in the amount of the flexibility reserve which was initially 10% of the programme's budget, but at this stage it is not amending its initial proposal and is awaiting an overall agreement on the financial perspective.</p> |

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| <p>2.6.2 : Transparency and participation in the PROGRESS programme committee. The EESC wonders how such a committee should work and what its membership should be in order to ensure that the general and specific objectives are properly addressed in each of the five programme areas (risk of more red tape, difficulties for the Member States, interministerial coordination).</p>  | <p>The Commission is aware of the risks and will take the EESC's views into account. Nevertheless, the Commission will not be changing its position, namely that it wishes to be assisted by a single PROGRESS committee (although, of course, its membership may vary according to the matter in hand). The Commission is prepared to add a new recital explaining the committee's modus operandi.</p> |
| <p>2.7.3 : Broadening of access to the PROGRESS programme and its practicability for end-users in spite of the rationalisation undertaken by the Commission. The EESC is concerned that, given past experience and the size of the project, small-scale entities might be deterred from utilising PROGRESS. The EESC wants to know what guarantee can be given that the the implementing provisions will not have a prohibitive effect on such applicants.</p> | <p>The Commission shares the EESC's concerns but is convinced that they are unfounded. The Commission's current proposal takes account of small-scale entities and their specific requirements.</p>   |
| <p>2.8.3 : Participation and cooperation with civil society organisations. The EESC is concerned that, in the list of stakeholders mentioned as having access to PROGRESS (Article 10), NGOs have been restricted to those operating at EU level.</p>  | <p>Support for national NGOs is not excluded, given that the list is non-exhaustive and the reference to NGOs is open-ended. Nevertheless, the Commission wanted to give a signal that the programme is aimed primarily at NGOs organised at EU level.</p>  |

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| <p><b>11. Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/88/EC concerning certain aspects of the organisation of working time</b><br/> <b>COM (2004) 607 final - EESC 527/2005 - May 2005</b><br/> <b>DG EMPL – Mr SPIDLA</b></p>  |   |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>   |
| <p>4.1 The EESC feels that there is some justification for asking whether the individual opt-out, which could possibly invalidate the Directive's core minimum level of regulation on the maximum weekly working time, is in harmony with the fundamental rights goals of the new EU Constitution.</p>   | <p>In the light of the European Parliament's Opinion, delivered on the same day as that of the EESC, the Commission has adopted an amended proposal which includes a date for removing the individual opt-out.</p>  |
| <p>4.2 The EESC would like to stress once again that it is primarily up to the social partners at national level to agree on flexible working models which take account of the specific needs in a given sector, while respecting fundamental rights. This applies in particular to the regulation of on-call time as a distinct form of working time.</p>   | <p>Although the social partners play an important role in this area, they cannot derogate from the minimum requirements of the Directive unless this is expressly provided for, which is not the case for the definitions in Article 2 or for the maximum weekly working time. The intervention of the Community legislator is therefore necessary.</p> |
| <p>4.3 The EESC therefore requests the Commission, the European Parliament and the EU Council, in revising the directive, to be mindful of the following:</p> <ul style="list-style-type: none"> <li>- the prime role of the social partners in examining the reference period for calculating the maximum weekly working time and keeping it within the present bounds of the Directive;</li> </ul> | <p>On this issue, the amended proposal increases the scope for the social partners to set reference periods of one year by agreement rather than by legislative provision.</p>  |
| <ul style="list-style-type: none"> <li>- the guaranteeing of a basis for on-call time which is in harmony with the case-law of the Court of Justice and gives precedence to solutions achieved through collective agreement;</li> </ul>  | <p>The Commission does not share the EESC's view on this, and considers it necessary to provide for a structured, legally tenable solution.</p>   |
| <ul style="list-style-type: none"> <li>- necessary measures for the organisation of working time which are conducive to greater compatibility of work and family life.</li> </ul>  | <p>The Commission has included in its amended proposal a new article dealing with compatibility between work and family life.</p>   |

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| <p><b>12. Proposal for a Council Decision on guidelines for the employment policies of the Member States, in accordance with Article 128 of the EC Treaty</b><br/> <b>COM (2005) 141 final –EESC 675/2005 - May 2005</b><br/> <b>DG EMPL - Mr SPIDLA</b></p>   |   |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>   |
| <p>The EESC welcomes the new integrated approach refocusing on growth and employment provided that it becomes a reality and does not just remain on paper, which unfortunately is still the case.</p>  | <p>The Commission is aware that one of the weaknesses of the Lisbon Agenda has been a lack of implementation. The refocused Agenda is supposed to ensure undertakings are translated into action.</p>   |
| <p>It notes that the employment guidelines as well as the broad economic policy guidelines should be fully reviewed every three years, allowing a real democratic debate. It notes the employment guidelines seek to achieve full employment, job quality, labour productivity and social cohesion. It accepts the three priority areas of attracting and retaining more people in employment, improving adaptability of workers and enterprises, and increasing investment and human capital, but regrets that other avenues are not sufficiently explored.</p> | <p>The Commission fully accepts the need for widespread discussion and indeed involvement and ownership of the Lisbon Process.</p> <p>The revised employment guidelines are shorter and more concise than the previous ones, and by focusing on three priority areas are intended to improve implementation within the Member States.</p> |
| <p>Furthermore, it regrets that employment-linked targets are not more visible in the Commission draft and there are no explicit guidelines on youth or gender issues. Furthermore, it deeply regrets that the very tight timetable does not allow for a real debate with civil society.</p>   | <p>The version adopted by the Council does have visible employment-linked targets. Youth features prominently within the guidelines and gender is mainstreamed into all of them.</p> <p>The timetable is indeed tight. Political imperatives mean that a refocused Lisbon Agenda needs rapid enactment.</p>                               |

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| <p><b>13. Green Paper on an EU approach to managing economic migration<br/>COM(2004) 811 final – EESC 694/2005 – June 2005<br/>DG JLS/DG EMPL – Mr Frattini/Mr Spidla</b></p>   |  |
| <p><b>Main points of the EESC Opinion</b></p>   | <p><b>Commission Position</b></p>  |
| <p>1.1 The Committee stresses the lack of substantial progress in creating a common immigration and asylum policy and hopes the Hague Programme will provide fresh impetus for bringing forward cooperation within this field.</p>  | <p>The Commission would like to underline the achievements towards the creation of common immigration and asylum policies since the Tampere European Council in 1999, while at the same time agreeing with the EESC that there is still a lot to be done in these policy areas.</p>                              |
| <p>1.3 To this end, the Commission's initiative may be crucial after failure in the adoption of the 2001 proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of paid and self-employed economic activities. The EESC welcomes the adoption of the Green Paper and is generally rather supportive of the Commission approach.</p> | <p>In line with the Commission position.</p>   |
| <p>2.1.1 The EESC states that a joint management of admission procedures for economic migrants and a high degree of legislative harmonisation are essential at EU level. This progress will of course require a gradual, transparent approach, to give time for national adjustments.</p>   | <p>In line with the Commission position.</p>   |
| <p>2.1.3. The EESC favours a horizontal legislative framework. Specific rules concerning some sectors should, however, also be envisaged.</p>   | <p>The Commission is currently screening in detail all the contributions to the Green Paper.</p> <p>It would thus be premature to take any definitive position in this respect. The Commission will take the reasoned opinion of the EESC duly into account when drawing up its proposal for further action.</p> |

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| <p>2.2.2. The EESC believes that the Community preference principle should apply – and be extended to citizens of Member States, third-country nationals who are long-term residents, third-country nationals with legal permission to reside and work in a Member State and third-country nationals who have legally resided and worked in the EU.</p> <p>2.2.5 In order to aid the management of migration flows and increase mobility, the EURES network should effectively link labour supply and demand in Member States. If the vacancy is not filled after 60 days from publication by an individual from the Community preferential list, it could then be opened to a third-country citizen.</p> | <p>The Commission is currently looking into the different views – often diverging – expressed in the written consultation and will take the Committee's opinion into account when drawing up its proposal for further action.</p> <p>The Commission will indeed explore the possibility to use the EURES network – originally conceived to foster intra-EU mobility, to support the management of economic migration for third-country nationals. Any detailed position on the matter would, however, be premature.</p> |
| <p>2.3.3 The EESC proposes that some job offers may be filled while the migrant is still in the country of origin. In the case of small business, craft industries, domestic service and care for dependent persons, however, temporary residence permits for seeking work should be granted. It is proposed that they be valid for six months. Some sectors of the market should be opened to migrants without testing economic needs. The EU should also develop harmonised legislation for the admission of third-country nationals to work in self-employed activities.</p>   | <p>The Commission is currently evaluating the different admission procedures for third-country nationals, which could be envisaged for managing economic migration in an efficient and effective manner. Any detailed position on the matter would, however, be premature.</p>  |
| <p>2.5.1 Although each Member State should still be responsible for issuing permits, some level of harmonisation is required. Permits granted by one Member State must be recognised in the rest of the EU and a one-stop-shop procedure - namely combined residence and work permit - would simplify existing procedures.</p>  | <p>The Commission is analysing the different proposals received and will take the Committee's opinion duly into account when drawing up its proposal for further action.</p>  |
| <p>2.6.1-2.6.2 The EESC believes that the foreign citizen should hold the work permit. After the assignment, the worker should be able to change company without</p>  | <p>In relation to both issues whether - 1) <i>the job permit should be issued to the foreign worker – not to the employer;</i> 2) <i>the foreign worker can change job, without repeating the economic need</i></p>   |

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| <p>sectoral or regional restrictions.</p>   | <p><i>test</i>, there is no common agreement among the consulted stakeholders. The Commission is developing its understanding of the implications but has no position yet on the above. Most contributions, however, point to the need to protect the foreign worker from potential abuses of the employer and the Commission shares the view that dependency situations should be avoided.</p>  |
| <p>2.7.1 The principle of non-discrimination should apply to economic, labour and social rights granted to third-country nationals. In line with the Commission proposal, certain rights may depend on the duration of the residency. Rights granted for migrants should refer to those already provided in the Constitutional Treaty's Charter of Fundamental Rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.</p>  | <p>The contributions to the Green Paper show that no agreement currently exists on which types of rights should be granted to economic migrants and to what extent the rights of immigrants should be based on the length of their stay. The Commission will take the Committee's opinion duly into account when drawing up its proposal for further action.</p>   |
| <p>2.7.2 Although the right to family reunification is a fundamental one, it is not properly protected by the EU Directive or by some national laws. The EESC calls on the Commission to adopt a new legislative initiative tying in with the proposals of the European Parliament and the EESC.</p>  | <p>The Commission has no plans at present for presenting new legislative initiatives on the matter. It is awaiting the outcome of the annulment proceedings brought against the Council by the European Parliament at the Court of Justice regarding Directive 2003/86/EC.</p>   |
| <p>2.7.6 The Directive on the status of third-country nationals who are long-term residents mentions some specific rights for these individuals, particularly regarding the stability of their right to residency and the possibility of free movement and residency in other EU Member States. The EESC has already expressed its position on the new rights, the most important of them being political and civil rights. In this connection, the EESC has proposed that long-term residents be granted the right to vote in municipal and European elections, like EU nationals.</p> | <p>Although the Commission is not competent to deal with third-country nationals' right to vote, it has, in several of its communications, underlined the importance of this, with a view to fostering participation by immigrants in the democratic process of the country of residence and hence their integration. The possibility of granting this right is left to the Member States under the last paragraph of Article 11 of Directive 2003/109/EC.</p> <p>As regards the granting of Union citizenship to persons from third</p> |

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| <p>The EESC has also adopted an own-initiative Opinion addressed to the Convention, calling upon it to provide a new criterion for granting Union citizenship, which “should be linked not only to nationality of a Member State, but also to stable residence in the Union” and should "be granted not only to nationals of the Member States but to all persons who reside on a stable or long-term basis in the European Union". The EESC proposes that the Commission adopt new initiatives aiming at this objective.</p> | <p>countries “who reside on a stable or long-term basis in the European Union”, the Commission wishes to point out that there is at present no legal basis for such an initiative, since Article 17 of the EC Treaty limits citizenship of the Union exclusively to nationals of the Member States.</p>   |
| <p>2.7.7 In 2004, the EESC adopted an own-initiative Opinion proposing that the European Union and the Member States ratify the “International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families”, adopted by the General Assembly of the United Nations in 1990, with the aim of promoting migrant workers' fundamental rights not only in Europe but worldwide. The EESC proposes that the Commission take new initiatives for the ratification of the Convention.</p>        | <p>The Commission will think about this proposal from the EESC. However, as emphasised in the response given to the EESC’s own-initiative Opinions 960/2004 of July 2004 and 1642/2004 of December 2004, there is one particular problem posed by this Convention: namely, the lack of a clear distinction between migrant workers who are in a lawful situation and those who are not.</p>   |
| <p>2.8.1 Integration is an essential aspect of economic migration and the Commission will have to produce an appropriate integration programme. Emigration to the European Union from developing countries should also contribute to the economic and social development of these countries. Hence, it is important to counteract brain drain with appropriate compensation policies - special funding for training and research activities or grants for investment projects for return migrants, etc.</p>                   | <p>The Commission highlights the importance of ensuring an adequate integration of third-country nationals legally residing in EU territory and underlines that it is not possible to discuss economic migration without closely linking it with integration issues.</p> <p>Adequate forms of cooperation with third countries are being explored and the Commission will take the Committee's opinion duly into account when drawing up its proposal for further action.</p> |



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| <p><b>16. Proposal for a Council Directive on the supervision and control of shipments of radioactive waste and spent fuel</b><br/> <b>COM(2004) 716 final – EESC 696/2005 - June 2005</b><br/> <b>DG TREN - Mr PIEBALGS</b></p>   |  |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>  |
| <p>The EESC endorsed the extension of the scope to shipments of spent fuel for reprocessing. It also welcomed the introduction of an automatic approval procedure that prevents States from employing delaying tactics and could obstruct the transfer of spent fuel. For this reason, the automatic approval procedure serves to balance the document and should be retained.</p> | <p>The Commission welcomed the EESC endorsement on the extension of the scope to shipments of spent fuel for reprocessing. Currently, Directive 92/3 does not apply to shipments of spent fuel. This leads to the inconsistency that the same type of material may or may not be subject to the Directive's provisions, depending on its intended use. Also, from a radiological point of view, there would be no reason not to apply the procedure laid down in Directive 92/3 to all shipments of spent fuel. It is deemed appropriate to extend the scope of the Directive as explained. The Commission also welcomed the EESC's support for the clarifications introduced in the automatic approval procedure for the shipments.</p> |
| <p>The EESC drew attention to the need to redefine the rules on transit in order to ensure that their application does not cause undue interference with the transport of spent fuel for reprocessing within the European Union, which would be contrary to the principles of the nuclear common market.</p>   | <p>The Commission took this comment fully into account in the final proposal. In Article 11, it clearly identifies the different steps of the procedure for the transit of the radioactive waste and spent fuel through the Community.</p>   |
| <p>The EESC asked for clarification of the rules on imports and exports, and to redefine more precisely the grounds entitling a State of transit or destination to refuse authorisation.</p>   | <p>The wording of Article 10 laying down special rules for imports into the Community and of Articles 12 and 13 laying down rules for exports out of the Community have been developed. They now clearly identify the different steps of the procedure.</p> <p>Article 6 stipulating consent and refusal was improved. The reasons that justify a refusal to give consent or for conditions attached to the consent are now clearly defined. They are different for the</p>  |

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|  | <p>Member State of destination and for Member States of transit, so that the latter can only invoke the relevant national, Community or international legislation applicable to transport of radioactive material. This differentiation is necessary in order to safeguard the rights of those countries which have opted for reprocessing. Such an approach is also consistent with the recommendation made by the EESC in connection with the possible obstacles to the nuclear common market.</p> |
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| <p><b>17. Proposal for a Regulation of the European Parliament and of the Council concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC</b><br/> <b>COM(2004) 634 final – EESC 383/2005 – April 2005</b><br/> <b>DG ENV – Mr Dimas</b></p> |   |
| <p><b>Main points of the EESC Opinion</b></p>   | <p><b>Commission Position</b></p>   |
| <p>3.4 Nevertheless, it must be pointed out that, in order to provide Internet access to the greatest possible number of people, the number of languages used for consultation (public participation process) would have to be increased to cover all the official languages.</p>   | <p>The first consultation (public participation process) will be the development of the guidance document for implementation of the European PRTR. A translation of every draft version of this document and the comments thereto would be at least very time-consuming and the timely delivery of the guidance document would be highly endangered. Therefore, as practised in other consultations, only the English language will be used.</p> <p>Nevertheless, the final version of the guidance document will be translated into every official language.</p>                               |
| <p>4.4 The EESC believes it would be advisable to standardise as far as possible the content of the reports to be submitted by the parties concerned and to simplify reporting for SMEs and farmers.</p>  | <p>The concerns of the EESC have been taken into account. The proposal by the Commission, as adopted by the European Parliament and the Council, supported the already included measures to standardise the content of the report and has extended them by proposing new amendments which have been adopted.</p> <p>Except for some pig and poultry farmers, no SMEs are included in the European PRTR. The reporting for pig and poultry farmers is already simplified, since instead of analytical measurements, calculation of releases with well-known emission factors is recommended.</p> |
| <p>4.5 The EESC sees a difference between Article 11 and Recital 14 concerning how to deal with confidentiality (“this difference between the two provisions must be resolved”).</p>  | <p>The Commission sees no such difference.</p>  |

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| <p><b>18. Proposal for a Directive of the European Parliament and of the Council concerning the Financial Instrument for the Environment (LIFE+)<br/>COM(2004) 621 final – EESC 382/2005 - April 2005<br/>DG ENV - Mr DIMAS</b></p> |  |
| <p><b>Main points of the EESC Opinion</b></p>   | <p><b>Commission Position</b></p>  |
| <p>2.3 - criteria for allocating funding.</p>   | <p>While these are necessary, the Commission considers that such criteria need to be developed outside the Life+ framework programme in order to permit flexibility for such annual allocations over the next seven-year Financial Perspective.</p>  |
| <p>3.2.1 - guarantee of funding from other instruments.</p>   | <p>The Commission considers that the strategic guidance documents for other instruments already state the importance of the integration of environmental policies. Similarly, inter-service consultation in respect of submitted programmes should ensure coherence with such goals.</p>   |
| <p>3.2.2 to 3.2.4 - gaps for implementation of Natura 2000/Life Nature.</p>   | <p>The Commission believes that the draft regulations both for the ERDF (Article 5) and the rural development programme already make reference to Natura 2000. It is therefore expected that they will provide funding for Natura 2000 but, on the other hand, it can not be excluded that certain “gaps” may exist. While many analyses indicate that such “gaps” are limited, they may arise due to the ineligibility of the associated expenditure for any form of Community funding.</p> |
| <p>3.2.5 - funding focus.</p>   | <p>The goal of Life+ is to provide funding for all 6<sup>th</sup> Environmental Action Programme priorities. The Commission, through the foreseen multi-annual strategic plans, will ensure focus on the appropriate priority(ies).</p>  |
| <p>3.4 - EU added value and fund managed by Commission.</p>   | <p>The Commission considers that the foreseen multi-annual strategic plans will form a safeguard to ensure EU added value. In addition it must not be overlooked that some of Life+ funding will be retained by the Commission for policy development purposes, thereby ensuring ongoing policy development.</p>   |

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| <p>4.2 - integration and delegation.</p> | <p>The Commission believes that its integration approach is working : other financial instruments refer to the environment; other funds' strategic guidance clearly reflects environmental policies; the inter-service consultation process will seek to ensure programmes' compliance with these goals. The delegation of funding programmes to Member States allows decision-making to take place on the ground where needs etc. are known. However, the Commission retains influence through the setting of multi-annual strategic plans, the approval of national programmes and the follow-up of Member States' reports.</p> <p>For these reasons – and given the uncertainty over the debate on the Financial Perspective – the Commission is not able to accept this proposal at this point in time.</p> |
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| <p><b>19. European Fisheries Fund</b><br/> <b>COM(2004) 497 final – EESC 532/2005 - May 2005</b><br/> <b>DG FISH – Mr Borg</b></p>  |   |
| <p><b>Main points of the EESC Opinion</b></p>   | <p><b>Commission Position</b></p>   |
| <p><u>Article 4</u> : An additional objective for assistance under the Fund to those already set out namely, "to safeguard a good quality working environment and to improve living conditions, safety and hygiene in the workplace".</p> | <p>This objective is not explicitly mentioned in the objectives set out in Article 4 of the EFF but it is implicitly stated under various objectives i.e. ‘strengthen the competitiveness of the operating structures and the development of economically viable enterprises in the fisheries sector’ , ‘encourage sustainable development and the improvement of life in areas with activities in the fisheries sector’.</p> <p>The Presidency in cooperation with the Commission proposed also to integrate in the core of the EFF proposal the main guidelines necessary for programming purposes. One of these guidelines is the ‘improvement of the situation of the human resources in the fisheries sector through operations aiming at upgrading and diversifying professional skills, developing lifelong learning and improving working conditions and safety’.</p> |
| <p><u>Article 12</u> : The remaining EUR 1,246 million to be located to the rest of the EU’s regions is not sufficient to fulfil all the commitments made in the draft regulation.</p>  | <p>This will be decided in the light of the overall agreement on the financial perspective.</p>   |
| <p><u>Article 15</u> : Three months will not be sufficient time in which to draw up the national strategic plan.</p>  | <p>The Presidency in cooperation with the Commission proposed that the national strategic plan be submitted to the Commission at the latest when submitting the operational programme i.e. in due time to allow its adoption before 31 December 2006.</p>   |
| <p><u>Article 23</u> : Aid for national fishing effort adjustment plans referred to in Article 23(a) of the draft regulation should last at least four years.</p>   | <p>The Presidency in cooperation with the Commission proposed to take on board this comment. In the Presidency compromise text the duration of the national fishing effort adjustment plans</p>   |

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|   | <p>is no longer specified. Only the duration of permanent cessation of activities within these plans will be limited to two years, which can be extended, if necessary, one or more times during the programming period.</p>   |
| <p><u>Article 25</u> : The definitive cessation of a vessel may be achieved by its re-assignment to alternative activities, regardless of possible profit.</p>  | <p>The Presidency in cooperation with the Commission proposed to take on board this comment.</p>   |
| <p><u>Article 25</u> : The concept of re-assignment could also cover the final export of fishing vessels to third countries and joint enterprises; provided that scientific reports prove the existence of surplus fish stocks that permit the development of sustainable fishing in the waters of the third countries.</p> | <p>The Commission considers it important to restrict the forms of permanent cessation of a vessel only to scrapping and the reassignment of it outside fishing in order to guarantee that capacity is not rebuilt or exported. The discontinuation of aid for export of vessels to third countries is an acquis of the CFP 2002 reform.</p> <p>The Commission is, however, reflecting on the possibility of financing feasibility studies related to the promotion of partnerships with third countries in the fisheries sector.</p> |
| <p><u>Article 25</u> : The criteria proposed for the setting of the level of public aid could cause problems in the fishing sector and even discrimination depending on the value that each country attributes to vessels.</p>  | <p>The Presidency in cooperation with the Commission proposed that the list of criteria become indicative. Member States are thus given enough flexibility to set objectively the level of public aid taking into account the best cost/ effectiveness ratio. This approach is in line with the subsidiarity principle and the need for simplification.</p>  |
| <p><u>Article 27</u> : The possibility of including the replacement of the main engine in the policy of investment on board fishing vessels, purely as a matter of safety, should be included.</p>  | <p>The Presidency in cooperation with the Commission agreed to introduce some drafting modifications in order to clarify the conditions under which funding can be granted for the equipment and modernisation of vessels. These conditions are those currently in force under the FIGG and agreed following the reform of the CFP.</p> <p>For engine replacement it might be true that new engines could be less</p>  |

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|   | <p>polluting. However, they are also more efficient and thus increase the ability of a vessel to catch fish.</p> <p>The Commission is nevertheless reflecting on the possibility of funding engine replacement. However, if some kind of engine replacement is accepted, it should be limited to small-scale vessels and, in order to avoid the increase in efficiency, strict conditions for such replacement have to be fixed.</p>   |
| <p>Public aid should continue to be granted for the renewal and modernisation of the fishing fleet as long as fishery resources allow.</p>                    | <p>There is a clear commitment of the Council in the framework of the CFP reform 2002 to phase out aid for the renewal of fishing vessels as this contributes to fleet overcapacity and clearly contradicts the aim of bringing the fleet size into line with the available resources.</p> <p>As far as aid to replacement of engine is concerned, the Commission, as mentioned above, is nevertheless reflecting on the possibility of funding engine replacement only for small-scale vessels under strict conditions.</p> |
| <p><u>Article 28</u> : Socio-economic measures should include assistance for further training and retraining of those fishermen remaining in sea fishing.</p> | <p>The Presidency, in cooperation with the Commission, proposed to take on board this comment by including assistance for upgrading professional skills for fishers affected by developments in fishing and training measures for young fishers who wish to become owners of a fishing vessel for the first time.</p>  |
| <p><u>Article 28</u> : As well as fishermen, their fisheries associations should also be eligible for this socio-economic compensation.</p>                   | <p>The Presidency, in cooperation with the Commission, proposed to modify the article on collective actions allowing also for support to measures of common interest when aiming at upgrading professional skills or developing new training methods and tools. Thus, fisheries associations may also be eligible under this provision when undertaking initiatives for upgrading professional skills or developing new</p>  |



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|   | training methods and tools.   |
| Young fishermen who wish to become owners of a fishing vessel for the first time should be eligible for financial contributions to the construction of their fishing vessel which could be subject to various restrictions, as could the size thereof.  | <p>Aid for the purchase of a new vessel is discontinued because it is not consistent with the objective of reducing fleet capacity or fishing effort.</p> <p>However, the Commission shares the concern related to the problems of recruitment in the fisheries sector and could consider such a possibility provided the rules on fleet management are complied with and priority is given to small vessels.</p>   |
| <u>Article 30 and 33</u> : Although co-financing for micro and small enterprises should be given priority, other types of cost-effective enterprise should also be considered eligible for co-financing.  | <p>Providing public aid to productive investments is more relevant in the context of small and micro enterprises. Moreover maintaining aid to larger enterprises, which incidentally have more capacity to raise funds, is less justified from a competition point of view.</p> <p>However, the Commission is reflecting on showing some openness but would still like to keep a favourable treatment of small and micro enterprises, because the EFF is smaller than other Funds which can afford subsidising all enterprises and because the added value of Community intervention should always be sought.</p> |
| <u>Article 30</u> : The construction of auxiliary fishing vessels supporting aquaculture should be eligible for Fund co-financing.  | The Presidency, in cooperation with the Commission, proposed to take on board this comment. A specific statement by the Commission on this issue is proposed.   |
| <u>Article 31(4)</u> : A Member State, when drawing up its operational programme for 2006, cannot predict losses of revenue incurred, additional costs or the need to provide financial support for carrying out the projects for each of the next seven years. Therefore, Article 31(4) should be deleted. | The Presidency in cooperation with the Commission proposed to take on board the substance of this comment by modifying this provision and stating that Member States shall calculate compensations on the basis of one or more of the criteria mentioned under this article. Member States are thus given enough flexibility to set objectively the level of compensation.  |

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|  | <p>This approach is in line with the subsidiarity principle and the need for simplification.</p>   |
| <p><u>Priority axis 2</u> : Priority axis 2 should also clearly provide for financial support for fishing activities in inland waters.</p> | <p>The Presidency in cooperation with the Commission proposed to take on board this comment and include an article providing aid for inland fisheries and fishing on ice, according to conditions similar to the current FIG conditions, with the exclusion of aid for the construction of inland vessels.</p>   |
| <p><u>Article 35</u> : The Fund may assist collective actions of limited duration called for by private businesses.</p>                    | <p>The Presidency in cooperation with the Commission proposed drafting modifications to Article 35 clarifying that the Fund may assist measures of common interest with a broader scope than measures undertaken by private enterprises, which help list the objectives of the common fisheries policy and are listed as eligible measures under priority axis 3. Thus, with the exception of the operations for modification and reassignment of fishing vessels that are limited to public or semi-public bodies, private companies are not excluded if the project undertaken is of collective interest and can be considered eligible under priority axis 3.</p> |
| <p><u>Article 37</u> : Fund assistance for measures to protect and develop aquatic fauna requires a scientific follow-up.</p>              | <p>The EFF proposal foresees that these measures must be implemented by public or semi-public bodies, recognised trade organisations or other bodies appointed for that purpose by the Member State. However, the EFF does not foresee that for these measures there must be a scientific follow-up.</p> <p>This approach is in line with the principle of subsidiarity. Member States are given enough flexibility to implement such measures. However, there is a minimum guarantee that these measures are conducted ‘successfully’ since they can be implemented only by ‘recognised’</p>  |

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|   | bodies in the Member States.   |
| <u>Article 37</u> : Support for the restocking of certain migratory species should be eligible.   | The Presidency in cooperation with the Commission proposed to take on board this comment by stating that direct restocking is eligible provided it is foreseen in a Community legal act.   |
| <u>Article 37</u> : Interested private bodies who could meet the specified objectives should be included in the list of organisations that may implement this type of action.   | Private bodies are not excluded for support if the operations carried out are of common interest and are appointed for their implementation by the Member State.   |
| <u>Article 38</u> : The establishment and upkeep of hostels for EU fishermen returning from sea should be eligible.   | These investments are eligible under Priority axis 4.  |
| <u>Article 40</u> : With regard to the “Pilot projects” of Article 40, the possibility of funding exploratory fishing pilot projects should be included.  | The Presidency in cooperation with the Commission proposed to allow also for aid for experimental fishing.<br><br>However, exploratory fishing cannot be eligible under the EFF since this has to be undertaken by scientific and research bodies.   |
| <u>Priority axis 3</u> : Measures needed to improve scientific advice should be incorporated. Along this line, research voyages at sea, socio-economic studies on the impact of the drastic measures taken to recover stocks, a scientific assessment of the sector, and the work of the Regional Advisory Councils should all be funded. | Research voyages are eligible under the EFF (priority axis 3) if they are part of a pilot project.<br><br>Socio-economic studies can be funded under technical assistance if they are linked directly to the implementation of the programme.<br><br>The work of the Regional Advisory Councils should be funded under the relevant budget line and not by the EFF.<br><br>The same applies to scientific advice and data collection, which are covered by a separate budget line. |
| <u>Priority axis 3</u> : Aid for the establishment and functioning of producer organisations should be continued, as in the current FIFG and be eligible under priority axis 3.   | The Presidency in cooperation with the Commission proposed to take on board this comment by modifying Article 36 and including, under the eligible measures of collective actions, measures that aim at the creation of  |

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|  | <p>producer organisations recognised under Regulation (EC) No 104/2000 and their restructuring in order to facilitate the implementation of their plans to improve quality.</p>  |
| <p><u>Article 42</u> : The condition that the municipalities in a fisheries coastal area shall have no more than 100 000 inhabitants should be deleted.</p> <p>Once the eligible measures are set by the Commission, the application of the principle of subsidiarity is vital. Member States should have the right to establish a list of eligible coastal areas according to their own criteria.</p> | <p>Aid under this priority should concentrate on a number of regions to give a better added value to EFF intervention in a context of limited financial resources. Therefore the aid must focus on areas where fishing is important from an economic and social viewpoint, where economic alternatives are rather scarce and access to other funds is more difficult.</p> <p>The Commission acknowledges the need to introduce some flexibility. The Presidency in cooperation with the Commission proposed to take on board this comment by revising the relevant article and laying down general criteria to define the eligible areas, within which priority should be given to certain parameters.</p> |
| <p><u>Article 44</u> : The composition of the CAGs should be subject to prior recognition by the social partners.</p>  | <p>The Presidency, in cooperation with the Commission, proposed modifications to the procedure and establishment of these groups. One of these modifications states that these groups shall represent public and private partners from the various local socio-economic sectors concerned.</p>   |

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| <p><b>22. Proposal for a Directive of the European Parliament and of the Council amending Directive 98/71/EC on the legal protection of designs<br/>COM(2004) 582 final – EESC 691/2005 – June 2005<br/>DG Markt – Mr McCREEVY</b></p>  |  |
| <p><b>Main points of the EESC Opinion</b></p>   | <p><b>Commission Position</b></p>  |
| <p>The Committee supports the Commission’s proposal, which follows on from earlier legislative initiatives welcomed by the Committee and which may contribute to greater competition, lower prices and the creation of new jobs, particularly in SMEs.</p> <p>However, the Committee considers that the proposal would benefit from being better grounded in terms of a clear demonstration of its compatibility with the TRIPS Agreement, from more illustration of its effects on employment and, in particular, from a guarantee that consumers – quite apart from the right to information which seems to have been secured – will not be affected in their choices, either directly in terms of the safety and reliability of products used by independent suppliers, or indirectly by the consequences of the use of spare parts in the repair of complex products for which they are intended (basically, motor vehicles) on either their residual market value or on indirect costs (e.g. insurance).</p> | <p>The Commission will, as far as possible, take the EESC’s comments into account, in terms of paying greater heed to the positive effects of liberalisation.</p> <p>The Commission, aware of the controversial nature of this matter, even within the industry, has conducted an extended impact assessment to analyse the various options with a view to liberalising the protection of spare parts for complex products - SEC(2004) 1097. In this study, the Commission analyses the impact of liberalisation on the structure of the European market, competition and prices, competitiveness and innovation, employment, safety and the consumer.</p> <p>More particularly as regards consumer safety, the Commission considers that the legal protection of designs is not intended to ensure the safety of complex products or their parts, which is governed by Community legislation on product safety, including the construction and operation of motor vehicles. However, the Commission has stated its intention of carrying out an additional study on the potential impact of this proposal, if any, on the safety of vehicles and pedestrians, and of putting forward appropriate legislative initiatives or proposals, where necessary.</p> |

**23. Proposal for a Regulation of the European Parliament and of the Council on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems**  
**COM(2004) 737 final –EESC 689/2005 - June 2005**  
**DG MARKT and TRADE – Mr Mc CREEVY and Mr MANDELSON**

| <b>Main Points of the EESC Opinion</b>  | <b>Commission Position</b>  |
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| <p>The Committee believes that the definition of “pharmaceutical product” explicitly refers to Directive 2001/83/EC of the European Parliament and of the Council on medicinal products for human use. The WTO General Council Decision does not mention veterinary medicinal products: nevertheless, in order to be able to cope with health emergencies which could occur as a result of animal diseases transferring to humans or contamination of food products of animal origin, the EESC hopes that the scope of the Directive is extended to include veterinary medicinal products, through the adoption of a specific WTO General Council Decision, if necessary.</p> | <p>On the issue of “pharmaceutical products” definition, the Commission has emphasised that the examples given to illustrate the definition are not exhaustive. Thus, the definition does not necessarily exclude veterinary medicinal products. The inclusion of a reference to the Directive on medicinal products for human use is specifically linked with the availability of the scientific opinion procedure in Article 16 of the proposed Regulation.</p> |
| <p>The regulation is applicable to WTO members (Article 4), which is logical, being an instrument used to implement an internal decision of this international organisation. The EESC calls upon the Commission and the Member States to continue international discussions and to seek globally applicable solutions that comply with intellectual property rights and current international agreements.</p>   | <p>International discussions on the implementation of the Decision are still ongoing.</p>   |
| <p>Article 5 lays down that “Any person may submit an application for a compulsory licence”. The EESC believes that the blanket term “person” used to describe the applicant stems from the desire to offer the greatest possible number of production opportunities. Nonetheless, it believes that it is advisable to specify that the applicant must meet all the requirements of European legislation relating to pharmaceutical products so that current</p>  | <p>Article 16 of the proposed Regulation aims to ensure that medicines produced for export to countries with public health problems can be shown to comply with the Community conditions of safety, quality and efficacy. However, the requirement for compliance with such conditions is a matter for the importing country. Regulations concerning the manufacture of pharmaceuticals within the EU apply whether or not the</p>                                |

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| <p>production regulations governing citizens' health in the EU can be enforced even if in the case in question the product is intended solely for export.</p>  | <p>products are destined for export.</p>   |
| <p>On the sensitive issue of authorised production volumes, the EESC notes a discrepancy between Article 6(2) which lays down that “the total amount of product authorised to be produced [must] not significantly exceed the amount notified to the WTO” and Article 8(2) which asserts that “the amount of ... product(s) manufactured under the licence shall not exceed what is necessary to meet needs”. To resolve the discrepancy, the EESC suggests modifying the text of Article 6(2) with a view to clarifying that production should not exceed the necessary requirements.</p> | <p>The concerns of the Committee have been addressed during discussions in the Council: the word “significantly” has been deleted. .</p>   |
| <p>The EESC endorses the measures envisaged to avoid the unfair use of the compulsory licence. Moreover, it would like to see a specific reference to the fact that the holder of a patent or supplementary protection certificate can report or object to any matters that have not been complied with, particularly with respect to proof of prior negotiation and conformity of production checks as laid down in Article 8 (paragraphs 4, 5 and 8 in particular).</p>  | <p>The concerns of the Committee have been addressed during discussions in the Council, in particular as the right holder has been given opportunity to comment on the application and to request a review under Article 14.</p> |
| <p>Article 8(4) lays down the labelling, marking and packaging rules that govern products manufactured under the present regulation in order to ensure that the product is exclusively exported to and sold in the requesting importing country. The EESC suggests that it should be specified that trademarks, graphic logos and packaging colour too should be distinctive with a view to hindering illegal re-exportation to the EU or third countries.</p>   | <p>The wording of the Article corresponds to that of point 2 (b) (ii) of the WTO Decision.</p>   |
| <p>Article 10, which lays down that the Commission shall be notified of the compulsory licence granted by EU Member States, does not appear to provide</p>   | <p>Paragraph 2(c) of the Decision calls upon exporting members to notify the Council for TRIPS of the grant of a compulsory licence under the system,</p>  |

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| <p>for adequate disclosure with regard to the right holder and the players in the sector. The EESC hopes that, provided that confidential information is protected, suitable arrangements can be made so that these details may be made available to the interested parties.</p>   | <p>including the conditions attached to it. For EU Member States, that notification takes place via the Commission. The WTO Decision says that these notifications will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the Decision.</p> |
| <p>The wording of Article 11(2) does not appear to be sufficient to avoid unfair practices, particularly in the case of medicines that are not manufactured in the EU but pass through EU territory, and it consequently lacks teeth. The EESC calls on the Commission to monitor the control arrangements and the implementation of the sanctions approved by the Member States to ensure that, in compliance with the customs Regulation, they are genuinely effective, proportionate and dissuasive, thereby avoiding fraud and counterfeiting.</p> | <p>Under Article 17 the Commission will report on the operation of the mechanism set up by the Regulation.</p>   |
| <p>Lastly, the EESC urges that the European Commission consider how best to implement arrangements, such as bilateral agreements, in order that similar arrangements can also be implemented in non-WTO developing countries.</p>  | <p>International discussions on the implementation of the Decision are still ongoing.</p>  |



**24. Proposal for a Council Regulation laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund**  
**COM(2004) 492 final – EESC 389/2005 - April 2005**  
**DG REGIO - Mrs HUBNER**

| <b>Main points of the EESC Opinion</b>  | <b>Commission Position</b>  |
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| <p>The EESC Opinion gives a generally positive assessment of the Commission's proposal but expresses concern about certain matters which it feels have not been suitably dealt with.</p> <p>The EESC considers that the Commission's proposed strengthening of partnership should, in general, enhance the capacity of the economic and social players in all stages of the programming and implementation of the Funds, where appropriate by laying down binding rules to ensure their participation.</p> <p>The EESC believes there is some risk of renationalisation of cohesion policy in the coming period as a result of developments such as the delegation of certain management and control tasks to the Member States, the fact that they lay down eligibility rules and have the ability to decide which regions will be eligible for the new "Regional competitiveness and employment" objective.</p> | <p>While emphasising that some of the issues raised by the EESC ought to be addressed to the Council, the Commission wishes to comment as follows :</p> <p>The Commission attaches the greatest importance to ensuring that the economic and social players are actively involved in all stages of the programming and implementation of cohesion policy. For example, it has always taken steps to make sure that those parties are properly represented in the monitoring committees. Article 10 of the draft Regulation states that those involved in partnership include : regional, local, urban and other public authorities ; the economic and social partners ; and other bodies representing civil society. Pursuant to the principle of subsidiarity, it is up to the Member States to designate these partners and to organise their involvement in all stages of the programming, monitoring and evaluation of the Funds. In addition, the Commission undertakes to consult each year the organisations representing the partners at European level on the implementation of the cohesion policy.</p> <p>It is in the Commission's interest to maintain and defend a strong and effective Community cohesion policy. Accordingly, the new cohesion policy will become one of the financial pillars of the recently relaunched Lisbon Strategy. It is within this context that the principles of cohesion policy reform have to be judged : on the one hand, enhanced strategic capacity, with the operations geared to the Lisbon and Göteborg priorities ; on the other hand, pursuant to the principle of</p> |

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| <p>The EESC feels that priority should be given to regions suffering from structural or natural handicaps, perhaps by making the increased rates of co-financing cumulative in relation to the handicaps.</p> <p>The EESC is concerned about the impact of having Community co-financing supported only by public expenditure. Enforcement of this requirement could ultimately reduce or even eliminate the private component of public/private partnerships.</p> | <p>subsidiarity, decentralisation towards the national, regional and even local authorities as regards certain tasks with low Community added value, in order to simplify the implementation procedures and to nurture more grass-roots involvement. In short, far from renegeing on its responsibilities, the Commission wants to concentrate on the tasks yielding the greatest added value and effectiveness, including guaranteeing that the Community Funds are well utilised and contribute decisively to promoting growth, employment and productivity.</p> <p>The Commission's proposal caters specifically for regions which suffer from structural or natural handicaps (islands, mountainous zones, sparsely and very thinly populated regions, and certain border areas) in the programming for the next period. Firstly, population density is one of the criteria to be used for determining the financial allocation per Member State under the "Regional competitiveness and employment" objective. Secondly, under the same objective, the co-financing rates for the priorities focusing on these regions in the corresponding programmes are being increased by 5%. In addition, the Commission is proposing a specific programme for the outermost regions.</p> <p>The Commission's proposal, whereby the Community contribution will be calculated on the basis of public expenditure only, is intended to simplify financial management. Given that the private contribution is always estimated, it is very difficult to include it in the basis of assessment for the Community contribution. That is why, even in the current period where this possibility exists, the rates of co-financing are generally applied by the Member States in respect of public expenditure. Moreover, the Commission has demonstrated that the new system is neutral for private participation, which is encouraged by other means. In this connection, the rates of co-financing from the Funds are adjusted in the light of the provision of private funding and the application of the <i>financing gap</i> method is generalised so that private funding</p> |
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The EESC is pleased to note that the draft regulation confirms the procedure of awarding global grants to grassroots organisations, but is disappointed that its proposal for a minimum threshold of 15% of interventions in this form has not been followed up.

The EESC is sceptical of the value of the N+2 rule, since it believes that in order to get round this rule, national authorities are inclined to make hasty decisions on projects of dubious value, sometimes with the tacit cooperation of the European Commission. The EESC thinks that funding which has not been used should be recycled.

is taken into account when the rates are calculated. The Commission will ensure that the principle of additionality is fully adhered to and that the Community Funds are utilised with a strong leverage effect. Furthermore, the Commission has proposed, during negotiations within the Council, that the rates of co-financing be set at the programme level, thereby allowing for greater flexibility in respect of public/private partnerships.

The Commission maintains that greater prominence will be given to global grants as instruments for facilitating more flexible and decentralised management of the Structural Funds, especially as regards urban measures. Nevertheless, precisely because such an instrument ought to be flexible and attuned to the needs of the beneficiaries, as well as consistent with the strategies devised at the appropriate level (national, regional or even local), the Commission considers that use of this instrument must remain voluntary. Consequently, the imposition of a minimum utilisation threshold is not envisaged.

The Commission does not agree with the EESC on this matter and absolutely rejects the criticism of complicity in the inefficient use of Community Funds. The Commission wishes to retain the N+2 rule because it is an instrument of proven effectiveness in eliminating the problem of commitments which remain open for too long without being paid, thus speeding up the absorption of the Funds. In order to avoid potential problems with the application of this rule in the new period, the Commission wants the Member States to take the necessary measures to ensure consistent programming and effective implementation. A certain degree of flexibility is allowed, particularly for large-scale projects. As far as the reutilisation of amounts released is concerned, the Commission takes the view that this option would weaken the purpose and logic of the rule, which is based on decommitment.

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| <p><b>25. Proposal for a Council Regulation establishing a Cohesion Fund<br/>COM(2004) 494 final – EESC 390/2005 – April 2005<br/>DG REGIO – Mrs HUBNER</b></p>   |   |
| <p><b>Main points of the EESC Opinion</b></p>   | <p><b>Commission Position</b></p>   |
| <p>The EESC endorses the Commission’s proposal, which aims to bring together in this Regulation only the key objectives and main lines of application and access for the Cohesion Fund, leaving all the implementing rules and procedures to the General Regulation. The EESC is, however, concerned about the following aspects :</p> <p>Regarding the N+2 rule, the EESC has reservations as to the value of the first-time application of that rule to the Cohesion Fund.</p> <p>The EESC wants the rural sector to be included in the scope of the Cohesion Fund.</p> | <p>The Commission wishes to retain this rule because it is an instrument of proven effectiveness in eliminating the problem of commitments which remain open for too long without being paid, thus speeding up the absorption of the Funds. Despite the fact that the N+2 rule will be formally applied for the first time to the Cohesion Fund during the period 2007-13, a similar rule is already being applied in the current period to projects that have not been started within two years of the adoption of the approval decision. The actual impact of applying the N+2 rule to the Cohesion Fund will therefore be limited.</p> <p>The Cohesion Fund was set up to co-finance infrastructure in the transport and environment fields (as well as technical assistance for preparing the relevant projects). For the next period, the Commission is proposing to extend the scope to other areas contributing to sustainable development with a clear environmental dimension, as set out in point 3) of Article 2. However, specific activities for rural areas will fall within the scope of the EAFRD, not forgetting the specific provisions laid down in the ERDF Regulation.</p> |

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| <p>The EESC is concerned about possible inflexibility arising from the application of provisions on excessive government deficit to the Cohesion Fund, which could have a pernicious effect in terms of penalising a Member State that might actually be in need of funding.</p> <p>The EESC wants the Commission to ensure that the Member States coordinate ERDF and Cohesion Fund operations under the Convergence objective and that the criterion of territorial cohesion is taken into account.</p> | <p>The Commission emphasises the importance of budgetary consolidation as laid down in the Treaty. Cohesion Fund aid is conditional on compliance with these provisions. In any case, it is for the Council to decide whether a Member State has failed to meet the requirements of budgetary discipline.</p> <p>When presenting their National Strategic Reference Frameworks, the Member States must specify how they intend to coordinate ERDF and Cohesion Fund operations. Of course, throughout the programming and implementation process, the Commission will strive to ensure that the greatest possible synergy is achieved.</p> |
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**26. Proposal for a Regulation of the European Parliament and of the Council on a European Regional Development Fund (ERDF)  
COM(2004) 495 final – EESC 391/2005 - April 2005  
DG REGIO - Mrs HUBNER**

| <b>Main points of the EESC Opinion</b>   | <b>Commission Position</b>   |
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| <p>The EESC gives a generally favourable assessment of the Regulation proposed by the Commission, welcoming in particular the fact that the actions to be supported by the Fund will be concentrated on the priorities defined at the Lisbon and Gothenburg Summits. The aspects on which the EESC takes a different stance from the Commission are as follows:</p> <p>In the EESC’s view, expenditure on housing and renovation that is related to regeneration and development should be permitted, particularly expenditure that is part of programmes for the refurbishment of older urban and industrial areas.</p> <p>The EESC would like to see education (including the learning of languages) being given more prominence within the ERDF Regulation, and advocates closer coordination between the ERDF and the ESF.</p> <p>The EESC argues that the activities set out in</p> | <p>In order to concentrate ERDF operations on activities with greater impact in terms of growth, employment and productivity, the Commission has proposed that expenditure on housing and renovation should not be deemed eligible. Moreover, in view of the steep rise in property prices in several Member States over recent years, the Commission does not want the ERDF to contribute to fuelling the speculation. While it understands the EESC’s viewpoint, the Commission feels that if it were to be taken into account, it would have to be done in the context of the joint Council/Commission declarations interpreting certain elements of the Regulation. It is therefore not necessary to amend the Regulation at this stage.</p> <p>The Commission agrees with the EESC on the essential role of education in stimulating innovation, competitiveness and development in general. Nevertheless, the ERDF Regulation covers only education infrastructure, while specific measures in this field fall within the sphere of the ESF. As far as the very necessary coordination between ERDF and ESF operations is concerned, it is up to the Member States to ensure this within the National Strategic Reference Frameworks.</p> <p>Having regard to the results of the Urban</p> |

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| <p>Article 8 (urban dimension) should contain all the features of the current Urban Community Initiative. It would also like to see the 10% limit for cross-funding between the ERDF and the ESF being applied per programme and not per priority, thus creating more flexibility and allowing the benefits to extend beyond the urban dimension.</p> <p>The EESC Article 9 makes specific provision for rural areas and areas dependent on fisheries, but feels that this should also include access to services of general interest, innovation, and higher education institutions.</p> | <p>Community Initiative, the Commission will place greater emphasis on urban issues by including them in regional programmes and introducing specific provisions, such as the sub-delegation of responsibilities to municipal authorities, where appropriate, by means of a global grant, or the possibility of increasing the cross-funding between the ERDF and the ESF up to 10%. The Commission considers that Articles 4 and 5, together with Article 8, are sufficient for the activation of urban policy. Accordingly, the Commission will propose an amendment of Article 8 to make it clearer that it both supplements and derogates from Articles 4 and 5.</p> <p>The Commission has not included these aspects in the specific provisions for rural areas and areas dependent on fisheries, since they are already covered by Articles 4 (Convergence) and 5 (Regional competitiveness and employment), except for higher education institutions in the latter case.</p> |
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| <p><b>30. Simplifying and modernising VAT obligations</b><br/> <b>COM(2004) 728 final - EESC 531/2005 – May 2005</b><br/> <b>DG TAXUD - Mr Kovacs</b></p>  |  |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>  |
| <p>In point 4.1, the EESC states that it basically endorses the setting-up of the one-stop scheme, but wishes to make some comments, with a view to helping to make the cross-border VAT mechanism more effective.</p> <p>These comments seek to provide pointers for future developments and additional measures.</p> | <p>The Commission notes the EESC's endorsement. It considers the setting-up of the one-stop scheme to be an important, but not final, step towards simplifying obligations.</p> <p>The EESC's comments will be taken into consideration during future deliberations aimed at further simplifying VAT obligations.</p>  |
| <p>In point 6.4, the EESC addresses the question of data protection and the potential risk of industrial espionage.</p>  | <p>The Commission does not agree with this. The exchange of information necessary for the operation of the one-stop scheme will take place within the framework of the VIES system.</p> <p>The VIES system has been running since 1993, and there has never been a problem with security from the point of view of data protection.</p> <p>It has to be emphasised that Article 41 of Regulation 1798/2003 stipulates that "information communicated in any form pursuant to this Regulation shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under both the national law of the Member State which received it and the corresponding provisions applicable to Community authorities."</p> <p>This provision will also cover the exchange of information in connection with the operation of the one-stop scheme.</p> |



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| <p><b>31. Proposal for a Directive of the European Parliament and of the Council amending Directive 95/2/EC on food additives other than colours and sweeteners and Directive 94/35/EC on sweeteners for use in foodstuffs COM(2004) 650 final – EESC 384/2005 - April 2005<br/>DG SANCO - Mr Kyprianou</b></p> |   |
| <p><b>Main points of the EESC Opinion</b></p>   | <p><b>Commission Position</b></p>   |
| <p>3.2. The EESC generally welcomes this update of legislation and has certain specific comments to make. In particular, the EESC suggests the permitted levels for nitrites and nitrates should be as low as possible, if necessary with different levels for different products to achieve this.</p>          | <p>Following the EFSA opinion, the Commission proposed a maximum level of 150 mg/kg added amount of nitrites/nitrates for all meat products (100 mg/kg for sterilised meat products). However, the general principle governing the use of food additives is that they should always be used at the levels necessary to achieve the desirable technological effect depending on the product and not necessarily at the maximum permitted level.</p>  |
| <p>3.5. The EESC agrees with the ban of gelling agents in jelly mini-cups but considers that it should be possible for the EU to ban a particular unsafe food product.</p>  | <p>The prohibition via the use of the specific additives legislation is the quickest way at the moment to prevent the risk from these products.</p>   |
| <p>3.7. In relation to 4-hexylresorcinol, the EESC is concerned about people who consume an unusual amount of crustaceans and recommends that the EFSA should assess whether 4-hexylresorcinol or sulphites, or a mix, is safer for consumers.</p>  | <p>The Commission cannot accept this proposal. The safety assessment of an additive is usually independent from that of another additive. If the use of an additive is safe, it is authorised provided that there is justified technological need. For 4-hexylresorcinol, the SCF could not establish an Acceptable Daily Intake (ADI); nevertheless, the Committee considered that the specific use of this additive in shrimps is acceptable provided residues in crustacean meat do not exceed 2 mg/kg, which is the limit proposed by the Commission.</p> |

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| <p><b>35. Proposal for a Council Decision on the system of the European Communities' own resources</b><br/> <b>COM(2004) 501 final – EESC 533/2005 – May 2005</b><br/> <b>DG BUDG – Mrs Grybauskaite</b></p>   |   |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>   |
| <p>The EESC questions the point of retaining the traditional own resources and suggests instead that they be drastically reduced and replaced by increasing the GNI rate.</p>                                  | <p>The Commission does not share the Committee's opinion on that point. Collected import duties in the EU result from the customs union and constitute therefore a normal source of financing of the European budget. Furthermore, if import duties were not attributed to the EU level and given the mismatch between the country collecting the duty (tax) and the country of residence of the tax-payer, complex tax-sharing would normally have to be defined, which would entail additional costs.</p> |
| <p>The EESC questions the logic behind retaining the VAT resource. It suggests replacing the VAT-based own resource by GNI-based contributions.</p>  | <p>The Commission does not share the Committee's opinion on this point neither. Basing part of the financing of the EU budget on VAT has earlier played an important role in harmonising this tax across Member States and a transformed VAT resource is one of the suitable candidates for a genuinely fiscal EU own resource.</p>   |
| <p>The EESC accepts in principle the generalised correction mechanism (GCM) proposed by the Commission, but considers that there should be a clause for a periodic review, for instance every seven years.</p> | <p>The Commission welcomes the Committee's broad acceptance of the necessity of the GCM.</p> <p>The GCM is to be seen as a second-best solution to the issue of excessive negative budgetary imbalances.</p> <p>The Commission does not see a formal review clause as indispensable, but would be open to take this suggestion into account in the framework of an overall political agreement.</p>   |

Without wishing to discuss the three proposals for a fiscal own resource put forward by the Commission (except that the energy tax is discarded from the outset), the Committee fears that a European tax would not bring the citizen closer to Europe, but rather the opposite. In the current political climate, a new EU fiscal own resource is seen as premature, at the very least.

The Commission does not fully share the Committee's scepticism on this point although it is obvious that any such initiative needs special attention as regards the communication and information of the citizens. It believes that Commission's proposal on the financing of the EU budget has the potential to create a more direct link to the EU citizen and increase the accountability of the budgetary authority for spending decisions. This would strengthen citizens' identification with and interest in the European affairs.

It could also contribute to shifting attention away from the narrow focus on 'budgetary balances' towards the merit of EU policies and the general European interest.

**C. Opinions calling for a different type of response**

**a) Agreement between the Commission and the EESC**

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| <p><b>50.</b><br/>4<sup>th</sup><br/>quarter<br/>04</p> <p><b>Proposal for a Council Decision amending Decision No 2002/463/EC adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO programme)</b><br/><b>COM (2004) 384 final – EESC 1436/2004 - October 2004</b><br/><b>DG JLS – Mr FRATTINI</b></p>  |   |
| <p><b>Main points of the EESC Opinion</b></p>   | <p><b>Commission Position</b></p>   |
| <p>3.1 The EESC considers that this amendment of the ARGO programme should ensure that financial support under the programme goes to national external border projects, <i>but wishes to emphasise that the strategic nature of the projects must be agreed on by the ARGO Committee, acting on the Commission’s proposal, by means of a risk assessment on the basis of objective criteria agreed on by a majority of Member States.</i></p> | <p>The procedure for evaluating and approving ARGO actions is perfectly in line with the EESC’s wishes.</p> <p>All joint operations and projects are devised in conformity with the periodic risk analysis report produced by the Helsinki-based Risk Analysis Centre, and are financed in the light of consultation of the ARGO Committee.</p> |
| <p>3.3 The EESC considers that it will in future be necessary to go beyond administrative cooperation and <i>create a system of Community solidarity in the fields of external borders, visas, asylum and immigration, under a common policy. The financial perspective from 2007 will have to take account of this approach.</i></p>   | <p>The Commission’s adoption of proposals for JLS Framework Programmes on 6 April 2005 and, in particular, the proposal for a Decision establishing the External Borders Fund, to be implemented in the context of the Financial Perspective 2007-13, is fully in line with this approach.</p>  |

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| <p><b>34. EU-India Relations</b><br/><b>Own-initiative Opinion – EESC 530/2005 – May 2005</b><br/><b>DG RELEX – Mrs FERRERO-WALDNER</b></p> |
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The Commission wishes to thank the Economic and Social Committee for its cooperation and for the excellent contribution they have made, both as EESC and through the EU-India Round Table. It is a valuable contribution to enhancing EU-India relations, in particular the Strategic Partnership.

**b) Opinions on which the Commission has made certain comments**

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| <p><b>11. Framework for State aid – public services</b><br/> <b>4<sup>th</sup> Own-initiative Opinion - EESC 1632/2004 – December 2004</b><br/> <b>quarter DG COMP – Mrs KROES</b><br/> <b>04</b></p>   |  |
| <p><b>Main points of the EESC Opinion</b></p>   | <p><b>Commission Position</b></p>  |
| <p>3.13 In addition, the proposal, the legal basis of which is Article 86(3) EC Treaty, perpetuates the current asymmetry in the Treaties between the regulation of competition law, which interprets SGEI as derogations from Article 86(2) EC Treaty, and the positive recognition of SGEI in Article 16 EC Treaty and Article 36 of the Charter of Fundamental Rights. This approach diminishes somewhat the essential value of SGEI both in EU policymaking – social and territorial cohesion – and as a guarantee for the citizens of the Union of basic rights such as freedom of movement.</p>   | <p>The Commission package is based on Article 86 EC, which is the legal basis for Decisions on Services of General Economic Interest. In fact, Article 86.2 specifically refers to “Services of General Economic Interest”, so this is the legal basis the Commission should use in this area.</p> |
| <p>3.14 The problems raised by the proposal relate to the very basis of the legislative strategy employed by the Commission, at the very least in terms of its instrumental aims and regulatory effectiveness. With respect to the former, the approach on which the proposal is based calls to mind the well-known typology of exemption by category which is widely used in the Community legal system for competition on the internal market. By lumping together diverse situations in this way, there is a risk of a hidden form of harmonisation which seeks, through regulation, a one-size-fits-all solution to the complex realities of SGEI, when what is really needed is a more detailed and further-reaching legal approach.</p> | <p>Articles 86 and 87 of the Treaty apply to all sectors. In any event, the Commission authorises the compensation necessary to provide public services in all sectors.</p>  |

3.15 This remark leads us to consider the issue of regulatory effectiveness. In the absence of a prior proposal for a framework directive, as recommended by the Committee, which would consolidate the basic regulatory objectives and principles of SGEI as well as clarifying (a) the concepts used by the Treaties and sector-specific directives and (b) the conditions governing the different operators, this proposal does not guarantee the level of legal certainty necessary for this sector of the internal market.

In the White Paper on Services of General Interest the Commission concluded that, at this stage, there was insufficient evidence of the added value of horizontal framework legislation (compared to the existing sector-specific framework), and the Commission considered it appropriate not to submit a proposal but to re-examine the issue at a later stage.

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| <p><b>54.<br/>4<sup>th</sup><br/>quart<br/>04</b></p> <p><b>Communication from the Commission to the Council and the European Parliament – A more efficient common European asylum system : the single procedure as the next step</b><br/> <b>COM (2004) 503 final – EESC 1644/2004 - December 2004</b><br/> <b>DG JLS - Mr FRATTINI</b></p>  |   |
| <p><b>Main points of the EESC Opinion</b></p>   | <p><b>Commission Position</b></p>   |
| <p>Refugees’ rights should firstly be considered on the basis of the procedures set out in the 1951 Convention – with consideration of subsidiary protection being the second course of action if the conditions required under that Convention status are not fulfilled.</p>   | <p>The Commission recommends this explicitly in the Communication.</p>  |
| <p>Reasons should be given for any rejection of a request for international protection and particularly for any refusal to grant refugee status in accordance with the 1951 Geneva Convention even where subsidiary protection is granted. The Committee believes these guarantees to be crucial to safeguarding the integrity of the 1951 Convention.</p>  | <p>The Commission recommends this explicitly in the Communication.</p>  |
| <p>The Committee recognises that asylum seekers cannot determine which statuses arise from the Convention and which are subsidiary and that they face further problems in the country where they have to resubmit an application on other grounds after being refused the status provided for in the 1951 Convention leading to confusion, discouragement and intolerable delays.</p>   | <p>This point is made explicitly in the Communication.</p>  |
| <p>The Committee calls on the Commission to take account, in its communication and when it launches the preparatory and legislative phases, of the non-refoulement principle (Article 33 of the Geneva Convention) and of the need to provide a judicial right of appeal against negative decisions. A possible <i>ex officio</i> examination of subsidiary protection grounds should be undertaken once the conditions for granting refugee status</p> | <p>The Commission agrees that the principle of non refoulement is important. The idea of an <i>ex officio</i> examination comes from the Communication.</p> |

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| <p>provided for under the Geneva Convention have been examined, and the applicant should be granted the right of appeal against involuntary return, in accordance with international and European human rights conventions.</p>  |   |
| <p>NGOs and the UNHCR should not be excluded from administrative appeals committees where these exist and, where they do not exist, should have unrestricted access to asylum seekers and their applications, in order to facilitate access to and use of this right.</p>  | <p>Representation of asylum applicants is dealt with in the Asylum Procedures Directive but does not include the mandatory attendance of UNHCR and NGOs at appeals hearings.</p>  |
| <p>The Committee urges the Commission, in its amendments to the directive on procedures adopted provisionally by the Council on 29 April 2004 and to be re-submitted to the European Parliament, to extend the scope to cover all forms of international protection, including subsidiary protection, and to review its classification of "safe" third countries, which denies asylum seekers the chance to have their individual situation and rights examined.</p> | <p>The Commission has proposed no amendments to the Asylum Procedures Directive nor is it the intention of the Commission to do so. The Commission is satisfied that the safeguards in the Asylum Procedures Directive do not contravene international law.</p> |



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| <p><b>6. XXXIIIrd Report on Competition Policy (2003)</b><br/> <b>1st SEC (2004) 658 final - EESC 143/2005 – February 2005</b><br/> <b>quart DG COMP – Mrs KROES</b></p>  |   |
| <p><b>Main points of the EESC Opinion</b></p>   | <p><b>Commission Position</b></p>   |
| <p>(7.2) The Committee generally supports the annual report and states that the introduction of new procedures for applying antitrust rules, the review of the Merger Regulation and the new organisational set-up in the Commission have made the European Union's competition policy more efficient and more open to a positive relationship with companies and consumers. It further stresses the essential role played by Competition policy in the creation of a single European market. It therefore considers that Competition policy must always be allowed full autonomy.</p>  | <p>The Commission welcomes the support by the Committee and acknowledges the essential role Competition policy plays in developing and maintaining a competitive European economy, thus contributing to realising the Lisbon Agenda.</p>  |
| <p>The Committee also makes some comments concerning liberalisation in the energy sector (electricity and gas):</p> <p>3.2 There is still widespread dissatisfaction among consumers and companies in various EU countries regarding the persistently high prices and relative efficiency of these services.</p> <p>3.2.1 When appropriate and comprehensive competition legislation is in place, it is sometimes the case, in the new Member States in particular, that monitoring and enforcement agencies encounter difficulties in fulfilling their role independently. As a result, competition legislation sometimes fails to promote either consumer interests or market efficiency. The Committee is in favour of a more functional relationship between competition policy and consumer protection policies.</p> | <p>The Commission is aware of the complaints that consumers have made with regard to the current energy market developments (price increases, limited customer choice,...). It is for this reason that the Commission has launched, in June 2005, a sector enquiry into gas and electricity. The objective of this enquiry is to identify pro-actively possible distortions of competition and, subsequently, to take the appropriate antitrust action at European or national level.</p> <p>More generally, this antitrust enquiry should ensure that consumers obtain the benefits they expect from liberalisation. This is also the objective of the ongoing monitoring of the regulatory framework which is carried out in parallel under the responsibility of Commissioner Piebalgs in close cooperation with Commissioner Kroes.</p> |

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| <p>7.3.3 On Services of General Interest (SGI), the Committee takes the view that if they are not correctly defined and financed, universal service obligations could cause the companies responsible to suffer increasing losses, owing to the potential entry of competitors into the most profitable areas of their activity.</p> <p>7.3.4 The Committee therefore stresses the need to adopt a clear legal text on SGI in order to secure effective and fair access for all users to high-quality services that meet their requirements. Furthermore, it recommends instigating as broad as possible a dialogue with the social partners and NGOs, particularly regarding the reorganisation and functioning of social services.</p> | <p>It is the responsibility of the Member States and their regional or local authorities to define public services in practice. The Commission can only recommend that Member States consult widely.</p> <p>With regard to Public Services of General Interest, the Commission has recently presented a package of measures providing greater legal certainty to the financing of such services. The measures will ensure that companies can receive public support to cover all costs incurred in carrying out public service tasks, while ensuring that there is no overcompensation liable to distort competition. Member States will be able to grant compensation up to certain thresholds without notification to the Commission. Hospitals and social housing sectors will also be exempt from notification where certain conditions are met (e.g. no overcompensation).</p> <p>In the White Paper on Services of General Interest, the Commission concluded that, at this stage, there was insufficient evidence of the added value of horizontal framework legislation (compared to the existing sector-specific legislation) and that it was not appropriate to submit a proposal but to re-examine the issue at a later stage.</p> |
| <p>7.4.3 On professional services, the Committee urges the Commission to stand by its commitment to publish a new report on “progress in eliminating restrictive and unjustified rules” in 2005, [...] looking more closely at the link between the level of regulation, economic results (prices and quality) and consumer satisfaction.</p>  | <p>Following the report issued in February 2004, regulatory authorities and the professional bodies in the Member States were invited to review existing rules, taking into consideration whether those rules are necessary for the good practice of the profession and proportionate to achieve a public interest objective.</p> <p>The Commission will report shortly on the progress achieved.</p>   |

7.5 (and 3.6) On plurality of information and competition law, the Committee takes the view that the Commission needs to be exceptionally vigilant in the application of competition rules with regard to media so to protect its plurality. The Committee believes that the distinction between the EU's tasks and those of national governments is somewhat vague, and also leaves a number of important issues unresolved:

- In the various Member States, differing regulations and approaches requiring harmonisation exist.

- The defence of pluralism of the media requires more than operational competition rules: an explicit recognition of the public's right to have effective access to independent sources of information and alternative and potentially differing information needs to be protected at all levels.

- The process of gradual convergence between telecommunications, IT, radio, television and publishing, if not properly understood, may eventually diminish competition rules and weaken the principle of pluralism.

The Commission shares the Committee's view that plurality of the media is fundamental. The Commission must stress, however, that the application of competition policy instruments is indeed limited to addressing the structure of the underlying market and the economic impact of media undertakings' behaviour, and to controlling state aid. It is therefore primarily up to the Member States to ensure media pluralism through their national media concentration controls and measures to ensure media pluralism.

Where a merger with a Community dimension is concerned, Article 21(4) of the Merger Regulation<sup>3</sup> provides that Member States may take appropriate measures to protect legitimate interests other than those taken into consideration by the Regulation provided that they are compatible with the general principles and other provisions of Community law. "*Plurality of the media*" is specifically recognised by the Merger Regulation as such a legitimate interest.

Lastly, the Commission would point out that in practice the aim of the Merger Regulation, namely to preserve and develop competitive market structures, can go hand in hand, at least to some extent, with safeguarding media plurality. When the Commission considers whether a merger with a Community dimension hampers competition on a media market, it necessarily examines the degree of concentration and hence indirectly the degree of plurality on that market.

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<sup>3</sup> Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentration between undertakings (OJ L 24, 29.1.2004, p.1)

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| <p><b>3. Proposal for a Directive of the European Parliament and of the Council laying down rules on nominal quantities for pre-packed products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC</b><br/> <b>COM (2004) 708 – EESC 379/2005 - April 2005</b><br/> <b>DG ENTR - Mr VERHEUGEN</b></p>  |   |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>   |
| <p>1.1 4.3 Reference should be clearly made within the Directive to a maximum volume capacity of mineral water of 10 litres. Beyond this volume there is evidence to suggest that the quality of mineral water could begin to deteriorate and may present a health risk to consumers.</p>  | <p>The Commission does not have <u>any</u> indications that quality or safety of <u>mineral</u> waters deteriorate for large volumes. There are also no objective criteria to set up a maximum limit at 10 litres. Currently, <u>mineral</u> waters sold in 18.9 litre containers (for use in conditioned machines for water for human consumption) supply 20% of the market.</p>                           |
| <p>1.2 4.6 The consumer organisations have pointed out that some consumers can be confused by excessive variations in package sizing and by packaging that may not qualify as deceptive but still gives the impression of greater contents. Clear and legible package labelling, including the 'on shelf unit pricing' and pack size, together with continued monitoring of deceptive packaging legislation, will overcome this issue. Greater emphasis should also be placed on immediate action where consumer protection legislation is breached or absent. These issues need to be more clearly emphasised in the Directive, and further considered under the metrological review.</p> | <p>The Commission intends to treat this issue in its follow-up to the SLIM-IV conclusions on the metrological requirements of prepacked products.</p> <p>A document reporting on a public consultation that took place between 24 January and 15 March 2005 and suggesting orientations for the problems encountered will be published on the "Europa web page" in the third quarter of 2005.</p>           |
| <p>1.3 4.7 There is a strong fear from consumer organisations that free sizing will allow for price increases to be imposed on products more easily under the guise of new packaging sizes, in a similar way to the introduction of the euro (Eurozone) and the change to metric sizing (UK). The Committee would therefore request that, as part of the internal monitoring procedures, product size</p>  | <p>The Commission does not have indications of increases in goods prices resulting from either the introduction of the euro or the change to metric sizing. As regards the introduction of the euro, Eurostat concluded that "... the changeover effect cannot be seen as one of the main factors driving inflation in 2002." Furthermore, the obligation for larger retailers to quote prices per kg/l</p> |

changes are referenced to any unit product price changes when statistical data are collected.

should help consumers to recognise and react to potential price increases due to changes in the packaging. Statistical data on consumer price increases are closely monitored by the European Central Bank and the Commission services. If unit price increases should occur for prepackaged goods, these should show up in the consumer price statistics and the Commission will take account of this in its monitoring of the effects of the legislation.

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| <p><b>6. Tourism policy in the enlarged EU</b><br/> <b>Own-initiative Opinion - EESC 375/2005 – April 2005</b><br/> <b>DG ENTR – Mr VERHEUGEN</b></p>  |   |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>   |
| <p>This opinion does not go into great detail on the current situation or on future prospects for the tourism industry in each country, but looks at the common elements of a future European tourism policy. It examines and proposes measures that will help to ensure that tourism is a significant driving force for economic and social development for all countries, and which also meets the criteria for sustainability.</p>                | <p>The Commission largely agrees with this approach, as it is in line with its own activities so far based mainly on the Communication “Working together for the future of European Tourism“ (COM (2001) 665 final), and its Communication on “Basic Orientations for the sustainability of European tourism” (COM (2003) 716 final).</p> |
| <p>1.4 According to the EESC the key question is: Can tourism policy be covered by the general development of a comprehensive industrial and economic policy for the European Union? The answer is affirmative following the opinion, if tourism policy is understood as : all the criteria, objectives and instruments capable of steering European tourism towards satisfactory levels of competitiveness, wealth creation and sustainability.</p> | <p>The Commission considers that tourism could, as a growth pole, contribute to the (reviewed) Lisbon objectives.</p>   |
| <p>The EESC also refers to the future European Constitution and the specific Articles on tourism.</p>  | <p>The Commission largely goes along with that analysis, but it cannot take a firm position at this moment in time.</p>   |
| <p>The EESC reiterates some particular points also set out in the opinion:</p> <p>Firstly, to continue working towards the possible future setting-up of a European Tourism Board and to encourage meetings between European institutions, social partners and other civil society organisations.</p>  | <p>The Commission takes note of this (renewed) request, although it is not in favour of creating new formal bodies and/or formal structures.</p>  |

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| <p>Secondly, to express the EESC's willingness to cooperate with other international institutions concerned with the tourism sector, such as the ILO and the BITS.</p> <p>A third point concerns the EESC's wish to participate in the Tourism Sustainability Group (TSG) recently established by the Commission (DG ENTR Tourism Unit).</p> | <p>The Commission welcomes this co-operation with international organisations very much. It confirms that the open method of co-ordination as referred to in the Communication "Working Together" of 2001 works in practice and is followed by other European institutions as well.</p> <p>The EESC is most welcome to participate as an observer in the meetings of the Tourism Sustainability Group (TSG).</p> |
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| <p><b>10. The role of civil society in helping to prevent undeclared work</b><br/> <b>Own-initiative Opinion - EESC 385/2005 - April 2005</b><br/> <b>DG EMPL - Mr SPIDLA</b></p>  |  |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>  |
| <p>The own-initiative Opinion builds on the Council Resolution on undeclared work of 20 October 2003, the European Employment Strategy, a study on undeclared work of May 2004 undertaken on behalf of the Commission, and follows an opinion of the EESC of 1999 on the Communication on undeclared work (COM(1998)219 final). It provides overall support for the Council Resolution, which is a reference point for framing and implementing policies as part of the European Employment Strategy. It recognises the effects of undeclared work for society, for businesses and for the individual. It recognises the complex nature of the problem and adheres to the employment-based approach to undeclared work, while also recognising that organised undeclared work can be linked to economic crime, which must be combated accordingly.</p> | <p>The Opinion broadly endorses the main policy messages of the Council Resolution and the European Employment Strategy and the need for a range of measures needed to transform undeclared work into regular employment, including preventative measures and sanctions.</p> |
| <p>At national level, the Opinion says that the social partners should promote the declaration of economic activity and employment and combat the incidence of undeclared work through awareness-raising and other measures, such as collective bargaining undertaken in accordance with national traditions and practices, in ways which contribute to the simplification of the business environment, particularly as far as small and medium-sized enterprises are concerned.</p>   | <p>On governance issues, the Opinion recognises that civil society, the social partners and industry organisations can play a crucial role in transforming undeclared work into regular employment.</p>  |



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| <p><b>20. Priorities of the Single Market 2005-2010</b><br/> <b>Own-initiative Opinion - EESC 376/2005 - April 2005</b><br/> <b>DGMARKT – Mr McCreevy</b></p>  |   |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>   |
| <p>General remarks/introduction.</p>   | <p>The Commission welcomes the additional Opinion of the EESC on the Priorities of the Single Market for the period 2005-2010 and takes note of the views expressed.</p>  |
| <p>2.3. and 2.4. The EESC states that one of the most serious difficulties is the time lag between a directive receiving Council and Parliament approval and transposition and that Member States often fail to transpose Community directives into national legislation .</p> | <p>The Commission agrees that transposition is a very important issue and has put a lot of effort into trying to help Member States to improve their transposition records. The latest Scoreboard from July this year shows that the EU-15 deficit in 2005 is 2.1%, which is 0.1% better than in June 2004. However, the figure including the 10 new Member States shows a significant improvement to 1.9% from last year's 7.1%.</p> |
| <p>2.6. Some initiatives for Community legislation are not always sufficiently justified by preliminary impact analyses.</p>   | <p>It is true that in the past not all initiatives were preceded by extensive impact assessments. However, the Commission adopted in March a new better regulation package. On 15 June it adopted revised impact assessment guidelines, which will be applied to all new legislative proposals.</p>   |
| <p>6.2. The EESC calls for a simplified European company statute and states that the Commission expects to have completed the feasibility study by June 2005.</p>  | <p>The Commission points out that the feasibility study is not ready yet, but will be finalised most likely end of summer, beginning of autumn. On the basis of this study, and after further consultation of the general public and of interested parties, the Commission will decide whether and what kind of proposal for achieving this would be appropriate.</p>   |

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| <p>7.2. Now that enlargement has just taken place, the EESC considers it is more important than ever, in order to achieve a genuine multiplier effect, to have a proactive information policy that requires the participation of the Member States' national authorities and to ensure that States are held accountable. The information networks such as EURES and problem solving services such as SOLVIT in particular are in place but remain underused, as a result of a lack of support and information.</p>  | <p>The Commission agrees with this point and would stress in particular the need for national authorities to participate pro-actively and ensure that European networks such as EURES and Solvit are well known in the Member States.</p>   |
| <p>8. The EESC states that it is essential to complete the single market in services.</p>   | <p>The Commission agrees with this view, and that the completion of the single market in services will provide a boost to growth and employment in the EU. The completion of a single market in services should lead to an increase in value added of 0.8% and of the employment level by 0.3% (up to 600,000 jobs) in the medium term. The Commission will work constructively with the European institutions and other stakeholders within the legislative process to secure a broad consensus on the amended Services Directive.</p> |
| <p>8.3. In the particular case of financial services such as insurance and banking, the slow progress in realising the Financial Services Action Plan and the slow implementation of it in pursuit of the Lisbon Agenda are due to foot-dragging by some Member States. Too often, some heads of government agree policy pronouncements at a European Council instructing the Commission to take action and then forget all about it when they return to their national capitals.</p> <p>8.4. With regard to financial services, the legislative phase of the Financial Services Action Plan is now drawing to a close; the consistent implementation at national level of the legislative measures is now crucial.</p> | <p>The Commission agrees that implementation of the measures taken should be top priority.</p>  |

**27. European groupings of cross-border cooperation (EGCC)  
COM(2004) 496 final – EESC 388/2005 – April 2005  
DG REGIO – Mrs HUBNER**

| <b>Main points of the EESC Opinion</b>   | <b>Commission Position</b>   |
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| <p>The EESC supports the proposal for a Regulation presented by the Commission and the targets set. It nevertheless wishes to comment on the following points :</p> <p>EGTC instead of EGCC. The EESC subscribes to the Committee of the Regions’ proposal to replace the name “European Grouping of Cross-border Cooperation (EGCC)” with “European Grouping of trans-European Cooperation (EGTC).</p> <p>The relationship between the ERDF and the EGCC needs to be clarified, particularly for Member States conferring on the EGCC the responsibilities of the managing authority under Article 18 of the ERDF 2 Regulation.</p> | <p>This proposal does not present any major problem for the Commission.</p> <p>The EGCC is an entity with legal personality, of a voluntary nature, whose purpose is to facilitate cross-border, trans-national and inter-regional cooperation in the EU. EGCCs are expected to perform the tasks delegated to them by the members (States, regions or local authorities). They may be entrusted with the implementation of cross-border, trans-national or inter-regional cooperation programmes, in which case they may act as the managing authority, but never as the paying authority, since the Member States retain financial responsibility for Community Funds.</p> |

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| <p><b>32. Proposal for a Directive of the European Parliament and of the Council on certain aspects of mediation in civil and commercial matters</b><br/> <b>COM(2004) 716 final – EESC 688/2005 - June 2005</b><br/> <b>DG JLS - Mr Frattini</b></p>  |  |
| <p><b>Main points of the EESC Opinion</b></p>  | <p><b>Commission Position</b></p>  |
| <p>3.1: The EESC believes that this initiative by the Commission is a useful instrument, which will further the actions undertaken at the Tampere Council to increase legal certainty in the EU.</p>   | <p>The Commission is grateful to the EESC for its carefully considered and measured response to the proposed Directive and for the support expressed. The Commission has noted the specific comments made in the report and offers the following response on these.</p>  |
| <p>4.1. Article 1(2) should establish the directive's scope and should not adopt the negative formula set out in recital (8). Furthermore, account should be taken of civil and commercial actions resulting from other areas, such as tax and administrative matters and even of civil actions resulting from criminal actions.</p>   | <p>The wording “civil and commercial matters” covers all civil and commercial matters irrespective of their origin, i.e. this would also cover civil actions resulting from criminal actions. Given the restrictions of the legal basis, however, the directive would not be able to cover mediation in tax and administrative matters as such unless they are qualified as civil and commercial matters under the applicable national law.</p>  |
| <p>4.3. The Committee considers that the Commission should propose guidelines that will guarantee both a degree of harmonisation between Member States and the authority and quality of mediators. The minimum requirements for mediators to be included under Article 4 should include the following:</p> <ul style="list-style-type: none"> <li>• suitable qualification and training in the subjects of the mediation;</li> <li>• independence and impartiality in relation to the litigant parties;</li> <li>• transparency and accountability in their actions.</li> </ul> <p>In particular, the freedom to provide services should be guaranteed in all Member States, which would, in smaller</p> | <p>The Commission agrees in large measure with the opinion of the Committee but has the following comments.</p> <p>While certain measures might be necessary to promote the quality of mediation services offered in the European Community, the Commission, at this stage, has concluded after widespread consultation with providers and users of mediation services that the promotion of self-regulation is the most appropriate policy instrument for, and is more likely to achieve, this purpose.</p> <p>Moreover, the modifications made to the Commission proposal in the most recent Council working document take up the 1st and 2<sup>nd</sup> requirement</p> |

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| <p>countries, ensure the independence of the mediator with regard to the parties involved.</p>  | <p>mentioned by the Committee by stipulating that “Member States shall encourage the training of mediators in order to ensure that the conduct of a mediation is effective, impartial and competent in relation to the parties”.</p> <p>The European Code of Conduct for Mediators launched in July 2004 contains propositions designed to secure the quality of mediation consistently throughout Europe, and adherence to it strengthens the commitment of mediators and mediation organisations to the provision of good quality mediation.</p> |
| <p>4.4. There should be a requirement either for tariffs in proportion to the issue in question and its scale or, alternatively, a mandatory advance payment that would enable the parties to decide whether or not it was worthwhile proceeding. In any event, the procedure should never be more costly to the parties than judicial proceedings.</p> | <p>The Commission draws the Committee’s attention to the fact that mediation procedures are covered by Directive 2002/8/EC on Legal Aid ensuring that no party will refrain from mediation because it cannot afford the costs of this procedure.</p>   |

c) **Opinions on which the Commission is not yet in a position to comment**

**20. Coexistence between genetically modified crops, and conventional and organic crops**  
4th quarter 04  
**Own-initiative Opinion - EESC 1656/2004 – December 2004**  
**DG AGRI – Mrs FISCHER-BOEL**

DG AGRI is at present unable to furnish a response, since this matter is still under consideration.

**4. Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee : "Enhancing trust and confidence in business-to-business electronic markets"**  
**COM(2004) 479 final - EESC 377/2005 - April 2005**  
**DG ENTR – Mr VERHEUGEN**

The Commission does not consider it appropriate to respond to this Opinion of the EESC, especially in view of the full agreement between the two Institutions and the lack of concrete demands on the part of the EESC. The Commission will take account of the comments and views expressed by the EESC, and will continue to monitor the measures proposed in the electronic commerce sector.

**5. European industrial districts and the new knowledge networks**  
**Own-initiative Opinion - EESC 374/2005 – April 2005**  
**DG ENTR – Mr VERHEUGEN**

Follow-up of this point is deferred to the next quarter.

**14. Information and measurement instruments for Corporate Social Responsibility in a globalised economy**  
**Own-initiative Opinion – EESC 692/2005 – June 2005**  
**DG EMPL - Mr SPIDLA**

Given that no specific request is being made to the Commission, a response is not required.

**15. The large retail sector – trends and impacts on farmers and consumers**  
**Own-initiative Opinion - EESC 381/2005 – April 2005**  
**DG ENTR – Mr VERHEUGEN**

Follow-up of this point is deferred to the next quarter.

**21. Proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering, including terrorist financing**  
**COM(2004) 448 final - EESC 529/2005 – May 2005**  
**DG MARKT – Mr McCREEVY**

A response to the EESC's Opinion is not appropriate, insofar as the EP, the Council and the Commission reached agreement on a text on 10 May 2005, while the EESC adopted its Opinion on 11 May 2005. It was therefore not possible to take the Opinion into account.

**28. Programme of support for the European audiovisual sector (MEDIA 2007)**  
**COM(2004) 470 final - EESC 380/2005 – April 2005**  
**DG INFSO – Mrs REDING**

This item will not be followed up.

**29. Proposal for a Recommendation of the Council and of the European Parliament on further European cooperation in quality assurance in higher education**  
**COM(2004) 642 final - EESC 387/2005 – April 2005**  
**DG EAC – Mr FIGEL'**

At this stage, it is not possible to respond to the EESC's Opinion, given that the first reading of this proposal has not yet taken place.