

THE COMMISSION'S FOLLOW-UP
TO OPINIONS OF THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE
ISSUED DURING THE THIRD QUARTER OF 2002
(July and September 2002)

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1.	Services of general interest Exploratory opinion – EESC 860/2002 – July 2002 SG - President Prodi	
Main points of the EESC Opinion		Commission Position
<p>Accordingly, if the process of political and economic integration within the European Union is to move forward, a series of measures is needed. Now would be a good time to present these measures against the background of the revision of the Treaties by 2004. To this end, the Committee believes that Article 3 of the EC Treaty should include a reference to the provision of services of general interest in the list of activities to be undertaken by the Community to achieve its objectives.</p>		<p>The Commission suggested already in its Communication on services of general interest of 1996 (OJ C 281, 26.9.1996, p. 3) that a reference to the promotion of such services should be inserted in Article 3 of the Treaty. In its report to the Laeken European Council on services of general interest (COM (2001) 598, 17.10.2001) the Commission highlighted that Article 16 introduced by the Amsterdam Treaty largely serves the purposes it pursued with this suggestion. However, it stressed that the suggestion remained relevant since the insertion of a new subparagraph to Article 3 would also place the good performance of these services clearly among the objectives of the Community.</p>
<p>The Committee believes there is a need for the Commission to present a proposal for a framework Directive consolidating the political principles governing services of general economic interest and giving Member States the flexibility they need in this area. This legal instrument should highlight the importance placed by the European Union on services of general interest and European citizens' inherent right to access these services, and—in order to provide greater legal security—should clarify some concepts relating to Community law, while fully respecting the principle of subsidiarity.</p>		<p>In its 2001 report to the Laeken European Council on services of general interest the Commission announced its intention to examine the suggestion to consolidate and specify the principles on services of general interest underlying Article 16 of the Treaty in a framework directive.</p> <p>As a follow-up to this commitment, the Commission has decided to produce a Green Paper on services of general interest. The Green Paper will allow the Commission to examine the question of a proposal for a framework directive, including the questions addressed by the Committee, but also to take a more in-depth look into the issue of the role of the European Union in ensuring the provision of high-quality services of general interest to consumers and businesses in Europe.</p>

	<p>The Commission has launched the internal preparation of the Green Paper and intends to publish the document in the first quarter of 2003. Following a public consultation on the basis of this Green Paper, the Commission will finalise its examination and present its conclusions and, as appropriate, concrete initiatives and legislative proposals.</p>
<p>The Committee is in favour of maintaining the financial and economic balance in service provision and believes that public authority funding to compensate undertakings entrusted with the operation of these services for costs incurred under public service obligations must be compatible with Community legislation in the proposal for a framework Directive. It must also include the establishment of special funding mechanisms for additional public service obligations. Finally, it must stress the difference between the principle of public funding, according to which citizens bear the cost of the obligations imposed, and the principle of granting exclusive rights to undertakings that provide general interest services, whereby the desired balance is achieved by adjusting tariffs to offset the cost of deficit activities. In the second scenario, it is the user of the service who finances solidarity, not the taxpayer. Other methods also exist, such as cross-subsidisation and social support</p>	<p>The Commission agrees that services of general interest should be able to fulfil their role in conditions of financial equilibrium. Today a number of services of general interest can be profitably provided under market conditions and do not require any additional support. Other services of general interest need some form of support in order to be viable.</p> <p>In general, it is up to the Member States to ensure the financial stability of services of general interest. However, the Treaty allows Member States to grant the necessary support for services of general interest that would otherwise not be economically viable. Moreover, sector-specific directives addressing the issue of services of general economic interest allow for the creation of funds or other mechanisms of compensation to finance the provision of those services. In principle, the possibilities of Member States to grant financial support for the provision of a service of general economic interest can be restricted by Community rules on state aid. In its Report to the Laeken European Council the Commission has committed itself to introducing measures to further increase legal certainty and transparency in the application of state aid rules to services of general interest.</p>

	<p>The Commission believes that in practice the Community legal framework has proved to be sufficiently flexible to allow the funding of services of general interest by Member States.</p>
<p>The Committee believes it is a good idea to set up an observatory for services of general interest to assess the conditions under which services are provided in the Member States. It could also gather information on these services, promote the exchange of information between the various Member States, and encourage inter-institutional discussions on how these services work at Community level.</p>	<p>The Commission attaches great importance to the evaluation of the performance of services of general interest. In its Report to the Laeken European Council the Commission stressed that in the area of services of general interest a systematic evaluation is particularly important, given that in addition to the economic performance of these services their performance with regard to other public policy objectives must be monitored.</p> <p>The performance assessment is up to the competent authorities at the appropriate level. In line with the principle of subsidiarity, it is in most cases the national, regional or local authorities that are responsible for monitoring and evaluating the performance of such services. However, where a specific framework exists at Community level, the Community institutions must also assess the performance of the services concerned. The Commission has therefore decided to reinforce its sectoral reporting, and to introduce an annual horizontal evaluation in the framework of the Cardiff process. Recently, it has presented “A Methodological Note for the Horizontal Evaluation of Services of General Economic Interest”, COM(2002) 331 final, 18.6.2002. By the end of 2002, the Commission will produce an update of the first horizontal evaluation of services of general interest</p>

	<p>published in December 2001 (Market performance of network industries providing services of general interest: a first horizontal assessment, SEC(2001) 1998 final, 7.12.2001.</p>
<p>The Committee believes that a specific focus needs to be given to the provision and financing of public broadcasting services in order to safeguard the protection of fundamental rights (in particular the right to receive and communicate information), democratic principles and pluralism, which may be affected by certain processes of concentration.</p>	<p>The Commission has explicitly recognised that broadcast media play a central role in the functioning of modern democratic societies, in particular in the development and transmission of social values. It has highlighted that public service broadcasting, although having a clear economic relevance, is not comparable to a public service in any other economic sector. There is no other service that at the same time has access to such a wide sector of the population, provides it with so much information and content, and by doing so conveys and influences both individual and public opinion.</p> <p>In order to clarify the Treaty rules applicable to the financing of public service broadcasting the Commission published a Communication on the application of state aid rules to public service broadcasting (OJ C 320, 15.11.2002, p. 5).</p> <p>The Commission will take account of the specific role of public service broadcasting in any further development of the relevant Community framework.</p>

<p>2. Communication from the Commission – Life science and biotechnology: a Strategy for Europe COM(2002) 27 final – EESC 1010/2002 – September 2002 SG - President Prodi</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>General Comments – The EESC welcomes the Commission Communication, noting that it is accompanied by a well-constructed, precise, dynamic and proactive action plan. The EESC raised the following points of major significance:</p>	
<p>Education - The EESC suggests that the Commission takes precise additional steps to make all the peoples of Europe, and young people in particular, aware of life sciences and biotechnology knowledge, such as measures to introduce school curriculum</p>	<p>The Commission considers that concrete measures aiming to strengthen a broad education and understanding of life sciences are sufficiently covered by the action plan and already supported by the Commission through its various education programmes. However, defining training needs and recommendations for curricula are strictly the competence of the Member States.</p>
<p>Precautionary principle - The EESC invites the Commission to propose an international conference to consolidate application the precautionary principle at every stage.</p>	<p>The Commission does not envisage at this stage to organise a specific conference on the precautionary principle. However, it considers that this issue will be the subject of debate at the announced Stakeholders' Forum (action 13a). Furthermore, the Commission has already organised the international conference 'Risk Analysis and its Role in the European Union' on 18-19 July 2000 in Brussels.</p>
<p>Accountability – The EESC requests that this principle should be appropriately stated in the Commission proposal for a Directive on environmental liability (COM(2002) 17).</p>	<p>The Commission proposal in question already establishes that users of biotechnology, if negligent, are liable for damage in certain cases. At the same time, the proposal is designed to ensure that responsible users who comply with the existing legal requirements (i.e. approval of the application and use) would not bear any risk of liability.</p>

<p>3. Lisbon – Renewing the Vision? Own-initiative opinion - EESC 1030/2002 – September 2002 SG - President Prodi</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>General comments.</p>	<p>The Commission welcomes the EESC's opinion and the priorities established in it, which are close to the Commission own concerns, and its vision of the way in which the Lisbon Strategy should evolve.</p>
<p>The EESC welcomes a greater use of open method of coordination and it notes the efforts made by social partners in the field of their responsibilities at the European level. However, the Committee believes that it is essential for the success of this approach that public and systematic evaluation of progress is made in the Member States. The EESC recommends that an assessment of the efficiency and effectiveness of this approach is performed by the Commission in its preparation for the next Spring Summit.</p>	<p>The Commission's Spring Report has provided and will continue to provide a comprehensive evaluation of progress in the Member States against the Lisbon Strategy's targets.</p>
<p>The key political question is the extent to which the social model will be reformed. There are two aspects. First, the ways in which social security systems either encourage or discourage people to seek work. Second, the ways in which they either encourage or discourage employers to add jobs. In a social market economy both aspects must work well. It is necessary to balance security with flexibility for both employees and employers.</p>	<p>The Commission takes note of the EESC's concerns over the relationship between social protection and the operation of the job market. This concern is shared by the Commission, most recently in the Draft Joint Employment Report it tabled on 14 November 2003. The Commission also highlighted this issue in its report to the European Council in Barcelona. That European Council provided a strong orientation for progress at Member States level in this area. The Commission will report on this subject again in its next Spring Report.</p>

<p>There have been a number of Commission initiatives for education and training for living and working in the knowledge society. Since this is such a fundamental issue, it would be good to see more focus and more progress with the relevant indicators at the next Spring Summit.</p>	<p>The Commission shares this concern, and has recently adopted a Communication on specific indicators in the field of education¹. Also the structural indicators as a more general list of top-level headline indicators contain key education indicators such as on lifelong learning or the number of science and technology graduates.</p>
<p>It is our opinion that in areas which require political leadership, only a few Member States have made the necessary progress. In particular we urge politicians to incorporate environmental protection and sustainability considerations in all their major initiatives in every field. The sustainability of existing social models needs to be addressed in a number of Member States.</p>	<p>The Commission notes with interest the Economic and Social Committee's call for political leadership. Effective and sustainable change depends to a large extent on Member States implementing European decisions, in particular in areas such as innovation, skills and training, and environment where real impact depends on a day to day decisions at national level.</p> <p>As to the sustainability of existing social models, the Commission will address this issue in its forthcoming Spring Report.</p>

¹ COM(2002) 629 final

4. Proposal for a Directive of the European Parliament and of the Council concerning certain aspects of the organisation of working time (codified version)
COM(2002) 336 final - EESC 1026/2002 - September 2002
Leading department responsible: Legal Service
Other department responsible: DG EMPL
President PRODI and Mrs DIAMANTOPOULOU

Main points of the EESC Opinion	Commission Position
4 - Legislation should be codified after every amendment	The Commission has noted the EESC's proposal.
5.1 - Endorsement of the proposal	Endorsement taken into account.

5. The impact of enlargement on EMU
Own-initiative opinion – EESC 1018/2002 – September 2002
DG ECFIN – Mr Solbes Mira

Main points of the EESC opinion	Commission Position
<p>1. With this opinion, the EESC analyses the challenges posed by enlargement to EMU. Enlargement will significantly affect the dynamics of EMU, with the prospective doubling of the number of euro zone Members over the long term and the increase in their diversity. The opinion provides elements for a global strategy to manage the integration of the accession countries into EMU.</p>	<p>1. The Commission welcomes the opinion of the EESC as a useful contribution to reflections on the impact of enlargement on EMU.</p>
<p>2. The Committee examines the different requirements the candidate countries will have to meet before they can join EMU, in the pre-accession period and once they have become Members.</p> <p>It underscores that candidate countries should not rush in to join EMU but proceed in an orderly way (point 3.2). To prepare effectively for EMU, they must first consolidate the liberalisation of their economies and their competitive capacity while ensuring that they can comply with the Maastricht criteria in the long term. The Committee highlights that nominal convergence must be backed up by real convergence in order to be sustainable and profitable.</p> <p>It recommends that the new Member States should join the revised EMS exchange rate mechanism, ERM2, as soon as they join the European Union (point 3.2.7). This would encourage the new Member States to continue active preparation for EMU and avoid that some of them stay outside the euro zone for too long.</p>	<p>2. The Commission considers it useful to recall the different stages of the EMU accession process for the applicant countries.</p> <p>The Commission concurs with the EESC on the need for a sequenced approach to integrating the candidate countries into EMU. Progress towards real convergence must take precedence at this stage over nominal convergence, even though the two can be mutually supportive.</p> <p>The Commission would like to point out that the candidate countries are expected to participate in the ERM2 sometime after accession. The Commission recalls that certain exchange rate regimes are incompatible with ERM2 participation, while others can be accommodated.</p>
<p>3. The Committee examines the institutional changes required to adapt EMU to the enlarged Union.</p>	<p>3. The Commission appreciates that the EESC has put forward suggestions in this field.</p>

It hopes that the issue of the ECB's reorganisation following enlargement will be settled by the time the accession negotiations are concluded (point 4.1.1).

In view of the future increase in the number of Member States outside the euro zone, the Committee suggests to turn the Eurogroup into an institution with its own decision-making powers, so that decisions that concern it directly are no longer under the responsibility of the Ecofin Council (point 4.1.2).

The Committee invites the Convention on the future of Europe to address the issue of EMU enlargement, including the application of subsidiarity, the role of national parliaments, and cooperative management between members.

The Commission would like to point out that the Nice Treaty offers the possibility to settle this issue before the signing of the Accession Treaties. The ECB is expected to submit a formal proposal to the Council as soon as the Nice Treaty enters into force.

The Commission considers that the informal group plays an important role. However, in its Communication to the Convention (May 2002), it has suggested having alongside a formal decision-making body for the euro zone, reserved for euro zone Member States. A formal "Ecofin-eurozone" Council would enable the institutions to play their full role, from proposal examination right through to decision-making.

The Commission would like to point out that the Convention has already discussed these issues and, generally speaking, is aiming at preparing the institutional reforms needed to accompany the enlargement of the Union.

6.	Trends, structures and institutional mechanisms of the international capital markets Own-initiative opinion - EESC 1024/2002 - September 2002 DG ECFIN - Mr Solbes Mira	
Main points of the EESC Opinion		Commission Position
Conclusions.		Owing to the level of detail in this own-initiative opinion, the Commission has restricted its follow-up to the conclusions. However, it notes that some of these conclusions do not necessarily derive from the body of the text.
7.1. The Committee notes the growing importance of the international capital market, which is no longer bound by limits of time or space.		7.1. The Commission agrees with the Committee's analysis of how the international capital markets are developing.
7.1.1. Activity on this market has a huge influence on developments in the real economy, affecting production, employment, and private and public supply and demand. Its impact in transmitting financial crises to the real economy is bound up with its capacity to synchronise and extend financial crises across geographical regions, triggering and amplifying not only economic, but also social and institutional instability.		7.1.1. The Commission, while agreeing with the Committee that the transmission of crises has an adverse impact on the real economy, makes the point that the international monetary and financial system is working satisfactorily. The system has maintained the strong growth in trade in goods and services by channelling savings towards productive investment, thus contributing towards world economic growth. The system has also ensured monetary stability in times of financial stress.
7.1.2. For this reason, a broad debate is developing on the new architecture of world finance, as one possible means of bringing good governance to a field where the rules are either outdated or are of too limited territorial scope to tackle the situation.		7.1.2. The aim of reforming the international financial architecture is to remedy a number of actual or potential systemic weaknesses which have been particularly highlighted by the recent financial crises affecting the emerging market economies. The essential goal is to adapt the system to change and to the challenges of a globalised economy.

<p>7.1.3. The Committee is convinced that a new financial architecture capable of anticipating or managing crises has to be based on new concepts, on a new conceptual framework reflecting not only financial, but also economic and social aspects, and the institutional and democratic solidity of the countries affected.</p>	<p>7.1.3. The financial sphere must be considered in conjunction with the economic and social spheres. The groundwork done by the Bretton Woods institutions on financial architecture reflects this desire for closer integration of the financial, economic and social dimensions.</p>
<p>7.1.4. ²The Committee calls for governance along the lines set out in the Commission's white paper, under which the involvement of civil society and the reduction of global economic disparities are set objectives.</p>	<p>7.1.4. The Commission fully agrees with the Committee's ideas.</p>
<p>7.1.5. The European Union must therefore adopt a higher profile in the debate, bringing this new vision to institutional forums and presenting a united front.</p>	<p>7.1.5. The Commission fully agrees with the Committee's ideas.</p>
<p>7.2. The international institutions must be thoroughly overhauled. The Committee notes that while the World Bank is progressively broadening its methods of analysis and introducing new elements in line with European governance, the IMF remains firmly anchored to its traditional criteria. It is in any case difficult to see these bodies implementing substantial changes purely on their own initiative.</p>	<p>7.2. While sharing the Committee's opinion on the need for the Bretton Woods institutions to continue their reforms, the Commission feels that the reforms undertaken by the IMF should not be underestimated either. The social dimension, the reform of conditionality, good governance and programme ownership by the debtor country are all areas in which substantial progress has been made.</p>

² COM(2001) 428 final)

<p>7.2.1. But reform is only possible if the balance of power between the international institutions is altered: this however presupposes an understanding between the European countries to break the present mould and speak with a single voice, resolving the myriad political problems which this entails.</p>	<p>7.2.1. It is effectively up to the European Union to continue to encourage the Bretton Woods institutions to pursue their reforms. The effectiveness and extent of Europe's influence on this process are largely dependent on its ability to speak with a single voice or, better still, to establish a single representation.</p>
<p>7.2.2. Lastly, the Committee calls on all the international organisations (IMF, World Bank, FATF, Global Forum on Fighting Corruption, etc.) to enter into close and effective cooperation with each other and with national systems. The political will to strengthen control of off-shore markets and of links between off-shore and on-shore markets is crucial in this regard.</p>	<p>7.2.2. A special effort must indeed be made in the field of cooperation between the various international institutions.</p>

<p>7. Commission Communication to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on Working together for the future of European tourism COM (2001) 665 final - EESC 1009/2002 - September 2002 DG ENTR - Mr Liikanen</p>	
Main points of the EESC Opinion	Commission Position
17.1. General endorsement of the Communication.	The Commission will continue to implement the measures described in the Communication of 13 November 2001.
17.3. The EESC welcomes the Council Resolution of 21 May 2002 as a further sign of political will to set up European tourism programmes in a clearly defined framework.	The Commission has noted the EESC's opinion.
17.4. A legal basis for tourism policy would foster the full development of the sector.	The EESC has specifically called on the Council to define the legal basis. At this stage, the Commission has noted the Committee's remarks.
17.5 A legal basis could facilitate the establishing of a framework programme for tourism.	As in the case of 17.4, the Commission has noted the Committee's remarks.
17.6. a) Call for a temporary increase in the human and financial resources available to the Commission's Tourism Unit.	The Commission has noted this call.
17.6. b) Call for the creation of a basic network of tourism information and consultancy points.	The Commission feels that better use could be made of existing networks (EICs, chambers of commerce, national tourism offices etc.) by tourism operators. Information society networks and tools can supplement the range of services that are useful to the tourism industry. Measures are envisaged under the eEurope 2005 action plan.

<p>17.6. c) Call for a group of experts to be set up to develop a quality charter for Europe's tourist destinations.</p>	<p>The Commission has launched a study of indicators for evaluating and following up quality improvements at tourist destinations. The results will be widely distributed to operators concerned.</p>
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8. Proposal for a Regulation of the European Parliament and of the Council laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Agency for the Evaluation of Medicinal Products

Proposal for a Directive of the European Parliament and of the Council amending Directive 2001/83/EC on the Community code relating to medicinal products for human use

Proposal for a Directive of the European Parliament and of the Council amending Directive 2001/82/EC on the Community code relating to veterinary medicinal products

**COM(2001) 404 final - EESC 1007/2002 - September 2002
DG ENTR - Mr Liikanen**

Main points of the EESC Opinion	Commission Position
4.1. The Committee welcomes in principle the Commission proposals.	The Commission appreciates the comment and will continue its efforts in this direction.
4.6. Supports the Commission in its efforts to enhance the safety of medicinal products by improving patient and consumer information about such products and to improve pharmacovigilance by involving health professionals and patients as partners in the reporting of the risks associated with medicinal products.	The Commission appreciates the comment and will continue its efforts in this direction.
4.7 Welcomes the Commission's efforts to promote new developments in the field of medicinal products and make them available as soon as possible for patient therapy. However, data protection must be guaranteed and competition between the manufacturers of generic medicinal products must not be hampered unduly.	The Commission is aware of the need to ensure data protection and is taking appropriate action. Competition between manufacturers of generic medicinal products will regulate itself on the basis of market forces.
4.8. Thinks that a balanced relationship must be maintained between the various authorisation systems (centralised authorisation, authorisation with mutual recognition and national authorisation) and that in principle applicants must be entitled to choose between the various systems.	The Commission has noted this point of view, but feels that the centralised procedure for innovatory and biotechnological medicinal products needs to be made compulsory, so as to ensure equal access for all patients in the European Community (taking account of enlargement) and to ensure that these medicinal products benefit from scientific expertise combining the best

	available in each Member State as well as from substantial economies of scale for the industry with a view to placing them on the market in the entire European Community.
6.8. Considers that it is necessary to improve and extend the supply of veterinary medicinal products and that a programme is required to promote the development of medicinal products for treating rare animal diseases.	The Commission has noted this suggestion and refers to its proposal and the Communication adopted on 5 December 2000 on the availability of veterinary medicinal products.
5.1 Recommends that a clear distinction be drawn between medicinal products and other products such as medical devices, foodstuffs (including food supplements) and cosmetics.	The Commission feels that the definition in Article 1 of the Directive meets this requirement.
5.5. Welcomes the Commission's intention to extend the rules on good manufacturing practice to starting materials and especially active substances.	The Commission has noted this point of view.
6.6. Considers that it is necessary to harmonise the rules for the prescription of medicinal products in the Member States.	The Commission agrees with this point of view, but feels that the proposal already covers it by including the legal status of the medicinal product (prescription-only or not) in the context of the mutual recognition procedure.
6.7. Proposes that the Commission accede to the European anti-doping convention as the Community's contribution to the fight against drugs in international sport.	The Commission has noted this proposal and will examine its feasibility.

<p>9. Proposal for a Directive of the European Parliament and of the Council amending Directive 2001/83/EC as regards traditional herbal medicinal products COM(2002) 1 final - EESC 1008/2002 – September 2002 DG ENTR – Mr Liikanen</p>	
<p>Main Points of the EESC opinion</p>	<p>Commission Position</p>
<p>3.2.4 and 3.2.5 : combination with non-herbal ingredients: EESC asks to include combination products into the directive.</p>	<p>It is acceptable to include medicinal products that contain, in addition to herbal ingredients, non-biological substances if (1) there is well-documented evidence for its safety and (2) the herbal ingredients remain the major part of the product</p>
<p>3.3.1 minimum time of use: EESC wants to reduce the minimum time from 30 to 20 years.</p>	<p>The minimum time of 30 years should be maintained in order to provide a reliable basis to assess the product's safety. But some more flexibility is acceptable so that products with a use of less than 30 years within the EU could be evaluated by the new scientific committee.</p>
<p>3.4.5 competencies of the new herbal committee: EESC calls for extending the committee's competencies to all (not only traditional) herbal medicinal products.</p>	<p>It is acceptable to extend the committee's responsibility to all aspects relating to the national authorisation and registration of herbal medicines, in particular to arbitration procedures for such products.</p>
<p>3.5.5 and 3.5.6 labelling: EESC wants to delete in the labelling of traditional herbal medicines the disclaimer that "the efficacy of the product has not been clinically proven".</p>	<p>This deletion is acceptable, as the patient is sufficiently informed by the remaining disclaimer that safety and efficacy rely exclusively on information on long-term use and experience.</p>

**10. Green Paper on the Review of Council Regulation (EEC) No 4064/89 - Merger control
COM(2001) 745 final - EESC 862/2002 - July 2002
DG COMP - Mr Monti**

No contribution from DG COMP.

<p>11. Draft Commission Regulation on the application of Articles 87 and 88 of the Treaty to State aid for employment OJ C 088 - EESC 864/2002 – July 2002 DG COMP - Mr Monti</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>The Committee broadly welcomes the Commission proposal, which helps implement the EU's employment objectives by clarifying the legal conditions under which aid for employment can be granted without prior notification to the Commission. This also makes for administrative simplification.</p>	<p>The Commission adopted the regulation in principle, with amendments to take account of various comments received, including those of the EESC, at its meeting of 6 November 2002.</p>
<p>The Committee thinks that the proposed regulation should also apply to aid granted to "sheltered employment" schemes. As a rule, such schemes have predominantly social objectives that are laid down in national legislation. Hence, their operations cannot be equated with those of a commercial enterprise. The regulation should address these needs by covering aid of this kind and providing a definition of sheltered employment.</p>	<p>Provisions relating to sheltered employment have been integrated into Article 6 of the Regulation.</p>
<p>Relevant studies demonstrate that enterprises operating in the social field (such as co-operatives, associations, societies, etc.) can make an active contribution to creating new jobs. The EU authorities have repeatedly recognised the particular importance of enterprises in the social field. Recent examples alone include the Green Paper on corporate social responsibility and the European Commission's consultation paper on co-operatives in Enterprise Europe. In order to take due account of these enterprises' special role, the Committee proposes that this factor be reflected in the possible level of aid intensity.</p>	<p>Financial support given to organisations which do not undertake any economic activity does not constitute State aid and is therefore unaffected by the Regulation. Where an organisation undertakes economic activity, it is not possible to differentiate according to the legal form of the organisation concerned.</p>

<p>12. Communication from the Commission - Adapting to change in work and society: a new Community strategy on health and safety at work 2002-2006 COM(2002) 118 final – EESC 855/2002 – July 2002 DG EMPL – Mrs Diamantopoulou</p>	
<p>Main points of the EESC opinion</p>	<p>Commission Position</p>
<p>2.2 & 2.5 The EESC calls on the Commission to present as soon as possible an action plan on implementation of the strategy.</p>	<p>The Commission's communication already contains the beginning of an action plan. However, since the communication is a strategy and not a programme, it is foreseen to include the actions to be performed for implementing the strategy in the scoreboard of the social agenda.</p>
<p>3.1 Gender-related analysis is not reflected in action-oriented part of the communication.</p>	<p>More specific actions will be proposed in the action programme called for by Council, European Parliament and Economic and Social Committee.</p>
<p>3.2, 3.3, 3.11 Correctness of analysis on gender-related issues and "non-quality" of work.</p>	<p>The analysis undertaken by the services was based on the statistical material available from EUROSTAT. The costing of accidents is being improved through a new project launched by DG EMPL and EUROSTAT. Work towards improved harmonisation of statistics is progressing.</p>
<p>3.4 RSI (repetitive strain injuries) The EESC recommends to amend the "manual handling" Directive (90/269/EEC).</p>	<p>The Commission will assess the need for amendment of this Directive as well as all the others through the evaluation process of the practical implementation of the health and safety legislation, which will start with the preparation of the Commission report to the other institutions by the end of this year.</p>
<p>3.7 (Re)integration of disabled people in the labour market.</p>	<p>European Year of People with Disabilities (2003) and follow-up action will address this issue.</p>
<p>3.8 Stronger commitment of Member States to achieve joint precise targets for the reduction of occupational accidents and diseases.</p>	<p>The Council Resolution of 3 June addresses this issue, but does not call for joint precise targets.</p>

3.9 Lack of attention to SMEs.	SMEs constitute a permanent preoccupation of the Commission in respect to safety and health at work. The reason why there is not a lot of direct focus on SMEs is because all the other measures and fields of action identified will indirectly also benefit SMEs (e.g. awareness raising, prevention culture, etc.).
3.9 Roving and/or regional health and safety representative.	The organisation of this kind of structure falls within the remit of Member States.
3.12 Clarify the term "risk observatory".	The risk observatory should not be a new body operating autonomously from the rest of the Agency. It should rather be a focused project fully integrated in the normal operations of the Agency. Its purpose should be to ensure timely and systematic collection and treatment of research results and scientific opinions likely to result in new risks or in new reasons for controlling existing ones. Collection and exchange of examples of good practice and of efficient health and safety policies should be part of this system.
3.14 Public procurement.	The interpretative communication of the Commission on the Community law applicable to public procurement and the possibilities for integrating social considerations into public procurement (COM(2001)566) gives detailed information on this topic. Obviously the Commission services strive to follow this text as far as possible.

**13. Scoreboard on implementing the Social Policy Agenda
COM(2002) 89 final – EESC 856/2002 – July 2002
DG EMPL - Mrs Diamantopoulou**

Main points of the EESC Opinion	Commission Position
<p>In general terms, the EESC welcomes the Scoreboard on the implementation of the social policy agenda to keep track of developments and verify the commitment and contributions of the different actors.</p>	
<p>The EESC criticises the Scoreboard for not prioritising its comments more effectively and asks for more and better information about the practical reality and about visible and tangible changes.</p>	<p>The Scoreboard presented by the Commission provides a general appreciation in which it expresses a prioritisation of actions and results. The information contained in the Scoreboard is taken from Commission documents which report in full detail on the economic, employment and social situations (e.g. Employment in Europe report).</p>
<p>The EESC supports the Commission's view that poverty is multi-dimensional. However, it argues that Member States should not limit themselves to drawing up a list of existing policies.</p>	<p>The Commission shares this view.</p>
<p>The EESC argues that the Scoreboard does not emphasise sufficiently the role played by organised civil society.</p>	<p>The Commission disagrees with the statement made in the EESC opinion that it merely pays lip service to organised civil society. As indicated in the Scoreboard, as well as in many other Commission documents, the role and function of organised civil society is fully acknowledged (e.g. see the Joint Report on Social Inclusion).</p>

<p>14. Proposal for a Council Recommendation concerning the application of legislation governing health and safety at work to self-employed workers COM(2002) 166 final - EESC 863/2002 – July 2002 DG EMPL - Mrs Diamantopoulou</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>3.3 Apart from backing up the Commission's argument for selecting Article 308 as the legal basis, the Committee points out that Article 137 provides only for measures for the "improvement in particular of the working environment to protect workers' health and safety", which therefore excludes measures to assist self-employed workers.</p>	<p>The Commission shares this view concerning measures aimed exclusively for self-employed workers in the traditional sense.</p>
<p>4.1 The Committee approves the fact that the Commission has presented a non-binding instrument and welcomes the approach of not only granting rights but also imposing certain obligations.</p>	<p>Agreed. The Commission feels that an instrument allowing Member States to take account of the specific features of their own legal systems makes it possible to achieve the recommendation's objectives more effectively.</p>
<p>4.3 The Committee feels it would be desirable for the Council Recommendation to make provision also for measures to help increase the level of awareness of self-employed workers concerning their own health and safety (e.g. national information campaigns), for guidelines on the safety and health of self-employed workers to be included in employment policies, and for indicators (such as the accident rate for self-employed workers) to be developed for this purpose.</p>	<p>The Commission supports such measures, but sees it as the task of the competent national authorities to take appropriate action. However, it will attempt to influence the discussions within the Council group so that the spirit of this point is taken up.</p>
<p>4.4 The Committee welcomes the recommendation on access for self-employed workers to services and bodies providing useful health and safety information. It also supports the recommendations on access to training, and on the need to ensure that access to information and training is not so expensive as to dissuade self-employed workers from availing themselves of it.</p>	<p>The Commission shares this view.</p>

<p>The Committee feels that the cost to self-employed workers of information and continuing training should be as low as possible.</p>	
<p>4.6 Regarding the recommendation on appropriate control and surveillance in respect of enforcement of the rules governing self-employed workers, the Committee points out that, here too, legislation should not be regarded as the only instrument which may govern the working conditions of self-employed people. This could be ensured by adding the proviso “where applicable” to legislative measures in this field.</p>	<p>The Commission shares this view.</p>

15. Integration of disabled people in society
Own-initiative opinion - EESC 853/2002 - July 2002
DG EMPL – Mrs Diamantopoulou

Main points of the EESC Opinion	Commission Position
A disability specific action programme at EU level.	The current anti-discrimination programme runs until 2006 and funds a number of initiatives of and for people with disabilities.
An EU directive based on Article 13 to make it unlawful to discriminate against disabled people in all spheres of life.	In view of the anti-discrimination legislation currently being transposed in the Member States, the Commission cannot make a commitment at this stage to use its right of initiative in this matter.
Swift and adequate implementation of the EU directive on equal treatment in the workplace by Member States.	The Commission is following up closely the implementation of the framework directive into the Member States' national legislation. It should be borne in mind that the Member States have until 2 December 2003 to transpose the framework directive (with a possibility of an extension of up to a further three years for the provisions on discrimination on grounds of disability and age). A legal experts group is being established to help monitor the implementation of the directive.
European Commission should propose, and the Member States should agree, to strengthen current guideline 7 in the Employment Guidelines that refers to disabled people.	The Commission is currently reviewing the existing Guidelines with the Member States. It should be noted, however, that the overall objective will be to simplify the guidelines which are perceived to have become increasingly complex, but without reducing their effectiveness.
The social partners at EU level should consider making use of the EU social dialogue mechanisms structure to propose new initiatives for the employment of disabled people, including job retention.	The Commission believes this is an interesting proposal, and will raise it in its contacts with the social partners at EU level.
National and EU networks of employers and trade unions involved in the employment of disabled people could be established.	The Commission believes that social dialogue is important and can contribute to the better integration of disabled people in the labour market. Such networks already exist in some Member States. The Commission would suggest that disabled people themselves

	<p>should also be involved. Within the framework of the European Year of People with Disabilities 2003, the Commission proposes to work with businesses at European level to promote commitments to people with disabilities. The intention is to create a network of companies which are pro-active in the inclusion of people with disabilities and which can share good practices in this area.</p>
<p>The EU Labour Force Survey should permanently include information on the situation of disabled people in the labour market.</p>	<p>The EU Labour Force Survey concentrates annually on a series of core issues and respondents. In 2002, a special module on disability was included and the results will be made available in 2003. On the basis of this, a decision will be taken about whether it will be desirable to include on a regular basis a module on disability.</p>
<p>The new open method of co-ordination in the field of education should include disabled children and young people as one of the main target groups and all actions and indicators should consider them.</p>	<p>Looking into the special needs of disabled people, including children, is one of the objectives in education and training and the work of a relevant experts group will start in January 2003. A European disability organisation has been invited to participate as a stakeholder in this experts group.</p>
<p>European Year of People with Disabilities 2003 will be devoted to raising awareness and to prepare the active participation of the entire school system in the European Year of People with Disabilities 2003.</p>	<p>In order to support this objective, the Commission launched a competition in EU schools for young people between 10 and 15 to design a postcard on the theme of disability. The competition was a particular success and almost 10 000 entries were received.</p>
<p>More efforts need to be made to eliminate all the legal and other barriers that currently prevent the establishment of a real European market of assistive technologies.</p>	<p>The Commission agrees fully with this and to this effect is undertaking a study with results expected in 2003 to provide more information on this issue.</p>
<p>In order to ensure the full visibility of disabled people in the EU strategy against social exclusion and poverty, a breakdown by disability should be provided in the different indicators that will be the basis for measuring the effectiveness of national policies in this field.</p>	<p>Disability is considered an issue for both employment and social inclusion. In this respect, there is already a proposed indicator on disabled people in the framework of job quality within the context of EU action on social inclusion.</p>

**16. Proposal for a Directive of the European Parliament and the Council on working conditions for temporary workers
COM(2002) 149 final - EESC 1027/2002 - September 2002
DG EMPL - Mrs Diamantopoulou**

Main points of the EESC Opinion	Commission Position
<p>The EESC would like the Directive to make provision for the possibility for Member States and/or the social partners to introduce regulations ruling out the use of temporary workers in undertakings where workers are on strike.</p>	<p>The Commission agrees in spirit but, taking account of Article 137(6) would prefer a recital stipulating that the Directive does not prejudice provisions/practices in force in Member States prohibiting the replacement of striking workers by temporary workers.</p>
<p>The EESC endorses the principle of non-discrimination as defined in the proposal for a Directive (the point of reference in terms of basic working and employment conditions must be a comparable worker in the user undertaking), but suggests, as regards implementation, that it be left to the Member States to choose how to ensure it while avoiding a reference system which involves restrictive interpretations or derogations and complying with national legislation, conventions and practices.</p>	<p>The Commission endorses this view, but feels that the text of the proposal is flexible. It establishes a principle, with the possibility of derogations and/or adaptations in order to give Member States leeway in transposing the Directive so as to achieve the objective of protecting temporary workers while taking account of existing legislation and practices.</p>
<p>The EESC feels that too many derogations from the principle of non-discrimination are included, and risk eroding it. Its criticism is mainly levelled at the derogation in Article 5(4), which in some countries might have the effect of depriving temporary workers of the protection afforded by this principle.</p>	<p>The Commission disagrees. The possibilities for derogations are designed to ensure a certain amount of flexibility and are justified by the need to take account of national legislation and practices. The possible derogation referred to in Article 5(4), the conditions for which are very strict, cannot give rise to the results described by the EESC.</p>

**17. Proposal for a Council Regulation amending Regulation (EEC) No. 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs
COM(2002) 139 final - EESC 845/2002 - July 2002
DG AGRI - Mr Fischler**

Main points of the EESC Opinion	Commission Position
	Pending the outcome of negotiations with the other institutions, the Commission acknowledges at this stage that it would be able to accept some of the amendments.

18. Proposal for a Council Regulation correcting Regulation (EC) No. 2200/96 relative to the starting date of the transitional period for the recognition of producer organisations
COM(2002) 252 final - EESC 1016/2002 - September 2002
DG AGRI - Mr Fischler

Main points of the EESC Opinion	Commission Position
<p>The Committee welcomes the spirit of the Commission's proposal but questions its advisability, owing to the fact that it establishes the principle of discriminatory treatment between POs and will not alleviate the potential negative effects for POs affected by the delay in correcting the error.</p>	<p>The Commission thanks the Committee for its support and assures it that amending the Regulation was the only legally possible way to minimise the negative effects on POs.</p>
<p>The Committee calls on the Commission to present short-term proposals to adapt the common market organisation, based on the guidelines set out in this opinion.</p>	<p>The Commission will present proposals to simplify and clarify the rules in the course of the next few months. It will give careful consideration to the Committee's recommendations.</p>

<p>19. Proposal for a Council Regulation amending Regulation (EC) No. 1258/1999 on the financing of the common agricultural policy COM (2002) 293 final - EESC 1017/2002 - September 2002 DG AGRI - M. Fischler</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>It is the Committee's firm belief that the Commission must be able to recover money that has been spent improperly in order to avoid financial losses to the Community budget.</p>	<p>Accepted in full.</p>
<p>The Committee would therefore urge that the Commission be equipped with the requisite resources to strengthen its preventive checks.</p>	<p>Rejected, as the "requisite resources" are intended to be used for auditing agricultural spending, and this does not constitute "preventive checks".</p>
<p>The Committee nevertheless doubts whether extending the reference period for corrections will appreciably reduce the number of improper payments, as more breaches of the rules are not likely to be unearthed.</p>	<p>Rejected, as extending the reference period is not linked to an increase in the number of irregularities detected, but is intended to cover anomalies already detected over a period in excess of 12 months.</p>
<p>It may considerably increase the danger of Member States facing accusations and make it more difficult to collect evidence.</p>	<p>Rejected, as the collection of evidence is checked on location during the audit of the system(s) in force in a Member State during the audited periods.</p>

**20. Proposal for a Regulation of the European Parliament and of the Council laying down the framework for the creation of the single European sky
 Proposal for a Regulation of the European Parliament and of the Council on the provision of air-navigation services in the single European sky
 Proposal for a Regulation of the European Parliament and of the Council on the organisation and use of the airspace in the single European sky
 Proposal for a Regulation of the European Parliament and of the Council on the interoperability of the European air-traffic management network
 COM(2001) 123 final - COM(2001) 564 final - EESC 839/2002
 July 2002 - DG TREN - Mrs de Palacio**

Main points of the EESC Opinion	Commission Position
<p>3.1. The assertion in proposal 2001/0060 (COD) is that for safe, regular operation of air transport services and their impact for goods and mobility, a single sky is imperative. The adoption of the “gate-to-gate” concept would enhance adoption and comprehension.</p>	<p>The Commission’s proposals concern air traffic management—all phases of flights—in line with the “gate-to-gate” concept. The proposal on air space makes provision for application in stages, starting with the upper air space.</p>
<p>3.3. The premise that safety precedes in ranking order, all other aspects of these proposals, should be enshrined into every element of them. To this end it is expected that standards will be established and continuously reviewed, and from which, funding requirements will stem, not the reverse of providing up to an “affordable” level of funding.</p>	<p>The Commission endorses this approach, which is already reflected in its proposals.</p>
<p>3.5. There is an absence of cost-effectiveness measurements for these proposals. It would be reasonable to expect that such an evaluative framework had been developed and should have been published, to validate this intervention; It would be expected that the legislative financial statements would require same for cost-benefit appreciation.</p>	<p>The Commission has recently launched research studies to investigate the impact of the concept of functional blocks of air space. Further studies will follow as the implementing rules are drawn up, in cooperation with Eurocontrol.</p>

<p>3.6. The assumption that straight line traffic routing is to be preferred might be better worded to underscore that the best economic route is best, given the impact of prevailing atmospheric, traffic and weather conditions.</p>	<p>The Commission accepts this suggestion and will take it into account in its negotiations with the other institutions.</p>
<p>3.7. There will be considerable investment and technology development in this industry. It will be important that the Community make available adequate instruments for front-end R&D input to assure the creation and retention of centres of excellence.</p>	<p>The Commission is aware of the need to support the reform by deploying the available financial instruments (R&D and TEN-T). Other possibilities will be examined in 2003.</p>
<p>3.8. The charging regime to airspace users must be transparent to ensure that the right incentives are given for matching investments to user demand. The EESC would like to see evidence that the charging regime for air-space users is comparable with the cost regimes for other transport modes such as railways, and that internalised external costs are clearly identified.</p>	<p>The Commission endorses this approach, which is already reflected in its proposals.</p>
<p>3.10. The integrity of the Regulator's role to rigorously enforce standards must be sacrosanct. The EESC notes the perceptions that service-provision modernisation, injecting as it does competition and commercial prerogative, can have mixed outcomes. Quality of delivery and user interests must not suffer in the transition nor should under-investment, as became apparent within the UK rail infrastructure.</p>	<p>The Commission's proposals do not constitute real liberalisation of air navigation, especially with regard to the air traffic control service. They create an opportunity to provide a service, in competition only to ancillary services (communication, surveillance and navigation, aeronautical information). In all cases, air navigation services will remain subject to a certification scheme based on common requirements, which also include the maintaining of investment capacity and service quality by service providers.</p>

<p>21. Proposal for a Decision of the European Parliament and of the Council amending Decision No. 1254/96/EC laying down a series of guidelines for trans-European energy networks COM(2001)775 final - EESC 865/2002 - July 2002 DG TREN - Mrs de Palacio</p>	
Main points of the EESC Opinion	Commission Position
<p>The EESC welcomes the proposal for changes to the guidelines for the Trans-European Networks, subject to the comments in its report. It is not proposing any amendments to the Commission's proposal, nor any recommendations.</p>	<p>The European Commission does not intend to amend its proposal.</p>
<p>3.2. Energy is a key factor in Europe's competitiveness and economic development.</p>	<p>The main aim of EU energy policy is to achieve a secure and affordable energy supply, while at the same time protecting the environment and promoting fair competition.</p>
<p>3.7. Electricity grid and network costs are substantial. Distance plays a role and causes losses. The broad-based provision of power plants is essential.</p>	<p>Remark noted.</p>
<p>3.9. The Community must not embark upon widespread subsidising of energy infrastructure projects.</p>	<p>Remark noted.</p>
<p>3.11 and 3.12. Financial support should not be granted to gas infrastructure projects which will remain unused and the sole reason for which would be unlimited "arbitrage" among sources.</p>	<p>Acceptable in principle, although competition between sources implies a certain amount of available capacity in the various systems of gas pipelines and gas receiving and storage infrastructure.</p>
<p>4.1. It is necessary to lay down long-term priorities for energy networks, so as to safeguard sustainable development.</p>	<p>Remark noted.</p>
<p>4.2.2.3. The possibilities of "distributed" generation of electricity should not be overrated, as this encourages the public to reject more centralised development solutions requiring large-scale transmission networks.</p>	<p>Remark noted.</p>

<p>3.10 The single market has not exposed major deficits in natural gas transmission infrastructure.</p>	<p>Not acceptable. The development of gas infrastructure has up to now taken place in a situation of restricted liberalisation of the gas market. However, the further opening-up of the market and increasing external dependence for natural gas make it necessary to boost certain capacities and diversify supply routes.</p>
<p>4.2.1. Member States must not be obliged to carry out specific projects, as the guidelines merely identify priorities.</p>	<p>Not acceptable. In the Commission's proposal, specific projects are defined in Annex III; they are also part of the guidelines, and Member States undertake to promote them.</p>
<p>4.2.2. Article 154 (the legal basis for TEN) must not be used to propose regulatory approaches to security of supply which go beyond technical security of supply.</p>	<p>Not acceptable. The Commission's proposal as it stands does not introduce regulatory measures concerning security of supply.</p>
<p>4.2.5. The plans for increased subsidising of priority projects give the impression of centralised state investment control.</p>	<p>Not acceptable. It is essentially at the project development stage, prior to the construction stage, where increased aid is a possibility. Furthermore, the Commission has not proposed any increase in the budget for energy networks.</p>

<p>22. Proposal for a Regulation of the European Parliament and of the Council establishing common rules on compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay flights COM (2001)784 final – EESC 840/2002 - July 2002 DG TREN - Mrs de Palacio</p>	
Main points of EESC opinion	Position of Commission
4.1. The levels of compensation should be reconsidered.	In its political agreement, the Council has opted for considerably lower levels, which the Commission supported in discussions on the agreement.
4.2. When a passenger denied boarding arrives not more than one hour late for shorter flights and two for longer, compensation should be reduced by 50%. (Compared to two and four hours in the Commission's proposal).	The Commission considers that this would increase the burden on airlines disproportionately.
4.3. The Commission should report every five years on implementation of the regulation.	The Commission supported the Council's political agreement, which provides for a first report already by 1 January 2006, with legislative proposals where necessary.
4.4. Before proposing any revision of the regulation, the Commission should assess its costs and benefits in consultation with airline and passenger organisations.	The Commission intends to do so, and is counting on the airline organisations to provide the data needed for an assessment of costs and benefits.

23.	<p>Proposal for a Directive on the safety of third countries aircraft using Community airports COM (2002) 8 final - EESC 841/2002 - July 2002 DG TREN - Mrs de Palacio</p>
Main points of the EESC Opinion	Commission Position
4.1 Amendment of the definition of third-country aircraft to take account of chartered aircraft.	Rejected. As mentioned in the opinion, Directive 2407/92 covers chartered aircraft.
4.2 and 4.6 Call for checks on flight time limits and crew's qualifications, training and knowledge of English.	Rejected, as checks can only cover licences, which certify qualifications and training. More detailed checks would not be consistent with the Chicago Convention and would not be feasible in practice.
4.3 A minimum number of random checks should be required.	The Commission will take this suggestion into account in its negotiations with the other institutions.
4.4, 4.5 and 4.7 Exchange of information on checks.	Rejected, as every Member State has online access to the information.
4.8 Competence of the EASA.	The Commission will take this suggestion into account in its negotiations with the other institutions.
4.9 The period for transposition of the Directive should be reduced to one year.	Rejected, as not feasible in practice for most Member States.

<p>24. Proposal for a Regulation of the European Parliament and of the Council on the granting of Community financial assistance to improve the environmental performance of the freight transport system - (Marco Polo Programme) COM (2002) 54 final – EESC 842/2002 - July 2002 DG TREN - Mrs de Palacio</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>4.1. The Marco Polo programme will extend the PACT programme, whilst offering a broader range of options. It will also help to transfer a significant part of the growth in cross-border road freight between Member States by 2010 to other modes.</p>	<p>Accepted in part. Marco Polo will transfer the entire growth in international freight by 2010, i.e. 12 billion tonne*km per year.</p>
<p>4.2. The EESC does not, however, believe that the Marco Polo programme, by itself, will make it possible to achieve the annual modal shift targets set by the Commission.</p>	<p>Rejected. Of course the Marco Polo programme cannot be seen in isolation; it is indeed part of a catalogue of measures presented in the EC's White Paper on Transport 2010. However, the measures and 115 Mio€ budget for 5 years to annually shift 12 billion tonne*km proposed by Marco Polo are based on the monitoring data retrieved from its predecessor programme PACT.</p>
<p>4.2– 1st dash: Tighter inspections and more severe penalties in the event of labour law infringements.</p>	<p>Rejected. The investigation of labour law infringements is not within the scope of the Marco Polo programme.</p>
<p>4.2 – 2nd dash: Public financing of modal transport infrastructure, such as terminals and access facilities.</p>	<p>Reject. Pure infrastructure funding is not within the scope of the Marco Polo programme.</p>
<p>4.2– 3rd dash: Requiring operators to pledge to provide new ongoing services in general interest in order to secure modal shifts; failure to do this will mean that customers will not change their habits.</p>	<p>Accepted in principle. In general proposals for new modal shift services will be expected in a call for modal shift actions; however, a significant increase in modal shift, e.g. daily instead of weekly shipping, should also be allowed.</p>
<p>4.2 – 4th dash: Procedures should be set out forthwith for extending the Marco Polo programme by two or three years in order to ensure that it continues to operate up to 2010 (there is a need to avoid the hiatus which occurred between the PACT and the Marco Polo programmes).</p>	<p>Accepted in principle. There is already such a procedure, as defined in Article 14 "Evaluation" of the Marco Polo Regulation. Then also the budget for the remaining years until 2010 will be discussed.</p>

<p>4.2 – 5th dash: The greatest possible benefit should be drawn from the experience gained from the PACT programme by concluding the external evaluation of the programme; the positive effects of the PACT programme have not so far been fully evaluated.</p>	<p>Rejected. An external evaluation of the PACT programme was published in November 2000, and were not assessed there. All ongoing contracts are continuously monitored by Commission staff (annual reports, verification visits). A further external evaluation of PACT can only be justified if additional insights are likely to be expected.</p>
<p>4.2 – 6th dash: A timetable should be established for the measures implementing the actions set out in the Marco Polo programme.</p>	<p>Accepted in principle. Such timetables are already published in the legislative statement for the Marco Polo Regulation. A breakdown per action is given under chapter 6 ‘Financial Impact’.</p>
<p>4.2 – 7th dash: A management committee should be given the task of monitoring actions on an on-going basis with a view to making the necessary mid-term adjustments to the Marco Polo programme.</p>	<p>Accepted in part. An <u>advisory</u> committee is proposed to assist the Commission in all programme matters, including monitoring.</p>
<p>4.2 – 8th dash: Provision should be made for including in the projects eligible for support under the Marco Polo programme actions involving air and pipeline transport in a secondary capacity, provided that other modes are involved also.</p>	<p>Rejected. Air transport is less friendly to the environment than road haulage, and can therefore not be supported by Marco Polo. New pipeline transport normally requires infrastructure funding which is also outside the scope of the programme.</p>
<p>4.2 – 9th dash: Financial aid should be approved for projects involving actions taking place in just one Member State, provided that the impact of such projects will benefit to all users of international shipments passing through the Member State in question.</p>	<p>Rejected. The European dimension and impact is safeguarded by the requirement for international (European) consortia and international (European) routes for each supported project.</p>
<p>4.2 – 10th dash: A European Guide, covering all multilateral platforms in the EU, describing their respective characteristics and laying down minimum standards, should be drawn up for the benefit of all users.</p>	<p>Accepted in principle. A consortium of commercial enterprises may submit a proposal for the creation of a European guide on multi-modal platforms in the framework of the Common Learning Action under Marco Polo. EC support may only be considered if such a guide is desired by and useful to the transport industry.</p>

<p>4.3.–1st paragraph: While recognising that the stakes for the environment are particularly high, the ESC takes the view that they need to be reconciled with the increased demand for transport which will be generated in the coming decades by economic development and the enlargement of the EU.</p>	<p>Accepted in principle. For this reason Marco Polo is a programme which sets out to improve the balance between transport modes by supporting new freight transport services shifting goods away from the heavily congested roads in the EU and candidate countries.</p>
<p>4.3. - 2nd Paragraph: In conclusion, the ESC draws attention to the fact that, bearing in mind that implementation of a common transport policy to address the abovementioned demand was envisaged in the Treaty of Rome, more decisive measures need to be taken in the short and long term with a view to avoiding congestion, whilst not jeopardising EU competitiveness and the environment in the EU.</p>	<p>Rejected. Commitments for pure infrastructure funding are not within the scope of Marco Polo.</p>
<p>4.3.1: In the light of the practice of “zero stockholding” which is resulting in ever shorter delivery deadlines and placing non-road transport at a disadvantage, the ESC proposes that the Commission considers a switch to “stock in circulation” which would permit delivery deadlines more in tune with real needs.</p>	<p>Rejected. The concept of “zero stockholding”, also known as “just-in-time” is not necessarily a disadvantage for non-road freight transport services.</p>
<p>4.3.2 – 1st dash: In the period up to 2020 traffic will double, this will represent an extra 12 billion tkm per year, which will involve an estimated annual socio-economic cost of €23 million allocated to the Marco Polo programme.</p>	<p>Accepted in principle. The amount requested for Marco Polo is indeed modest, but is based on the facts gathered by the evaluation of PACT. According to the RECORDIT study, external costs saved by Marco Polo should be around 17 times its budget, i.e. 2 billion €for 2003 to 2007.</p>
<p>4.3.2– 2nd dash: According to a recent study the enlarged EU will have to make investments totalling €550 billion -or E 18 billion per year- if it is to continue to have a competitive, environmentally-sound infrastructure network; new forms of financing projects will therefore have to be found before the review of the TENs is carried out in 2004.</p>	<p>Rejected. Large investments in transport infrastructure will be necessary in the coming 30 years. But again they are not within the scope of Marco Polo.</p>

25.	White Paper on European transport policy for 2010: Time to decide COM (2001) 370 final – EESC 869/2002 - July 2002 DG TREN - Mrs de Palacio	
Main points of the EESC Opinion		Commission Position
General comment: The EESC supports many of the viewpoints and proposals contained in the White Paper. Areas of full or large coincidence of views include the policy towards an integrated railway area, Marco Polo, intermodality, sea motorways, protection of user rights, treatment of enlargement and the principle of charging for infrastructure use.		The existence of some differences of principle such as the treatment of road transport in the White Paper, which follows from the current Sustainability Strategy of the Union, or on the use of the revenues from user charges, do not diminish the support expressed for most of the individual measures by the Committee.
1.8 Contradiction between an interventionist and uniform policy, favouring certain modes of transport through various economic and fiscal measures, and support for a policy of liberalisation and competition within each sector.		There is no contradiction. Market liberalisation has to be completed in the railway sector, and to a lesser extent in the other modes, which will improve their service quality. Their networks also have to become interconnected and interoperable. The road sector has already overcome these phases. The White Paper intends restoring the balance.
1.9 Insufficient account is taken of the role of public transport.		The proposal for a Regulation on Public Service Requirements ³ , aims to lead to the gradual opening-up of most public transport markets and to improvements in the quality of service.
1.11 The Commission should propose measures aimed at gradually increasing the number of more efficient heavy goods vehicles which consume less fuel and create less pollution, and the use of alternative fuels (such as biofuels).		Legislation derived from the auto-oil programme has been highly effective in containing conventional pollution. The latter and CO ₂ pollution will have to be internalised through user charges and excise taxes on other means. The Commission has proposed legislation on biofuels which is currently being discussed by the institutions ⁴ .

³ COM(2002) 107, replacing COM(2000) 7

⁴ COM(2001) 547 final

<p>2.1 Congestion affects only a small part of the territory of the Community. It is thus inappropriate to draw up a general, uniform transport policy for the Community as a whole.</p>	<p>Congestion affects the main corridors of intra-EU trade. Charging for the use of infrastructure will help contain this problem where it occurs. The Union will provide a general framework within which Member States will have considerable room for manoeuvre to adapt to national circumstances.</p>
<p>2.2 Consideration should be given to economic measures that might help such (remote) areas more competitive.</p>	<p>The Union provides substantial aid to these areas through its Cohesion and Structural Funds. The White Paper proposes the creation of sea motorways as well as measures for the promotion of short sea-shipping. Moreover the Commission is preparing two documents that will deal with maritime public services aimed at simplifying the rules to be applied to small islands</p>
<p>2.5 Criticism levelled at the road haulage sector in no way helps in the search for a solution...it would be more worthwhile to recognise the progress made, and to stress the need to continue to adopt new measures.</p>	<p>The White Paper also proposes positive measures to restructure the sector – e.g. improvements in training and working conditions, use of Intelligent Transport Systems - but social, safety and environmental rules have to be enforced.</p>
<p>2.7 The White Paper fails to suggest any measures in proportion to its importance (of shipping) since it does not propose any specific measures that would enable a shift from land to sea transport.</p>	<p>The White Paper proposes several measures including the creation of sea motorways. Moreover, the Marco Polo programme will grant financial support for actions aiming to shift annually 12 billion tonne-kilometres off the roads to intermodal solutions, in particular to short sea-shipping. The Commission has also proposed a Directive on market access to port services in order to increase the efficiency of those services.</p>
<p>4.2. The Committee opposes harmonisation in areas such as blood alcohol levels or speed limits.</p> <p>4.3 However, it supports progress in harmonisation of the type of penalties in certain areas, such as maximum speed limits and vehicle immobilisation. The Commission could define a range of offences.</p> <p>4.4 Insufficient attention paid to the protection of cyclists.</p>	<p>Harmonisation at EU level is sometimes necessary. The Commission intends to come up shortly with proposals to improve existing EU rules on enforcement in the field of commercial road transport, as well as new enforcement measures in the field of general road safety. Safety aspects concerning vulnerable users such as cyclists and pedestrians will be dealt with in the forthcoming Third Road Safety Programme.</p>

<p>4.9.1 Ensure that the measures proposed are tax and revenue neutral; 4.9.3 The EESC questions proposal that private vehicles should not be included in charges; 4.9.4 The EESC favours reducing excise duty on diesel to compensate for the introduction of the kilometre tax; 4.9.5 The EESC is concerned at the creation of surplus revenue from infrastructure use.</p>	<p>The decision power on taxation issues is mainly in Member States' hands. The White Paper also supports the application of charging to the private car, however this cannot be organised at Union level given the many different local circumstances to take into account. According to the Commission's proposal on diesel used for commercial purposes⁵, Member States may apply different rates of excise duty on fuels if a mechanism is introduced to internalise infrastructure, congestion and environmental costs by means of charges. The proposed system of charges will produce a revenue which could be used within the transport sector itself, as advocated by the White Paper. The overall benefits of some bottleneck-solving projects are great enough as to warrant earmarking resources.</p>
<p>4.10 Specific measures aimed at improving access and transport conditions for users with reduced mobility should also be proposed.</p>	<p>The Commission already takes great interest in incorporating into its legislative proposals specifications for the accessibility of people with reduced mobility. This is the case for the proposals concerning safety rules for passenger ships, boarding denial in air transport and conventional rail interoperability, to name but a few.</p>
<p>4.12 With regard to urban transport, clear priority should be given to the promotion and exchange of good practice and would support the creation of a Community programme to create a formal framework for the development of these good practices.</p>	<p>The "CIVITAS" programme launched under the 5th Framework Research and Development Programme provides financial support for pilot cities that implement innovative and integrated action to improve urban transport. The results will form the basis of a guide to best practice.</p>

⁵ COM (2002)410 final of 24.7.02

26. Proposal for a Directive of the European Parliament and of the Council on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification - COM(2002) 21 final

Proposal for a Directive of the European Parliament and of the Council amending Council Directive 96/48/EC and Directive 2001/16/EC on the interoperability of the trans-European rail system - COM(2002) 22 final

Proposal for a Regulation of the European Parliament and of the Council establishing a European Railway Agency - COM(2002) 23 final

Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/440/EEC on the development of the Community's railways - COM(2002) 25 final

**EESC 1028/2002 - September 2002
DG TREN - Mrs de Palacio**

Main points of the EESC Opinion	Commission Position
3.1 This paragraph rejects the Commission's proposal concerning further opening-up of the rail freight market to competition, on the grounds that the proposed additional action would be premature.	Rejected. The Commission feels it is important to continue and accelerate the opening-up of the rail freight market. The alarming situation in this sector and its vital importance to a sustainable transport system, as illustrated in particular in the White Paper of September 2001 on transport policy, make it impossible to wait any longer.
3.2.5.1, 3.3.3.10 and 3.4.7: Staff qualifications and working conditions.	To be taken into account in future proposals. A draft directive on train drivers' licences is due to be presented in 2003. The subject of working conditions is a matter for the social partners in the context of the sectoral social dialogue committee for the railway industry, which is supported by the Commission.
3.2.2 and 3.2.6.1. Extension of the conventional interoperability directive to the entire network.	The Commission has noted the Committee's endorsement.

3.3.1 Support for the Directive on rail safety.	The Commission has noted the Committee's endorsement.
3.4.3 and 3.4.4 Participation of the social partners. These paragraphs call for the social partners not only to be consulted, but also to participate directly in the technical working groups organised by the Agency.	Reservation pending the outcome of negotiations with the other institutions.
4.4 Separation between the infrastructure management body and operators.	Rejected. This refers to an issue that has already been settled. Directives 2001/12/EC and 2001/14/EC require strict separation of the essential functions, guaranteeing non-discriminatory access to the infrastructure.

27. Proposal for a Regulation of the European Parliament and of the Council concerning protection against subsidisation and unfair pricing practices in the supply of airline services from countries not members of the European Community
COM (2002) 110 final - EESC 1011/2002 - September 2002
DG TREN - Mrs de Palacio

Main points of the EESC Opinion	Commission Position
<p>4.1.2 The proposed regulation should specify Member States' competence until the air transport agreements entered into with non-member countries become binding under international law.</p> <p>5.2 The proposal should make it clear how the new provisions are to operate in accordance with the existing bilateral and internationally binding air transport agreements between Member States and third countries.</p>	<p>Rejected. The Commission's proposal is independent of general issues relating to the Community's external relations in the air transport sector and recent Court of Justice judgments in the "open skies" cases. It is the task of the competent Community institutions and the Member States concerned to draw conclusions from those judgments.</p> <p>It is outside the scope of the present proposal to define the future role and responsibilities of each party.</p>
<p>4.3.2 The Commission should report every five years on the application of the Regulation, on the basis of reports prepared by the Member States.</p>	<p>Reservation. The safeguard procedure referred to in Article 6 of Decision 1999/468/EC is relatively similar to the procedure laid down in Regulation 2026/97.</p> <p>This procedure could therefore be incorporated into the present proposal. If a Member State submitted a Commission decision to the Council and the Council did not adopt a decision by the stipulated deadline, the Commission's decision would be deemed to be confirmed.</p>

<p>28. Proposal for a Decision of the European Parliament and of the Council adopting a multiannual programme for action in the field of energy: Intelligent Energy for Europe Programme (2003-2006) COM (2002) 162 final – EESC 1013/2002 - September 2002 DG TREN - Mrs de Palacio</p>	
Main points of the EESC Opinion	Commission Position
2.1. Intelligent Energy proposal.	The Commission takes note of the favourable opinion of the Committee.
2.4. Transport policy must be a priority for action.	The Commission takes note of the favourable opinion of the Committee - the proposal therefore provides for a specific area on transport (STEER).
2.5. Need for action by the EU to support developing world countries' efforts to achieve sustainable development.	The Commission takes note of the favourable opinion of the Committee. The proposal therefore provides for a specific area on international cooperation (COOPENER).
3.2. Energy efficiency target of 1% p/a for appliances and equipment and air conditioning.	The Commission takes note of the favourable opinion of the Committee. Specific focus areas will be taken into account when preparing the work programme for the Programme.
3.6. Effective legislation required in number of areas.	The Commission's proposal covers non-technological support to develop and strengthen medium- and long-term energy policy and works as a supportive instrument to legislative packages. The proposal provides for monitoring of the impact and implementation of Community policy and is expected to provide analysis for new legislative proposals where considered appropriate.
4.5. Ensure that key actions and projects that combine two or more of the four fields of action can be developed.	The work programme is expected to contain 'horizontal key actions' for this purpose.
4.6. The Committee would like to see three further areas for key actions for 1) energy suppliers, 2) architects and developers, 3) carbon valuation and emission trading schemes.	The work programme and definition of key actions are being prepared. The Commission will take account of the Committee's suggestions when preparing the work programme.

<p>4.7. The Committee believes that the budget level proposed by Commission represents a sensible compromise</p>	<p>The Commission takes note of the favourable opinion of the Committee.</p>
<p>5.5. Executive Agency: the Committee feels that the Commission must go further than is presently proposed and choose either a fully fledged traditional agency ... or locate such a mission within the Commission staff with the necessary resources and objectives.</p>	<p>The role of the Executive Agency is defined by the proposed Council Framework Regulation (Proposal for a Council Regulation laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes, OJ C 120 E, 24.4.2001, p. 89, and OJ C 103 E, 30.4.2002, p. 253) adopted by the Council on 19.12.2002. It will be proposed by the Commission upon adoption of the framework regulation and is expected to cover exclusively executive tasks for the management of the programme. It is not destined to take over policy tasks of the Commission; hence long-term policy concerns are not a direct issue. It is however also expected that the programme will receive a more effective dissemination of results and a cost-effective option to manage a greater number of projects and smaller projects which are closer to the beneficiary character of the programme.</p>
<p>6. Conclusions.</p>	<p>The Commission takes note of the favourable opinion of the Committee</p>

29. Transport and Enlargement Own-initiative opinion - EESC 1032/2002 - September 2002 DG TREN - Mrs de Palacio	
Main points of the EESC Opinion	Commission Position
3.1. The EESC emphasises the importance of effective implementation of the <i>acquis</i> in practice.	The Commission acknowledges the Committee's support in this important matter.
3.1.1. Road cabotage—immediate opening-up of the market is not called for.	The Commission agrees. The EU has in fact opted for a transitional period and gradual opening-up of the cabotage market.
3.7. Tariffs: allocation of all costs to all major modes of transport.	The White Paper on European transport policy for 2010, published by the Commission (COM(2001) 370), includes measures to this effect.

30. Proposal for a Council Directive on the control of high activity sealed radioactive sources
COM (2002) 130 final – EESC 843/2002 - July 2002
DG ENV - Mrs Wallström

Main points of the EESC opinion	Commission Position
The EESC largely agrees with the proposed Directive.	The Commission takes note of the favourable opinion.
The EESC comments that the proposed definition of high activity sealed sources needs further clarification and suggests extending this definition to the exemption levels set out under the Basic Safety Standards laid down in Directive 96/29/Euratom [4.1 - 4.2.2].	The Commission cannot accept the opinion on this point. The exemption values mentioned in Directive 96/29/Euratom have been defined on the basis of a negligible level of risk. As the requirements of the proposed Directive should not put an administrative burden on the holders of small sources that is not commensurate to the possible health detriment, the definition of high activity radioactive sources should not be extended to the exemption levels of Directive 96/29/Euratom. Nevertheless, the Commission agrees to clarify the divergent levels in an additional recital.
The EESC is of the opinion that, in order to avoid inappropriate action, it should be clearly indicated that certain practices with radioactive sources are already subject to prior authorisation or mandatory reporting under the Basic Safety Standards as laid down in Directive 96/29/Euratom [4.2.4 and 4.2.5].	The Commission cannot accept the observation made. As this matter is already explicitly addressed in the third recital of the proposal, the Commission does not see any need for further clarification.
The EESC considers that the requirement for “financial provision”, imposed by Article 3(2)(b), should be further specified [4.3.2].	The Commission accepts the observation made, and therefore commits to indicating in Article 3(2)(b) some examples of financial provisions, which are deemed sufficient for the purpose of the proposed Directive.
The EESC welcomes the introduction of management and return of disused high activity sources as an additional authorisation requirement. Nevertheless, the EESC still considers necessary the introduction of new requirements regarding the reliability of the user [4.3.3 and 4.6.1].	The Commission takes note of the favourable opinion regarding the introduction of new authorisation requirements. However, it cannot accept the opinion on the need for additional reliability requirements, since financial provisions are already foreseen in Article 3.2 as well as requirements concerning reliability of the holder in Article 6.

<p>The EESC notes that the system for the control of high activity sources provided for in Article 4 is a further development of the EU basic safety standards of Directive 96/29 Euratom. Therefore it recommends introducing an additional requirement for the holder of a radioactive source to check, before a transfer is being made, that the recipient holds an appropriate authorisation [4.4].</p>	<p>The Commission accepts the observation and therefore commits to modifying its initial position by including this new requirement in Article 6 of its proposal.</p>
<p>The EESC considers the rules set out in Article 7 regarding the identification and marking of sources to be “state-of-the-art”, but requests further clarification of the phrase “written information” [4.7].</p>	<p>The Commission cannot accept this part of the opinion, as the additional requirements proposed by the EESC are already covered by the relevant transport legislation. The Commission is of the opinion that Article 7 provides for sufficient minimum requirements to ensure effective control over high activity sealed radioactive sources.</p>
<p>The EESC considers that Article 8 regarding training and information should be more clearly worded [4.8.1 and 4.8.2].</p>	<p>The Commission accepts the observation made and commits to extending the scope of Article 8 to include workers using or being in the proximity of high activity sources.</p>
<p>The EESC recognises the importance of action to be taken in the event of radioactive sources being lost, as foreseen in Article 9, but requests further clarification of the phrase “campaigns for recovering orphan sources”, the frequency of checks and procedures to be followed, as well as the sensitivity of the tests and the measuring procedure. In this respect the EESC further recommends that, before opting for a particular procedure, the cost of any measures should be considered in detail [4.9].</p>	<p>The Commission cannot accept this observation, as it is of the opinion that Article 9 provides for sufficient minimum requirements to carry out effective control. Furthermore, the Commission notes that Article 14 already provides for a duty to report on the experience gained in the implementation of the Directive five years after its entry into force.</p>

<p>31. Proposal for a Directive of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage COM (2002) 17 final – EESC 868/2002 - July 2002 DG ENV - Mrs Wallström</p>	
Main points of the EESC opinion	Commission Position
<p>3.1. The Committee acknowledges the generally positive nature of the rules proposed, but wishes to raise certain points to improve the content of the proposal.</p>	<p>The Commission takes note of the overall favourable welcome of the proposal by the Committee. The Committee's suggestions are commented on below.</p>
<p>3.2. Biodiversity being defined by reference to the Natura 2000 network, the Committee considers that the Commission should urge all Member States to fulfil their obligations under Directive 92/43/EEC.</p>	<p>The Commission takes note of the comment. The setting up of the Natura 2000 network is a major priority of the Commission, which spares no effort to contribute to the completion of this task, including by taking appropriate actions against defaulting Member States [see, for instance, the Third Annual Survey on the Implementation and Enforcement of Community Environmental Law (January 2000 to December 2001 - SEC 2002/1041, Commission staff working paper)].</p>
<p>3.2.2. The Commission should consider the need to supplement international laws, where they have proved inefficient in tackling environmental damage in the EU, with a Community initiative, which could be incorporated into this proposal for a Directive.</p>	<p>The Commission takes note of this comment and refers to its Communication to the European Parliament and the Council on a second set of Community measures on maritime safety following the sinking of the oil tanker Erika [COM(2000) 802 final], where it is stated that <i>“the Community shall submit a request to the IMO or the IOPC Fund, as appropriate, with a view to achieving the following amendments to the Liability Convention: (...) Compensation of damage caused to the environment should be reviewed and widened in light of comparable compensation regimes established under Community law”</i> (section 5.2, p. 61). It is also stated later on that: <i>“Should the international organisations concerned fail to adopt the appropriate amendments the Commission will make a proposal for adopting Community legislation</i></p>

	<p><i>introducing a Europe-wide oil pollution liability and compensation regime'</i> (ibidem, p. 62). Work is currently taking place under the auspices of the International Maritime Organisation (IMO) to review the international liability regime applying to oil pollution; the Commission reserves its position pending completion of these discussions. The Commission also wishes to make it clear that international conventions should not exclude the application of the proposed Directive in those Member States where they are not in force.</p>
<p>3.3.1. Biodiversity, as defined by reference to Directives 79/409/EEC and 92/43/EEC on natural habitats and birds, seems a rather limited concept. Most associations consulted proposed extending the definition to non-protected areas where there is serious damage to an area or a threat to the health of its inhabitants.</p>	<p>The Commission takes note of the comment but reserves its position pending the results of negotiations with other institutions, because of the difficulties arising from any attempt to extend the notion of biodiversity under the proposal to all types of habitats and species, irrespective of their legal status. The Commission wishes to make it clear that biodiversity within the meaning of the proposed Directive is not limited to protected areas, but encompasses most habitats and species protected under Directives 79/409/EEC and 92/43/EEC irrespective of their location. In addition, it is to be noted that national areas—protected independently of the Natura 2000 network— would also be covered.</p>
<p>3.3.1.1. The definition of biodiversity should include the effect of GMOs, in both the short and long terms.</p>	<p>The Commission takes note of this comment. It considers that there is no reason to consider that such adverse effects would not be covered by the proposal in respect of GMO-related biodiversity damage caused by negligence. It also wishes to point out that, according to Directive 2001/18, no GMO can be lawfully released into the environment without a comprehensive environmental risk assessment, the objective of which is, on a case by case basis, to identify and evaluate potential adverse effects of the GMO, either direct or indirect, immediate or delayed, on human health or the environment, which may occur through gene transfer from GMOs to other organisms. The carrying</p>

	<p>out of such a comprehensive environmental risk assessment is a factor that must be taken into account when deciding which defences should be available to operators.</p>
<p>3.3.2.1. The Committee considers that organisations capable of working to protect the environment will not be recognised as “qualified entities” simply because that is not their main purpose, although trade unions and employers' organisations, for example, can play an important role in the prevention of environmental damage.</p>	<p>The Commission does not think that the proposal excludes trade unions and employers' organisations from being recognised as “qualified entities”. Member States may certainly provide for such recognition. It is true, however, that the proposal leaves a wider margin of discretion to Member States in that determination by comparison with NGOs whose main aim is environmental protection.</p>
<p>3.3.3.1 The Committee considers that it would be desirable to include a precise definition of the intended meaning of damage to biodiversity and land damage.</p>	<p>The Commission will take account of the suggestion during forthcoming negotiations with other institutions.</p>
<p>3.5.1. The Committee advocates application of the system of joint and several liability, because it facilitates action, but the choice should be left to the Member States according to the circumstances of the individual case.</p>	<p>The Commission takes note of the comment, which is in essence backing the proposal's approach on this issue since the proposal to a great extent leaves it to Member States to choose between proportional or joint and several liability.</p>
<p>4.1. The concepts defined in Article 2 of the proposal must be revised so that the future Directive is applied in a uniform manner.</p>	<p>The Commission takes note of the comment and will take it into account, to the extent possible, during forthcoming negotiations with other institutions.</p>
<p>4.2.1. The procedure for remedying damage set out in Annex II provides for different options, which allow the competent authority to choose the criteria on which it will act. In the view of the Committee, the use of a single criterion should be avoided, particularly that of the lowest cost. The need to restore the affected area to its condition prior to the environmental damage must always be taken into account.</p>	<p>The Commission takes note of the comment and wishes to clarify in that respect that cost is only a relevant factor where the various remedying options identified all ensure the same level of environmental remediation. In addition, Annex II does not allow the competent authority to arbitrarily discard any relevant criteria mentioned in its section 3.2.1.</p>
<p>4.2.2. One of the core aims of liability actions must be recovery of the costs of repairing the damage by the competent authority. If this is not the case, the public will bear the costs involved.</p>	<p>The Commission agrees and underlines that, subject to the exceptions provided for in the proposal, this is precisely one of the aims of the proposal.</p>

<p>4.3. The Committee underlines the responsibility of Member States in designating the competent authority. The Committee considers in that respect that:</p> <ul style="list-style-type: none"> – if various tiers of competence exist, the competence of each authority should be clear, so as to avoid overlaps in action or action by different authorities. <p>The Committee believes that the civil courts are the most appropriate competent authority for environmental actions.</p>	<p>The Commission agrees that it is up to Member States to designate the competent authorities under the future Directive. It takes note of the comments made by the Committee while underlining that these are rather a matter for consideration by Member States themselves, on the basis of the subsidiarity principle.</p>
<p>4.4. The Committee considers that if financial security is not compulsory, repair of damage may be hindered by operator insolvency. The Commission should define more precisely the risks involved so that insurance companies can write the necessary policies. In parallel, the creation of national or regional funds financed by the financial penalties applicable for failure to comply with the Directives listed in Annex I would be appropriate.</p>	<p>The Commission acknowledges the importance of financial security in this context while insisting that this financial security can be guaranteed by other means than insurance, as evidenced by the reference made to the setting up of funds by the Committee itself. The Commission will therefore take into account the suggestion as regards defining more precisely the risks to be covered during forthcoming negotiations with other institutions while stressing that this question is fraught with difficulties with respect to new fields of liability, such as damage to biodiversity, and is thus unlikely to be entirely solved at this stage.</p>
<p>4.5. The fact that the rules are non-retroactive in nature creates the problem of repair of damage caused in the past. As stated in Article 19(2), an operator who has caused damage must prove it was caused prior to the entry into force of the Directive and is therefore not covered.</p>	<p>The Commission takes note of the comment while underlining that Member States are free to adopt whatever provisions they deem fit to address “historical pollution”. The Commission understands the second sentence as supporting Article 19(2) of the proposal; it therefore takes note of the favourable opinion in that respect.</p>

<p>4.6. The Committee stresses the importance of the reports to be drawn up by the Member States in accordance with Article 20 and Annex III. The Committee notes that a five-year period should be sufficient to evaluate whether experience of the Directive's implementation over this period indicates that Annex I should be amended.</p>	<p>The Commission understands the comment as supporting the relevant provisions of the proposal; it therefore takes note of the favourable opinion in that respect. The review process under Article 20 will also give the Commission an opportunity to address the issue of amending Annex I.</p>
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<p>32. Proposal for a Regulation of the European Parliament and of the Council on the transboundary movement of genetically modified organisms COM (2002) 85 final – EESC 846/2002 - July 2002 DG ENV- Mrs Wallström</p>	
Main points of the EESC opinion	Commission Position
The EESC welcomes the Commission proposal [2.2].	The Commission takes note of the EESC's favourable opinion.
The EESC highlights that parties to the Biosafety Protocol shall endeavour to inform their public about the means of public access to the Biosafety Clearing-House (BCH). The EESC notes that the Commission's draft proposal makes no mention of this [3.1].	The Commission supports the EESC's observation and will take it into account during forthcoming negotiations with other institutions.
The EESC understands that Member States have sole responsibility for the system of penalties, but nevertheless suggests that the necessary steps be taken to harmonise both the definition of infringements and the level of penalties in the different countries. [3.2].	The Commission understands the EESC's concerns but cannot agree to take action in the field of harmonisation of sanctions since this aspect is a Member State competence and goes legally beyond what can be inserted into a Community Regulation.
The EESC is concerned about the problem that might arise if there is no response to notifications sent by the exporter and calls for shorter deadlines regarding decision procedures [3.3].	The Commission wishes to reiterate that the procedures and deadlines contained in the current Proposal are those from the Biosafety Protocol. Therefore, the margin of manoeuvre in implementing such international procedures is limited. Furthermore, the deadlines are quite comparable to those under the relevant Community legislation (i.e. Directive 2001/18/EC).
The EESC welcomes the Commission's strict application of the precautionary principle [3.4].	The Commission takes note of the EESC's favourable opinion.

<p>33. Proposal for a Council Regulation concerning the export and import of dangerous chemicals COM (2001) 803 final – EESC 844/2002 - July 2002 DG ENV - Mrs Wallström</p>	
<p>Main points of the EESC opinion</p>	<p>Commission Position</p>
<p>The EESC supports the efforts to go beyond the provisions of the Convention in order to fully assist developing countries to become better informed about hazardous chemicals exported from Europe, to increase transparency in decision-making, and to improve governance. [1.2].</p>	<p>The Commission takes note of the favourable opinion.</p>
<p>The EESC supports the importance of on-going export notification, and urges that every effort should be taken to ensure that all interested parties in developing countries, including public interest groups, are made aware of continuing imports. [4.1.1].</p>	<p>The Commission takes note of the favourable opinion.</p>
<p>The EESC urges the European Commission to make export information available on the basis of exports from Member States, provided that commercial confidentiality is not compromised. It also suggests that the European Commission should collect and make publicly available information on the location of production, and annual production figures of any chemicals covered by this Regulation or other measures reflected in the White Paper – Strategy for a Future Chemicals Policy. [4.1.2].</p>	<p>The Commission cannot accept the opinion. The Community is regarded as a single bloc for the purposes of international trade and is recognised as such under the PIC procedure. Aggregated export information should be sufficient. There would be no added benefit in requiring more detailed data, which could also give rise to problems of commercial confidentiality. Furthermore, it is unclear what is intended by extending the data requirements of this draft regulation to production.</p>
<p>The EESC welcomes the Regulation requirement that classification, packaging and labelling standards in the EU shall apply to exports and that safety data should be in the language(s) or a principal language of the country of destination. [4.1.4].</p>	<p>The Commission takes note of the favourable opinion.</p>
<p>The EESC urges the European Commission to ensure developing countries improve their capacity to assess appropriateness of chemical imports, through targeting development aid to improving training and</p>	<p>The Commission notes the observation made and confirms that such actions are being taken/envisaged.</p>

<p>provision of laboratories. The EESC also considers that action must be supported to prevent the build up of future obsolete stocks of pesticides. Furthermore the European Commission and Member States are asked to cooperate in promoting technical assistance. [4.1.5, 4.1.7].</p>	
<p>The EESC urges the European Commission to work with Member States to ensure that all articles containing hazardous chemicals in a form that will harm those exposed are subject to an export ban. [4.1.6].</p>	<p>The Commission will take account of this suggestion during future negotiations with the other institutions on possible revisions to Annex V.</p>
<p>The EESC believes that when a Member State has imposed a ban or severe restriction this information must be made available to importing countries, and the European Commission must establish procedures to submit a "notification of control action" or at minimum ensure that under information-exchange countries are notified of the action. [5.2].</p>	<p>Given its position on the legal basis issue (see below), the Commission cannot totally accept the opinion. The Community has exclusive competence in this area and PIC notifications should therefore be limited to Community regulatory actions only. The notification of national bans or severe restrictions would be contrary to the approach towards Community implementation outlined in writing to other parties during the negotiation of the Convention. Such national regulatory actions are more appropriately dealt with under the information exchange provisions of the Regulation.</p>
<p>The EESC agrees that products not included in the relevant part of the Annex to Directive 91/414/EEC because of health or environmental concerns be identified and notification be submitted under the PIC procedure. At the same time it urges acceleration of the review foreseen on the basis of new scientific and technical data . [4.1.8].</p>	<p>The Commission takes note of the favourable opinion.</p>
<p>The EESC welcomes and endorses the recent (30 April 2002) Council of Ministers' decision to modify the legal basis to Article 175(1). [5.10].</p>	<p>The Commission cannot accept the opinion. It considers that Article 133 is the correct legal basis.</p>

34. Communication on Environmental Agreements at Community Level within the Framework of the Action Plan on the Simplification and Improvement of the Regulatory Environment
COM (2002) 412 final – EESC 1029/2002 - September 2002
DG ENV - Mrs Wallström

Main points of the EESC opinion	Commission Position
2.5: Make a distinction within the concept of “stakeholders” between industry and other representatives of civil society.	The Communication is deliberately “open” in its terminology. The majority of environmental agreements might be submitted by industry, but any exclusion (for example of the services sector) should be avoided.
2.7: Participation in a voluntary environmental agreement (EAs) should be a criterion for the award of the eco-label or the EMAS certification.	The intention of the proposal is positive. However, Eco-label and EMAS are “public voluntary programmes”, entirely different in character from Environmental Agreements (EAs). The award of both the eco-label and the EMAS certification are dependent on compliance with a number of pre-set binding criteria.
2.8: Merits of EAs should be recognised in the contract award phase under the Public Procurement Directives.	The scope for recognition of EAs in the award criteria appears to be extremely limited.
2.10: The different “formats” for acknowledgement of EAs (exchange of letters or Commission Recommendation under self-regulation, or co-regulation) should be applied to pre-selected situations	The Commission should be free to proceed on the basis of an ad-hoc evaluation of the potentially best solution. Any <i>a priori</i> restriction of the choice risks jeopardising the efficient use of the instrument.
2.12: Make a fair distribution of efforts and an automatic internal penalty system for participants breaching the conditions of the agreement.	This could be useful if many stakeholders take part in the agreement. The Commission should, however, leave it primarily to the participants in an EA to organise their internal relations.
2.14: Adoption of an EP and Council Recommendation laying down precise and detailed criteria for the “approval” of EAs.	The Communication itself already lists a set of criteria. Any additional set of criteria would restrict the necessary flexibility in the use of the instrument (see also comments on proposal 4). Furthermore, the inter-institutional agreements envisaged under the Action Plan will partly cover the concerns of the EESC.

<p>2.16: EAs must respect the “Guidelines on the applicability of Article 81 of the EC Treaty to Horizontal Cooperation Agreements”.</p>	<p>This is not a problem, as it is already clearly spelled out in the text of the Communication (chapter 5, second bullet point).</p>
<p>2.18: In case of acknowledgement of an EA by exchange of letters, public information should be restricted to publication of the “project” in the OJ and the creation of an interactive webpage.</p>	<p>The Communication is not proposing different procedures for acknowledgement by exchange of letters or Recommendation. There are no visible benefits in such a different treatment. All comments will be considered (chapter 7.1, second bullet point).</p>
<p>2.19: In case of acknowledgement of an EA by Commission Recommendation, the partners to the EA should inform the Commission on any comment received and the reasons for their acceptance or refusal. EP and Council should not be involved.</p>	<p>The Communication is not proposing different procedures for acknowledgement by exchange of letters or Recommendation. There are no visible benefits in such a different treatment. All comments will be considered (chapter 7.1, second bullet point). It is not acceptable to exclude the EP and the Council from the procedures.</p>
<p>2.20: Under co-regulation, the legal instrument should specify which aspects would be subject to EAs. Measures should be taken for those cases where stakeholders are unwilling to participate in EAs.</p>	<p>Under co-regulation, the legal act will be limited to essential elements (objectives, deadlines, monitoring). All further details are left by definition to EAs. Specific measures for those cases where stakeholders are unwilling to participate in EAs might be considered.</p>

**35. Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Towards a Thematic Strategy for Soil Protection
COM (2002) 179 final – EESC 1015/2002 - September 2002
DG ENV - Mrs Wallström**

Main points of the EESC opinion	Commission Position
<p>The EESC regrets that no description is given of the types of measures that should preferably be implemented at EU level, or the justification for such common action [4.1].</p>	<p>The Commission partially accepts the observation. The Communication lists initial measures which will be built on, though without entering into much detail. The Commission recognises the importance of further assessing and developing these measures and had included this item in its agenda for the coming years.</p>
<p>The EESC would also point to the lack of a strategic discussion of the aspirations to be pursued, and hence the objectives to be set for European soil [4.1].</p>	<p>The Commission cannot accept certain parts of this opinion. However, it recognises that the strategy, ambitions and objectives for soil policy need to be expanded and further clarified as part of the soil work programme for the coming years. The Communication constituted a first step in this direction.</p>
<p>Future proposals for measures should be based on an assessment of the threats applicable to different EU regions, including the applicant countries [4.1].</p>	<p>The Commission accepts the observation made. This point has already been made explicit in the Communication.</p>
<p>Future proposals for monitoring systems should be linked up with ongoing measures so as to provide better justification and give a detailed account of national monitoring systems [4.1].</p>	<p>The Commission accepts the observation. This point has been emphasised in the Communication.</p>
<p>Soil differs from the air or water, which are mobile elements. Soil has an owner, and the strategy must take account of the right of ownership [4.1].</p>	<p>The Commission partially accepts the observation, especially concerning the ownership aspects, which need to be taken into account. Soil has a mobile component in the sense that its substances can be rapidly transported through water and air when soil degrades.</p>

A balanced description of the threats involved is important in all circumstances so as to enlist the support of all players for the initiative [4.1].

The Commission accepts the observation. The Communication is a first step towards a soil policy, which needs to be developed in close cooperation with all players.

<p>36. Participation rules RTD/ Euratom COM(2001) 823 final - EESC 867/2002 - July 2002 DG RDT - Mr Busquin</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>2.2 The Committee would draw special attention to the need for more thorough simplification of the arrangements for presenting proposals. Arrangements for the participation of small and medium-sized entities (businesses, universities, etc.) should also be made clearer, since the joint and several liability requirement placed upon participants may represent a serious obstacle for them. A substantial proportion of Euratom sector research activities could well be allocated to small and medium-sized entities too.</p>	<p>Favourable opinion taken into account, in that the EESC's suggestion is already covered by the Commission's proposal.</p> <p>The rules on participation and dissemination of research results do not provide the necessary legal framework for establishing the simplified procedures advocated by the EESC.</p> <p>However, the application formalities, including the application forms, will be simplified significantly. Similarly, the negotiation documents, unlike in the case of the fifth FPRTD, will wherever possible no longer require the participants to repeat information already provided in their application.</p> <p>The same will apply to the documents providing participants with information, so as to avoid a large number of information sources by including most things in two or three documents.</p> <p>As stated in Article 4 of the participation rules, all legal entities are entitled to participate regardless of their status. The only restriction concerns their place of establishment (Article 5).</p> <p>Calls for expressions of interest in summer 2002 and dissemination of the results thereof via the CORDIS Internet site constitute one of the Commission's approaches intended to make it easier for certain participants (especially small and medium-sized bodies) to make contact with consortia being set up.</p>

	<p>Similarly, national contact points will pass on information and act as resource centres for participants.</p> <p>Finally, the Commission will present information documents and will organise/participate extensive information activities (conferences, websites etc.) and specific support measures designed to encourage and facilitate participation by SMEs.</p>
<p>2.3 The EESC also repeats its warning regarding the ability consortia would henceforth have to arrange their own competitive calls for some work or to extend activities. The Committee strongly urges that they act within the framework defined by the Commission in order to ensure transparency, equal treatment and consistency with the programme's objectives.</p>	<p>Favourable opinion taken into account, in that the EESC's suggestion is already covered by the Commission's proposal.</p> <p>As mentioned in the participation rules, competitive calls initiated by consortia in order to select new participants in agreement with the Commission do ensure transparency, equal treatment and consistency. The conditions governing competitive calls will be laid down in detail in the standard contracts and in particular will ensure that they are widely published and that the proposals received are assessed by independent experts (see Article 15.2 of the participation rules).</p> <p>All legal entities will be able to participate in competitive calls.</p> <p>Finally, the Commission itself will relay these calls via the information supports at its disposal.</p>
<p>2.4 The EESC draws attention to the importance of bringing together all the financial provisions, including relevant checks, under a single dedicated heading of the proposal, in the interests of greater clarity.</p>	<p>Rejection of the suggestion.</p> <p>As mentioned by the EESC itself, the proposed structure of the participation rules for the Euratom framework programme is identical to that of the rules on participation in the EC framework programme and dissemination of its results.</p>

	<p>This approach constitutes a response to the need for clarity so that legal entities entitled to participate under both the sixth EC FPRTD and the Euratom FPRTD are faced with identical structures.</p> <p>It is also with a view to ensuring clarity for participants that the special rules on participation under the priority thematic area “fusion energy research”, including specific financial provisions, are set out in a separate chapter (chapter III).</p>
<p>3.1 The rules for the participation of undertakings, research centres and universities must evidently take account of the great sensitivity inherent to atomic energy, involving scientific, industrial and political factors; they must therefore be tighter and more closely checked. However, these rules must be looked at afresh in a spirit of openness to and support for all the actors concerned, first and foremost the candidate countries, who face the same problems regarding energy research, waste management, radioactivity protection, and nuclear safety and security. Subject to all the usual safeguards, cooperation should be established with countries which have developed advanced technologies (Canada, Japan, USA) or which face comparable problems (e.g. Russia vis-à-vis certain candidate countries such as Bulgaria or Lithuania).</p>	<p>Favourable opinion taken into account, in that the EESC’s suggestion is already covered by the Commission’s proposal.</p> <p>Such cooperation is not banned by the rules. Article 6 states very clearly that “subject to other restrictions that may be specified in the work programme of the specific programme, any legal entity established in a third country may participate in RTDT activities, over and above the minimum number of participants fixed in accordance with the terms of Article 5, if such participation is provided for under an RTDT activity or if it is necessary for carrying out the indirect action”. The same applies to financial support “if provision is made for this under an RTDT activity or if it is essential for carrying out the indirect action”.</p>
<p>3.2- In spite of the absence of rules on dissemination, and for the same precautionary reasons, the EESC points to the equally significant danger that would result from inadequate dissemination of scientific and technical information in the sector. Some restrictions should be laid down, but the doors must be kept open. This means drawing up a highly specific technical protocol for content and methods of dissemination, reflecting safety and security requirements while</p>	<p>Favourable opinion taken into account, in that the EESC’s suggestion is already covered by the Commission’s proposal.</p> <p>The absence of rules on dissemination of results does not mean that activities supported under the Euratom FP will not be disseminated and/or the results not exploited. On the contrary. This is also confirmed by Article 18(1) of the rules, which refers to the existence of a</p>

maintaining the highest possible level of transparency.

plan for the use or dissemination of knowledge for each indirect action.

Of course, the provisions in the Treaty with regard to dissemination and exploitation of knowledge also apply.

37. Research needs for a safe and sustainable energy supply Own-initiative opinion - EESC 838/2002 - July 2002 DG RTD - Mr Busquin	
Main points of the EESC Opinion	Commission Position
<p>7.1 Securing a low-price, environmentally sound and sustainable energy supply within the EU</p>	<p>The Commission is aware of the energy supply problem and has initiated a debate by publishing a Green Paper.</p> <p>The exploitation of research results is only one of the ways of addressing the potential weaknesses in the Union's energy supply.</p>
<p>7.4 ...that the Commission draw up an integrated European energy research strategy, from which a comprehensive future European energy research programme will be derived. This programme should, if possible, be launched during the lifespan of the sixth framework programme, but at the latest during the following period. The additional resources required should be provided from the increase in overall R&D expenditure..</p>	<p>Management of a research and development programme is an ongoing process requiring adjustments (new framework programme every four years, review of the work programme every two years). Such adjustments are based on:</p> <ul style="list-style-type: none"> - a strategic assessment of the results of calls for proposals; - a five-yearly evaluation; - annual monitoring; - the opinions of groups of independent experts and working groups on exploratory strategy. <p>Finally, ongoing dialogue with Member States, industry and other parties involved in research is more appropriate and effective than increasing the budget. One of the objectives of the European Research Area is to foster such dialogue mainly, but not only, with these parties.</p>
<p>7.6: ...need for a research programme that is transparent to the public.</p>	<p>The European Research Area also offers the possibility of communication in order to exploit the strategy and objectives of research as well as the results achieved in the technical and socio-economic fields. The Commission has endeavoured to</p>

	<p>publicise its activities concerning energy externalities. It is also preparing a publication on the energy outlook for 2030 (WETO).</p>
<p>In order to provide energy feedstocks ... it is essential to press ahead with the development of all known and possible energy sources in a bid to explore and improve their potential and turn it to the best possible use. As research and development are the wellsprings of the future, the effort this requires should be measured against global competition, the critical supply position, the urgency of the environment issue and the size and cost of overall energy consumption.</p>	<p>These issues have served as a basis for defining energy research priorities as set out in the sixth framework programme adopted by the Council and European Parliament in June.</p> <p>In the case of non-nuclear energy, research is based on two priorities. One aim in the short/medium term is to ensure the rapid exploitation of technological successes, in particular with a view to helping to achieve the Kyoto objectives. However, it must be borne in mind that the Commission funds only a small part of Community research in the energy sector. Hence the importance of creating a European Research Area in energy in order to respond to these questions by pooling efforts and sharing, disseminating and exploiting results.</p>
<p>7.10: The subjects included in the sixth framework research programme should include all aspects of relevance to users.....</p>	<p>This idea is very widely reflected in the sixth framework programme, which includes cross-cutting activities with a view to addressing problems in a horizontal manner by proposing activities common to several research areas (energy, materials, transport, biotechnology, international cooperation, etc.) or by using the opportunities offered by priority 8 (anticipating scientific and technological needs).</p>

<p>7.12 ..consultations with civil society...</p>	<p>One of the priorities of the sixth framework programme which also applies to energy is to encourage exchanges between science and society by establishing a dialogue between researchers, industrialists, political decision-makers and citizens.</p> <p>A major Eurobarometer survey, covering 15 000 citizens, has been carried out this year to investigate the opinions and expectations of Europeans relating to energy (“Energy issues and technology options”).</p>
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38. Safer use of the Internet
COM(2002) 152 final - EESC 1012/2002 - September 2002
DG INFSO - Mr Liikanen

No contribution from DG INFSO.

<p>39. 2002 Review of the Internal Market Strategy « Delivering the Promise » COM (2002) 171 final – EESC 871/2002 - July 2002 DG MARKT - Mr Bolkestein</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>6.1. Conclusion that progress to date disappointing and great deal remains to be done.</p>	<p>The Commission welcomes the fact that the EESC largely agrees with its analysis about what needs to be done on Internal Market policy and that the overall pace of delivery on progress on individual target actions is still too slow. The overall impact on the completion of target actions is mixed, with a success rate of only just over 50 %. The Commission considers that we must close the “delivery gap” towards meeting the Lisbon objective.</p>
<p>6.2. The imminence of enlargement gives added urgency.</p>	<p>The Commission agrees that the Internal Market Strategy needs to take account of an enlarged Internal Market of 450 million citizens and that issues such as compliance and enforcement of IM rules, including those on intellectual and industrial property and mutual recognition in general in the Candidate Countries, need particular attention.</p>
<p>6.3. and 6.6. Internal Market Strategy needs strong political support from all actors involved and must be a “shared agenda”.</p>	<p>The Commission is strongly of the opinion that all Community institutions and other stakeholders must act together. There has to be the political will and commitment to deliver on the Internal Market Strategy and commitments to meet the Lisbon targets. The Commission welcomes the continued support of the EESC in making the Internal Market Strategy work better.</p>

<p>40. Proposal for a Directive of the European Parliament and of the Council on the patentability of computer-implemented inventions COM (2002) 92 final – EESC 1031/2002 - September 2002 DG MARKT - Mr Bolkestein</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>A main theme running through the opinion is that the proposal would extend patentability to a matter which is not currently patentable. Such an extension is considered to be dangerous for software development and unjustified on the evidence. See, for example:</p> <p>Para. 3.1: It is commented that the extension of the scope of application of patentability [brought about by the Directive] could thereafter be extended without limit to software programmes and intellectual methods at successive legal rulings of the technical chambers of the EPO, irrespective of the exclusion provided for in Article 52 of the EPC.</p> <p>Paras. 3.12-3.14: The Committee considers it inappropriate to "extend the arrangements for patents" without further detailed study.</p> <p>Para. 5.1: There should be a comprehensive discussion before any fundamental changes are made.</p>	<p>The proposal does not involve any fundamental change to the criteria for patentability. It is precisely because of the lack of clear evidence justifying change that the proposal seeks to harmonise at approximately the current situation in the EPO and Member States.</p> <p>The proposal is concerned with inventions which are implemented using computer software and sets the condition that an invention has to make a "technical contribution" in order to be patentable. This will prevent computer implementations of non-technical methods (such as business methods) from being considered patentable inventions merely because they specify hardware. The risk of such an interpretation developing in future would be more, not less, likely without the Directive.</p>
<p>The opinion implies that the existence of patent rights can interfere with or in some way prevent the enjoyment of copyright in software. See for example:</p> <p>Para. 3.15: The Committee considers that the proposal runs the risk of being in breach of obligations to protect software and other copyright works under WIPO and WTO agreements.</p> <p>Para. 5.3: It has not been shown that the legal protection conferred by copyright would be less effective than the industrial patent.</p>	<p>Patents and copyright are two species of IPR concerned with different subject-matter. Patents confer a limited monopoly over the practical application of technical teaching (ideas and concepts), while copyright protects original computer programs (considered as literary works) against copying. They are not mutually exclusive and there is no "frontier" between the two which might be disturbed by the proposal. The existence of a patent can in no way interfere with the existence or enjoyment of copyright. The Directive will not affect the rights of copyright holders, nor will it breach Member</p>

	States' or Community obligations to protect software as copyright works under WIPO or WTO agreements.
Para. 5.6: The Committee considers that it is important for the European legislator to lay down uniform rules on the patentability of computer-implemented inventions, which can be the basis for maintaining the high level of European patent rights.	The Commission welcomes the fact that the Committee recognises the importance of harmonised rules in this area.

<p>42. The future of cohesion policy in the context of enlargement and the transition to a learning society Own-initiative opinion - EESC 848/2002 - July 2002 DG REGIO - Mr Barnier</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>Preparation of cohesion policy reform should be based on a document providing an overall picture of the economic and social situation of the regions and Member States after enlargement. This prospective analysis should be available by early 2004.</p>	<p>The Commission has already announced that the third cohesion report will be adopted at the end of 2003 and will include sections on the situation and trends in the regions, the contribution of national and Community policies to cohesion, the consequences of structural policies, and the needs of candidate countries and Objective 1 regions, as required by the Treaty and regulations. On the basis of this analysis the Commission will present conclusions and recommendations, including approaches to future cohesion policy.</p>
<p>The reform must include revision of the eligibility criteria, to take account of factors such as remoteness, isolation, lack of education and entrepreneurship and absence of civil society structures, in addition to the usual criteria.</p>	<p>The Commission has launched a broad debate on future cohesion policy, which of course also includes the eligibility criteria.</p> <p>According to the current rules, the eligibility criterion for Objective 1 (regions whose development is lagging behind) since 1988 has been per capita GDP in PPA. The debate confirms that this remains the most appropriate way of measuring “development that is lagging behind” and the best way to take account of the relative situation of regions in the new Member States.</p>
	<p>In the case of Objective 2 regions, other indicators used at the moment are unemployment, long-term unemployment, industrial jobs, population density, a high poverty rate, a seriously degraded environment, a high crime rate, and a low level of education. Many other options will be possible in the future.</p> <p>The priorities for assistance may and do go beyond these eligibility criteria. As</p>

	<p>part of programming, the regional development programmes analyse the problems and assets of the different regions and propose priority activities to be financed by the Structural Funds. Accessibility, education and entrepreneurship are part of these.</p>
<p>Without aiming at uniformity, cohesion policy must promote local and national measures to overcome structural disadvantages and develop a climate favourable to growth and prosperity.</p> <p>Over-rigid programming should give way to contracts focusing on objectives, to include contributions from national and local resources along with private investment and refundable aid.</p>	<p>The current debate has demonstrated the importance of ensuring a genuine Community added value, particularly outside the less-developed regions. The priorities established at Community level can contribute to this, and the implementation method must ensure more flexibility to allow these priorities to be adapted to the different situations in the regions. The possibility of tripartite contracts (Commission/Member State/region) is one of the methods envisaged. Proposals along these lines will be considered in the third cohesion report.</p>
<p>In the interests of simplification and integration, the Committee advocates establishing a single fund for those countries and regions whose development is lagging behind. The single fund would be complemented by an instrument intended for all stakeholders across the EU, in order to develop partnerships and cooperation networks and to spread best practice. Other policies (fighting exclusion, TEN, etc.) could be covered by other instruments.</p>	<p>The existence of several Structural Funds is largely a consequence of historical developments. While it is possible to simplify the management of procedures, the current debate also reveals a need to continue to provide diverse responses tailored to the different situations in the regions. Any merging of funds therefore should not result in cuts in the funding of forms of assistance adapted to the situation in terms of human resources, agriculture or fishing, for example.</p>

43. EU's Economic and Social Cohesion Strategy Own-initiative opinion - EESC 866/2002 - July 2002 DG REGIO - Mr Barnier	
Main points of the EESC Opinion	Commission Position
<p>The EESC's opinion contributes to the debate on the future of cohesion policy launched by the Commission at the beginning of 2001. It expresses a stance on a number of the main points of the debate.</p>	<p>The Commission has noted the Committee's support. The second progress report on economic and social cohesion will refer to it. In the third cohesion report, due to be adopted by the end of 2003, the Commission will consider the outcome of the debate and will table concrete approaches for future cohesion policy after 2006.</p>
<p>Continuation of Objective 1 after 2006; the eligibility threshold may need to be raised in order to ensure that the regions currently eligible for assistance are not excluded by the statistical impact of enlargement.</p>	<p>In its second cohesion report, COM(2001) 24 final, the Commission identified the statistical impact of the fall in average per capita GDP in the Union. It proposed four eligibility options. The first progress report, COM(2002) 46 final, referred to two of them: raising the threshold above 75%, and a transitional support scheme more generous towards regions below the 75% threshold in a Europe of 25.</p>
<p>Continuation of Objective 2: persistence of economic development problems and contribution by the Structural Funds to maintaining national support for regional policy and private-sector contributions.</p>	<p>The Commission has clearly indicated that it is in favour of future cohesion policy not being restricted to the regions whose development is lagging behind; it should also take account of the difficulties and assets of other EU regions.</p>
<p>The EESC feels that the Commission, given its complete oversight over the Structural Funds, has a crucial role to play in ensuring that regional development programmes are consistent with the objectives of the Funds and that best-practice techniques are used by all recipients. The EESC also states that the design and management of the Structural Funds must comply with the principle of subsidiarity, necessitating full and active participation by local authorities and the economic and social partners.</p>	<p>The next reform of the Structural Funds will take account of the growing call for simplification of procedures, particularly in cases other than Objective 1 for which the per capita assistance amounts are lower (principle of proportionality). The ministers in charge of managing the period 2000-2006 met at the end of September 2002 to analyse simplification measures under the present regulation. A seminar will be organised by the Commission in March 2003 to consider simplification after 2006.</p>

<p>The EESC wants more attention to be given to the development of human resources generally in the preparation of regional economic development plans, especially in the Objective 1 regions, where there tends to be under-investment in educational resources.</p>	<p>The second cohesion report identified and proposed priorities relating to employment policy and social policy. The adaptation of education systems in regions whose development is lagging behind to the needs of the new sectors is part of this, as is support for the new economy and knowledge society.</p>
<p>The EESC regards it as essential for the Commission to devote sufficient resources to helping candidate countries to administer the Structural Funds effectively.</p>	<p>Pre-accession aid already contributes to the strengthening of the institutional capacities of the candidate countries. The Commission has announced that this aspect will still be eligible for Structural Fund assistance after accession in 2004. The Brussels European Council in 2002 also referred to this in its conclusions.</p>
<p>It is vital that there is no diminution—financial or otherwise—in the EU’s efforts to promote cohesion, which remains an obligation under the Treaty. The EESC’s view is that the discussions on the EU’s future cohesion policies should begin now and that economic and social (rather than financial) considerations should dominate the debates. The current ceiling of 0.45% GDP placed on the Structural Funds will almost certainly need to be raised.</p>	<p>The Commission launched the debate on the content of future cohesion policy at the beginning of 2001. It will present proposals concerning funding amounts in relation to cohesion policy when the needs and priorities have been identified more clearly. The Commission would make the point that the figure of 0.45% of Community GDP constitutes a benchmark and corresponds to the values achieved in 1999 and set in Berlin for 2006, also taking account of the amounts for the new Member States.</p>

44. The future of upland areas in the European Union Own-initiative opinion - EESC 1025/2002 - September 2002 DG REGIO - Mr Barnier	
Main points of the EESC Opinion	Commission Position
3.1. Identification of upland and mountain areas: A variable approach based on very different situations	Accepted. A study entitled “Analysis of mountain areas in the European Union and the candidate countries” was launched by the Commission in August 2002. It includes developing or updating definitions of criteria for identifying mountain areas (altitude, slope, etc.), which will be used to carry out zoning at the most detailed level possible (NUTS V).
There is as yet no systematic EU policy comprising measures targeted specifically at upland areas (...) This is why the Commission's current spatial planning review is so important; the European seminar on 17 October 2002 will be a key event for the future of the areas concerned.	Accepted. Areas with severe geographical or natural disadvantages (mountain areas, islands, peripheral areas, outermost regions, sparsely populated areas) are included among the priority territories identified in the second cohesion report. The seminar on “EU policies and the Mountain” held on 17-18 October 2002 demonstrated the need for future Community policies relating to these territories on matters such as agriculture, rural developments, regional policy, the environment and transport to be more consistent. Better integration of these policies and their instruments in these territories, together with simplified implementation procedures, would make things easier for project promoters.

<p>4.1.1. Budgetary limits must not lead future Structural Funds policy to focus on the new Member States (...) it is thus vital that Member States make an additional budgetary effort in support of enlargement.</p>	<p>Accepted in part. It must be possible for regional and cohesion policies to be underpinned by appropriate financial resources allowing them to meet the needs of the new situation resulting from enlargement. However, cohesion policy must permit the funding of development projects in mountain areas and should not be designed merely to compensate for disadvantages.</p>
<p>4.1.2. It is essential that the GDP level used as a means of qualifying for this policy must not artificially exclude regions in the current Member States which have higher average GDP only because of the inclusion of the new candidate countries.</p>	<p>Accepted. The second cohesion report lists four options for eligibility and transitional support under Objective 1: application of the present threshold, application of the threshold and phasing-out, adoption of a higher threshold, and adoption of two eligibility thresholds.</p> <p>The third cohesion report due at the end of 2003 will contain proposals.</p>
<p>4.2. Developing a real Community spatial planning policy</p> <p>4.2.2. The definition of spatial planning principles and objectives at Community level is increasingly important if the EU is to take on a locomotive role in this field, rather than just a coordinating role.</p>	<p><u>Accepted</u></p> <p>In introducing the territorial dimension into cohesion policy, the Commission has acted on the recommendations of the 15 ministers in charge of regional policy, who at the May 1999 meeting in Potsdam stressed that the ESDP should constitute a policy framework for all Member States, their regions and local authorities, as well as for the Commission.</p> <p>The Commission suggests that the objective of balanced development could constitute an overall framework for improving the coherence of Community sectoral policies.</p> <p>The Commission is cofinancing the European Spatial Planning Observatory Network (ESPON/ORATE). This programme will provide useful expertise for promoting harmonious development within the Union and defining the concept of territorial cohesion (Article 16 of the Treaty).</p>

<p>4.3.1. The criteria for identifying areas eligible for Structural Fund support should be as follows: public interest of the areas concerned (...), current or potential threats (...), special nature of anticipated measures</p> <p>4.4.1. While a region's future eligibility for Structural Fund support must be based first and foremost on a physical appraisal of the disadvantages and problems it faces, the appraisal must not overlook the question of local prosperity (...) The new approach to be espoused by the Structural Funds should therefore combine spatial and socio-economic criteria.</p>	<p><u>Accepted in part</u></p> <p>In future, the distribution of financial resources under structural policy should be based on objective criteria applied to the whole Community (major achievement of cohesion).</p> <p>In the second report the Commission opened a debate on the use of new criteria (e.g. employment rate) to supplement the criteria used at present (population, regional prosperity, national prosperity and unemployment).</p> <p>However, no realistic proposals have seen the light of day as yet.</p> <p>Even if the Commission recognises the importance of several criteria referred to in the opinion, it is too early at this stage to express an opinion on their relevance, availability and long-term application.</p> <p>The Commission's definitive proposals on this subject will be included in the third cohesion report due to be adopted at the end of 2003.</p>
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<p>4.4.3. The assessment of a region's level of prosperity should be conducted at the lowest possible level, i.e. NUTS V</p>	<p><u>Rejected.</u></p> <p>For the least prosperous regions, direct zoning, per capita GDP and the present level of application (NUTS-II) remain perfectly appropriate. GDP statistics at NUTS V level would not be reliable owing to the way in which this indicator is calculated.</p>
<p>4.5.1.1. All the particular handicaps facing these regions must therefore be identified in order to decide which ones call for permanent financial compensation and which ones merely need temporary help to eradicate or at least reduce them.</p>	<p><u>Rejected in part.</u></p> <p>A policy of permanent compensation for areas with permanent handicaps is unrealistic. Support needs to be provided for project promoters who constitute vehicles for development in areas with handicaps.</p>
<p>4.5.3. Providing a return for compensation for disadvantages.</p>	<p><u>Partial acceptance</u></p> <p>Such compensation must be provided as part of integrated, albeit temporary, projects.</p>
<p>5.3.2.1. National regional aid (...) EU recognition of the special position of upland areas is vital if this form of public aid is to comply with Community competition law.</p>	<p><u>Partial acceptance</u></p> <p>Competition policy and cohesion policy are complementary. The capping of national regional aid primarily benefits the least prosperous countries and regions.</p>
<p>5.3.3. Exploitation of the identity and assets of upland areas.</p>	<p><u>Accepted</u></p> <p>Projects must make it possible to highlight the assets of upland areas (sustainable tourism etc.).</p>

<p>45. Communication from the Commission to the European Parliament and the Council on the desirability to renew the Action Programme for Customs in the Community and Proposal for a Decision of the European Parliament and the Council on the desirability to renew the Action Programme for Customs in the Community (Customs 2007) COM (2002) 26 final – EESC 837/2002 - July 2002 DG TAXUD - Mr Bolkestein</p>	
Main points of the EESC Opinion	Commission Position
The Committee welcomes the initiative.	The Commission appreciates this support
The Committee wants to see monitoring of progress in the early stages and, where necessary, corrective action taken.	The Commission agrees with this and intends to ensure that this is done.
The Committee hopes that outcomes will be measured against indicators set before the programme starts.	The Commission agrees with this, but the work necessary to establish indicators means they will not be finalised until the beginning of 2003.
The Committee called for Community-wide customs inspectors to monitor standards of control.	The Commission believes that the focus on achieving equivalent results and the measurement of results will provide a more effective basis for equal treatment.
The Committee would like to see a greater emphasis on fiscal fraud in the programme.	The Commission made it clear that fiscal cooperation is the subject of another proposal (Fiscalis 2007).
The Committee would like to see an assessment of “value for money”.	The Commission believes that the range of measures planned for the management of the programme, together with evaluation requirements will meet this desire.
The Committee proposes that the programme should be managed by an “operational plan”.	The Commission informed the Committee that it would do so, building on the experience of Customs 2002.
The Committee remarks that a formal training centre could be created where the Commission provides training to Member States’ officials	The Commission believes that training is most effectively delivered by Member States, although there is a clear supporting and coordinating role at the Community level.

<p>46. Improving the operation of taxation systems in the internal market (Fiscalis) COM (2002) 10 final - EESC 851/2002 - July 2002 DG TAXUD - Mr Bolkestein</p>	
Main points of the EESC Opinion	Commission Position
The Committee welcomes the proposal for Fiscalis 2007.	The Commission thanks the Committee for its support.
The Committee would like Fiscalis 2007 not only to serve the training of officials, but also to foster better cooperation between Member States in the fight against fraud.	The Commission agrees with the Committee and will take account of this aspect in its programme implementation activities.
The Committee feels that Fiscalis 2007 should constitute an instrument to facilitate adoption of definitive VAT rules.	The Commission does not agree, as Fiscalis 2007 is not a policy programme, but a programme for cooperation between Member State officials and authorities.
The Committee makes a number of specific comments on the need for complementary actions in the field of customs controls.	The Commission makes the point that customs cooperation is the subject of a specific proposal (Customs 2007).
The Committee would like the programme assessment to quantify its impact on the fight against fraud.	The Commission will endeavour to take account of this aspect when assessing the programme.

<p>47. Proposal for a Council Directive amending Directive 77/388/EEC as regards the special scheme for travel agents COM (2002) 64 final – EESC 852/2002 - July 2002 DG TAXUD - Mr Bolkestein</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>The Committee accepts that the existing situation is putting EU-based operators at a competitive disadvantage with those based outside the EU and endorses the need to restore a “level playing field” in this area. However, it seriously doubts whether the Commission’s proposals will have the effect of solving this problem. The problem, as with previous similar proposals to deal with this situation, would be enforcing compliance on traders who are not registered for VAT within the EU and have no establishment there.</p>	<p>The Commission shares this concern, which was also mentioned by the European Parliament. It has therefore decided to amend its current proposal and to introduce the simplification of the "one-stop shop" as adopted for electronically supplied services in its proposal in order to provide travel agents established in third countries with a simplified scheme for fulfilling their VAT obligations in the EU.</p>
<p>The Committee would point out that the Commission’s objectives, including the removal of the incentive for travel agents to operate off-shore, could be more satisfactorily met and all the concomitant complexities removed by the simple expedient of zero-rating these services</p>	<p>The Commission cannot accept this point, as it goes against the basic principle of VAT that profit generated in the EU should be taxable in the EU and not exempt, with a right to deduct the input VAT.</p>
<p>The Committee agrees with the Commission that, as the European Court of Justice has already clarified the circumstances in which the Travel Operators Margin Scheme (TOMS) may apply, there is no point in attempting to define the term “travel agent” for the application of Article 26.</p>	<p>The Commission fully agrees with this remark.</p>
<p>The Committee approves the concept of permitting travel agents to calculate an overall profit margin for all supplies of travel packages for a determined period but regrets that it has been left to the discretion of the Member States whether or not they should permit this method to be applied.</p>	<p>The Commission has opted to maintain the system as used for second-hand goods, where Member States can allow their traders to apply this simplification.</p>

<p>The Committee understands and approves the thinking behind the Commission's proposal to allow operators to elect to apply the normal VAT arrangements rather than TOMS but it agrees with the Commission's statement that, "this will entail certain consequences and difficulties for the travel agent concerned" and it fears that the extent of these difficulties may have been underestimated.</p>	<p>It is the Commission's understanding that the margin scheme should remain the general rule for these supplies, whereas the option for applying the normal VAT arrangements would only be used in specific cases, where the customer is a taxable person who will use the travel service for business purposes.</p>
<p>The Commission contends that Community legislation is necessary in this area in order to further harmonise TOMS and to prevent distortions of competition, especially in relation to the competitive advantage currently being enjoyed by non-EU operators vis-à-vis their European competitors. However, as has already been pointed out, the discretionary powers granted to the Member States will create new differentials between Member States, and the competitive advantage of non-EU operators is unlikely to be significantly diminished.</p>	<p>The options introduced in the special scheme are simplifications that Member States may introduce or allow their traders to use. However, the options that are abolished in the Commission's proposal are much more significant as they imply that the margin scheme will be applicable in ALL Member States and under the same rules. Currently there are still 3 Member States that exempt these supplies while 1 other Member State uses derogatory measures to calculate the profit margin.</p>
<p>The Committee is not entirely convinced by the Commission's Impact Assessment. The Committee would also wish to see an ex-post assessment carried out by the Commission after this legislation has been in force for a reasonable period.</p>	<p>Such an exercise is not envisaged at this stage and therefore the Commission currently does not have the intention to provide such an ex-post assessment.</p>

<p>48. Direct company taxation Own-initiative opinion – EESC 850/2002 - July 2002 DG TAXUD - Mr Bolkestein</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>The opinion regrets that the Commission 'only' concentrates on tax obstacles and does not dwell on tax competition and the need to establish a 'fair' level playing field.</p>	<p>The Commission's views on tax competition have been set out in detail in the Communication "Tax Policy in the European Union" [COM(2001) 260].</p>
<p>The opinion asks the Commission to establish a stronger link to its own policy goal to create job-friendly tax systems.</p>	<p>The Commission shares the view on the strong link between these two policy areas but did not consider the Company Tax Communication the appropriate document for elaborating this point (rather the Employment Guidelines, the BEPG, etc.).</p>
<p>The opinion pleads for simpler and more transparent tax systems.</p>	<p>This is in line with Commission policy [see Tax Policy Communication (COM (2001) 260)].</p>
<p>The opinion encourages the Commission to study the 'Swiss example' (on formulary apportionment for allocating the corporate tax base between different regions).</p>	<p>The Commission services are currently looking into the example of various countries which apply an on-formulary apportionment system.</p>
<p>The opinion welcomes the on-going accounting harmonisation (IAS) and its positive implications for the work on a common tax base.</p>	<p>The Commission agrees.</p>
<p>The opinion finds that the first three comprehensive approaches ('Home State Taxation'; 'Common Consolidated Base Taxation'; 'EU CIT') analysed in the Commission documents are no acceptable way forward (these would create discriminating tax privileges and fail to simplify the tax systems; risk of creating a two-speed tax system, or '<i>fiscalité à deux vitesses</i>').</p>	<p>The Commission considers this a premature conclusion and favours further research. In particular, the use of some of these approaches in specific areas should not be ruled out. For instance, the Commission services are currently exploring the possibilities of applying 'Home State Taxation' to SMEs or 'Common Consolidated Base Taxation' to the Societas Europaea. In this context, potential discrimination issues will also be considered.</p>

<p>The opinion supports the fourth approach (harmonisation of tax bases in Member States).</p>	<p>See above–</p> <p>The Commission has followed this approach in the past, however, without making significant progress.</p> <p>Moreover, it is often argued that this approach is disproportionate and goes beyond what is necessary for tackling the tax obstacles in the Internal Market.</p>
<p>The opinion calls for supplementing it, in due course, with a minimum and maximum corporate tax rate (rate band).</p>	<p>"The level of taxation in this area is, however, a matter for Member States to decide, in accordance with the principle of subsidiarity", as stated in the Tax Policy Communication [COM(2001) 260].</p> <p>However, the Commission will carefully monitor the trend in the effective levels of corporate taxation in the EU Member States in order to understand the dynamic effects of reforms in progress.</p>
<p>The opinion supports its initial application to the European Company Statute but also to a European Statute for SMEs, which would need to be swiftly developed and adopted.</p>	<p>The Commission agrees.</p> <p>Initiatives for appropriate 'pilot schemes' are currently being explored.</p>
<p>The opinion strongly urges the Commission to swiftly implement the targeted actions announced in the Communication.</p>	<p>The Commission has launched appropriate actions as scheduled.</p>
<p>The opinion welcomes in particular the 'Joint Transfer Pricing Forum'.</p>	<p>The Forum has been successfully established and now meets regularly.</p>
<p>The opinion urges the introduction of QMV for tax matters.</p>	<p>The Commission agrees, as set out in its contribution to the Intergovernmental Conference before the Nice Summit [Communication COM(2000) 114].</p>

- 49. Seed of oil and fibre plants**
COM(2002) 232 final - EESC 847/2002 - July 2002
- 50. European contract law**
COM(2001) 398 final - EESC 836/2002 - July 2002
- 51. Additives for use in animal nutrition**
COM(2002) 153 final - EESC 1014/2002 - September 2002
- DG SANCO - Mr Byrne**

No contribution from DG SANCO.

<p>52. Amended proposal for a Council Directive on the right to family reunification COM (2002) 225 final - EESC 857/2002 - July 2002 DG JAI - Mr Vitorino</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>The Committee is decidedly opposed to the important changes made to the initial proposal from 1999. However, it does not wish to formally issue a negative opinion on the proposal, in the hope that it definitive adoption of the document will follow quickly.</p>	<p>The Commission has noted the EESC's opinion, which in the final analysis is positive, despite the initial criticism.</p>

**53. Green Paper on a Community Return Policy on Illegal Residents
COM (2002) 175 final – EESC 1019/2002 –September 2002
DG JAI - Mr Vitorino**

Main points of the EESC Opinion	Commission Position
In particular section 4. of document SOC/105.	The Commission took the opinion into account for the drafting of the Communication on a Community Return Policy on Illegal Residents of 14 October 2002, COM(2002) 564. No further follow-up needed on document SOC/105. ECOSOC prepared already follow-up with document SOC/130 reflecting on the aforementioned Communication.

54. Proposal for a Council Regulation concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility repealing Regulation (EC) No. 1347/2000 and amending Regulation (EC) No. 44/2001 in matters relating to maintenance

**COM (2002) 222 final – EESC 1021/2002 - September 2002
DG JAI - Mr Vittorino**

Main points of the EESC Opinion	Commission Position
The Committee welcomes the fact that the proposal is wider and more ambitious in its scope than Regulation (EC) 1347/2000.	The Commission welcomes the support of the Committee on this point.
The Committee regrets that the issue of parental responsibility arising out of non-marital situations is not covered by the proposal.	The Commission is pleased to make it clear that, unlike Regulation (EC) 1347/2000, the new proposal applies to all judgments on parental responsibility, regardless of the marital status of the parents.
The Committee has some reservations as to the possibility of transfer a case to a court in another Member State on the sole basis that the child has property in that Member State (Art. 15.1.d). The Committee urges for further protection of the child in relation to this ground.	The Commission believes that the current wording of Art. 15 sufficiently ensures the protection of the child, since it clearly states that a transfer can only take place “where this is in the best interest of the child” and only in “exceptional circumstances”. Art. 15 is an element of compromise in the proposal between Member States with different legal systems.
The Committee welcomes the fact that the habitual residence of the child is the normal basis for determining jurisdiction in parental responsibility cases.	The Commission welcomes the support of the Committee on this point.
The Committee regrets that the ground of public policy is maintained as a ground for non-recognition of judgments on parental responsibility and fears that this could be abused.	The Commission fully agrees on the principle that the grounds of non-recognition of judgments should be gradually removed. However, it is not politically possible at this stage to remove public policy as a ground of non-recognition for all judgments on parental responsibility.

<p>55. Communication from the Commission on an open method of coordination for the Community Immigration Policy and Communication of the Commission on the common asylum policy, introducing an open method of coordination COM(2001) 387 final - COM(2001) 710 final - EESC 684/2002 May 2002 - DG JAI – Mr Vitorino</p>	
Main points of the EESC Opinion	Commission Position
<p>The EESC broadly supports the Commission's proposals to set up OCM procedures for asylum and immigration as a complement to the legislative framework called for in the Treaty and the Tampere conclusions and calls for the procedures to include monitoring of the implementation of the legislation.</p>	<p>The Commission welcomes the view of the EESC and re-affirms that the procedure is intended to include a process of monitoring at national level of the implementation of the relevant European legislation.</p>
<p>The EESC regrets that the adoption of this legislation is too slow and stresses the importance of moving forward at the same time on both the asylum and immigration Directives in order to develop a constructive overall approach.</p>	<p>The Commission points out that all the main legislative proposals on immigration and asylum have been adopted and strongly supports their rapid adoption by the Council.</p>
<p>The EESC recommends that joint statistical procedures be put in place to facilitate the evaluation of the situation of immigrants and asylum seekers in the EU.</p>	<p>The Commission recognises that there is a lack of statistical information on migration and asylum at European level and is taking a number of steps to improve the situation. A virtual European Migration Observatory is being set up, on a pilot basis for the period 2002-2004, to improve the EU's capacity to analyse migration flows. Together with Member States, the Commission is preparing the first public report on EU asylum and migration statistics based on 2001 figures, to be published in 2003. The Commission is also preparing a Communication on improving the exchange of information in the area of asylum and migration statistics.</p>

<p>Recommends the rapid development of European channels for legal migration and proposes that special consideration be given in the Employment guidelines to the situation of migrant women.</p>	<p>The Commission strongly supports the rapid adoption by the Council of its proposals on the admission of economic migrants and will examine the suggestions of the EESC with respect to migrant women in the framework of the preparation of the Employment Guidelines for 2003.</p>
<p>Supports the integration of migration and asylum issues into relations with third countries.</p>	<p>The Commission is actively developing its cooperation with third countries concerning the management of migration flows.</p>

**56. Proposal for a Decision of the European Parliament and of the Council amending Decision No. 253/2000/EC establishing the second phase of the Community action programme in the field of education "Socrates" COM(2002) 193 final - EESC 854/2002 - July 2002
DG EAC - Mrs Reding**

DG EAC has taken note of this own-initiative opinion, but will not be following it up.

57. Romania on the road to accession
Own-initiative opinion - EESC 858/2002 - July 2002
DG ELARG - Mr Verheugen

DG ELARG has taken note of this own-initiative opinion, but will not be following it up.

58. Slovenia on the road to accession Own-initiative Opinion – EESC 870/2002 – July DG ELARG - Mr Verheugen	
Main points of the EESC Opinion	Commission Position
90% of chapters contained in the acquis have been transposed and implemented.	While the negotiations on a large number of chapters (28 out of 31) have been preliminarily closed, this does not mean that transposition is finalised in all of them or that all the acquis is already implemented. It would be better to say: 'negotiations on 28 out of 31 negotiation chapters have been provisionally closed. Slovenia has in general made good progress in transposing and implementing and enforcing the acquis.
Slovenia's position in the Balkans markets' should be taken into account in the accession treaty and in establishing the country's financial contribution to the EU.	Slovenia's position in the Balkans markets cannot be taken into account in the treaty nor in Slovenia's financial contribution to the EU budget.
Slovenia's public deficit is 25.8%.	Should read: Public debt
The report criticises the Commission for 'failing to refer to the Convention on the protection of the Alps' in its reports.	While there are a number of important conventions in the environment area, the Commission reports on those that are part of the acquis and in the implementation of which there are problems. This is not the case with this Convention
The report criticises the Commission for 'focusing solely on the economic aspects of tourism'.	It is not clear which Commission report this comment refers to: the Regular Report focuses on acquis and there is very little acquis in the area of tourism.

<p>The Commission is criticised for failing to express concern about the level of services of the health service and for merely focussing on 'implementing the health reforms to alleviate the burden on the budget'.</p>	<p>The fixed expenditure in the budget has been very large in Slovenia (including expenditure on the health services), diminishing the flexibility of the government on budgetary spending. Therefore, the Commission has identified this as a problem area. However, it has not received any reports on problems with the quality of the health service, nor any complaints on it.</p>
<p>The Commission is criticised for having given a positive assessment of the law on old-age and disability pensions solely because it cuts budgetary spending.</p>	<p>The Commission is not aware of any negative aspects of the law. There is a genuine need for pension system reform in Slovenia.</p>

<p>59. Latvia and Lithuania on the road to accession Own-initiative Opinion – EESC 1022/2002 – September 2002 DG ELARG - Mr Verheugen</p>	
<p>Main points of the EESC Opinion</p>	<p>Commission Position</p>
<p>On Kaliningrad, p.6</p>	<p>The Commission notes that the adoption of EESC opinion approximately coincided with the publication of the Commission Communication on Kaliningrad. In view of the rapid developments that have occurred since that time, some updating would be necessary.</p> <p>The Commission notes with satisfaction the EESC's recommendation to find flexible solutions which do not compromise Schengen Agreement rules.</p>
<p>On political conditions, p.17</p>	<p>The Commission agrees with the overall political presentation but would like to add that the current President, Valdas Adamkus, is officially running in the presidential elections.</p>
<p>On Ignalina nuclear power plant and the impact of its closure on Lithuanian population, p.18</p>	<p>The Commission would like to make it clear that the closure of Unit 1 is <i>before</i> 2005 and not <i>in</i> 2005 as stated in the recommendation.</p> <p>The Commission agrees that Lithuania needs to devote adequate attention to the social consequences of the closure and decommissioning of INPP.</p> <p>The Commission also agrees that due involvement of social partners is key to success in this area. Social policy is, however, a prime responsibility of the Lithuanian Government.</p> <p>The Union is ready to contribute, in particular through the structural instruments. A (limited) number of Phare projects have been devoted to the social aspects of the decommissioning process.</p>

	<p>The Commission wishes to reiterate that the Union is currently negotiating a package with Lithuania, in line with the conclusions of the Brussels European Council, to assist in addressing the consequences of the closure and decommissioning of INPP. The Brussels European Council provisionally indicated, in line with Commission proposals for the years 2004-2006, an amount of € 210 million. The European Council also endorsed the principle that adequate assistance should continue beyond the current financial perspectives.</p>
<p>On democracy and the rule of law, p.19</p>	<p>The Commission welcomes the EESC comments and appreciates this assessment. Lithuania has made good progress in the field of administrative capacity in this area.</p> <p>As regards the anti-corruption fight, the Commission would like to stress that significant efforts have been made in this field, especially through the recent adoption of the National Anti-Corruption Strategy.</p> <p>The Commission endorses the EESC's comments as regards the lack of adequate cooperation between central and local levels.</p>
<p>On employers' and sectoral organisations, p.20</p>	<p>The Commission agrees with EESC's comments and shares the view that such organisations - especially consumer organisations - should be further involved in the Lithuanian decision-making process.</p>
<p>On market economy, p.22</p>	<p>The Commission takes note of EESC's comments and shares its concern to ensure that the entire population should reap the benefits of the market economy.</p> <p>The Commission has also drawn the Lithuanian authorities' attention, on many occasions, to the need to improve the business climate for SMEs.</p>

On labour market and social policy, p.24	The Commission fully agrees with EESC's concern that the high unemployment rate should be addressed as a top priority.
On agriculture, p.25	The Commission endorses the EESC's recommendation to foster rural policy development in Lithuania.

**60. Financial assistance for pre-accession
Own-initiative opinion - EESC 1023/2002 - September 2002
DG ELARG - Mr Verheugen**

DG ELARG has taken note of this own-initiative opinion, but will not be following it up.

**61. The ACP-EU Partnership Agreement
Own-initiative Opinion - EESC 521/2002 – April 2002
DG DEV – Mr Nielson**

Main points of the EESC opinion	Position of the Commission
<p>It is particularly appropriate and consistent that the Agreement should have as a reference framework (as is stated in the preamble) the international agreements adopted by most of the Member States and ACP countries, such as the Universal Declaration of Human Rights, the relevant ILO standards, and the commitments emanating from various UN conferences (2.2)</p> <p>The Committee also welcomes the express recognition of the fact that the Agreement's objectives can only be attained by an integrated approach which takes account of the political, economic, social and environmental aspects (2.3)</p>	<p>The Commission welcomes the opinion of the EESC and fully agrees that the integrated approach is an important point for attaining the Agreement's objectives.</p>
<p>Nevertheless, the involvement of new actors as envisaged in the Agreement also raises a number of serious questions. First, the <u>definition of the actors</u> - which is always difficult - is <u>imprecise</u> and has overlaps, and could therefore lead to arbitrary choices by some governments. There is no denying the difficulty of establishing traits which identify clearly and unequivocally the representative non-State actors of 77 different countries. Even so, it is unacceptable that it may be inferred from the Agreement (Art. 6b and declaration on the actors of the partnership) that the private sector does not belong with the economic and social partners and that the latter, for their part, are not included in the civil society. Such a definition clearly runs counter to current practice in the EU and is merely likely to sow confusion (3.5).</p>	<p>The Commission notes the EESC's concerns, but the definition negotiated and agreed with the ACP States had to reflect the different traditions and socio-political situations of each country. Lack of tradition of participatory approaches necessitated a broad definition of non-state actors. Referring to civil society in general would have risked arbitrary exclusion of certain non-state actors. This, however, does not call into question basic and universal principles of the definition and role of civil society (i.e. economic and political independence of NSAs, non-profit character). The private sector has been recognised by parties to the Agreement as a non-state actor enjoying full rights and obligations in the participatory</p>

	<p>process. The private sector should participate in the development dialogue. Financial support to the business sector, as profit-making bodies, is provided through specific instruments different to those reserved for non-state actors which are non-profit-making.</p>
<p>More worrying is the lack of instruments to bind non-State actors into the ACP-EU partnership. It is true that the Agreement provides for the incentives and it is unrealistic to expect overnight changes in the political culture of many governments, traditionally little inclined towards power sharing with organisations representing civil society. Nevertheless, the legitimacy of the Agreement would be seriously jeopardised if one of its central and most innovative planks were infringed with impunity (3.6).</p> <p>The programming is currently still in its infancy. Nevertheless, an initial assessment may be made of this process on the basis of the information gathered by the EESC.</p> <p>Although there has been an increase in information and consultation of non-state actors, much remains to be done: in general terms, information on the Agreement has not been adequately disseminated or is still difficult to access; consultation where it has taken place has not as a rule been systematic or regular and in some cases representative organisations have been excluded. The current programming should be used to initiate a learning process for all parties, which will not be easy, and to check whether they are actually beginning to move in the right direction. For this reason a specific assessment of the level of consultation and use of resources by</p>	<p>The legally binding obligation for both parties to the Agreement to involve non-state actors in the development process is an innovative step and a result of long cooperation and deep-rooted partnership with the ACP countries. The Commission agrees and is fully aware of the long process and challenges involved in effective participation by non-state actors in the development process. However, taking punitive measures will not be helpful in promoting the Commission's facilitating role in building confidence between non-state actors and governments. The programming exercise was a good entry point to implement the relevant provisions of the Agreement. The programming exercise, the annual, mid-term and end-term reviews are useful tools to monitor and encourage non-state actor participation. The Commission considers capacity building as a priority and the necessary practical measures will soon be in place with practical guidelines for implementing the direct access to funding of non-state actors under the EDF.</p> <p>Practical guidelines and assessments of the level of consultation and use of resources by non-state actors are envisaged for the annual, mid-term and end-term operational reviews.</p>

<p>non-state actors should be included in the annual, mid-term and end-term operational reviews. Similarly the international organisations representing civil society, together with the European Commission and the joint ACP-EU institutions in identifying the difficulties encountered and highlighting the most fruitful experiences</p>	<p>A first assessment of the programming exercise does indeed reveal specific problems in the quality of consultation (quality and timing of information, selection of participants etc.), but at the same time demonstrates that the process is well under way, as some form of consultation has taken place in almost all cases.</p>
<p>The political dimension of the Cotonou Agreement means putting into practice new working methods, forms of co-operation, indicators and channels of dialogue. The great challenge will be to involve all of society sharing and implementing the values expressed in the Agreement. To this end it will be essential to promote dialogue between State and non-State actors</p>	<p>The Commission fully agrees.</p>
<p>Thus Cotonou stipulates that between 2002 and 2008 negotiations are to be held to conclude economic partnership agreements (EPAs)–free trade agreements-between the EU and the ACP countries. The present trading system will continue until 2008, thanks to a derogation granted by the WTO. The characteristic feature of the EPAs will be reciprocity, with the accent on negotiations with regional integration groups. The period 2008-2020 will be a transitional period for the implementation of the agreements (6.4).</p>	<p>Para 6.4 seems to imply the EPAs are simply FTAs. While it is true that FTAs (in the sense of GATT Art. 24) are an aspect of EPAs, the concept is much wider. EPAs are conceived as instruments for development. They build on and strengthen ACP regional integration. They will also cover trade-related areas such as investment, public procurement, standards and intellectual property.</p>
<p>With a view to facilitating the conclusion and implementation of the EPAs, a number of support measures have been provided for: partial compensation to offset the fiscal and balance of payments adjustments necessitated by liberalisation (financed by the EDF, EIB), co-operation on adjusting national to multilateral rules, and creation of a ministerial joint committee responsible for monitoring the negotiation of the EPAs and co-operation in international for a, especially in the WTO, which seems an excellent initiative (6.5).</p>	<p>Para 6.5 refers to “compensation to offset the fiscal and balance of payments adjustments necessitated by liberalisation”. A more correct formulation is that assistance can be provided to facilitate the transition to a more liberal trade regime and to help the private sector taking advantage of the opportunities that will result. One aspect is to support fiscal reform in the direction of a system of taxation that is equitable and more conducive for development. Tariffs are generally not an optimal system of revenue collection.</p>
<p>The Agreement allows LDCs to decide that they are not in a position to negotiate an EPA. Whatever, the case, the EU wishes to find a formula which, while compatible</p>	<p>Para 6.6 The Cotonou Agreement does not end non-discrimination between ACP countries. It is true that EBA provides certain guarantees for access to</p>

<p>with WTO rules, enables products from these countries to have access to the European market without quantitative or tariff restrictions, in line with the “Everything but Arms” initiative. Hence the Cotonou Agreement puts an end to non-discrimination between ACP countries, providing for different treatment for LDC and non-LDC countries (6.6).</p>	<p>the EU market for all the LDCs. However, under the WTO Waiver the LDC and non-LDC among the ACP will have the same preferential treatment until 2008, except for very few agricultural products where EBA goes further. After 2008 the implementation of EPAs will start. Within EPAs there will be no discrimination between ACP countries.</p>
<p>Secondly, about 20% of government revenue in many ACP countries come from custom tariffs. The abolition of duties on European imports (which could reasonably be expected to increase relative to other countries after the EPAs are signed) would roughly halve the revenue. Bearing in mind how difficult it is to diversify fiscal resources, national budgets could face serious problems. Besides, there is no guarantee that the fall in customs tariffs will be passed on in lower prices for the ACP consumers and importers. For this reason the EPAs should identify those sectors and social groups potentially most affected by a possible reduction in public revenue and adopt appropriate corrective measures. Support should also be provided for the introduction of adequate tax arrangements based on a fair distribution of the burden between citizens in accordance with their income (6.10).</p>	<p>Para 6.10 suggests that tariff revenue could be reduced by half as a result of EPAs. First because of the possibility of exemptions this is very unlikely. More importantly, as commented on para 6.5, it is in the interest of ACP countries to gradually install a better revenue collecting system, with less dependence on tariffs. With the negotiation period until 2008 and the implementation transition period at least until 2020 there is indeed adequate time to prepare for a fiscal transition within a balanced macroeconomic strategy.</p>
<p>EPAs must help to attract foreign, especially European, investment. For this it will be necessary to adopt simple, transparent and non-discriminatory regulations and to create broader and more integrated regional markets (6.14)</p>	<p>Indeed, the effect on foreign investment, particularly from the EU, is considered to be one of the major beneficial results of EPAs. Therefore, it is important that the negotiations also help to install a conducive investment regime.</p>
<p>The EESC would wish to contribute to the practical implementation of the Agreement in that area where it can best add value: proposing specific measures for the full implementation of organised civil society in the furtherance of ACP-EU relations. First, however, the Committee welcomes the official recognition which the Cotonou Agreement accords it by entrusting it with the organisation of consultation meetings and meetings of ACP-EU economic and social operators. This recognition has strengthened the EESC’s role vis-à-vis the</p>	<p>The Commission is pleased that the EESC offers suggestions for an effective implementation of the Cotonou Agreement and appreciates the important contribution of the EESC to this end.</p> <p>The EESC should continue disseminating information on the opportunities offered by the Cotonou Agreement to the representatives of non-state actors and draw the attention to any shortcomings in its</p>

<p>Joint Parliamentary Assembly and the ACP-EU Council of Ministers.</p> <p>Beyond this institutional recognition, the EESC should continue disseminating information on the opportunities offered by the Cotonou Agreement to the representatives of civil society and drawing attention to any shortcomings in its implementation. The regional seminars already held have shown themselves to be a very useful tool in this respect, but if the Committee is to develop this role to the full it needs to take its cooperation with the international socio-occupational organisations a stage further.</p>	<p>implementation.</p> <p>The regional seminars also attended by the Commission prove a useful and effective tool.</p>
<p>With a view to ensuring the provisions of the Cotonou Agreement are implemented effectively, the EESC proposes the following:</p> <ul style="list-style-type: none"> - with regard to dissemination of information - with regard to capacity building - with regard to strengthening the consultative function 	<p>The Commission fully agrees with the EESC's suggestions on dissemination of information, capacity building and strengthening the consultative status.</p> <p>Important steps have already been taken. Examples are the deconcentration process, mapping and capacity building exercises undertaken by many delegations, reserving an amount of the EDF provision for non-state actors.</p>