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COMMITTEE OF THE REGIONS

97th plenary session, held on 8, 9 and 10 October 2012

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(Resolutions, recommendations and opinions)

OPINIONS

COMMITTEE OF THE REGIONS

97TH PLENARY SESSION, HELD ON 8, 9 AND 10 OCTOBER 2012

Opinion of the Committee of the Regions on 'Developing a maritime strategy for the Atlantic Ocean Area'

(2012/C 391/01)

THE COMMITTEE OF THE REGIONS

— welcomes the proposal for Developing a Maritime Strategy for the Atlantic Ocean Area and the elaboration of an Atlantic Action Plan 2014-2020;

— stresses that the Committee's endorsement of an Atlantic strategy is conditional on it adopting a broader approach, fully incorporating the territorial dimension, developing clear links between land and sea and contributing to the achievement of other key EU policy objectives and calls therefore on the European Commission to re-title the strategy as "An Integrated Strategy for the Atlantic Ocean Area";

— recognises that projects under the Atlantic Action Plan will have to use existing sources of funding, at EU level (funds within and outside the Common Strategic Framework (CSF)) and other funds from national, regional and local levels and the private sector;

— disagrees with the proposed abolition of the Atlantic Forum once the Action Plan is adopted and suggests that the Atlantic Forum remain in place, up to 2020, to oversee the implementation, review progress and drive delivery of the strategy's objectives;

— suggests that the governance structure must maximise the contribution of the many stakeholders and potential actors in the Atlantic strategy and demands that a multilevel governance approach be applied, in the elaboration, implementation, evaluation and review of the Action Plan.

Rapporteur	Mr Paul O'DONOGHUE (IE/ALDE), Member of Kerry County Council and South West Regional Authority
Reference document	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Developing a Maritime Strategy for the Atlantic Ocean Area COM(2011) 782 final

I. GENERAL COMMENTS

THE COMMITTEE OF THE REGIONS

1. welcomes the proposal for Developing a Maritime Strategy for the Atlantic Ocean Area and the elaboration of an Atlantic Action Plan 2014-2020;

2. considers that the Atlantic Area has suffered to date from a lack of an agreed strategic vision for its future development and considers that this proposal provides a real opportunity to set out a strategic vision, which must have territorial cohesion and prosperity at its core;

3. supports the rationale for a European strategy, as the challenges and opportunities of the Atlantic Area go beyond national borders and require a more holistic, integrated approach; that said, emphasises that the strategy must also demonstrate real added-value when it comes to delivery and implementation;

4. understands that the European Commission is making this proposal as a "sea-basin strategy", under the Integrated Maritime Policy domain (as opposed to a "macro-regional strategy"); however ***stresses that the Committee's endorsement of an Atlantic strategy is conditional on it adopting a broader approach***, fully incorporating the territorial dimension, developing clear links between land and sea and contributing to the achievement of other key EU policy objectives;

5. calls therefore on the European Commission to re-title the strategy as "An Integrated Strategy for the Atlantic Ocean Area" and considers that further such strategies should be developed in other European sea areas, building on the experiences in the Atlantic Area (such as in the North Sea region);

6. recognises the specific requirements of the Atlantic outermost regions and considers that the strategy may provide opportunities for enhanced effectiveness and coherence of EU policy frameworks in the regions;

7. demands that the Atlantic strategy and its Action Plan must ***have a strong focus on jobs, sustainable growth and investment,*** whilst at the same time helping to improve the marine environment;

8. feels that with regard to its geographical scope the strategy should adopt a pragmatic approach to allow the area's borders the flexibility to address issues without imposing artificial limits but calls for some reconsideration of the geographical scope northwards to allow Iceland to be associated with the strategy;

9. has concerns that the valuable lessons learned from the development of existing macro-regional and other transnational strategies [1] are not being taken on board in the Atlantic strategy process, particularly on issues such as governance, policy development, communication and ownership, targets and evaluation;

10. highlights that there is a heavy responsibility on the Atlantic Forum to manage the expectations of stakeholders, provide an inclusive process for engagement in the elaboration of the Action Plan and establish coherent frameworks for the programming and implementation of priority measures and projects;

II. CHALLENGES AND OPPORTUNITIES

11. does not disagree with the challenges and opportunities that the European Commission has identified but feels that the Action Plan must focus on achieving tangible outcomes and address challenges where the partnership approach will lead to more effective responses;

12. underlines that the Action Plan themes must be more closely aligned with those of the Europe 2020 strategy and its flagship initiatives but also consistent with the themes under the Common Strategic Framework (CSF) and the proposed reforms for the CSF Funds;

13. generally endorses the thematic headings identified by the Atlantic Arc Commission (CPMR) [2] as follows: (1) Accessibility and Transport in the Atlantic Area; (2) Economy and Maritime Industries; (3) Climate and the Environment; (4) Research and Innovation; and (5) Attractiveness of Territories;

[1] In particular the Report on the Implementation of the EU Strategy for the Baltic Sea Region (EUSBSR), June 2011 (COM(2011) 381 final).

[2] Position and proposals of the Atlantic Arc Commission on the EC Communication establishing a Strategy for the Atlantic, Adopted by the Political Bureau, March 22, 2012.

14. emphasises the importance of fishing, shell-fishing and aquaculture activities and the processing and marketing of seafood products in the Atlantic area and the number of jobs that depend on them; a growth and jobs strategy for this area must necessarily strive to consolidate and strengthen this employment sector;

15. considers that the Action Plan must address the need for a plan-led approach to the marine environment in the Atlantic Area; suggests that this will require an agreed coordination of Marine Spatial Planning (MSP) and marine management processes across the area, as well as, better coordination between marine and terrestrial planning frameworks;

16. believes that Atlantic coastal areas hold a strong attraction both for new permanent residents and for seasonal visitors drawn mainly by sea sports, leisure activities and tourism; it is important for these regions to prepare themselves for these population movements, which can exert land, economic, environmental and other pressures on the coast;

17. stresses the need for the strategy to capitalise on the achievements of previous and on-going EU-funded projects in the Atlantic Area, including an assessment of what has been funded to date and what can be built-on in the Action Plan; highlights that this may have implications for some programmes, with the need to scale-up projects to deliver greater and more tangible impact;

18. advocates an external dimension for the Action Plan, to advance strategic objectives with stakeholders across the Atlantic Ocean;

III. FUNDING THE ATLANTIC STRATEGY

19. recognises that projects under the Atlantic Action Plan will have to use existing sources of funding, at EU level (funds within and outside the Common Strategic Framework (CSF)) and other funds from national, regional and local levels and the private sector; highlights that this ***raises a number of questions as to how exactly the strategy will drawdown financial supports for its implementation,*** especially as the elaboration of the Action Plan runs in parallel with the programming process for the various EU funding programmes;

20. highlights that for the Action Plan to deliver results there must be clear alignment between it and available funding; highlights that this reinforces the necessity for the strategy to adopt a more integrated territorial approach and the need for the Action Plan to fit more directly with Europe 2020 objectives and be compatible with the regulatory requirements of the various EU funds;

Funding under the Common Strategic Framework

21. suggests that the Atlantic Forum engage with the relevant Managing Authorities in the five Member States to ensure that ***national partnership agreements*** adequately reflect Atlantic strategy priorities and that there is sufficient complementarity between Operational Programmes and the measures of the Action Plan; however, is concerned that a strategy framed within the Integrated Maritime Policy domain would leave limited scope for alignment with the programmes funded under the CSF, with the exception of the European Maritime and Fisheries Fund (EMFF);

22. points out that the elaboration of the Action Plan will therefore have to comply with the principles and objectives of the Funds, especially those under the Common Strategic Framework;

23. is not in favour of an earmarking of resources for the Atlantic Action Plan within each ***operational programme***, given the already proposed strict thematic concentration imposed on Managing Authorities;

24. suggests, however, that the Atlantic Forum work with Managing Authorities during the programming process to identify how the Action Plan measures could be funded, through clear alignment with the selected thematic priorities in the programmes concerned and specific project selection criteria;

25. highlights the potential that some elements of the CSF Regulations may present for supporting and implementing key Atlantic strategy's objectives, in particular the ***multi-fund approach***; further suggests that achieving coherence between the strategy and some of the integrated approaches in the CSF (such as the urban dimension, Integrated Territorial Investments, Joint Action Plans) has the potential, if properly deployed, to lever the experience and expertise of local authorities to help achieve key Atlantic objectives;

26. further proposes that annual implementation reports for the relevant programmes must include an assessment of how programmes under the CSF are contributing to the objectives of the Atlantic strategy and the implementation of the Action Plan;

Territorial cooperation programmes

27. considers that future territorial cooperation programmes will be crucial to realising key aspects of the Atlantic strategy and highlights that there are more than 10 territorial cooperation programmes (cross-border, transnational and interregional) currently operational in the proposed strategy area;

28. endorses the continuation of the ***Atlantic Area (transnational) programme***, with an enhanced financial allocation to match some of the ambitions of the Atlantic strategy; further suggests that the Atlantic Area Programme represents that appropriate vehicle by which to issue specific calls for Atlantic strategy "Strategic Initiatives" (flagship projects), as well as fund the *Implementation Platform (see Points 40 - 41)*;

29. proposes that the Atlantic Forum should ***engage the INTERACT programme to support awareness-building measures*** and involve existing territorial cooperation programme Managing Authorities early in the process of elaborating the Atlantic Action Plan;

30. highlights that this engagement would help:

(a) during the development of the Action Plan by identifying: lessons for the strategy from INTERREG programme management; how the strategy will impact on programme implementation, including synergies and cooperation between programmes; and how Atlantic strategy projects could be efficiently managed across programmes;

(b) during the programming process by: raising awareness of the strategy among territorial cooperation programmes; identifying relevant projects to achieve strategy objectives; using cooperation programmes to address thematic issues and facilitate exchange between programmes;

Funding from other EU programmes

31. is concerned that there is not sufficient coherence across other EU programmes, whereby the objectives of the Atlantic strategy and its requirements for funding its Action Plan will not be sufficiently provided for in the 2014-2020 programming period;

32. highlights, by way of example, the new "integrated projects" under the LIFE+ programme (2014-2020), which are longer duration projects covering larger territorial areas to better implement environment and climate policy, but will not provide for projects in the marine environment ([3]); considers that this is an opportunity wasted to deliver on key IMP and Atlantic strategy objectives;

33. similarly regrets that the Atlantic Area has been overlooked when it comes to identifying core networks in the trans-European networks and requests that priority is given to using the *Connecting Europe Facility* to address what are fundamental accessibility and peripherality issues (in transport, energy and ICT) in the Atlantic Area;

34. asks how the Atlantic Forum proposes to better target and deploy the other EU funds available and to increase the drawdown of resources to realise the strategy's objectives; suggests for example that the Action Plan will have to promote research partnerships across the Atlantic Area in order to maximise support under the Horizon 2020 Programme;

Other funding sources

35. is concerned about the lack of emphasis on attracting private sector financing and engaging the private sector generally to achieve the strategy's objectives; considers that this is a challenge that the Atlantic Forum must address during the consultation processes and through tailored communication campaigns;

36. points out that the current crisis in public budgets requires the Atlantic Area to attract international investment to capitalise on the opportunities that exist (in sectors such as marine renewable energies; sea food and aquaculture; marine resources; shipping and port development); suggests that the marketing of the Atlantic Area as a place to invest in and do business must be a key element of the Action Plan;

37. suggests that the Atlantic Forum also work with the European Commission and the European Investment Bank to assess the potential of establishing a dedicated financial instrument to facilitate the preparation of "bankable projects" by combining grants with loans, equity and risk guarantee instruments and developing more streamlined project implementation;

IV. GOVERNANCE AND IMPLEMENTATION OF THE STRATEGY

38. stresses that for the Atlantic strategy to be a success it must be strongly embedded in political and administrative structures and underlines that this requires:

(a) political commitment, engagement and ownership;

(b) a multilevel governance approach (EU, national, regional and local); and

(c) sufficient human and technical assistance resources;

Governance aspects

39. suggests that the governance structure must maximise the contribution of the many stakeholders and potential actors in the Atlantic strategy and demands that a multilevel governance approach be applied, in the elaboration, implementation, evaluation and review of the Action Plan;

40. that said, recognises that without strong political commitment by the Member States, at the highest levels, in conjunction with national coordination processes across relevant policy domains, the Atlantic strategy will not meet expectations and fail to deliver on its objectives; equally suggests that the Action Plan will not succeed without the full involvement of local and regional stakeholders and their ownership of the strategy;

([3]) See Draft Opinion on *A Regulation on the Programme for the Environment and Climate Action (LIFE)*, CdR 86/2012.

41. disagrees with the proposed abolition of the Atlantic Forum once the Action Plan is adopted and suggests that the Atlantic Forum remain in place, up to 2020, to oversee the implementation (through an Implementation Platform *(see Points 27, 41))*, review progress and drive delivery of the strategy's objectives;

42. proposes that the following governance model be developed for the Atlantic strategy: (a) the ***Atlantic Forum*** – to give political oversight at EU level and incorporating an ***Implementation Platform*** – to act as a point of contact for the strategy, initiate capacity-building measures, provide guidance on project formulation and promote and manage delivery of the Action Plan; (b) ***National and Regional Coordination Points*** – to promote policy coherence and encourage engagement by stakeholders and potential project promoters in the roll-out of the Atlantic strategy;

Implementation aspects

43. highlights that the Atlantic Area is a complex geographical space, with very different characteristics, cultures and outlooks; considers that, in order for the strategy to succeed, more should be done to broaden and deepen the level and nature of cooperation across the Atlantic Area; and expects that the Atlantic strategy will: (a) provide a common reference point to enable this; but (b) must also include a capacity building measure to foster a stronger cooperation ethos;

44. believes that the Atlantic Action Plan, once adopted, will require an ***Information and communication module:*** to raise visibility, promote understanding of the objectives, attract broader participation (especially from the private sector) and over time the achievements of the strategy;

45. highlights the potential benefits that the EGTC Regulation may provide as a tool to facilitate implementation of the strategy;

46. proposes that an ***Atlantic strategy inter-services taskforce*** be established within the European Commission to ensure coherence across relevant policy domains and compatibility between the objectives of the Atlantic strategy and EU programmes and funding calls; further suggests that, given the horizontal nature of the strategy, this taskforce should be chaired by the Secretariat-General;

V. **ATLANTIC ACTION PLAN - PROCESS**

47. stresses the need for a greater sense of urgency in the adoption process of the Action Plan and proposes more frequent meetings of the Atlantic Forum (Leadership and Steering Committees) in order to set process milestones and ensure timely action;

48. looks forward to the expected Consultation Paper which must form the basis for a wider, more structured process of mobilisation and consultation of stakeholders later in 2012 and urges the European Commission to quickly broaden and deepen engagement so that stakeholders, including the local and regional levels, feel they have sufficient ownership of the Action Plan and ensure that there are genuine "bottom-up" and citizen-centred aspects to the process;

49. concerned that the proposed thematic seminars, one per Member State, will be insufficient to engage stakeholders and give them ownership of the strategy; proposes additional Atlantic strategy activities to agree a strategic vision; discuss governance aspects; and set targets and verifiable indicators of success; and clarify funding implication; further suggests that the European Commission should mobilise its national representations to enable wider participation in the Action Plan process;

50. underlines that the ***proposed timeframe for adopting the Action Plan needs to be advanced*** so that it is aligned to relevant funding programme priorities 2014-2020;

51. recommends that the Atlantic strategy process must firstly agree on a ***Strategic Vision for the Atlantic Area***, which will provide the reference for the Atlantic Action Plan 2014-2020; further proposes that this Action Plan must:

— establish ***key priorities, measures and identify flagship projects*** – including short, medium and longer-term actions;

— set out clearly ***defined roles and responsibilities for all policy and implementation stakeholders*** in a multilevel governance structure, with a clear delivery-chain established for realising the strategy's objectives;

— include a ***capacity building measure*** to foster a stronger cooperation ethos across the area;

— set out ***key targets and a range of indicators*** - to measure delivery and adopt a result-based approach;

— agree a ***process of evaluation and a mid-term review*** of achievements;

— incorporate an ***information and communication module*** to raise visibility, promote understanding of the objectives and attract broader participation in the strategy;

— identify the ***necessary resources***, both financial and human resources, to implement the Action Plan.

52. requests that the Atlantic strategy and the process for elaborating its Action Plan must form part of the proposed European Commission assessment of the added value of the macro-regional approach in 2013, as requested by the European Council;

53. proposes that the Action Plan is adopted by the Atlantic Forum and calls on the forthcoming Irish Presidency to prioritise European Council endorsement of the Action Plan during its Presidency, with a focus on delivery, a credible process for monitoring and on-going evaluation and a scheduled mid-term review.

Brussels, 9 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

Opinion of the Committee of the Regions on the 'White Paper — an agenda for adequate, safe and sustainable pensions'

(2012/C 391/02)

THE COMMITTEE OF THE REGIONS

— points out that all the key actors, including local and regional authorities, which operate supplementary pension schemes for a majority of public employees should be involved in the consultation process in reforming national pension systems;

— underlines that some aspects of EU pension policies and the EU 2020 strategy are mutually reinforcing. Achieving higher employment under the EU 2020 strategy will contribute to the overall sustainability of social protection and pension systems. Adequate pension benefits in turn are an essential prerequisite for realising the Europe 2020 strategy goal of reducing poverty, since older EU citizens continue to be a vulnerable group in socio-economic terms. Alongside any reform of pension schemes, a set of accompanying labour market policy measures is also needed in order to ensure that older people continue to have appropriate incomes in the future;

— given concern over the transparency as well as the level of fees and charges associated with the different forms of private pension arrangements, would welcome a benchmarking study with a view to application of best practice on an EU-wide basis;

Rapporteur	Paul LINDQUIST (SE/EPP), member of Lidingö Municipal Council
Reference document	White Paper – An Agenda for Adequate, Safe and Sustainable Pensions COM(2012) 55 final

I. POSITION OF THE COMMITTEE OF THE REGIONS

THE COMMITTEE OF THE REGIONS

Introduction

1. welcomes the Commission's intention to address the serious challenges facing many Member States' pension systems;

2. notes that ensuring sustainable and adequate pensions is very important, not just for our growth prospects, but also for public welfare and well-being;

3. also notes that having safe and adequate pensions requires that pension systems be economically viable over the long term;

4. points out that general public pensions will continue to play an important role in the future in ensuring that every pensioner is provided with an adequate pension;

5. believes that a pension system based on adequate lifetime earnings contributes in guaranteeing pensions that are sustainable in the long term;

6. points out that pension systems have developed over many years based on the particular conditions in each Member State; the way general public pension systems are organised is therefore a matter for the individual Member States;

7. points out that all the key actors, including local and regional authorities, which operate supplementary pension schemes for a majority of public employees should be involved in the consultation process in reforming national pension systems;

8. observes that in several Member States it is largely the social partners which are responsible for the design of occupational pensions, and that any changes should therefore be made by them as a matter of course;

9. notes that the White Paper is based on Article 153 TFEU, and that it is the Members States which are primarily responsible for framing their pension systems, although the EU should support and complement their activities in the sphere of social protection. The White Paper does not contain any specific legislative proposals and is therefore considered not to raise any issues in relation to the subsidiarity and proportionality principles. However, the Committee points out that any future proposals for legislation on pensions should be carefully analysed with respect to the subsidiarity principle;

10. underlines that some aspects of EU pension policies and the EU 2020 strategy are mutually reinforcing. Achieving higher employment under the EU 2020 strategy will contribute to the overall sustainability of social protection and pension systems. Adequate pension benefits in turn are an essential prerequisite for realising the Europe 2020 strategy goal of reducing poverty, since older EU citizens continue to be a vulnerable group in socio-economic terms [1]. Alongside any reform of pension schemes, a set of accompanying labour market policy measures is also needed in order to ensure that older people continue to have appropriate incomes in the future;

Balance between working life and retirement

11. supports the Commission's target to raise the retirement age in line with the increase in life expectancy when appropriate, which could help to ensure the financial viability of our pension systems. This will require different practical solutions in different Member States;

12. believes that with a flexible retirement age some people could choose to stop working later than would have been possible with a fixed retirement age, making it possible to extend working life based on individual factors;

13. stresses the importance of ensuring higher labour market participation among older workers (55-64 age group). Achieving a significant rise in their employment rate [2] would be hugely beneficial, both in terms of economic growth and in improving the sustainability of pension systems;

14. sees considerable scope for improving the employment rate among women, young people and migrants, and therefore emphasises the importance of increasing employment in all age groups. It is also important to improve conditions for earlier entry into the labour market for young people and migrants;

[1] See CdR 319/2010 fin.

[2] According to Eurostat, cited in the White Paper, this is below 40 % in many countries.

15. urges Member States and employers to introduce measures making it easier for older workers to remain in the labour market and encouraging them to do so;

16. where applicable, would welcome greater utilisation of phased retirement, a gradual transition from full-time employment to full retirement;

17. notes that the likelihood of restricted capacity for work owing to chronic health problems or disability increases markedly with age ([3]) it is therefore important to have effective retraining and job-matching measures in place to facilitate career and job changes over a person's whole working life, and for society to support lifelong learning, as well as active and healthy ageing;

18. believes that further measures should be developed and implemented by public authorities and the social partners to promote and encourage the continued employment of older workers, so as to narrow and close the gap between the age of actual labour market exit and the legal retirement age;

Supplementary pensions

19. notes that occupational pensions can be an important supplement to the public pension. The EU must therefore encourage good practice with a view to developing occupational pension schemes in the Member States and stepping up its support for pension systems based on several pillars;

20. would urge the Commission and the Member States to pay more attention to employees in SMEs as well as low-skilled, atypical and structurally insecure workers, who often do not benefit from occupational pension schemes in the same measure as other workers;

21. notes that occupational pension schemes are not the same as private pension saving, and that there is a big difference between occupational pension schemes and other types of insurance product. Further solvency rules may result in increased costs for occupational pension schemes, without improving pension conditions for employees;

22. considers that public pensions, potentially combined with occupational pensions must be sufficient to allow citizens to maintain an adequate standard of living after retirement but that private savings and the third pension pillar should also be encouraged;

23. highlights the possibility to promote a reduction in obstacles to increasing labour market participation; age-related occupational pension premiums, such as those existing in defined benefit systems, make it quite expensive to recruit and keep on older workers;

24. observes that occupational pensions often require a certain period in employment before rights are vested, whereas many younger employees change jobs and sometimes even their country of employment quite frequently. It is important that these workers should accrue rights in the pension scheme to which they have contributed;

25. in principle approves of pension rights being portable and looks forward to the Commission's proposals, but notes that the issue is very complex. Account must be taken of the variety of occupational pension schemes in the individual Members States. In particular, the willingness of employers to fund occupational pensions must not be affected. Attention should also be paid to fiscal implications, legislation on division of assets, etc.;

26. given concern over the transparency as well as the level of fees and charges associated with the different forms of private pension arrangements, would welcome a benchmarking study with a view to application of best practice on an EU-wide basis;

Gender issues

27. commends the Commission for taking on board its recommendation ([4]) to pay more attention to gender equality. This is of particular importance for local and regional authorities because women make up a majority of the workforce in many public sector spheres ([5]);

28. with a view to reducing gender discrimination and giving women better pensions, supports the Commission's recommendation that the Member States should introduce the same retirement age for men and women;

29. notes that the wide differences in employment rates between women and men aged 55 to 64 mean that particular attention must be paid to the gender aspects of longer working lives and active ageing, for example through measures making it easier to combine work and family responsibilities;

30. points out that lack of alternative care facilities creates additional burdens in many Member States for women in particular, often leading to early retirement;

31. remarks that higher labour market participation among women will make it more difficult to ensure access to high-quality child care and care for the elderly; it is important that local and regional authorities should have sufficient resources to provide these services;

([3]) Applica & CESEP & Alphametrics (2007): *Men and women with disabilities in the EU: Statistical analysis of the LFS ad hoc module and the EU-SILC.*

([4]) See CdR 319/2010 fin.

([5]) Eurostat (2008): *The life of men and women in Europe – a statistical portrait.*

32. notes that in some Member States, women are more likely than men to suffer from long-term chronic illness or conditions and are more likely to report a work restriction whereas in other Member States men are more likely to be affected. Local and regional authorities should therefore bear particular responsibility for ensuring good working conditions for their staff;

33. points out that the option of working part time, for example while children are young, can be an important precondition for many, not least women, to remain in the labour market. It is also important that people should not remain in part-time work if they do not wish to, as this has a negative effect on future pensions;

34. observes that to prevent statutory parental leave resulting in reduced pension entitlements the Member States could be encouraged to consider ways of allowing pension rights to also accrue during such leave; the same could apply to military service;

Information

35. believes that reforms must focus on establishing pension systems that guarantee long-term stability. These reforms will only succeed if they are perceived as fair, which requires that the general public should have a good understanding of the real problems and all possible ways of solving them;

36. emphasises the importance of comprehensive information on pensions, to make it easier for citizens to make decisions on pension planning. Freedom of movement within the EU also means that in future many people will also accrue pension rights in different countries over their working lives, which further increases the need for comprehensive information;

37. therefore asks the Commission to consider the development of a joint internet platform with comprehensive pension information;

Other issues

38. stresses that adequate pension systems are important for public welfare and essential to avoid an excessive financial burden on local and regional authorities;

39. asks the Commission to ensure that its future measures in this area are accompanied by proper impact assessments, in particular covering the impact on local and regional authorities;

40. urges the Commission to consider whether there is a need for coordination on pensions, through the open method of coordination, in order to promote both free movement of people and the sustainability of pension systems.

Brussels, 10 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

Opinion of the Committee of the Regions on 'Revised EU strategy for the Baltic Sea region'

(2012/C 391/03)

THE COMMITTEE OF THE REGIONS

— emphasises that the EU Baltic Sea strategy offers a sound basis for testing to what extent a specific strategy for a wider geographical macro-region can actually strengthen EU competitiveness and underpin smart, sustainable and inclusive growth;

— welcomes efforts to bring the revised objectives of the EU Strategy for the Baltic Sea Region - to save the sea, connect the region and increase prosperity - more into line with those of the Europe 2020 Strategy;

— points out that in order to strengthen economic cohesion and competitiveness there must be stronger links between research, innovation and industry stakeholders. Regions and universities should co-operate across the whole Baltic Sea macro-region to make it a model of smart specialisation networks;

— considers that attention should continue to be paid to supporting the initiatives for sustainable development and to bringing forward more measures to increase employment and skills and strengthen prosperity and inclusion;

— emphasises that although the EU Strategy for Baltic Sea is an internal EU strategy, cooperation with non-EU countries and especially Russia is key to the strategy's success;

— stresses that the structures of the Northern Dimension should be used as much as possible in the context of closer cooperation between the EU and Russia in the Baltic Sea region;

— is concerned about municipalities and regions' lack of visibility in the strategy's implementation and suggests that both the strategy and the updated action plan should specifically state that the multilevel governance principle must be at the heart of their implementation;

— stresses that the political stakeholders must show clear commitment and assume a leading role if there is to be progress in implementing the strategy in all participating countries;

— points out that the contribution of national Structural Fund programmes to the implementation of the EU Strategy for the Baltic Sea Region must be clarified, taking account of the differences between regions within Member States and their development needs.

Rapporteur	Pauliina HAIJANEN (FI/EPP), Member of the Executive Board of Laitila City Council
Reference document	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions concerning the European Union Strategy for the Baltic Sea Region COM(2012) 128 final

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

1. welcomes the Commission communication of 23 March 2012 and regards the measures it puts forward as a step in the right direction, towards improving the focus of the EU Strategy for the Baltic Sea Region, aligning policies and funding, clarifying the responsibilities of different actors and improving communication;

2. points out that the EU Strategy for the Baltic Sea Region seeks to improve policy coordination and cohesion between the regions in the area with a view to solving common problems affecting the Baltic Sea region and strengthening the region's prosperity on a sustainable basis. The strategy deals with issues which individual regions and Member States are unable to solve alone. A key factor is cooperation and coordinated action among the macro-region's Member States, regions and municipalities, the EU, pan-Baltic organisations, financing institutions and non-governmental bodies;

3. points out that the Committee of the Regions opinion on the *Role of local and regional authorities in achieving the objectives of the Europe 2020 Strategy* (CdR 72/2011 fin) highlights the potential of the Baltic Sea region to be a European pathfinder;

4. emphasises that, as the first integrated macro-regional strategy, the EU Baltic Sea strategy offers a sound basis for testing to what extent a specific strategy for a wider geographical macro-region can actually strengthen EU competitiveness and underpin smart, sustainable and inclusive growth. These experiences must play an active role in the debate on European cohesion policy in particular, with an eye to the next programming period;

5. draws attention to the position of the European Commission, which is that implementing macroregional strategies should not entail the creation of new rules, setting up of new bodies, or approval of new funding; believes, however, that there should also be "three yeses": jointly agreed application and monitoring of existing rules in the macro-region; creation – for which EU bodies should be responsible – of a platform, network or territorial cluster of regional and local authorities and Member States which also brings in stakeholders; agreed use of existing Union funding for developing and implementing macro-regional strategies;

Links between an approach based on a macro-regional strategy and the Europe 2020 objectives

6. welcomes efforts to bring the objectives of the EU Strategy for the Baltic Sea Region more into line with those of the Europe 2020 strategy. The three overall objectives for the strategy presented in the communication – to save the sea, connect the region and increase prosperity - tie in well with the Europe 2020 goals of smart, sustainable and inclusive growth. In addition, from the point of view of implementing the Europe 2020 strategy, it is essential to underline closer regional cooperation in innovation activity;

7. notes that translating the flagship initiatives of the Europe 2020 strategy into concrete activities is important for the implementation of the Baltic Sea strategy. Of the Europe 2020 flagship initiatives, special consideration should be given to the *Digital Agenda* and *Innovation Union* initiatives, with the updated action plan placing a stronger focus on promoting their objectives in the Baltic Sea region. The EU Strategy for the Baltic Sea Region and cooperation networks operating in that region provide an excellent basis for developing regional research and innovation strategies for smart specialisation;

8. encourages both Member States and players at local and regional level to reflect on how the updated objective of increasing prosperity in the EU Baltic Sea Region strategy is to be transformed cooperatively into concrete measures. In the future, the action plan will have to outline clearly measures designed to increase employment and skills and strengthen prosperity and inclusion. At present, the action plan is only loosely connected to the Europe 2020 strategy's flagship initiatives in these areas;

9. considers that the Europe 2020 strategy priority *Inclusive growth: fostering a high-employment economy delivering social and territorial cohesion* should be borne in mind when implementing the Baltic Sea strategy, since there are still considerable differences in prosperity and economic performance between different parts of the Baltic Sea region. Attention should continue to be paid to promoting measures to improve the environment and supporting the flagship initiatives for sustainable development;

10. emphasises that it will be more important in future to consider synergies between different funding programmes with a view to achieving the Europe 2020 objectives. In relation to the upcoming Horizon 2020 programme for research and innovation, there should be close and integrated coordination with the cohesion policy instruments being deployed

by Member States in the Baltic Sea region, so as to highlight the regional perspective and encourage regions to increase their research and innovation activity;

11. wishes to point out that the EU Strategy for the Baltic Sea Region has provided the local and regional level with fresh opportunities to strengthen their regional competitiveness and innovation potential and to promote regional smart specialisation. Regions and universities should therefore cooperate across the whole Baltic Sea macro-region to make it a model for smart specialisation networks, with a focus on the core issues and activities of each region and achievement of excellence and critical mass through networking. Developing and strengthening the triple helix and quadruple helix innovation systems in cooperation with academia, the public sector, the private sector and citizens from the Baltic Sea region is crucial here;

12. proposes that the EU Member States in the Baltic Sea region encourage research centres to focus on areas of research that support smart specialisation in their own region, and to share their expertise as part of a cooperation network across the Baltic region. It would be important to encourage non-EU countries which border the Baltic Sea region to participate in this research cooperation as well, for example in environmental and energy questions affecting the common sea basin;

13. would like to point out that in order to strengthen economic cohesion and competitiveness there must be stronger links between research, innovation and industry stakeholders. Business and industry, as well as universities must have the chance to play a more active role in any work carried out on the strategy;

14. recommends stepping up innovation and cluster cooperation between EU and non-EU countries as well as promoting cooperation on marketing in the Baltic Sea region with a view to boosting non-EU investment and tourism. These measures, together with the strategy's strong environmental dimension, represent an effective step towards achieving the Europe 2020 objectives in the Baltic Sea region;

15. stresses that, in light of the above, countries in the Baltic Sea region should address those questions in their own National Reform Programmes (NRPs) and that local and regional authorities should be closely involved in this preparatory work;

16. notes that the primary objective of the EU Strategy for the Baltic Sea Region is to clean up and improve the state of Europe's most polluted sea, which also means ensuring harmonious social and economic development in both EU and non-EU neighbouring regions;

Importance of the strategy's external dimension and cooperation

17. emphasises that although this is an internal EU strategy, cooperation with non-EU countries and especially Russia is key to the strategy's success;

18. would like to highlight that in 2011 Russia approved at federal level its *Strategy for the social and economic development of Russia's North-West District to 2020*. The strategy for north-west Russia sets out objectives for the region's economy, infrastructure and logistics. It is hoped that this strategy will promote closer strategic cooperation between the EU Baltic Sea region and Russia, especially on the environment, the economy, transport, energy, tourism and civil protection;

19. stresses that the structures of the Northern Dimension should be used as much as possible in the context of closer cooperation between the EU and Russia in the Baltic Sea region. Northern Dimension policy views the entire northern region as single entity, with the aim of strengthening coordination between the different cooperation mechanisms in the Baltic Sea and Barents regions;

20. welcomes and supports the concrete steps taken by the local and regional level to develop practical cooperation, especially with the city of St. Petersburg and the Leningrad region. A good example of such a bottom-up approach is the so-called Turku Process, which is a joint initiative between the city of Turku, the region of South-West Finland and the cities of Hamburg and St. Petersburg;

Multilevel governance and the role of municipalities and regions in implementing the strategy

21. welcomes the fact that the Commission communication takes account of the views on strengthening flexible but purposeful implementation and governance of the strategy, as set out in the CoR opinion on the Baltic Sea strategy (CdR 255/2009 fin), when it specifies the roles and responsibilities of key stakeholders (national contact points, priority area coordinators, horizontal action leaders and flagship project leaders);

22. regards the Commission proposals to clarify the strategy's governance structure and make it more effective as a step in the right direction, but is concerned about municipalities and regions' lack of visibility in the strategy's implementation; therefore suggests that both the strategy and the updated action plan should specifically state that the multilevel governance principle must be at the heart of their implementation;

23. stresses that the success of macro-regional strategies across Europe depends largely on the commitment and contribution of local and regional stakeholders to meeting objectives. Getting the private sector involved is also crucial. Political stakeholders must show clear commitment and assume a leading role if there is to be progress in implementing the strategy in all participating countries;

24. points out that wider involvement of local and regional stakeholders in implementing the Baltic Sea strategy is still required. This must be taken into account not only when the strategy action plan is updated but also when the role of the various stakeholders is defined. At present, a large number of priority area coordinators, for example, are from sectoral ministries or other central government bodies. The national contact points in particular should be required to be in regular contact with local and regional authorities and organisations;

Funding; monitoring and evaluation system

25. notes that although the EU Strategy for the Baltic Sea Region was not approved until the current EU programming period was already under way, various Structural Fund programmes have enabled a large number of projects to be carried out that support the strategy. European territorial cooperation programmes implemented in the Baltic Sea region have been a key funding tool in driving forward measures at local and regional level in particular;

26. draws attention to the dearth of funding instruments suitable for transnational and multi-stakeholder projects. The fact that funding decisions for each partner are taken at different times becomes a problem when various financing sources are used, significantly slowing implementation. There is not necessarily any coordination between funding decisions and some partners remain without support, which can hamper a project launch;

27. considers it is important that the proposals for regulations published by the Commission in October 2011 oblige Member States to take account of a possible macro-regional strategy in drawing up and implementing new Structural Fund programmes, and stresses that the new transnational Baltic Sea Region Programme in particular must be in keeping with the priorities of the EU Strategy for the Baltic Sea Region. Programming for the next period should start at the very beginning of 2014 so as to avoid needless delays in ongoing project work;

28. points out that the contribution of national Structural Fund programmes to the implementation of the EU Strategy for the Baltic Sea Region must be clarified, taking account of the differences between regions within Member States and their development needs. Paying special attention to promoting regional smart specialisation in national programme activities offers tremendous opportunities for meeting the strategy's objectives. Likewise, the Partnership Contract between the Member State and the European Commission should also include reference to the EU Strategy for the Baltic Sea Region;

29. believes it is important to ensure seed funding, as proposed in the Commission communication, as a means of promoting project cooperation, since this would get both local and regional stakeholders and representatives of organisations and civil society more involved in project activities;

30. stresses that in future it will be important to channel funding towards direct strategy implementation measures and to enable various forms of funding to be combined. In addition to public funding, the use of services offered by various financing institutions must be promoted, while emphasising the role of private funding. Techniques must be developed to allow more international cooperation measures to be included in projects funded under national Structural Fund programmes;

31. welcomes the indicators for monitoring the strategy's implementation proposed in the Commission communication, but stresses that the monitoring and evaluation system must be as simple as possible and based on indicators which can realistically illustrate the results achieved through strategy-based cooperation. The Committee of the Regions is prepared to participate in discussions on the creation and selection of indicators;

Promoting communication and involving stakeholders

32. emphasises that the implementation of macro-regional strategies requires transparent decision-making, comprehensive exchange of information and development of common practices at all levels. In particular, the flow of information must be improved both between the Member States of the Baltic Sea region and within those countries. This will promote a broader commitment to implementing the strategy's objectives;

33. stresses that increasing communication on the strategy will also generate a greater awareness of EU activities among the general public. The internet pages provided for the strategy and the public consultation on updating the strategy's action plan are a step in the right direction;

34. proposes that the Commission systematically gather and publish information on funding programmes so that financial advice can be offered centrally both at national and local level. The issue at present is that project stakeholders do not have adequate access to information. Knowledge on suitable funding tools should be disseminated more effectively so that stakeholders do not have problems selecting instruments matching their needs;

Conclusions

35. notes that the EU Strategy for the Baltic Sea Region has provided Member States, regions and municipalities with fresh opportunities to strengthen regional competitiveness and innovation as well as smart regional specialisation. The strategy has also got local and regional stakeholders more interested generally and more involved in Baltic Sea cooperation, and has strengthened and increased new forms of cooperation;

36. proposes that the Committee of the Regions continue to actively monitor implementation of the EU Strategy for the Baltic Sea Region on the basis of the updated action plan to be published in late 2012 and present its observations and conclusions in the wider debate on macro-regional strategies, particularly with a view to the EU's next programming period (2014-2020).

Brussels, 10 October 2012

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

Opinion of the Committee of the Regions on 'Energy roadmap 2050'

(2012/C 391/04)

THE COMMITTEE OF THE REGIONS

— calls for the role of local and regional authorities to be properly recognised and backed up by adequate resources and capacities as well as suitable governance instruments insofar as they are in the front line, either directly as partners in local sustainable energy projects or when it comes to planning new infrastructure, granting authorisations, investments, public contracts, production and controlling energy consumption;

— reiterates that priority should be given to the integration of renewable energy, produced at local level from a variety of decentralised resources such as wind, hydro, geothermal, solar power and biomass, into the distribution network thus making energy transport and distribution infrastructure more intelligent (smart grids), a prerequisite for effective competition that can deliver real benefits to final consumers;

— stresses that meeting the increasing need for flexibility in the energy system requires suitable storage technologies – such as pumped storage units – at all voltage levels that can store surpluses and reconvert them into electricity for the grid on a large scale; strategic instruments for technology research and promotion should be developed and deployed to this end;

— recommends that information and communication technologies (ICT) play a greater role in facilitating the uptake of innovation, as multipliers of information, and energy-consumption solutions for strategic sectors such as smart cities, which include policies concerning sustainable mobility, smart grids, and sustainable building;

— stresses the urgent need to complete the implementation of an internal market in energy that helps guarantee energy supplies at affordable prices by 2014, to rectify the energy isolation of individual Member States by 2015, to institute a fair balance of resources among regions and to stabilise and improve the framework conditions for the European energy sector in order to limit the additional costs of the energy transition.

Rapporteur	Ugo CAPPELLACCI (IT/EPP), President of the Autonomous Region of Sardinia
Reference document	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Energy Roadmap 2050 COM(2011) 885 final

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

A. A European strategy for the transformation of energy systems

1. agrees on the urgent need to frame a long-term European strategy for the energy sector that can make a tangible contribution to the EU's 2050 decarbonisation objective. Transforming the energy system is not only a responsibility towards future generations, but also represents a real opportunity for Europe in terms of growth, development, jobs, competitiveness and increasing energy independence;

2. welcomes the energy roadmap 2050, but thinks that it is not detailed and clear enough to enable Member States, regional and local authorities and investors to take decisions as from today, and beyond 2020, to promote a new energy model, or to create certainty for planning. At the same time it stresses the importance of following it up now by adopting specific measures: for example, it is worth considering the possibility of introducing a ban on national subsidies for fossil fuels;

3. notes that the roadmap lacks an assessment of the starting position in terms of the objectives set for this decade by the 2020 energy strategy, and therefore, in its absence, this should be considered before setting the objectives and the political framework for 2030 referred to in the last of the roadmap's conclusions. Furthermore, the process of transforming the energy system should include intermediate phases at 2030 and 2040, in line with the emissions reduction targets set out in the *Roadmap for moving to a competitive low carbon economy in 2050* ([1]). A phased roadmap could involve the use of transitional fuels/energy sources as part of a gradual transformation, while also ensuring energy independence and security. It would also be conducive to attaining tangible results, and monitoring and assessing the progress of the measures;

4. takes the view that the technology-neutral approach adopted in the document is unsuitable and must be reconsidered to give priority in the long term to the approaches, technologies and fuels whose results are certain and which can be used sustainably and securely, in the light of experience and lessons learnt on renewable energy sources and innovative technologies. Moreover, this drive to overhaul the energy system in sustainable terms must take account of the altered landscape in terms of the availability of resources, brought about by the current economic crisis, and of the potential environmental and social consequences that may result;

5. is convinced of the value of the interdependency between environmental and social policies and of the consequent need to guarantee equal access for all to secure and sustainable energy supplies with the lowest possible environmental impact at reasonable prices in the medium and long term, and to guarantee access for all to the means of controlling domestic consumption and of producing renewable energy locally and at reasonable prices;

6. calls for the involvement of local and regional authorities in the process of framing policies such as decarbonising energy in terms of energy efficiency, control of consumption, production and new technologies, for the roadmap to be revised in line with local and regional authorities' potential and needs, and for those authorities' important role to be backed up by adequate resources, capacities and governance instruments;

B. Assessment of impact on the ground and social implications

7. points out that the effort required to transform energy systems and the consequences of doing so will vary depending on each region's energy profile and the resources available to them, and that the possible economic, financial and administrative costs of a European energy initiative should be justified on the basis of a detailed impact assessment that takes adequate account of the specific circumstances at local and regional levels, in particular aspects relating to energy isolation;

8. concurs that transforming energy systems in structural terms entails the need to build and/or modernise energy infrastructure; notes that the costs of this transformation are uneven across Europe's regions, which could pose a threat to social cohesion;

9. recommends the development of instruments able to assess the effects of transforming energy systems at local level, in economic, social and environmental terms. Thus points to the importance of increasing the quality and scope of the most common macroeconomic indicators used to assess policy effectiveness, adding in both the issue of energy from the

([1]) COM(2011) 112 final.

perspective of sustainability, and also a social and environmental dimension that can reflect variations in terms of social cohesion, the accessibility and affordability of basic goods and services, health status, poverty, including fuel poverty, natural resources and quality of life in general;

C. **Role of local and regional authorities**

10. is convinced that achieving global goals in the energy sector requires initiatives to be carried out at local level. To that end, underlines that territorial targets have already been effectively used in various local and regional authorities, as an expression of multilevel governance in energy-system transformation;

11. stresses the importance, in the new energy system, of cross-border cooperation and solidarity and thus the need for coordination at EU level. Efforts need to be made at all levels of governance, which must involve close cooperation with local and regional authorities, and a clear definition of roles and the arrangements for interaction;

12. calls for the role of local and regional authorities to be properly recognised and backed up by adequate resources and capacities as well as suitable governance instruments insofar as they are in the front line, either directly as partners in local sustainable energy projects or when it comes to planning new infrastructure, granting authorisations, investments, public contracts, production and controlling energy consumption. Furthermore, the social dialogue and involvement of the social partners recommended in the roadmap to manage the change requires the capacity of local and regional authorities to disseminate information extensively and act as intermediaries, which should thus not only be clearly acknowledged, but also effectively bolstered;

13. recommends continuity in reinforcing existing positive measures and behaviour patterns at local level, expanding the level of commitment to them and the inclusiveness of all areas of cooperation within the Covenant of Mayors, for example, or of other interregional, national and international structures, supporting their role as driving forces in promoting change, stimulating local economic development and establishing information and cooperation networks;

D. **Energy efficiency, energy saving and renewable energy**

14. agrees that it is a priority to promote energy saving in order to reduce the demand for energy not only through awareness-raising, education and changing public habits, but also by backing the development of new technologies that can secure more efficient consumption of resources and greater economic growth, competitiveness and employment and by Member States backing energy self-supply systems, with a view to fostering the most rational possible use of energy, a distributed energy system and more genuine public involvement in decision-making on the type and use of energy. With a view to severing the link between economic growth and energy consumption, points out that a reduction in consumption, where this results from increased process efficiency and energy saving, may be considered as an indicator of growth rather than recession, and can benefit the economy;

15. reaffirms its support for the idea of energy efficiency playing one of the key roles in meeting the emission reduction targets set for 2050. Concurs on the need to identify more ambitious energy efficiency measures and cost-optimal strategies and considers that binding standards at European level are needed here. At the same time, it stresses the urgency of taking action in the areas that could immediately contribute greatly to energy saving, such as improved energy efficiency of buildings and more sustainable mobility;

16. When formulating and implementing urgent measures needed for energy conversion, it must always be ensured that they are consistent in terms of sustainability. There should be an assessment of the risks of progress in one area triggering negative effects in others;

17. is in favour of creating value for energy savings through sustainable market mechanisms, as explored in the *Energy efficiency plan 2011* ([2]);

18. appreciates that it is clear that the share of renewable energy rises in all decarbonisation scenarios as early as 2030, and accounts for the lion's share compared to other technologies by 2050. However, regrets that none of the roadmap's scenarios gives consideration to solutions integrating renewables and energy efficiency, in order to increase the sustainability of the transformation process towards a scenario free of fossil fuels for the energy system and to progress towards the decarbonisation of the sector. Moreover, whilst noting that the roadmap acknowledges that renewables are vital to the heating and cooling sector, the Committee regrets that no in-depth analysis has been made of the key role that that sector, with its significant impact on overall energy consumption, should play (i) in the process of decarbonising the European energy system by 2050 and, by extension, (ii) when drawing up current and future energy policies;

19. reiterates the comments made in opinion CdR 7/2011 of 30 June and 1 July 2011 on *Energy infrastructure priorities for 2020 and beyond*, and the priorities relating to promoting energy transport networks and the integration of renewable energy, produced at local level from a variety of decentralised resources such as wind, hydro, geothermal, solar power and biomass, amongst others, into the distribution network thus making energy transport and distribution infrastructure more intelligent (smart grids), a prerequisite for effective competition that can deliver real benefits to final consumers. Meeting the

([2]) COM(2011) 109 final.

increasing need for flexibility in the energy system requires suitable storage technologies – such as pumped storage units – at all voltage levels that can store surpluses and reconvert them into electricity for the grid on a large scale; strategic instruments for technology research and promotion should be developed and deployed to this end;

E. **Conventional sources of energy (gas, coal, oil), unconventional sources and nuclear**

20. agrees that diversification of supply is necessary in order to safeguard energy security. Stresses the importance of having clear guidelines drafted for a transition phase in which the conventional sources of energy (gas, coal, oil) could play a supporting role, in their most carbon-efficient and sustainable forms, with particular emphasis on CO_2 capture and storage technologies, along the road to achieving a decarbonised energy system, while the technologies, infrastructure and behaviour patterns that the change requires are developing;

21. would express concern about the importance attributed in the strategy to technologies which are not yet available on a commercial scale and recommends that the exploitation of unconventional sources of gas, such as shale gas, and the use of technologies whose risk factors have not yet been fully assessed or controlled, and which can operate on a cross-border basis, be researched and discussed at EU level to assess their potential short- and long-term environmental and social effects, in compliance with current legislation and, as in the case of shale gas, with a view to the possible need for regulation; therefore welcomes the Commission's intention to promote research into technologies that can contribute to the decarbonisation of energy transformation processes and proposes that life-cycle analyses be included as key evaluation points in decision-making;

22. is critical of the causal relationship between decarbonisation and nuclear energy asserted in the Energy Roadmap and of the assumption that nuclear energy contributes to lower system costs and electricity prices, whilst at the same time it is recognised that "safety costs and the costs for decommissioning existing plants and disposing of waste are likely to increase". The CoR therefore calls for particular attention to be given to long-term scenarios based on non-conventional renewable sources of energy and to the fact that growing public concerns about nuclear safety may reduce the appetite for new private investments in that sector, thus necessitating more state subsidies or higher electricity prices, which would hit the poorest in our communities hardest;

F. **Investment and access to finance**

23. believes that establishing a reference framework for investment, at least up to 2030, could boost the efficacy of the roadmap and create greater certainty on the market for both private and institutional operators, especially if it also refers to national investment targets that take account of local and regional authorities' action plans. Greater certainty in terms of investment could also help achieve the 2020 goals, particularly on energy efficiency and saving, on which efforts still need to be stepped up. The reference framework would also be enhanced if the skills of Europe's energy efficiency and renewable energy sectors were mapped out for the purposes of targeting investment in order to build on their momentum for growth and boost the European economic operators within those sectors;

24. calls, in particular, for the resources to be clearly identified for promoting decentralised investment in sustainable energy (control of consumption and production of renewable energy) that can contribute to the efficient use of resources and to the development of a green economy and green jobs at local and regional levels; for an additional financial instrument to be identified that would be managed on a decentralised basis to facilitate implementation of the sustainable energy action plans (SEAP); and for support (both economic and legislative) for small decentralised producers of renewable energy, including local and regional authorities, to facilitate its integration into the grid;

25. recommends prolonging and expanding the positive experience of the *Intelligent Energy for Europe* programme and clearly setting out how to draw on a significant share of the funds available under cohesion policy. Feels, among other things, that Structural Fund resources should be allocated to facilitate the forging of local partnerships aimed at decentralised development of low-carbon energy-efficient technologies; specifically, thinks that the Social Fund should be used to create human capital that can plan, manage and provide technical assistance in respect of energy issues, both in terms of solutions and implementation technologies and partnerships;

26. believes that local authorities should continue to benefit from simplified access to funding from the European Investment Bank (EIB) for sustainable energy purposes. Priority should be given to projects that integrate energy efficiency and renewable energy for the purpose of sustainable territorial development, and procedures should be simplified and access to funding facilitated for smaller authorities;

27. stresses that national measures are not enough to ensure effective funding for energy infrastructure, and therefore proposes greater financial support for projects in the energy sector, in particular for those aiming to promote wider use of solutions using renewable sources, including for heating and cooling buildings;

28. proposes that a strategy be rolled out to support the development of regional clusters and partnerships and cooperation between existing ones, which have already proved their worth on the ground as sound instruments for developing green energy markets and energy efficiency, mobilising investment and developing professional skills and jobs;

G. **Research, innovation and implementation**

29. agrees that a firm commitment to innovation and research needs to be encouraged at EU level, being convinced that the development of more efficient and less expensive innovative technologies can help create greater certainty in the sector and attract capital, including by means of a rational allocation of resources within the new Horizon 2020 programme;

30. strongly emphasises the need for consistency, in terms of goals and priorities, between that the new Horizon 2020 research programme and the energy roadmap 2050;

31. feels that innovation and research related to small-scale energy production need to be more strongly encouraged, for example with regard to smaller watercourses, wind power for individual or small groups of households, localised solar power, and heat generation from thermal springs where available;

32. would encourage greater research and development focus on the potential for ocean energy (wave and tidal) which offers enormous potential for safe, secure and sustainable energy provision;

33. proposes to develop replicable procedures, on the basis of existing best practice across various regions, to support the creation of innovation clusters, regional energy-innovation platforms and other forms of public-private partnership between local and regional authorities, academia and industry. Such partnerships could be instrumental in terms of regional development and local economies and ensure that innovations and technologies are more adaptable, accessible and cost-effective at local level;

34. believes that the roadmap will have a major bearing on agriculture and forestry policies and that it will thus be necessary to support research work enabling these sectors to adapt and evolve onto a more sustainable footing;

35. recommends that information and communication technologies (ICT) play a greater role in facilitating the uptake of innovation, as multipliers of information, and energy-consumption solutions for strategic sectors such as smart cities, which include policies concerning sustainable mobility, smart grids, and sustainable building;

36. suggests highlighting the importance of research and of training specialists, particularly by the Member States, so that they can then draw on qualified resources and study programmes capable of ensuring the effectiveness of the technologies of the future, so as to be able to introduce innovations and implement strategic plans;

H. **The internal market and the global market**

37. stresses the urgent need to complete the implementation of an internal market in energy that helps guarantee energy supplies at affordable prices by 2014, to rectify the energy isolation of individual Member States by 2015, to institute a fair balance of resources among regions and to stabilise and improve the framework conditions for the European energy sector in order to limit the additional costs of the energy transition;

38. recommends improving the carbon quota trading system by fundamentally changing the procedure for the free allocation of quotas, which in its current form runs counter to the objective of the ETS by keeping the price of certificates too low. In doing so, the situation faced by industry players operating on international markets whose competitiveness could be undermined by carbon leakage to third countries should be taken into account.

Brussels, 10 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

Opinion of the Committee of the Regions on 'Adaptation to climate change and regional responses: the case of coastal regions'

(2012/C 391/05)

THE COMMITTEE OF THE REGIONS

— is convinced that, economically and socially, there is an urgent need to promote adaptation in coastal regions, not least in view of the greater burden imposed by the "failure to act" scenario and in spite of the continuing sovereign debt crisis in some eurozone countries; considers that the degree of detail in the future European adaptation strategy needs to be sufficient to allow for specific regional situations;

— acknowledges that the Integrated Coastal Zone Management (ICZM) tool is essential both for facilitating policy integration in coastal regions, particularly on issues which have not yet been fully systematised such as erosion, climate change adaptation and green infrastructure, and for promoting regional cooperation between local actors through initiatives such as the Sardinia Charter in the Mediterranean basin;

— points out that developing tools which can assess the costs and benefits of adaptation could effectively push forward the local and regional political processes which underpin planning and implementing on the ground and lay the groundwork for shaping more cost-effective strategies;

— reiterates that it should be regularly consulted on European and international climate negotiations and therefore calls for the Committee (i) to be involved in a European working group on adaptation focusing on regions with permanent handicaps, including those caused by the effects of climate change and so covering coastal regions, islands and mountain regions and the Outermost Regions; and (ii) to be granted observer status with the Adaptation Committee.

Rapporteur	Ugo CAPPELLACCI (IT/EPP), President of the Autonomous Region of Sardinia
Reference document	Referral from the Cyprus presidency

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

A. Adaptation to climate change and its local dimension

1. points out that local and regional authorities must be proactively involved in climate change adaptation and the process of identifying adaptation options (adaptation assessment) ([1]) ([2]), as regards **both the planning and implementation phases**. The Committee therefore reiterates ([3]) that **these authorities have a key role to play** in tackling the effects of climate change, welcomes the European ([4]) and global ([5]) recognition of this role, and recommends that the future European adjustment strategy recognise this role explicitly;

2. recalls that climate change and its consequences are among the key challenges facing the local and regional authorities in the European Union in the coming years. In this context, the first priority must be to take the necessary steps to try and limit, as far as possible, the rise in global average temperature (mitigation), but also to prepare at the different levels for those changes which are inevitable (adaptation);

3. supports the conclusions of the Rio+20 Conference, whereby adaptation to climate change is an **immediate and urgent global priority** and the strategies for reducing risks from natural disasters and for climate change adaptation need to be better integrated and coordinated ([6]). The Committee however **points out that the burden of this global priority falls on the local level**: local and regional authorities have responsibility for risk management and prevention, while harm to the environment, the economy, the society and cultural identity of the communities affected are also local issues;

4. considers that adaptation at local level should be seen **not as a temporary response to a single call for action but as a gradual and sustainable adjustment** to a number of interrelated factors. The Committee accordingly supports the Commission's legislative proposal for 2014 to 2020 whereby climate change adaptation should be a key aspect of partnership agreements and operational programmes under the five funds of the Common Strategic Framework, in line with the principles of sustainable development and on an equal footing with environmental protection, resource efficiency, mitigation, resilience to disasters and risk prevention and management ([7]);

5. notes that the **impact of climate change varies** according to place and time, and that common adaptation solutions are rarely effective. The Committee therefore considers that common strategies and "no regrets" measures shared by several Member States should dovetail into strategies **based on assessments carried out at regional and local level and tailored to each type of action, scale (proportion) and cost-benefit ratio**;

6. notes the **sheer cost of the effects of climate change**, and also points out that between 1998 and 2015 regional authorities will have shouldered the burden of around one third of the cost of protecting Europe's coasts ([8]). The Committee argues ([9]) that **financing adaptation continues to be a critical and crucial factor in implementation at local level**;

B. Scale and specific features of adaptation in coastal regions

7. emphasises **coastal regions' vulnerability to climate change** ([10]); these regions are already subject to strong pressure through the concentration of economic activities, infrastructure and urban centres. 12 % of Europe's coastal regions, located within 10km of the coastline, are less than 5m above sea level and are therefore very vulnerable to flooding, while 20 % of coastal regions suffer badly from erosion, losing an

([1]) IPCC, 2012: *Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation. A Special Report of Working Groups I and II of the Intergovernmental Panel on Climate Change*.

([2]) *Adaptation assessment*: "The practice of identifying options to adapt to climate change and evaluating them in terms of criteria such as availability, benefits, costs, effectiveness, efficiency, and feasibility"; *Adaptation*: "In human systems, the process of adjustment to actual or expected climate and its effects, in order to moderate harm or exploit beneficial opportunities. In natural systems, the process of adjustment to actual climate and its effects; human intervention may facilitate adjustment to expected climate" (definitions from the glossary referred to in footnote 1).

([3]) CdR 118/2007 fin, CdR 72/2009 fin.

([4]) COM(2007) 354 fin; COM(2009) 147 fin; Memorandum of Understanding between the Committee of the Regions and UNEP, 21 June 2012.

([5]) Cancún Agreements, 2010: http://cancun.unfccc.int/.

([6]) *The Future We Want*: document adopted at Rio+20 on 19 June 2012.

([7]) COM(2011) 615 final/2, 14 March 2012.

([8]) Policy Research Corporation (2009), *The economics of climate change adaptation in EU coastal areas*.

([9]) CdR 72/2009 fin.

([10]) "Coastal regions" are defined as third-level territorial units (NUTS3) with a coastline or at least half of their population living less than 50km from the sea. Hamburg is a coastal region although it does not meet these criteria because it is considered to be profoundly influenced by the presence of the sea.

estimated 15 km^2 of land surface each year ([11]). Erosion is considered to be the main cause of the disappearance of coastal ecosystems between 2000 and 2006 (65 % of the total loss) ([12]), while some estimates suggest that 35 % of the EU's wetlands could be lost by 2100 compared to 1995 levels ([13]);

8. notes that the **type of impact differs widely between regions**. In the Baltic Sea, marine fauna could be affected by the anticipated rise in water temperatures; North Sea regions and the coastal regions of the Atlantic are more exposed to risks of flooding as a result of rising sea levels; in the Mediterranean, erosion and the scarcity of fresh water owing to rising saltwater intrusion and extended periods of drought are the main concerns; erosion is also a problem in the Black Sea, while outlying areas are generally vulnerable to all types of impact, from flooding to drought as well as extreme events such as cyclones ([14]). **The impact will also vary depending on the degree of vulnerability and the natural systems' response capacity, as well as the structure of human systems** such as the organisation of healthcare services or mechanisms for curbing (or giving advance warning of) risks from natural disasters, including tsunamis;

9. underscores **the scale of the problem at European level**, with 447 coastal regions scattered across 22 Member States and six main maritime basins. 41 % of Europe's population lives in these regions, also accounting for 41 % of the EU's active population ([15]). 35 % of the gross domestic product (GDP) of the 22 countries with coastal regions, the equivalent of EUR 3,5 trillion, is generated within 50 km of the coast and the value of economic goods situated within 500 m of the coastline has been estimated at around EUR 500-1 000 billion ([16]). This **highlights the importance of coastal regions in terms of production and their economic and social value in the region's development and cohesion**, values which must imperatively be preserved or consolidated in the process of adapting to climate change;

10. is therefore convinced that, **economically and socially, there is an urgent need to promote adaptation in coastal regions, not least in view of the greater burden imposed by the "failure to act" scenario** and in spite of the continuing sovereign debt crisis in some eurozone countries. Recent studies ([17]) show that failure to provide additional protection compared to the situation in 1995 will cost the EU an average of EUR 11,7 billion per year from 2041 to 2070 and EUR 17,4 billion per year from 2071 to 2100; the number of people exposed to the risk of flooding each year could rise by around 40 000 and 80 000 over the same reference periods. The annual cost of adaptation however is estimated at around EUR 1 billion between 2041 and 2070 and EUR 0.7 billion between 2071 and 2100, thus demonstrating that the benefits of adaptation greatly exceed the burden of "failure to act". The Committee also notes that this study suggests that, **regardless of climate change, adaptation is necessary**, simply as a consequence of the socio-economic development of coastal regions and thus of the increased value of the goods and investments to be protected;

11. also emphasises that the costs, both of damage and of adaptation, vary considerably between Member States in proportion to their GDP and that **islands in particular must pay a premium for implementing measures** at local level owing to their special geographical situation;

12. points out that coastal regions include **important natural habitats and help preserve biodiversity** ([18]), **landscapes, delicate ecosystems** such as wetlands **and the enjoyment of ecosystem services** – these regions' pulling power, economic sustainability and cultural identity depend on their conservation. The Committee also notes that the NATURE 2000 network protects a large share of coastal ([19]) and marine regions;

13. emphasises that **adaptation in coastal regions is a complex and cross-cutting process**. These regions are an interface between land systems (urban centres, industry, agriculture, forests and rivers) and marine systems (fishing, aquaculture, port activities, maritime transport and tourism). Furthermore, management responsibilities in these regions (including risk from flooding, the supply of drinking water and land use) are often distributed across several tiers of governance ([20]);

([11]) EEA data and Eurosion project in Policy Research Corporation (2009), *The economics of climate change adaptation in EU coastal areas.*

([12]) EEA (2010), *10 Messages for 2010 – Coastal ecosystems.*

([13]) S. Brown, R.J. Nicholls, A. Vafeidis, J. Hinkel and P. Watkiss (2011). The European Science Foundation estimates the loss of wetlands caused by climate change at around 17 % along the Atlantic coast, 31-100 % along the Mediterranean coast and 84-98 % along the Baltic coast (source: European Commission, DG Environment (2012), LIFE and coastal management).

([14]) Policy Research Corporation (2009), *The economics of climate change adaptation in EU coastal areas.*

([15]) Eurostat regional yearbook 2011, Chapter 13 – coastal regions.

([16]) Policy Research Corporation (2009), *The economics of climate change adaptation in EU coastal areas.*

([17]) *ClimateCost (the Full Costs of Climate Change)*: http://www.climatecost.cc/home.html. S. Brown, R.J. Nicholls, A. Vafeidis, J. Hinkel and P. Watkiss (2011). The data refer to the stabilisation scenario ENSEMBLES E1 (van der Linden and Mitchell, 2009: Lowe *et al.*, 2009a), which assumes that sea levels will rise by 18cm by 2050 and 26cm by 2080, and that the temperature will rise by less than 2 °C compared to pre-industrial levels or that current global climate change mitigation policies will be effective. This scenario allows for better cost-benefit ratios.

([18]) The annexes of the Habitats Directive provide a list of 50 types of coastal habitats and 150 species (in addition to birds) which prefer coastal ecosystems (source: EEA (2010), 10 Messages for 2010 – Coastal ecosystems).

([19]) European Environment Agency (2010), *10 Messages for 2010 – Coastal ecosystems.*

([20]) Policy Research Corporation (2009), *The economics of climate change adaptation in EU coastal areas.*

C. **The European approach, subsidiarity and proportionality**

14. praises the Commission's determination to frame an **integrated European strategy and joint adaptation mechanisms** and believes that a European approach to adaptation to present and future climate change could **confer added value on actions taken by Member States or local and regional authorities without contravening the subsidiarity principle**, not least owing to the fact that the impact of climate change is inherently transnational;

15. nonetheless considers that the **degree of detail** in the future European adaptation strategy **needs to be sufficient to allow for specific regional situations** in terms of (i) type of impact; (ii) degree of risk and long-term effects; (iii) economic conditions (for example, goods and resources at risk); (iv) social structure (for example, population density and capacity of human systems); and (v) structural characteristics (for example, whether it is in an outlying area or has handicaps such as the high degree of vulnerability to climate change specific to coastal regions, islands and mountain areas ([21]) and the Outermost Regions);

16. also points out that the future strategy should identify **adaptation measures which, along with financing instruments,** are sufficiently **flexible** to adapt to regional diversity and to the continually evolving process of adaptation. These measures should also be **aligned with mitigation measures** in order to avoid maladaptation which could increase greenhouse gas production or vulnerability;

17. considers that the EU's role in the adaptation of coastal regions should focus on initiatives in the following areas: (i) **coordination and cooperation** between the various tiers of governance where the impact or the measures have a cross-border dimension; (ii) **training;** (iii) creating knowledge in order to plug gaps which for coastal regions often involve complex dynamics and the need for multidisciplinary approaches; (iv) **spreading knowledge, best practice and success stories;** (v) **technical and financial support** for drawing up and implementing integrated regional and local adaptation strategies; (vi) research and development of **innovative adaptation techniques**; and (vii) **framing and providing technical and financial support for transnational cooperation programmes for macroregional adaptation**;

18. also considers that the Commission should play a key role in **coordinating and assessing the many research and investment projects which are partly funded by European funds**, avoiding overlaps, building on synergies and promoting the distribution and large-scale application of best practices and mechanisms. In this regard, the European Commission should ensure coordination of joint actions between neighbouring states or coastal areas and the implementation of joint research and investment projects;

([21]) CdR 89/2012 fin.

19. reiterates ([22]) **the need to work towards greater coherence between European policies, particularly with environment policy**. The Committee notes for instance that the implementation of the Habitats Directive (92/43/EEC) and the Birds Directive (79/409/EEC) may be jeopardised by adaptation measures, particularly in the area of infrastructure, and points out that in this context it is important to develop effective and transparent local consultation mechanisms for deciding on recovery and/or compensation measures for Sites of Community Interest which will be adversely affected or harmed following adaptation measures;

20. acknowledges that the Integrated Coastal Zone Management (ICZM) tool is essential both for facilitating policy integration in coastal regions, particularly on issues which have not yet been fully systematised such as erosion, climate change adaptation and green infrastructure, and for promoting regional cooperation between local actors through initiatives such as the Sardinia Charter in the Mediterranean basin ([23]). The Committee therefore welcomes the review of the 2002 recommendation, a process which takes account of the more joined-up European policy framework established in recent years for the management of marine and coastal areas ([24]). On this point, the Committee hopes that this review will provide an **opportunity to steer the ICZM tool closer towards adaptation processes**;

21. is pleased that European financial support is set to increase substantially under the forthcoming multiannual financial framework for 2014-2020, with at least 20 % of total expenditure earmarked for climate-related activities. However, the Committee stresses the need to ensure that **finance responsibilities are shared out fairly and realistically between the various tiers of governance**, taking account of local and regional authorities' current economic difficulties and complying fully with the principles of complementarity and additionality, as well as the need to **help identify alternative resources**;

22. reiterates its proposal ([25]) here that part of the **revenue generated by the EU Emissions Trading Scheme should be set aside for local and regional authorities** for the implementation of adaptation (and mitigation) measures. Furthermore, the Committee urges the Commission to prepare **recommendations for involving the private sector** (including insurance companies) in risk-assessment and risk-sharing as well as in raising awareness;

([22]) CdR 118/2007 fin.

([23]) Agreed in Alghero, Sardinia in July 2008, the Charter sets out the principles and objectives of a network for dialogue and exchange in the Mediterranean on ICZM initiatives (ICZM Mediterranean Dialogue).

([24]) Particularly the Integrated Maritime Policy (COM(2007) 575) and the Marine Strategy Framework Directive (2008/56/EC).

([25]) CdR 269/2011 fin; CdR 5/2011 fin; CdR 245/2010 fin; CdR 72/2009 fin.

D. **Conditions for taking up challenges and proposing adaptation solutions**

23. emphasises that it is vital not to see the adaptation process solely in terms of costs, but also and above all in terms of opportunities and benefits compared to the "failure to act" scenario and insists ([26]) that it be considered one of the potential tools for developing competitive, green regional economies. However, the Committee stresses that it is a **precondition to have local government which is aware** of the risks and effects of climate change, which has **responsibility** for the measures which need to be adopted and which is **able** to integrate policies and measures at local level and to access available funds;

24. points out that while some regions are actively involved in tackling climate change, **insufficient awareness of the scope of the problem is a widespread danger**. The Committee therefore considers that it is important to organise **information campaigns** illustrating the cause and effect linking climate change to problems experienced on the ground, such as water scarcity, falling water marks, heat waves, flooding and landslides, while also providing information and practical examples or success stories of the application of the available adaptation and mitigation tools ([27]);

25. considers that the European Social Fund is the key to **creating the local and regional capacity and flexibility needed to manage adaptation, in both the public and private sectors**. For example, local governance needs to be strengthened in order to integrate adaptation strategies into the relevant sectoral policies or to foster the development of appropriate regional legislation. On the other hand, the private sector's planning and building responsibilities need to be brought into line with the new imperatives of integrated and multidisciplinary policies ([28]);

26. calls on the Commission to fine tune and further develop the following, partly on the basis of experience accrued through individual projects: (i) mapping tools to **provide data and information which is geographically-based and on a useful scale** to support local and regional decision-making; (ii) a **clear and joint reference framework for assessing vulnerability, impact and risks**; and (iii) **guidelines** for shaping local adaptation strategies in coastal regions which take account of the requisite multidisciplinary approach and multilevel governance aspects;

27. in particular, considers that **vulnerability indicators for coastal regions and tools based on these should be developed for the analysis of vulnerability**. Alongside forecasting the timescale of events and indicating adaptation capacity, these indicators can **help single out and shape local action priorities, enabling resources to be channelled towards areas where they are most needed**;

28. praises the development of information platforms such as CLIMATE-ADAPT but stresses the **need to make the content more accessible to end users**, in compliance with the principles of a Shared Environmental Information System (SEIS) ([29]), for example by translating the information into a sufficient number of languages. The Committee also recommends looking into the idea of developing within the platform a **section devoted to financing adaptation at local and regional level** and an investment database;

29. highlights the importance of capitalising more on research. Research needs to be **more responsive to the needs of territorial policy**, for example developing adaptation strategies and **measures which are cost-effective because they have been designed for specific local and regional situations**. At the same time, steps must be taken to help set up (or where they are already in place, to fully exploit) mechanisms for dialogue and/or partnership between science, politics and as far as possible civil society, for example through **joint participation in European projects**;

30. reiterates ([30]) that **for coastal regions coordination of adopted policies** and the existence of research which aims to assess the effects in neighbouring or cross-border regions is essential, **to ensure that the problem is not simply transferred from one region to another**. A participatory approach to identifying these measures and the involvement of all key stakeholders could facilitate the implementation of **measures which are coherent from the territorial point of view**;

31. considers that the cost of adaptation and the inability to understand its potential opportunities and benefits are a major obstacle to the preparation - and even more the implementation - of local strategies. The Committee therefore points out that **developing tools which can assess the costs and benefits of adaptation** could effectively push forward the local and regional political processes which underpin planning and implementing on the ground and lay the groundwork for shaping more cost-effective strategies;

([26]) CdR 118/2007 fin.

([27]) One product for the global campaign *Making Cities Resilient – My City is Getting Ready* www.unisdr.org/campaign is the brochure *How To Make Cities More Resilient*, which specifically addresses local government leaders and provides a structured introduction to risk reduction and reaction capacity, as well as giving examples of best practice and describing tools which are available now.

([28]) CdR 72/2009 fin.

([29]) Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Towards a Shared Environmental Information System (SEIS), COM(2008) 46 fin.

([30]) CdR 118/2007 fin.

32. firmly believes that even with the requisite capacity, awareness and adequate scientific support, the lack of financial resources at local and regional level is an obstacle to effective measures. The Committee therefore considers that arrangements need to be put in place to **fund local and regional measures directly by means of partnership mechanisms** such as LIFE+ and the Horizon 2020 programme, **market instruments** such as payment for ecosystem services or the potential profit from the Emissions Trading Scheme, and **tax instruments** such as incentives;

33. notes that action must be taken to remedy the limited flexibility of adaptation measures, for example by **giving preference to reversible strategies** with soft measures rather than hard (for example a more efficient early warning system rather than marginal large-scale works) **or promoting green infrastructure development** which, as its purpose is the recovery of natural habitats, forms the basis of an ecosystem approach to adaptation;

34. on this point, points out that the ICZM tool has become compulsory for Member States in the Mediterranean basin with the entry into force in March 2011 of the Barcelona Convention's ICZM Protocol, which refers specifically to using an ecosystem approach to ensure sustainable development of coastal regions ([31]). The Committee also points out that the EU biodiversity strategy ([32]) views **ecosystem approaches as cost-effective alternatives to technological adaptation and mitigation solutions** and is therefore keen to see the future European green infrastructure strategy's potential contributions to the process of adaptation in coastal regions;

E. **The institutional contribution of local and regional bodies, and international cooperation**

35. calls on the Commission to **consult** representatives of local and regional authorities **beforehand** so as to be certain that the proposal for a European adaptation strategy complies with the proportionality principle and includes sufficient emphasis on and detail regarding the local level, particularly regarding more vulnerable regions, such as coastal regions, islands and mountain regions;

36. firmly believes that it can play an **active role in the development of information platforms** such as CLIMATE-ADAPT and OURCOAST, particularly with a view to helping focus the content of these platforms on local needs and situations, and thus enhance the benefits in terms of information dissemination for local and regional authorities;

37. reiterates ([33]) that it should be **regularly consulted on European and international climate negotiations** and therefore calls for the Committee (i) to be involved in a European working group on adaptation focusing on regions with permanent handicaps, including those caused by the effects of climate change and so covering coastal regions, islands and mountain regions and the Outermost Regions; and (ii) to be granted observer status with the Adaptation Committee ([34]);

38. firmly believes that greater **inter-regional solidarity and interaction** is essential, **at both European and international levels**, in order to draw on local and regional authorities' knowledge and experience in the area of adaptation. The Committee therefore welcomes initiatives which set common commitments for local government (such as the Durban Adaptation Charter), which promote innovative partnerships (such as the Territorial Approach to Climate Change ([35])) or which aim to set up a network for sharing, cooperating and exchanging eco-friendly technologies (such as the Climate Technology Centre and Network ([36])).

Brussels, 10 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

([31]) European Environment Agency (2010), *10 Messages for 2010 – Coastal ecosystems.*
([32]) COM(2011) 244 final.
([33]) CdR 269/2011 fin.
([34]) The Adaptation Committee was set up in the context of the Cancún Agreements to provide the parties to the UNFCC Convention with technical support and guidance, to share knowledge and best practice and to promote synergies.
([35]) Territorial Approach to Climate Change – TACC.
([36]) Climate Technology Centre and Network: http://unfccc.int/ttclear/jsp/CTCN.jsp.

Opinion of the Committee of the Regions on 'Regional-specific approaches to climate change in the EU based on the example of mountainous regions'

(2012/C 391/06)

THE COMMITTEE OF THE REGIONS

— notes that mountain regions are extremely sensitive to climate change and maintains that climate change adaptation in mountain areas should form part of a broader project to boost individual and collective resilience, taking account of all environmental, energy and social threats, as these are inevitably interconnected;

— notes that in 2013, the EU is to adopt an adaptation strategy and considers it imperative that this general strategy should have a local and regional dimension, as enshrined in Article 174 TFEU, including a chapter on mountain regions;

— underlines the fact that as mountain areas are likely to become more vulnerable over the coming decades, more scientific research and a good system for information exchange are needed. The EU budget for 2014-2020 needs to earmark specific funds for climate change adaptation. Policies need to be devised for improving access to and supply of services of general interest in particularly vulnerable areas;

— stresses that many mountain regions have already begun developing adaptation strategies; their objectives need to be coordinated and their results studied as a matter of urgency. It is important to harmonise initiatives which are currently scattered among many associations, research bodies and administrations in mountain regions.

Rapporteur	Luciano CAVERI (IT/ALDE), Regional Councillor, Autonomous Region of Valle d'Aosta
Reference document	Own-initiative opinion

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

General comments

1. notes that in recent years, extensive scientific literature and numerous policy papers and scientific projects in the European Union have pointed out that mountain regions are extremely sensitive to climate change, as a small area encompasses environments which differ in terms of altitude, orientation and influence of atmospheric circulation patterns. The IPCC also includes mountain regions among climate hot spots. Furthermore, Chapter 13 of Agenda 21 (Rio Earth Summit, 1992), focusing on mountain regions, states in point 4 that these regions are the most sensitive to climate change. This remains a topical issue, not least in the context of the June 2012 Rio+20 conference; Most of Europe's forested areas are located in mountain regions and consequently act as carbon sinks due to the considerable amounts of CO_2 they capture. They also improve air quality, by offsetting the detrimental effects of pollution, and provide significant water and landscape resources. These are, however, areas that are sensitive to climate change. Mountain areas, together with coastal areas, receive the most tourists, due to their climate, biodiversity, rich landscapes, water resources, cultural aspects, architecture, traditions and customs;

2. underlines that climate change affects all parts of the European Union and indeed the world, but that the concrete effects on a given territory, and consequently the necessary preparations for and responses to these effects, depend on a wide range of factors. Any measures to respond to climate change must therefore be sensitive to the specific situations of different territories. The local and regional authorities represented in the CoR are therefore crucial partners in developing and implementing the appropriate solutions;

3. recalls that climate change and its consequences are among the key challenges facing the local and regional authorities in the European Union in the coming years. In this context, the first priority must be to take the necessary steps to try and limit, as far as possible, the rise in global average temperature (mitigation), but also to prepare at the different levels for those changes which are inevitable (adaptation);

4. stresses that mountain areas are storehouses of biodiversity threatened by rapid climate change; 43 % of all Nature 2000 sites are in mountain areas and 118 of the 1 148 species listed in Annexes II and IV of the Habitat Directive are connected to mountain environments [1];

5. points out that almost imperceptible climate variations in the plains are amplified in mountain areas and provide early warning of large-scale climate trends, serving as an excellent source of observations for scientific research and a test bench for developing and evaluating adaptation policies;

6. reiterates that climate change is already happening and is increasing hydrogeological risk (flooding, landslides) and placing more people and infrastructure at risk. It is reducing water availability, particularly in summer (including in adjacent, non-mountain areas). It is changing river patterns (in Alpine regions, the frequency of winter floods and summer droughts is expected to increase). It is causing glaciers to shrink (since 1850 Alpine glaciers have shrunk by about two thirds in volume, with the pace picking up significantly since 1985); causing permafrost to shrink; cutting the duration of snow packs (particularly under 1 500 m); and changing avalanche frequency. It is threatening biodiversity and plant and animal migration. It is causing changes in the winter and summer tourism economy and hydroelectric energy production. It is triggering uncertainty in farm production, and damaging forestry. The Alpine environment's susceptibility to rapid climate change has made it a permanently disadvantaged area. The rise in temperature recorded over the last 150 years in the Alps (+ 1.5 °C) is double the world average of + 0.7 °C [2]. The European Environment Agency looked into the vulnerability of Alpine water resources in 2009 [3];

7. underlines that mountain traditions and cultures are based on the key concept of awareness of environmental constraints and opportunities. Contact with the strict physical constraints of a region have enabled refined criteria for sustainability and rational use of resources to be produced over time. These core values can be incorporated into a modern perspective with the use of new technologies, giving rise to knowledge and development models that are useful not just in mountain areas themselves but also in outlying areas, and in many cases they can become universal (such as the Rural/Urban partnership model, RURBAN –TCUM/EU DG REGIO);

[1] European Environment Agency (EEA), *Europe's ecological backbone: Recognising the true value of our mountains*, June 2010 report.
[2] JRC/WHO, *Impacts of Europe's changing climate*, April 2008 report: http://www.eea.europa.eu/publications/eea_report_2008_4.
[3] EEA, *Regional climate change and adaptation. The Alps facing the challenge of changing water resources*, August 2009 report.

8. emphasises that climate change will pose a greater challenge to our ability to adapt than any other hurdle humankind has ever faced, but it is only a partial indicator of a more complex environmental and human crisis, which also concerns:

— the availability of renewable natural resources (water, forests, fish stocks, biomass loss);

— a fall in the quality and quantity of ecosystem-related goods and services;

— biodiversity decline;

— the vulnerability of food production (high fossil energy cost of foodstuffs, reduction in agricultural land, imbalances in carbon, nitrogen and phosphorus cycles);

— decreased availability of mineral resources;

— decreased availability of low-cost fossil fuels (peak oil situation);

— air, water and soil pollution, and accumulation of non-biodegradable waste;

— population increase and migration flows (also due to climate change);

9. stresses that these problems will have a different economic and social impact on different geographic areas, and regrets therefore that one of the few projects studying the impact of climate change on the European economy, the PESETA project (2009) carried out by the EU Joint Research Centre, does not take mountain regions into account;

10. points out that in its White Paper on adapting to climate change (COM(2009) 147 final), the European Commission acknowledges the regional variability of climate impact and the fact that any adaptation strategy will only work if every tier of government cooperates. Adaptation is a long-term process requiring close collaboration between political decision-makers, researchers, technicians, entrepreneurs and local administrators;

11. welcomes the fact that in the spring of 2012, a public consultation preparing for the European adaptation strategy scheduled for 2013 was opened and the CLIMATE-ADAPT platform was set up; this is a tool for collating good practice and for regional and urban planning, and includes a section on mountain areas;

Goals

12. maintains that climate change adaptation should form part of a broader project to boost individual and collective resilience, taking account of all environmental, energy and social threats, as these are inevitably interconnected;

13. notes that in 2013, the EU is to adopt an adaptation strategy and considers it imperative that this general strategy should have a local and regional dimension, as enshrined in Article 174 TFEU. This European adaptation strategy should include a chapter on mountain regions;

14. The European adaptation strategy should also include a specific chapter on the Outermost Regions, whose special characteristics and constraints are recognised in Article 349 TFEU;

15. underlines the fact that as mountain areas are likely to become more vulnerable over the coming decades, more scientific research and a good system for information exchange are needed. The EU budget for 2014-2020 needs to earmark specific funds for climate change adaptation;

16. requests that given the new threats brought by climate change, policies be devised for improving access to and supply of services of general interest in particularly vulnerable areas;

17. stresses that mitigation and the resources made available for it, should be given a higher priority than adaptation. Unless we achieve the significant global reductions in greenhouse gas emissions identified by the United Nations Framework Convention on Climate Change, it will prove impossible to prevent the future global temperature rise, climate change and extreme weather events that will impact upon local communities;

18. points out that a set of closely interrelated measures is needed to resolve existing problems and deal with future problems in sectors already covered by EU programming. It is clear that many of these decisions should be handled through European local democracy processes under the subsidiarity principle. For instance:

a) achieving maximum energy efficiency of new buildings and renovating existing buildings;

b) maintaining and supporting construction models for mountain areas and rural areas, with plans being drawn up for land-use planning and natural resources, allowing for urban development that is incompatible with land speculation. This will prevent the deterioration of today's landscapes, ecosystems, habitats and protected areas and the pollution of water and soil resources and will boost the growth of responsible tourism, thereby helping the population to continue living in mountain areas;

c) introducing renewable energies compatible with the characteristics of the area (solar thermal and photovoltaic, wind, hydroelectric and biomass power), with a view to achieving energy self-sufficiency wherever possible; integrated regional energy plans need to be drawn up, and pumped-storage hydroelectric reservoirs used to store photovoltaic energy;

d) promoting local and regional energy audits;

e) reducing energy and material flows in local communities without diminishing the standard of living (e.g. 2000 W, ETH Zürich);

f) reducing waste production, maximising recyclability, and encouraging the production of household compost from organic waste;

g) reactivating local food chains: high-quality agriculture, primarily for local consumption and the tourist trade; specifically supporting conservation agriculture, (meaning no or minimum tillage) and organic farming and live-stock-breeding;

h) in forestry management, regulating the harvesting of wood biomass for energy and construction purposes, mindful of the pressures brought by climate change; ensuring that plants generating heat from biomass are not so large as to exceed annual forestry production capacity; maintaining protection forests; supporting sustainable forestry, for the production of wood and biomass, as an economic resource for these areas;

i) severely limiting the use of greenfield sites for building and infrastructure;

j) reducing mobility needs by reinforcing ICT networks, *e*services and home-working (leading to repopulation of abandoned mountain areas and boosting tourism);

k) promoting environmentally-responsible and sustainable tourism; setting up a European tourism observatory and developing agri-tourism;

l) promoting a green economy and innovation in mountain areas: energy, electronics, monitoring systems, scientific research and university training centres;

m) training and culture: raising public awareness of the need to act now as regards climate change is crucial both for applying good practice in this area and for the adaptation strategy. Environmental issues therefore need to be included in school curricula and made the focus of public information activities, for instance by opening regional "adaptation offices" which can draw up strategies geared to the local setting and inform the local populace. One example of this is Australia's Victorian Centre for Climate Change Adaptation Research (VCCCAR - www.vcccar.org.au) which adapts broad national policy provided by the National Climate Change Adaptation Research Facility (NCCARF - www.nccarf.edu.au) to the local environment;

n) programmes for civil protection and the prevention of climate-related risks, via infrastructure, meteo-hydrological forecasting and alert systems, rapid interactive information exchange, and damage prevention and rescue exercises;

19. stresses that many mountain regions have already begun developing adaptation strategies; their objectives need to be coordinated and their results studied as a matter of urgency. It is important to harmonise environment initiatives which are currently scattered among many associations, research bodies and administrations in mountain regions;

20. requests that the results achieved be monitored by benchmarking the effectiveness of measures and performance, with a central database for consulting projects and an energy certification register;

21. highlights, in conclusion, that the causes and the effects of climate change need to be addressed at all levels, across many diverse geographical communities and on a global scale. In particular it is often the poorest communities on the planet who are the first to be adversely affected by climate change and they need special assistance. European Union and Member State resources should be allocated to mitigation and adaptation according to the priorities identified in agreed strategies and international treaties, and used at the level at which they will have most effect. For this reason, local and regional authorities should be involved in the formation of actions to mitigate and adapt to climate change so that maximum benefit is derived from their expertise and experience and their closeness to citizens.

Brussels, 10 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

III

(Preparatory acts)

COMMITTEE OF THE REGIONS

97TH PLENARY SESSION, HELD ON 8, 9 AND 10 OCTOBER 2012

Opinion of the Committee of the Regions on 'New Multiannual Financial Framework post-2013'

(2012/C 391/07)

THE COMMITTEE OF THE REGIONS

— advises against putting off the agreement on the Multiannual Financial Framework (MFF) until after the beginning of 2013;

— stresses that a considerable share of public investment in the Member States is conditional on the Structural Funds, and draws attention to the commitments made in the context of the Compact for Growth and Jobs adopted at the European Council on 28 and 29 June 2012;

— supports, based on the Commission's updated proposal of 6 July 2012, the European Parliament's call for the next budget to represent 1.14 % of the EU's GNI (including the accession of Croatia);

— regrets that the vast majority of subjects covered by the Council's negotiating box, including any form of macroeconomic conditionality, are ones which should be adopted by co-decision and not by the consent procedure;

— condemns the fact that the method for distributing the national allocations and the capping levels for cohesion policy and rural development are included in the Council's negotiating box; it considers that this is an area for co-decision, and one where referral to the CoR is mandatory. It reserves the right to appear before the Court of Justice of the European Union if the European Commission does not introduce a legislative proposal on which the CoR has an opportunity to give an opinion;

— welcomes the Council's current negotiating method whereby expenditure and resources are dealt with jointly in the negotiating box, and reiterates its support for the two new own resources proposed by the Commission: a VAT-based resource and the new financial transaction tax (FTT);

— fully supports the Council's proposal to turn cohesion policy into a subheading rather than a sub-ceiling, and reiterates its request for an increase in the budget allocated to it (whose level should be at least constant with that for 2007-2013), and its support for the creation of a new category of "transition regions";

— welcomes the Council's proposal to bring the Galileo, ITER and GMES programmes under heading 1, and reiterates its request for the European Globalisation Adjustment Fund (EGF) to be included in the MFF.

Rapporteur-general	Mercedes BRESSO (IT/PES), member of Piedmont Regional Council
Reference documents	Amended proposal for a Council Regulation laying down the multiannual financial framework for the years 2014-2020 COM(2012) 388 final Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a Simplification Agenda for the MFF 2014-2020 COM(2012) 42 final

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

1. takes note of the Commission's publication on 6 July 2012 of its amended proposal for a Council Regulation laying down the multiannual financial framework for the years 2014-2020, which takes into account the accession of Croatia and the calculations based on the most recent statistics (2007-2009);

2. welcomes the adoption on 13 June 2012 by the European Parliament plenary session of a resolution on the multiannual financial framework and own resources, and is pleased to see the stress placed on the fact that 94 % of the EU budget is effectively an investment budget and that its administrative expenditure is proportionally extremely low; emphasises the multiplier and leverage effects of this investment, via private and public co-financing at local, regional and national levels; and stresses the irreplaceable role played by the EU budget as a stable multiannual public resource to support growth and jobs;

Current inter-institutional negotiations

3. is gravely concerned about current developments in the negotiations at the Council regarding the total sum of the Multi-annual Financial Framework (MFF), policy content and resources; there is a risk that these could compromise continued funding for the three cohesion policy categories. It therefore hopes that it will be possible to secure a positive outcome by the extraordinary EU summit on 22 and 23 November 2012. This could break the deadlock between the two co-legislators and thus help both prevent a damaging delay for the European Union and implement the Europe 2020 strategy for smart, sustainable and inclusive growth without delay;

4. in this connection, stresses the evident inconsistency between the commitments made by the Member States in the context of the Compact for Growth and Jobs adopted at the European Council on 28 and 29 June 2012 and some of the positions taken in the negotiations;

5. points out that the gravity of the economic and social crisis facing the EU makes it especially urgent for programming to begin in 2014, as this is the only way of delivering European funds that are vital for making investment in the Member States, regions and cities;

6. stresses the shrinkage of the EU budget size in relation to the national budgets while at the same time the competences and tasks conferred on the Union by the Lisbon Treaty, in particular in the fields of external action (Article 27(3) of the Treaty on European Union), climate change (Article 191 TFEU), energy (Article 194 TFEU), sport (Article 165 TFEU), space (Article 189 TFEU), tourism (Article 195 TFEU) and civil protection (Article 196 TFEU) have been extended;

7. stresses that a considerable share of public investment in the Member States is conditional on the Structural Funds, which account for over 30 % of all public investment in 13 Member States and over 60 % in six Member States;

8. recognises that the Treaties (Article 312 TFEU) contain specific provisions to deal with the possibility of the MFF not being adopted before the legal bases of all the EU's multiannual expenditure programmes, apart from the first pillar of the Common Agricultural Policy (CAP), expire at the end of 2013; stresses that under these specific provisions, the various branches of the budgetary authority are legally obliged to pursue the negotiations; emphasises, however, that the options of either adopting new sectoral programmes without an MFF regulation or extending the existing programmes, would be extremely complicated;

9. would advise against putting off the agreement on the MFF until after the beginning of 2013, as this would make it impossible to programme and allocate Common Strategic Framework funds after 2014, which would have a negative impact on the EU's economic, social and territorial cohesion. It considers that putting off the agreement on the MFF until after the beginning of 2013 would also cast doubt on the 2014-2020 programming period hitherto envisaged by the Commission, the European Parliament and the Council, and would, in particular, necessitate a reconsideration of the option advocated initially by the CoR of introducing a programming period of 5+5 years, following a transition period of one or two years;

10. reiterates its previous position, namely that the EU must have a credible budget of at least 1 % so that it can achieve major European objectives in accordance with Europe 2020 goals and the needs of local and regional areas. It recalls that the Council set in 2000 the ceiling of own-resources at 1.29 % GNI in commitment and 1.23 % in payment appropriations, and underlines that since then the gap between the own-resources ceiling and the MFF ceilings has been constantly widening and stands at 25 %. It stresses, moreover, that the MFF only sets maximum levels of expenditure, while the EU annual budget has always remained far below these levels both in terms of commitments and payments. It consequently supports, based on the Commission's updated proposal of 6 July 2012, the European Parliament's call for the next budget to represent 1.14 % of the EU's GNI, including the accession of Croatia;

11. welcomes the fact that the proposal to abolish the food aid programme for the most deprived has been removed in the 18 September 2012 negotiating box, but regrets the lack of clarity concerning the funding for this programme and reiterates its position that it should remain under heading 2 of the MFF;

12. welcomes aspects of the Cyprus Presidency Issues Paper (30 August 2012) but has particular concerns about the proposals for discussion on cohesion policy, most notably on the eligibility, scope and coverage of the "safety nets" for regions and Member States; and rejects the disproportionate adjustments for transition and more developed regions;

Co-decision areas

13. regrets that the vast majority of subjects covered by the Council's negotiating box (version of 19 June 2012), and in particular points 21 to 47 and 53 to 78 thereof, are ones which should be adopted by co-decision and not by the consent procedure; stresses that the European Parliament must be fully involved in the ongoing negotiations;

14. condemns the fact that the method for distributing the national allocations and the capping levels for cohesion policy and rural development are included in the Council's negotiating box (points 30 to 45) but do not appear in the draft regulation laying down common provisions for the five Funds covered by the Common Strategic Framework; is also surprised that point 35 of the 18 September 2012 negotiating box makes the Europe 2020 strategy targets one of the criteria for deciding the weighting of Structural Fund allocations between the Member States; as well as raising the issue of whether these targets really reflect regions' development needs, this also raises substantial questions about governance and methodology, especially since this redistributive function was certainly not envisaged when the targets were set in 2010;

15. considers that, in accordance with Article 177 TFEU, this is not only an area for co-decision: it is also one where referral to the CoR is mandatory; and therefore, in defence of the powers conferred on it by Article 263(3) TFEU, will further assess the legal background of this matter and reserves the right to appear before the Court of Justice of the European Union if the European Commission does not introduce a legislative proposal on which the CoR has an opportunity to give an opinion;

16. following the opinions which it has adopted since the beginning of 2012 on the Commission's various legislative proposals, reiterates that:

a. With regard to sub-heading 1b and the Funds covered by the Common Strategic Framework (CSF): it supports the proposal to establish a new category of "transition regions" and the need for account to be taken of the specific and unique situation of the outermost regions regarding access to structural funds, in line with the provisions of Article 349 TFEU (point 25 of the negotiating box); it supports a threshold of 300 km for European territorial cooperation, except for the outermost regions, to which the distance criterion will not apply (point 27, ibid.); it supports the creation of a "safety net", equal to at least two thirds of their allocation for the 2007-2013 period, for regions which will no longer come under the convergence objective (point 44, ibid.); it supports the Commission's proposals on co-financing rates, apart from a raising of the rate to 85 % for programmes under the "European territorial cohesion" objective, and endorses the increase in the co-financing rate for inter-regional cooperation in the outermost regions from 50 % to 85 % (point 46, ibid.); it supports continuation of the food aid programme for deprived people under heading 2 of the MFF rather than its inclusion in the European Social Fund under heading 1 (point 48, ibid.); it supports the establishment of a co-financing rate that is 10 percentage points higher for Member States facing temporary budgetary difficulties (point 47, option a, ibid.); it supports the creation of a CSF for the three Structural Funds and the Cohesion Fund, the EAFRD and the EMFF (point 65, ibid.); it supports pre-financing rates of 2 % in 2014, 3% in 2015 and 3 % in 2016 (point 75, ibid.); and it supports non-recoverable VAT being eligible expenditure for a contribution from the CSF Funds (point 78, option c, ibid.);

b. With regard to heading 2: it supports more rapid convergence and a precise calendar for convergence between Member States (point 53, ibid.); capping of direct payments at EUR 200 000 rather than EUR 300 000 including greening, with tapering starting at EUR 100 000 instead of EUR 200 000 (point 54, ibid.), and a rate of 30 % for greening (point 56, ibid.); it supports the option of budgetary transfers from the 1st to the 2nd pillar (point 57, ibid.); it is, however, opposed to any transfer in the other direction, given the need to improve the budgetary balance between the two CAP pillars (point 58, ibid.); it supports the inclusion of transition regions in the rural development regulation (point 62, ibid.); it opposes the creation of a new reserve, as proposed, for crises in the agriculture sector (point 64, ibid.);

17. reiterates, with regard to the funds allocated to the European territorial cooperation objective, its proposal that the funds should be allocated by cooperation programme and not by Member State; consequently, calls for a review of point 40 of the 18 September 2012 negotiating box, particularly since, as things currently stand, the result of negotiating solely on the allocation of the cross-border and transnational cooperation strands is that interregional cooperation is considered only after these two strands;

18. supports the proposal to make more use of lending, rather than relying predominantly on non-repayable subsidies, in order to stimulate the involvement of beneficiaries; also considers that the loan repayments should then be made available once again, through the use of revolving funds;

New own resources

19. reiterates its call for a reform of the present own resources system as a means to reduce Member States' direct contributions to the EU budget whilst increasing the EU's own resources available to tackle future challenges [1] and respond to the need to abolish the current financial corrections and exemptions; therefore considers that in the interests of transparency, balance and sustainability, the new multiannual financial framework must, as the European Parliament has said, be based on an agreement on new own resources;

20. welcomes the Council's current negotiating method whereby expenditure and resources are dealt with jointly in the negotiating box, and reiterates its support for the two new own resources proposed by the Commission: a VAT-based resource and the new financial transaction tax (FTT);

21. in this context, urges some Member States not to disadvantage their populations, businesses and local and regional authorities by refusing to commit to the new financial transaction tax, as any such refusal would lead to reinforced cooperation and the creation of a two-speed budgetary Europe;

22. considers that an FTT under the reinforced cooperation procedure could legally provide the basis for a new EU own resource and that countries participating in it could transfer some of the revenue collected to the EU budget. However, these countries' contribution to the GNI-based budget would have to be reduced by an equivalent sum, without affecting the rules used to calculate the national contributions of non-participant countries;

23. reiterates its support for simplification of the extremely complex system of rebates and corrective measures, and for replacement of the current rebate system by a general correction mechanism;

Macro-economic conditionality

24. is surprised that the Commission's "technical" amendment to the Council regulation includes such a fundamental element as the extension of macro-economic conditionality from the Cohesion Fund to all five CSF Funds (see Article 8 of the amended draft regulation);

25. reiterates its clear, firm opposition to any form of macro-economic conditionality, and considers that the option of extending it to all budget headings as requested by some Member States is inapposite;

26. points out that this is a matter for co-decision and should be decided in the context of the regulation laying down common provisions for the five CSF Funds;

Structure, duration and flexibility of the multiannual financial framework

27. fully supports the Council's proposal to turn cohesion policy into a subheading rather than a sub-ceiling, but urges that the Connecting Europe Facility be excluded from this subheading, given its different nature; regrets once again that the opportunity has not been taken to group all EU territorial development financing (i.e. the five CSF Funds) under a single heading;

28. reiterates its call for flexibility within each heading and the creation of a flexibility reserve to which appropriations or margins not used in the first half of the period could be transferred, rather than returning them to the Member States; believes that a flexibility reserve of this kind could, in particular, be used as an instrument for macroeconomic and financial interventions to anticipate asymmetric shocks within the European Union;

29. again notes that the proposal provides for an "assessment" of the implementation of the multiannual financial framework in 2016, and reiterates that it would be advisable to conduct a full-scale mid-term review in 2017 (of which the proposed assessment would form a part);

Capping of commitments and payments

30. reiterates, with regard to the sums for the main MFF subheadings:

a. its support for the Commission proposals on the Connecting Europe Facility (EUR 50 billion), the Horizon 2020 programme (EUR 80 bn), the first two pillars of the CAP (EUR 372 bn at constant prices), the Creative Europe programme (EUR 1,6 bn) and the instruments for financing the EU's external action (EUR 70 bn);

[1] Point 65 of the Opinion of the Committee of the Regions on *The new multiannual financial framework post-2013*, adopted at the 93rd plenary session of 14-15 December 2011

b. its request for an increase in the budgets for cohesion policy (whose level should be at least constant in real terms with those laid down in the 2007-2013 financial perspective), the European Maritime and Fisheries Fund (EMFF) and the LIFE programme, and its request for a more balanced budgetary distribution between the two CAP pillars so as to support rural development;

Programmes outside the multiannual financial framework

31. reiterates its request for the European Globalisation Adjustment Fund (EGF) to be retained and included in the MFF but, like the European Parliament, insists that due to its non-programmable nature it should be entered in the budget over and above the ceiling of the relevant heading; equally opposes any extension of its scope to offset the effects of bilateral or multilateral trade agreements on agricultural activity (point 95, ibid.);

32. welcomes the Council's proposal to bring the Galileo, ITER and GMES programmes under heading 1 of the multi-annual financial framework (Annex I, ibid.), as requested in its Opinion on the new multiannual financial framework post-2013;

33. calls for the sums corresponding to the abovementioned reserve mechanisms also to be transferred to the MFF;

Simplification programme

34. considers that the calls by both the Member States and the European Parliament for better quality expenditure have not been satisfactorily addressed for the moment, as the response involves new monitoring and audit procedures, more complex procedures and an excessive focus on performance and quantitative take-up, rather than on high-quality strategies; in the final analysis, this will lead to growing centralisation and will disadvantage the lower tiers of governance vis-à-vis the higher tiers;

35. hopes that the communication on the quality of expenditure announced by the Commission will make it possible to differentiate accounting of public investment spending under the stability pact;

36. opposes the excessive use of delegated acts by the Commission, for instance those proposed for the indicative actions of the Common Strategic Framework; this will exclude the CoR from the EU's consultative and decision-making procedure, when crucial issues for local and regional authorities may in fact be being discussed;

37. however, fully agrees with the Commission that EU simplification will only be truly effective if it is backed by a parallel drive at national and subnational level, while stressing that the main effort has to be made at national level;

38. welcomes the rationalisation of programmes proposed in the context of the multiannual financial framework, particularly the reduction in the number of financing programmes proposed and the grouping of programmes and sub-programmes in a number of fields;

39. advocates closer involvement of the European Investment Bank in implementing projects financed by the Structural Funds.

II. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1

COM(2012) 388 final

Third "Whereas" clause

Text proposed by the Commission	CoR amendment
Special instruments, the Emergency Aid Reserve, the European Union Solidarity Fund, the Flexibility Instrument, the European Globalisation Adjustment Fund, the Reserve for crises in the agriculture sector and the Contingency Margin, are necessary to allow the Union to react to specified unforeseen circumstances, or to allow the financing of clearly identified expenditure which could not be financed within the limits of the ceilings available for one or more headings as laid down in the financial framework. Specific provisions are therefore necessary to provide for a possibility to enter in the budget commitment appropriations over and above the ceilings set out in financial framework where it is necessary to use special instruments.	Special instruments, the Emergency Aid Reserve, the European Union Solidarity Fund, the Flexibility Instrument, ~~the European Globalisation Adjustment Fund, the Reserve for crises in the agriculture sector~~ and the Contingency Margin, are necessary to allow the Union to react to specified unforeseen circumstances, or to allow the financing of clearly identified expenditure which could not be financed within the limits of the ceilings available for one or more headings as laid down in the financial framework. Specific provisions are therefore necessary to provide for a possibility to enter in the budget commitment appropriations over and above the ceilings set out in financial framework where it is necessary to use special instruments.

Reason

As the EGF should be incorporated in the MFF and the reserve for crises in the agriculture sector should be replaced by a proper regulation, these two financial instruments should be deleted from the list.

Amendment 2

COM(2012) 388 final

Article 8

Text proposed by the Commission	CoR amendment
In the case of the lifting of a suspension of budgetary commitments concerning the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund in the context of macroeconomic conditionalities linked to the coordination of Member States' economic policies, the Council, in accordance with the Treaty and in compliance with the relevant basic act, shall decide on a transfer of suspended commitments to the following years. Suspended commitments of year n may not be re-budgeted beyond year n+2.	In the case of the lifting of a suspension of budgetary commitments concerning ~~the European Regional Development Fund, the European Social Fund,~~ the Cohesion Fund~~, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund~~ in the context of macroeconomic conditionalities linked to the coordination of Member States' economic policies, the Council, in accordance with the Treaty and in compliance with the relevant basic act, shall decide on a transfer of suspended commitments to the following years. Suspended commitments of year n may not be re-budgeted beyond year n+2.

Reason

As has been the case since its origin, the Cohesion Fund should continue to be the only fund affected by macro-economic conditions.

Brussels, 9 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

Opinion of the Committee of the Regions on 'Programme for the competitiveness of enterprises and small and medium-sized enterprises (2014-2020)'

(2012/C 391/08)

THE COMMITTEE OF THE REGIONS

— welcomes the European Commission's Proposal for a Regulation of the European Parliament and of the Council establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (2014-2020) as a commitment to recognising competitiveness as a fundamental and leading factor in ensuring sustained economic growth and more jobs in the EU;

— draws attention to the numerous existing initiatives taken by local and regional authorities in all Member States, for example local small business centres, microcredits awarded by local or regional authorities or free expert advice on setting up small businesses, which often provide the basis for a successful start-up microenterprise;

— draws attention to the needs of young entrepreneurs, for whom enterprise is often the only opportunity for professional development, and who are inclined to take a risk on an activity, often developing it throughout the European market. These entrepreneurs are thus predisposed to being competitive in global markets;

— points out that achieving global competitiveness is possible only by tackling the imperfections in the European market which make European SMEs less able to compete with their counterparts from other parts of the world. SMEs must play a bigger role in implementation of EU projects and their position should be improved in relations with major entrepreneurs which are often the general contractors of such projects. To this end, it stresses the importance of networking for SMEs.

Rapporteur	Witold KROCHMAL (PL/EA), Member of Wołów Town Council and Local Authority
Reference document	Proposal for a Regulation of the European Parliament and of the Council establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (2014-2020) COM(2011) 834 final

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

1. welcomes the European Commission's Proposal for a Regulation of the European Parliament and of the Council establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (2014-2020) as a commitment to recognising competitiveness as a fundamental and leading factor in ensuring sustained economic growth and more jobs in the EU;

2. believes that the proposed regulation complements previous EC initiatives under the Europe 2020 strategy; it acknowledges the role played by SMEs in the EU economic system and recognises the shortcomings and turbulent nature of the SME environment, which may slow down or even limit the development of businesses and the growth in their competitiveness;

3. emphasises that the CoR position is backed up by the survey SME-friendly Regions and Cities [1] involving local and regional authorities carried out by the Committee's Europe 2020 Monitoring Platform;

4. recognises that Member States and regions are largely responsible for tackling market shortcomings, but believes that the EU can help in certain areas by promoting good practices, ensuring that the single market functions effectively and improving the conditions for the business environment so that businesses, including SMEs, can compete sustainably on a global scale, this implies striving towards a low-carbon, resource-efficient economy;

5. considers that this Programme will significantly increase confidence in Europe's enterprise sector in both European and global markets. The effect of increased confidence in markets will be greater interest in enterprise and a more expansive policy by existing businesses, including SMEs, which are a major source of economic growth (58 % of turnover in the EU) and employment (67 % of private sector jobs) and which created 85 % of new jobs between 2002 and 2010 in this sector;

6. believes it is right that the Programme highlights the importance of the tourism sector, which is associated with a large number of SMEs in the EU employing a huge number of people;

7. stresses the importance of supporting businesses and SMEs at the various stages of their development, from business start-ups to businesses that already exist, or even those being restructured, on the assumption that the effect of the support is to boost the competitiveness of the business in the EU market and external markets;

8. recognises that one of the main conditions for the Programme's success is the promotion and development of an enterprise culture and business ethics in EU society; therefore welcomes the possibility to take part in the competition for the European Enterprise Award at national, regional and local level, and in other projects of this type;

9. points out that annually three European regions obtain the "European Entrepreneurial Region" awards in recognition of the favourable conditions they provide for SMEs;

10. believes that promoting enterprise should begin in school, through development of positive attitudes towards enterprise and promotion of self-reliance in the economic sphere. This will enable the making of informed decisions about the nature of the work students wish to do once they have to enter the labour market. In order for school-leavers and graduates to be able to begin work as entrepreneurs on the basis of the skills they have acquired, making it highly likely that there will be a demand for the services they provide, care must be taken that this training does not ignore the needs of the market;

11. calls for integration of enterprise trends and development into vocational training, as ongoing education for our entrepreneurs is essential for the competitiveness levels;

12. draws attention to the needs of young entrepreneurs, for whom enterprise is often the only opportunity for professional development, and who are inclined to take a risk on an activity, often developing it throughout the European market. These entrepreneurs are thus predisposed to being competitive in global markets;

13. draws attention to the numerous existing initiatives taken by local and regional authorities in all Member States, for example local small business centres, microcredits awarded

[1] http://portal.cor.europa.eu/europe2020/news/Pages/InvitationtoparticipateintheSurveyonSME-friendlyRegionsandCities.aspx.

by local or regional authorities or free expert advice on setting up small businesses, which often provide the basis for a successful start-up microenterprise;

14. also draws attention to the position of female entrepreneurs and as well as specific target groups including amongst others immigrant and expatriate entrepreneurs, who require a special initiative to develop the competiveness of their businesses, taking into account existing EU policies in this area;

15. calls on local and regional authorities to implement the Programme; draws particular attention to the need to eliminate or reduce red tape and obstacles for obtaining external funds, and to simplify the documents submitted for contracts and dropping the requirement to provide bank guarantees for small-scale works;

Making EU businesses more competitive

16. points out that achieving global competitiveness is possible only by tackling the imperfections in the European market which make European SMEs less able to compete with their counterparts from other parts of the world. SMEs must play a bigger role in implementation of EU projects and their position should be improved in relations with major entrepreneurs which are often the general contractors of such projects. To this end, it stresses the importance of networking for SMEs;

17. points out that the EU, together with the Member States, must ensure that the single market operates effectively and improve the business environment by eliminating or reducing difficulties faced by SMEs in accessing finance, their limited ability for expansion into markets outside their country of origin both within the single market and outside it, as well as excessive tax burdens and red tape. These conditions must be met at the same time as ensuring access to knowledge and new innovative technologies as well as cooperation with local vocational schools and academic institutions which in their programmes must take account of SMEs as the driving force of the European economy;

18. considers that the Programme should place more emphasis on increasing SME involvement in the EU's research and innovation efforts, projects and programmes, including by establishing public-private partnerships. Greater involvement in research projects will boost companies' internal skills and thus also their international competitiveness.

In the proposal to establish a research and innovation programme, Horizon 2020, particular attention is drawn to the need to increase SME involvement in research projects. Increasing their involvement in research makes information and knowledge available to SMEs, some of which are world leaders;

19. notes that only such an approach will enable businesses and SMEs to develop in a way that takes account of commitments to a low-carbon economy based on the latest environmental technologies enabling goals to be achieved in the area of climate and energy policy;

20. welcomes the Programme's proposed budget which amounts to EUR 2,522bn. At the same time, notes that the amount of EUR 1,4bn earmarked for financial instruments, which will support businesses and SMEs directly, represents only 56 % of the total Programme budget. In case the demand for financial instruments is higher than could reasonably be expected, change in percentage allocations should be decided in the Committee where all countries benefitting from the Programme for the Competitiveness of Enterprises and SMEs (COSME) are represented in line with the provision of Article 16 of the draft regulation. It is the remaining part of the budget, earmarked for activities to support the SME environment, that guarantees that funds allocated for the whole Programme for the 2014-2020 period are used efficiently and effectively;

21. believes it is appropriate to allocate 1,7 % of the Programme budget to administrative support for the Programme since these funds must guarantee that the Programme operates effectively while not placing an excessive burden on the budget;

22. is of the view that measures financed from the Programme budget cannot be a substitute for initiatives at national, regional or local level, but should strengthen these measures and make them more effective, giving them an EU dimension, through effective coordination and the removal of cross-border obstacles to cooperation between private actors or public authorities. This cooperation should be encouraged by means of "horizontal" networking rather than "vertical" centralisation;

23. considers that the support provided should be fully justified by the goals and should generate positive impacts across Europe through crowding-in and multiplier effects and capitalising on the results achieved;

24. stresses that is to a large extent dependent on productivity, innovation and efficiency, which is the source of sustainable growth in incomes, on the ability of businesses to take full advantage of opportunities such as the European single market and on institutional solutions creating the conditions for sustainable growth of businesses. Therefore projects which strengthen the factors having the greatest impact on sustainable competitiveness of businesses and SMEs should be treated as a priority;

25. draws attention to the fact that the participation of third countries in the Programme on the basis of protocols to association agreements and on the basis of other agreements should be treated as an opportunity to expand the area of activity of businesses operating in the EU area and to acquire experience of how businesses function outside the EU market; the participation of other third countries in the programme should also be possible, financing should be provided from other programs designated for cooperation of EU Member States with non-Member States;

26. draws attention to the importance of enterprise education, including through lifelong learning, evolving in the direction of developing skills, attitudes and incorporating CSR

enabling people to take on the challenges of the modern global market, while respecting traditional European business ethics;

27. believes that efforts to promote enterprise and develop pro-enterprise attitudes should also cover entrepreneurs embarking on the path of self-employment beginning their professional lives, including also women who make this effort and take the risk;

28. is of the view that measures to improve access by SMEs to financing including the equity facility and the loan guarantee facility should complement the financial instruments currently used under the cohesion policy. There should also be the possibility to link them with other specifically defined funds from Member States;

29. stresses the importance of the possibility to grant cross-border credit and loans enabling SMEs to tap the huge potential of the single market, which should strengthen the competitiveness and sustainability of business initiatives, in the tourism sector for example;

30. draws special attention to the Equity Facility for Growth (EFG) focussing on funds that provide venture capital. Stresses that, on the basis of an appropriate risk assessment, the programme manager should help support as many SMEs as possible, including those which under normal banking procedures have little chance of obtaining assistance but which can help strengthen the overall potential of SMEs and reduce unemployment significantly;

31. remains sceptical on the LGF loan level and urges the Commission to specify what criteria were used to set this level as the CIP programme did not establish any limits. Highlights that loans for start-ups, investment or transfer are often for significantly higher amounts than the set limit and is concerned that this leads to a situation where higher loans would be guaranteed under the Horizon programme, even though it is only supposed to be used for innovation projects;

32. therefore calls for a return to the previous Competitiveness and Innovation Framework programme, which did not set any limits;

33. regards as legitimate the individual approach to negotiations with institutions seeking risk-sharing funding for their lending, both in terms of the size of loans, which is dependent on the amount of the guaranteed portfolio risk, and the period for which loans are granted;

34. calls for both financial instruments geared towards venture capital and funds earmarked to cover SME debt portfolios to be subject to continuous risk reduction checks;

Programme management

35. regards as appropriate the transfer of the indirect management of the Programme to the European Investment Fund (EIF) and to the executive agencies, with the European Commission responsible for continually monitoring the Programme. This form of management guarantees that the positive experiences of the EIF as an instrument supporting SMEs, acquired over more than ten years, will be made use of;

36. recommends that use be made of the experiences in this area of the European Investment Bank (EIB) and the Enterprise Europe Network, which has experience of internationalising SMEs, including outside the EU;

37. considers that, in order to ensure the Programme is implemented successfully and that it is effective, there must be close cooperation with local and regional authorities and institutions managing the Programme, facilitating the flow of information in each area of the Programme's implementation;

38. considers experiences with the internationalisation of SMEs outside the EU and the transfer of information on this subject to be important; this should help SMEs to reduce transaction costs linked to cross-border activities. This is an area for development by experts from EU institutions, with cooperation from national and regional authorities;

39. points also to the possibility of creating centres for disseminating information about SMEs. The Committee does not, however, wish to suggest what form these bodies should take or the specific way in which they would operate. These issues should be settled in the framework of multilateral cooperation agreements among countries and regions;

40. proposes that direct management of the Programme take place mainly at regional level with support and supervision from the national authorities. This level of management should also build a system for monitoring the risks associated with projects being carried out;

41. proposes that project monitoring also be part of the assessment of implementation on the basis of the indicators for the achievement of medium-term goals, set out in Annex 1 to the proposal. Monitoring should also encompass information on the implementation of measures within the framework of the Programme relating to climate protection and other EU policies;

42. stresses that these activities must be consistent and in accordance with the monitoring activities carried out by the European Commission, whose representatives, alongside employees from the Court of Auditors and the European Anti-fraud Office (OLAF), will carry out on-the-spot audits, checks and inspections;

43. considers that the audit strategies should be geared towards the objective assessment of the Programme's implementation and should not be a burden for Programme beneficiaries. The monitoring systems should take account of the project implementation phases so as not to have a negative impact on the pace of implementation and not lead to excessive additional costs;

Current threats to the Programme

44. draws attention to the fact that, in light of the current budgetary situation in many countries, national governments are seeking the simplest means of boosting budgetary revenue by raising the level of various contributions that increase the cost of labour, which can in effect lead to the collapse of SMEs or their transition to the grey economy. We therefore call for protection of SMEs, since the policy described above will delay recovery from the economic crisis and may in practice cancel out the Programme's added value. SMEs are an effective tool for reducing unemployment;

45. believes that the administrative burdens linked to business start-ups and the tax burdens on operational companies may make it difficult for businesses, and SMEs in particular, to improve their competitiveness in many EU countries; the Committee of the Regions therefore calls for the net administrative burden in all relevant EU legislation to be reduced by 25 % until 2020; believes it would be a good idea to consider removing a broader range of barriers for stakeholders from the SME sector;

46. considers that the Programme should provide additional bonuses for the countries and regions which have adopted the most favourable systems for SMEs, enabling them to develop, increase their competitiveness and expand into external markets, in order to support such activity. Promoting positive attitudes is aimed at encouraging appropriate trends in different countries and regions;

47. calls on the European Commission to make every effort to improve access to information on development of markets in fast-growing countries, ways of investing in these countries, current legal systems and local customs governing business activity;

48. believes that information on external markets must be easily accessible for SMEs, i.e. it should be affordable, accurate and rapidly available. In addition to SME information centres, the EU's diplomatic representations in those regions of the world should play a major part;

49. stresses that developing the entrepreneurship of EU citizens requires changes in education and training system, which is a long-term activity. There is therefore a risk that medium and long-term goals will not be achieved.

50. draws attention to the possibility that SME activities could be overregulated at EU, national or local level. Such overregulation may needlessly complicate procedures linked to the activities themselves and to obtaining support within the framework of various programmes, which will have a negative impact on SMEs' competitiveness. Cutting bureaucracy and lowering the barriers to starting and running a business must be treated as a priority.

II. **RECOMMENDATIONS FOR AMENDMENTS**

Amendment 1

COM(2011) 834 final

Whereas (1)

Text proposed by the Commission	CoR amendment
(1) The Commission adopted the Communication "Europe 2020 - A strategy for smart, sustainable and inclusive growth" ([1]) in March 2010 (hereinafter "the Europe 2020 Strategy"). The Communication was endorsed by the European Council of June 2010. The Europe 2020 Strategy responds to the economic crisis and is intended to prepare Europe for the next decade. It sets five ambitious objectives on climate and energy, employment, innovation, education and social inclusion to be reached by 2020 and identifies key drivers for growth, which aim at making Europe more dynamic and competitive. It also emphasises the importance of reinforcing the growth of the European economy while delivering high levels of employment, a low carbon, resource and energy-efficient economy and social cohesion.	(1) The Commission adopted the Communication "Europe 2020 - A strategy for smart, sustainable and inclusive growth" ([1]) in March 2010 (hereinafter "the Europe 2020 Strategy"). The Communication was endorsed by the European Council of June 2010. The Europe 2020 Strategy responds to the economic crisis and is intended to prepare Europe for the next decade. It sets five ambitious objectives on climate and energy, employment, innovation, education and social inclusion to be reached by 2020 and identifies key drivers for growth, which aim at making Europe more dynamic and competitive. It also emphasises the importance of reinforcing the growth of the European economy while delivering high levels of employment, a low carbon, resource and energy-efficient economy and social cohesion. Small and medium-sized enterprises (SMEs) play a crucial role in reaching the Europe 2020 objectives. This has been reflected in the fact that SMEs are mentioned in six out of seven of its flagship initiatives.
([1]) COM(2010) 2020 final.	([1]) COM(2010) 2020 final.

Amendment 2

COM(2011) 834 final

Whereas (6)

Text proposed by the Commission	Amendment
(6) In order to contribute to the reinforcement of competitiveness and sustainability of Union enterprises, in particular SMEs, the advancement of the knowledge society, and development based on balanced economic growth, a Programme for the Competitiveness of Enterprises and SMEs (hereinafter "the Programme") should be established	(6) In order to contribute to the reinforcement of sustainable competitiveness ~~and sustainability~~ of Union enterprises, in particular SMEs, ~~the advancement of~~ to encourage an entrepreneurial culture and to promote the ~~knowledge society,~~ creation and ~~development based on balanced economic~~ growth of SMEs, a Programme for the Competitiveness of Enterprises and SMEs (hereinafter ~~"the Programme"~~ 'the Programme') should be established.

Reason

Competitiveness and sustainability should not be understood as separate objectives. Instead, competitiveness should be understood as depending on sustainability. According to the European Competitiveness Report, 2010, sustainable competitiveness reflects the ability to achieve and maintain the competitiveness of industry in accordance with sustainable development objectives.

Amendment 3

COM(2011) 834 final

Whereas (18)

Text proposed by the Commission	Amendment
(18) As outlined in the Commission Communication of 30 June 2010, entitled "Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe"[1], which was endorsed by the European Council Conclusions of October 2010, tourism is an important sector of the Union economy. Enterprises in this sector substantially contribute to the Union's Gross Domestic Product (GDP) and job creation and have significant potential for the development of entrepreneurial activity, since it is run mainly by SMEs. The Lisbon Treaty acknowledges the importance of tourism outlining the Union specific competences in this field which complement the actions of Member States. There is clear added value for the tourism initiative at Union level, especially in providing data and analysis, in developing transnational promotion strategies and in exchanging best practices	(18) As outlined in the Commission Communication of 30 June 2010, entitled "Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe[1]", which was endorsed by the European Council Conclusions of October 2010, tourism is an important sector of the Union economy. Enterprises in this sector substantially contribute to the Union's Gross Domestic Product (GDP) and job creation and have significant potential for the development of entrepreneurial activity, since it is run mainly by SMEs. The Lisbon Treaty acknowledges the importance of tourism outlining the Union specific competences in this field which complement the actions of Member States. ~~There is~~ This Programme should support initiatives in the field of tourism where a clear EU added value ~~for the tourism initiative at Union level~~ can be demonstrated, especially in providing data and analysis **in designing transnational promotion and sales strategies,**, in developing ~~transnational promotion strategies~~ common quality standards and in exchanging best practices

Amendment 4

COM(2011) 834 final

Whereas (20)

Text proposed by the Commission	Amendment
(20) The Programme should complement other Union programmes, while acknowledging that each instrument should work according to its own specific procedures. Thus, the same eligible costs should not receive double funding. With the aim to achieve added value and substantial impact of Union funding, close synergies should be developed between the Programme, other Union programmes and the Structural Funds.	(20) The Programme should complement other Union programmes, while acknowledging that each instrument should work according to its own specific procedures. Thus, the same eligible costs should not receive double funding. With the aim to achieve added value and substantial impact of Union funding, close synergies should be developed between the Programme~~,~~ and other Union programmes, in particular Horizon 2020, and the Structural Funds.

Amendment 5

COM(2011) 834 final

Whereas (24)

Text proposed by the Commission	Amendment
(24) The Agreement on the European Economic Area and Protocols to Association Agreements provide for the participation of the countries concerned in Union programmes. Participation by other third countries should be possible when Agreements and procedures so indicate.	(24) The Agreement on the European Economic Area and Protocols to Association Agreements provide for the participation of the countries concerned in Union programmes. Participation by other third countries should be possible when Agreements and procedures so indicate. Financing should be provided from other programs designated for cooperation of EU Member States with Non-Member States;

Amendment 6

COM(2011) 834 final

Article 2 (1)

Text proposed by the Commission	Amendment
Article 2 **General Objectives**	*Article 2* **General Objectives**
1. The Programme shall contribute to the following general objectives, paying particular attention to the specific needs of SMEs at European and global level:	The Programme shall contribute to the following general objectives, paying particular attention to the specific needs of SMEs at European and global level:
(a) strengthening the competitiveness and sustainability of the Union's enterprises including in the tourism sector;	(a) strengthening the sustainable competitiveness ~~and sustainability~~ of the Union's enterprises ~~including,~~ in ~~the tourism sector~~ particular SMEs;
(b) encouraging an entrepreneurial culture and promoting the creation and growth of SMEs.	(b) encouraging an entrepreneurial culture~~,~~ incorporating it, together with training and encouragement for setting up businesses, in educational curricula at primary, secondary and vocational level, with a view to promoting the creation and growth of SMEs.

Reason

Competitiveness and sustainability should not be understood as independent objectives, since competitiveness in the long term depends on sustainability, and policies should be based on a long-term strategy.

The "Small Business Act for Europe" initiative establishes the need to create a culture that defends entrepreneurs and promotes and encourages their emergence, where their strength and ability to overcome difficulties are highlighted and valued.

Amendment 7

COM(2011) 834 final

Article 2 (2)

Text proposed by the Commission	Amendment
Article 2	*Article 2*
General Objectives	**General Objectives**
2. The achievement of the objectives referred to in paragraph 1 shall be measured by the following indicators:	2. The achievement of the objectives referred to in paragraph 1 shall be measured by the following indicators:
(a) percentage of growth of the Union's industrial sector in relation to total Gross Domestic Product (GDP) growth,	(a) percentage of growth of the Union's industrial sector and in the tertiary sector linked to industry in relation to total Gross Domestic Product (GDP) growth,
(b) Union manufacturing output growth in eco-industries,	(b) Union manufacturing output growth in eco-industries, in addition to the supply of environmentally sustainable goods and services,
(c) changes in administrative burden on SMEs,	(c) changes in administrative burden on SMEs,
(d) SME growth in terms of added-value and number of employees,	(d) implementation of the principles of the Small Business Act and application of its priorities in Union policies and programmes,
(e) and SME turnover rate.	~~(d)~~(e) SME growth in terms of added-value and number of employees,
	(f) and SME turnover rate;

Amendment 8

COM(2011) 834 final

Article 3 (1)

Text proposed by the Commission	Amendment
Article 3	*Article 3*
Specific objectives	**Specific objectives**
1. The specific objectives of the Programme shall be:	1. The specific objectives of the Programme shall be:
(a) To improve framework conditions for the competitiveness and sustainability of Union enterprises including in the tourism sector;	(a) To improve framework conditions for the competitiveness and sustainability of Union enterprises ~~including in the tourism sector~~;
(b) To promote entrepreneurship, including among specific target groups;	(b) To promote entrepreneurship, including among specific target groups;

Text proposed by the Commission	Amendment
(c) To improve access to finance for SMEs in the form of equity and debt;	(c) To improve access to finance for SMEs in the form of equity and debt;
(d) To improve access to markets inside the Union and globally.	(d) To improve access to markets inside the Union and globally.

Amendment 9

COM(2011) 834 final

Article 6 (1)

Text proposed by the Commission	Amendment
Article 6 **Actions to improve the framework conditions for the competitiveness and sustainability of Union enterprises**	*Article 6* **Actions to improve the framework conditions for the competitiveness and sustainability of Union enterprises**
1. The Commission shall support actions to improve and strengthen the competitiveness and sustainability of Union enterprises, particularly SMEs, so as to enhance the effectiveness, coherence and consistency of national policies promoting competitiveness, sustainability and the growth of enterprises in Europe.	1. The Commission shall support actions to improve ~~and strengthen the competitiveness and sustainability~~ the framework conditions for the sustainable competitiveness of Union enterprises, particularly SMEs, so as to enhance the effectiveness, coherence and consistency of local, regional and national policies promoting competitiveness, sustainability and ~~the~~ growth of enterprises in Europe~~.~~, according to the principles of the Small Business Act.

Amendment 10

COM(2011) 834 final

Article 6 (2) (a)

Text proposed by the Commission	Amendment
Article 6 **Actions to improve the framework conditions for the competitiveness and sustainability of Union enterprises**	*Article 6* **Actions to improve the framework conditions for the competitiveness and sustainability of Union enterprises**
(…)	(…)
2. The Commission may support actions intended to develop new competitiveness strategies. Such actions may include the following:	2. The Commission may support actions intended to develop new competitiveness strategies. Such actions may include the following:
(a) measures to improve the design, implementation and evaluation of policies affecting the competitiveness and sustainability of enterprises, including disaster resilience, and to secure the development of appropriate infrastructures, world class clusters and business networks, framework conditions and development of sustainable products, services and processes;	(a) measures to improve the design, implementation and evaluation of policies affecting the competitiveness and sustainability of enterprises, including disaster resilience, and to secure the development of appropriate infrastructures, world class clusters and business networks, framework conditions and development of sustainable products, services and processes; and support for collective ventures promoted by SMEs such as venture capital participation in enterprises providing common services to a high number of them;

Reason

When it comes to supporting the endeavours of SMEs, one of the first steps should be to convince them of the benefits of joining forces to implement specific ventures which would otherwise be unfeasible or less profitable on an individual basis. Inter-enterprise cooperation has proved itself to be one of the most effective forms of action with the most immediate effects.

Amendment 11

COM(2011) 834 final

Article 6(2)(c)

Text proposed by the Commission	Amendment
Article 6	*Article 6*
Actions to improve the framework conditions for the competitiveness and sustainability of Union enterprises	**Actions to improve the framework conditions for the competitiveness and sustainability of Union enterprises**
(…)	(…)
(c) support for SME policy development and cooperation between policy makers, particularly with a view to improving the ease-of-access to programmes and measures for SMEs.	(c) support for SME policy development and cooperation between policy makers, particularly with a view to improving the ease-of-access to programmes and measures for SMEs and reducing administrative burden.

Amendment 12

COM(2011) 834 final

Article 6(2)(d)

Text proposed by the Commission	Amendment
Article 6	*Article 6*
Actions to improve the framework conditions for the competitiveness and sustainability of Union enterprises	**Actions to improve the framework conditions for the competitiveness and sustainability of Union enterprises**
(…)	(…)
	(d) measures to promote innovation and knowledge transfer throughout the EU, the use of ICTs and innovative ideas that could lead to new products and services that would generate growth and high-quality jobs.

Reason

Given their significant role among the strategic objectives in the tourism sector, it is proposed that these sorts of measures be included in line with the Europe 2020 strategy, which includes smart growth among its priorities, through the development of an economy based on knowledge and innovation.

Amendment 13

COM(2011) 834 final

Article 8 (1)

Text proposed by the Commission	Amendment
Article 8 **Actions to improve access to finance for SMEs**	*Article 8* **Actions to improve access to finance for SMEs**
1. The Commission shall support actions which aim to improve access to finance for SMEs in their start-up and growth phases, being complementary to the Member States' use of financial instruments for SMEs at national and regional level. In order to ensure complementarity, these actions will be closely coordinated with those undertaken in the framework of cohesion policy and at national level. Such actions shall aim to stimulate the supply of both equity and debt finance.	1. The Commission shall support actions which aim to improve access to finance for SMEs in their start-up and growth phases, being complementary to the Member States' use of financial instruments for SMEs at national and regional level. In order to ensure complementarity, these actions will be closely coordinated with those undertaken in the framework of cohesion policy, Horizon 2020 and at national or regional level. Such actions shall aim to stimulate the supply of both equity and debt finance.

Amendment 14

COM(2011) 834 final

Article 8(2)

Text proposed by the Commission	Amendment
Article 8 **Actions to improve access to finance for SMEs**	*Article 8* **Actions to improve access to finance for SMEs**
2. As part of the actions referred to in paragraph 1, the Commission shall develop measures, subject to market demand, to improve cross-border and multi-country financing, thereby assisting SMEs to internationalise their activities in compliance with Union law.	2. As part of the actions referred to in paragraph 1, the Commission shall develop measures, subject to market demand, to improve cross-border and multi-country financing, thereby assisting SMEs to internationalise their activities in compliance with Union law. The Commission may also examine the possibilities to develop other innovative financial instruments subject to market demand and in consultation with relevant stakeholders.

Amendment 15

COM(2011) 834 final

Annex II – Title The Loan Guarantee Facility (LGF)

Text proposed by the Commission	Amendment
Annex II – Title The Loan Guarantee Facility (LGF)	*Annex II – Title The Loan Guarantee Facility (LGF)* The Loan Guarantee Facility may be applied during all stages of a company's development: start-up, restructuring and transfer, without distinction in terms of activity or market size. The Facility shall cover all types of investment, including intangible investments;

Amendment 16

COM(2011) 834 final

Annex II (3)

Text proposed by the Commission	Amendment
Annex II (3)	***Annex II (3)***
3. The LGF shall, except for loans in the securitised portfolio, cover loans up to EUR 150 000 and with a minimum maturity of 12 months. The LGF shall be designed in such way that it will be possible to report on the innovative SMEs supported, both in terms of number and volume of loans.	3. The LGF shall ~~, except for~~ grant loans without any upper limit and under the same conditions as in the ~~securitised portfolio, cover loans up to EUR 150 000~~ COSME predecessor programme "Competitiveness and ~~with a minimum maturity of 12 months~~ Innovation framework Programme" (CIP). The LGF shall be designed in such way that it will be possible to report on the innovative SMEs supported, both in terms of number and volume of loans.

Reason

The new upper limit makes little sense as no or only few projects will be able to go under this budget line. The old system with no upper limit should be maintained.

Brussels, 9 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

Opinion of the Committee of the Regions on 'Public procurement package'

(2012/C 391/09)

THE COMMITTEE OF THE REGIONS

— takes the view that the regulatory framework for public procurement should pay greater attention to value for money in procurement. The primary aim for a contracting authority running a procurement procedure is to purchase certain supplies, services or works, and the rules should ensure that the procedure does in fact result in a transaction that is satisfactory to the buyer, the vendor and the public. Simple and intelligible rules will of course also facilitate cross-border trade more than anything else;

— finds it regrettable that some new proposals are also difficult to understand and extraordinarily detailed, as well as adding a number of new provisions. Certain provisions to facilitate procurement have also been added, but other new additions add to the administrative burden on contracting authorities despite the fact that legal stability is required in order for public procurement to be carried out smoothly;

— believes that it is certainly possible to develop simpler – but no less effective – rules for procurement, as demonstrated, not least, by the fact that the WTO's Government Procurement Agreement (GPA) is much simpler than the equivalent EU rules. The Commission is asked to significantly increase the thresholds for procurement. Given that a minuscule percentage of public procurement is cross-border, and in view of the administrative burden the regulatory framework creates for authorities and suppliers, the thresholds do not need to be as low as they are;

— points out that the proposal contravenes the Member States' right to organise their own administration and is in breach of the subsidiarity principle. It is important for the subsidiarity and proportionality principles to be respected. A proposed EU measure must be both necessary to achieve the objectives and more effective than measures taken at national level.

Rapporteur	Catarina SEGERSTEN LARSSON (SE/EPP), Member of the Assembly of Värmland County Council
Reference documents	Opinion on the public procurement package, comprising: — Proposal for a Directive of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal services sectors COM(2011) 895 final — Proposal for a Directive of the European Parliament and of the Council on public procurement COM(2011) 896 final

I. BACKGROUND

THE COMMITTEE OF THE REGIONS

1. notes that the European Commission's Green Paper on *The modernisation of EU public procurement policy – Towards a more efficient European Procurement Market* (COM(2011) 15 final) addressed a great many issues surrounding public procurement;

2. published an opinion on the Green Paper in May 2011, stressing among other things that it was important for SMEs to be able to take part in public procurement procedures, that the current rules were too detailed and that there should be opportunities to take account of the environment, set social requirements and use public procurement to promote innovation. The Committee also wanted to retain the classification of A and B services, introduce a European procurement passport, extend the scope for the negotiated procedure and improve the provisions for framework agreements;

II. THE EUROPEAN COMMISSION'S PROPOSED AMENDMENTS TO THE DIRECTIVE ON PUBLIC PROCUREMENT AND THE DIRECTIVE ON PROCUREMENT BY ENTITIES OPERATING IN THE WATER, ENERGY, TRANSPORT AND POSTAL SERVICES SECTORS

3. notes that the proposals for new procurement directives include a great many new and detailed provisions compared with the current directives. Some of the proposals seek to make matters easier for small and medium-sized enterprises, and certain forms of cooperation between contracting authorities are excluded. There is greater emphasis on environmental and social aspects, innovation and electronic procurement. Another new element is the proposal to abolish the distinction between A and B services and introduce a new system for procurement of social services; rules are also proposed for oversight of public procurement and for advisory activities;

4. highlighted the need for a much simpler regulatory framework when the current procurement directives were being drafted. The current system generates numerous problems and legal proceedings, due to the complexity and obscurity of the regulatory framework. This can also be seen as a sign that contracting authorities are not trusted; moreover, regrets that the focus is on the public procurement procedure not the outcome in terms of general interest;

5. takes the view that the regulatory framework for public procurement should pay greater attention to value for money in procurement. The primary aim for a contracting authority running a procurement procedure is to purchase certain supplies, services or works, and the rules should ensure that the procedure does in fact result in a transaction that is satisfactory to the buyer, the vendor and the public. Simple and intelligible rules will of course also facilitate cross-border trade more than anything else;

6. finds it regrettable that some new proposals are also difficult to understand and extraordinarily detailed, as well as adding a number of new provisions. Certain provisions to facilitate procurement have also been added, but other new additions add to the administrative burden on contracting authorities despite the fact that legal stability is required in order for public procurement to be carried out smoothly;

7. points out that, under Article 5(4) of the EU Treaty, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties. The proposed level of detail runs counter to the aim of simplifying procurement rules, and will entail an unacceptable administrative burden for contracting authorities, particularly for small authorities at local and regional level;

8. suggests that one way of making the regulatory framework more manageable would have been to have fewer, simpler rules and complement them, if appropriate, with guidelines based on ECJ case law. These could be continually updated with no need to amend the directives;

9. believes that it is certainly possible to develop simpler – but no less effective – rules for procurement, as demonstrated, not least, by the fact that the WTO's Government Procurement Agreement (GPA) is much simpler than the equivalent EU rules.

The Commission is asked to significantly increase the thresholds for procurement. Given that a minuscule percentage of public procurement is cross-border, and in view of the administrative burden the regulatory framework creates for authorities and suppliers, the thresholds do not need to be as low as they are.

The recently concluded WTO Government Procurement Agreement (GPA) replaces the 1994 agreement. The Committee of the Regions would, even at this stage, ask the Commission to revisit the December 2011 agreement and to renegotiate a significant increase in the thresholds;

10. feels that it is vital to develop rules that make it easier for small and medium-sized enterprises to take part in public procurement procedures, highlighting the possibilities for subcontracting. A simple regulatory framework would be useful in this context, too, as such enterprises do not have access to experts in procurement law and other fields. Businesses are experts in their own goods or services, not in procurement rules. A number of rules have been proposed that make matters easier for these businesses, for example with regard to the submission of documents and introduction of the European Procurement Passport. This is to be welcomed. The Committee of the Regions does not, however, believe that it should be obligatory to divide contracts into lots or to provide reasons for not doing so;

11. takes note of the proposal that contracts awarded to controlled entities or cooperation for the joint execution of the public service tasks of the participating contracting authorities should be exempted from the application of the rules if the conditions set out in the directive are fulfilled. The proposed rules regarding exemptions for intra-group cooperation and for cooperation between contracting authorities, however, are framed far too narrowly, will not be workable in practice, and thus allow the Directive to interfere with the internal administrative arrangements of the Member States;

12. suggested, in its opinion on the Green Paper, that the negotiated procedure should be subject to the same conditions as apply in the utilities sector. It stands by this position, as there is no reason to assume that authorities within the "conventional" sector are less suited to negotiation than entities in the utilities sector. Contracting authorities procure not only standard goods but also many complex products such as IT systems and medical devices. The negotiated procedure is appropriate for these procurement procedures, as well as for a several types of complex service;

13. believes that small and medium-sized enterprises would benefit from an expansion in the use of the negotiated procedure, as it would make the process more flexible. Moreover, it is common for these enterprises to have problems with regard to additions and adjustments to tenders; the rules surrounding this could be rather less rigid;

14. feels that the procurement of information and communications technology (ICT) systems is particularly problematic, as additional works such as extra licences and new modules cannot always be tendered for without serious inconvenience, both technical and cost-related;

15. points out that a somewhat simpler system involving prior information notices for competitive procurement, in line with WTO rules, is proposed for contracting authorities at local and regional level. This option means that there is no need to publish a separate contract notice before launching the procurement procedure; it is a good proposal that could simplify matters for both authorities and business;

16. stated, in its response to the Green Paper, that framework agreements should be regulated in line with the rules in the Utilities Directive, as a basis for developing more flexible rules. Unfortunately, the Commission is instead proposing to change the provisions of the Utilities Directive to match the detailed rules in the conventional sector. It should also be made explicit that, when it comes to goods and services to meet individual needs – such as aids for people with disabilities – contracts can be designed to allow individual citizens to choose from the suppliers included in the framework agreement;

17. sees electronic procurement as a positive move, and welcomes the Commission's initiatives in this regard. Electronic procurement is easier for both purchasers and vendors, but the proposed two-year period before it becomes mandatory to submit and accept electronic tenders is much too short, particularly for small enterprises. This period should be fixed by the contracting authorities, as there are significant differences in development between sectors and Member States in this regard and it is the contracting authorities that are best placed to judge the situation. It seems illogical to have specific rules and a shorter timescale for the introduction of e-procurement for central purchasing bodies, especially those at local and regional level;

18. would also stress that it is absolutely vital for the Commission to review the CPV nomenclature, as it is ambiguous, difficult to navigate and, in some places, illogical. A properly functioning CPV system would facilitate electronic procurement;

19. insists that the current distinction between A and B services must be retained, and the proposed Articles 74-76 on social and other services should be deleted. These services have very little cross-border interest. The proposed model for social services does not make up for the disadvantages of scrapping the separate system for B services. The exemption should not apply only to social and health services: for example, legal services also involve a significant element of personal trust and do not lend themselves well to standard forms of tendering. Catering services and vocational training services, too, are often closely linked with social services, as are cleaning and similar services provided for elderly and disabled people;

20. believes that contracting authorities can make an important contribution to the achievement of the Europe 2020 strategy goals by making use of their purchasing power especially in terms of flagship initiatives which concern Innovation Union and Resource Efficient Europe;

21. welcomes the fact that the proposed directive places greater weight on the possibility to consider environmental and social requirements, even though it seems likely that the rules will not be particularly easy to apply (see, for example, Article 67 on life-cycle costing). It is important that the contracting authorities should be free to determine which, if any, requirements to impose, because of the wide differences in the nature of goods and services, and the need to allow policy goals to be defined by political choices at the local and regional level. There is a big difference between the procurement of cement and of MRI equipment, for instance. The CoR points out, however, that in all cases there must be a substantive link to the object of the contract in order to prevent non-transparent and arbitrary contract award decisions and to ensure fair competition between businesses;

22. feels that it must be possible both to make procurement decisions based on the lowest price or the most economically advantageous tender, at the choice of the contracting authority. For a large number of standard products such as petrol, price is the only relevant criterion; the same is true for many complex products such as certain medicines whose quality has already been tested for their official marketing authorisation. Basing procurement on the lowest price certainly does not imply that no quality requirements are set: in such procedures, the quality requirements are made obligatory, and then the tender that meets those requirements for the lowest price is accepted. Lowest-price procedures also benefit small businesses because they often have low administrative costs and can offer competitive prices. Conversely, competing on social and environmental characteristics may freeze out many small businesses from the market. The proposal's use of the phrase "lowest cost" instead of "lowest price" is confusing: The term "lowest cost" is more connected with the most economically advantageous tender, and indicates that factors other than price will be taken into consideration. For the sake of clarity, the wording in the current directive should be retained;

23. notes that the Commission has also put forward new provisions regarding relationships with subcontractors and the modification of contracts during their term. In the Committee of the Regions' view, these elements should continue not to be covered by the directive, as they are primarily issues for national contract law. It may, however, be useful to cover these issues in interpretative communications;

24. notes that the Commission has proposed a number of far-reaching provisions concerning national oversight bodies and procurement assistance. It should be noted that these matters were not discussed in the Green Paper. Under Article 2 of Protocol No 2 on the application of the principles of subsidiarity and proportionality, the Commission must consult widely before proposing legislative acts. These consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged, except in cases of exceptional urgency. The creation of national oversight authorities is no doubt very important to local and regional government levels, particularly in Member States where subnational authorities have legislative powers;

25. points out that the proposal contravenes the Member States' right to organise their own administration and is in breach of the subsidiarity principle. It is important for the subsidiarity and proportionality principles to be respected. A proposed EU measure must be both necessary to achieve the objectives and more effective than measures taken at national level. In this case, there is nothing to suggest that the proposed system would be more effective than allowing each Member State to arrange matters in line with their national systems. Existing governmental and judicial structures should be able to take on the new enforcement roles without the requirement to set up separate new oversight bodies in each Member State. Moreover, the Commission's proposed model appears to combine different tasks in a way that is contrary to the traditional separation between public authorities and the courts.

III. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1

COM(2011) 896 final

Recital 14

Text proposed by the Commission	CoR amendment
(14) There is considerable legal uncertainty as to how far cooperation between public authorities should be covered by public procurement rules. The relevant case-law of the Court of Justice of the European Union is interpreted divergently between Member States and even between contracting authorities. It is therefore necessary to clarify in what cases contracts concluded between contracting authorities are not subject to the application	(14) There is considerable legal uncertainty as to how far cooperation between public authorities should be covered by public procurement rules. The relevant case-law of the Court of Justice of the European Union is interpreted divergently between Member States and even between contracting authorities. It is therefore necessary to clarify in what cases contracts concluded between contracting authorities are not subject to the application

Text proposed by the Commission	CoR amendment
of public procurement rules. Such clarification should be guided by the principles set out in the relevant case-law of the Court of Justice. The sole fact that both parties to an agreement are themselves contracting authorities does not as such rule out the application of procurement rules. However, the application of public procurement rules should not interfere with the freedom of public authorities to decide how to organise the way they carry out their public service tasks. Contracts awarded to controlled entities or cooperation for the joint execution of the public service tasks of the participating contracting authorities should therefore be exempted from the application of the rules if the conditions set out in this directive are fulfilled. This directive should aim to ensure that any exempted public-public cooperation does not cause a distortion of competition in relation to private economic operators. Neither should the participation of a contracting authority as a tenderer in a procedure for the award of a public contract cause any distortion of competition.	of public procurement rules. Such clarification should be guided by the principles set out in the relevant case-law of the Court of Justice. The sole fact that both parties to an agreement are themselves contracting authorities does not as such rule out the application of procurement rules. However, the application of public procurement rules should not interfere with the freedom of public authorities to decide how to organise the way they carry out their public service tasks. Public authorities may use their own resources to carry out their tasks. They may also perform such tasks in cooperation with other public authorities or associations of authorities. EU law does not require authorities to use a particular form of cooperation for carrying out their tasks. Contracts awarded to controlled entities or cooperation for the joint execution of the public service tasks of the participating contracting authorities should therefore be exempted from the application of the rules if the conditions set out in this directive are fulfilled. This directive should aim to ensure that any exempted public-public cooperation does not cause a distortion of competition in relation to private economic operators. Neither should the participation of a contracting authority as a tenderer in a procedure for the award of a public contract cause any distortion of competition.

Reason

It must be made clear that the various forms of cooperation between public authorities are beyond the scope of the procurement rules.

Amendment 2

COM(2011) 896 final

Recital 46

Text proposed by the Commission	CoR amendment
(46) Contracting authorities can be faced with external circumstances that they could not foresee when they awarded the contract. In this case, a certain degree of flexibility is needed to adapt the contract to these circumstances without a new procurement procedure. The notion of unforeseeable circumstances refers to circumstances that could not have been predicted despite reasonably diligent preparation of the initial award by the contracting authority, taking into account its available means, the nature and characteristics of the specific project, good practice in the field in question and the need to ensure an appropriate relationship between the resources spent in preparing the award and its foreseeable value. However, this cannot apply in cases where a modification results in an alteration of the nature of the overall procurement, for instance by replacing the works, supplies or services to be procured by something different or by fundamentally changing the type of procurement since, in such a situation, a hypothetical influence on the outcome may be assumed.	(46) Contracting authorities can be faced with external circumstances that they could not foresee when they awarded the contract. In this case, a certain degree of flexibility is needed to adapt the contract to these circumstances without a new procurement procedure. The notion of unforeseeable circumstances refers to circumstances that could not have been predicted despite reasonably diligent preparation of the initial award by the contracting authority~~, taking into account its available means, the nature and characteristics of the specific project, good practice in the field in question and the need to ensure an appropriate relationship between the resources spent in preparing the award and its foreseeable value~~. However, this cannot apply in cases where a modification results in an alteration of the nature of the overall procurement, for instance by replacing the works, supplies or services to be procured by something different or by fundamentally changing the type of procurement since, in such a situation, a hypothetical influence on the outcome may be assumed.

Reason

The evaluation of unforeseeable circumstances referred to in the recitals cannot take into account the resources available to contracting authorities and their relationship to the total foreseeable value of a project. The resources available to contracting authorities and evaluation of those resources do not fall

within the Commission's remit, and the assessment of the final outcome of the procurement procedure should not take account of factors relating to the contracting authority's organisation or staff. Contracting authorities at local level can determine their own human resources and working methods regardless of how they should award contracts for public services. The evaluation mechanism in question should be removed from the recitals as it is against EU law.

Amendment 3

COM(2011) 895 final

Article 1

COM(2011) 896 final

Article 1

Text proposed by the Commission	CoR amendment
Article 1	*Article 1*
Subject-matter and scope	**Subject-matter and scope**
1. This Directive establishes rules on the procedures for procurement by contracting authorities with respect to public contracts as well as design contests, whose value is estimated to be not less than the thresholds laid down in Article 4.	1. This Directive establishes rules on the procedures for procurement by contracting authorities with respect to public contracts as well as design contests, whose value is estimated to be not less than the thresholds laid down in Article 4.
2. Procurement within the meaning of this Directive is the purchase or other forms of acquisition of works, supplies or services by one or more contracting authorities from economic operators chosen by those contracting authorities, whether or not the works, supplies or services are intended for a public purpose.	2. Procurement within the meaning of this Directive is the purchase or other forms of acquisition of works, supplies or services for financial remuneration by one or more contracting authorities from economic operators chosen by those contracting authorities~~, whether or not the works, supplies or services are intended for a public purpose~~.
An entirety of works, supplies and/or services, even if purchased through different contracts, constitutes a single procurement within the meaning of this Directive, if the contracts are part of one single project.	~~An entirety of works, supplies and/or services, even if purchased through different contracts, constitutes a single procurement within the meaning of this Directive, if the contracts are part of one single project.~~
	3. A contract awarded by a contracting authority to another legal person shall fall outside the scope of this Directive where the following cumulative conditions are fulfilled:
	(a) the contracting authority exercises over the legal person concerned a control which is similar to that which it exercises over its own departments.
	(b) the essential part of the activities of that legal person are carried out for the controlling contracting authority or for other legal persons controlled by that contracting authority;
	(c) there is no private participation in the controlled legal person.
	4. Paragraph 3 also applies where a controlled entity which is a contracting authority awards a contract to its controlling entity or entities, or to another legal person

Text proposed by the Commission	CoR amendment
	controlled by the same contracting authority, provided that there is no private participation in the legal person being awarded the public contract. 5. A contracting authority, which does not exercise over a legal person control within the meaning of paragraph 3, may nevertheless award a contract outside the scope of this Directive to a legal person which it controls jointly with other contracting authorities, where the following conditions are fulfilled: (a) the contracting authorities exercise jointly over the legal person a control which is similar to that which they exercise over their own departments; (b) the essential part of the activities of that legal person are carried out for the controlling contracting authorities or other legal persons controlled by the same contracting authorities; (c) there is no private participation in the controlled legal person. 6. An agreement concluded between two or more contracting authorities shall not be deemed to be a public contract within the meaning of Article 2(7) of this Directive where the following cumulative conditions are fulfilled: (a) the purpose of the cooperation is to provide a service~~s~~ of public interest for which the contracting authorities are responsible, or assistance necessary for the provision of such a service; (b) there is no private participation in the contracting authorities. 7. Transferring tasks and responsibilities from one public authority to another by means of an organisational measure is not the subject of this directive.

Reason

The acquisition of works, supplies and services that will not be used in the public interest should not be covered by the procurement directives.

A procurement should be based on an individual contract, not a project, as a project may also contain elements that fall outside the scope of the directive.

The rules on links between public authorities should be moved from Article 11 (in COM(2011) 896) and Article 21 (in COM(2011)895) to Article 1, as they fall outside the scope of the directive.

ECJ case law (Teckal C-107/98) refers to the essential part of the activities, not to 90 %, and a narrower interpretation of ECJ case law should be avoided.

Article 11 (in COM(2011)896) and Article 21 (in COM(2011) 895) should be deleted as a consequence of the proposed amendment.

Amendment 4

COM(2011) 896 final

Article 4

Text proposed by the Commission	CoR amendment
Article 4 **Thresholds amounts**	*Article 4* **Thresholds amounts**
This Directive shall apply to procurements with a value exclusive of value-added tax (VAT) estimated to be equal to or greater than the following thresholds:	This Directive shall apply to procurements with a value exclusive of value-added tax (VAT) estimated to be equal to or greater than the following thresholds:
(a) EUR 5 000 000 for public works contracts;	(a) EUR 5 000 000 for public works contracts;
(b) EUR 130 000 for public supply and service contracts awarded by central government authorities and design contests organised by such authorities; where public supply contracts are awarded by contracting authorities operating in the field of defence, that threshold shall apply only to contracts concerning products covered by Annex III;	(b) EUR 130 000 for public supply and service contracts awarded by central government authorities and design contests organised by such authorities; where public supply contracts are awarded by contracting authorities operating in the field of defence, that threshold shall apply only to contracts concerning products covered by Annex III;
(c) EUR 200 000 for public supply and service contracts awarded by sub-central contracting authorities and design contests organised by such authorities.	(c) EUR ~~200 000~~ 1000000 for public supply and service contracts awarded by sub-central contracting authorities and design contests organised by such authorities.
(d) EUR 500 000 for public contracts for social and other specific services listed in Annex XVI.	~~(d) EUR 500 000 for public contracts for social and other specific services listed in Annex XVI.~~

Reason

Cross-border trade is virtually non-existent, given the current threshold of around DKK 1.5 million for goods and services. Of the contacts concluded in 2009, just 1.4 % involved cross-border operations. The threshold for goods and services should be increased, while point (d) of Article 4 should be deleted. The next time the WTO agreement is renegotiated, the Commission should, at the least, give priority to increasing the threshold for procurement in real terms. Given that a minuscule percentage of public procurement is cross-border, and in view of the administrative burden the regulatory framework creates for authorities and suppliers, the thresholds do not need to be as low as they are.

Amendment 5

COM(2011) 895 final

Article 19

COM(2011) 896 final

Article 10

Specific exclusions for service contracts

Text proposed by the Commission	CoR amendment
Specific exclusions for service contracts	**Specific exclusions for service contracts**
…	…
(c) arbitration and conciliation services;	(c) arbitration and conciliation services~~;~~

Text proposed by the Commission	CoR amendment
	(c) 1. any of the following legal services:
	(i) the legal representation of a client in proceedings before a court, tribunal or authority by a lawyer as defined in Article 1 of Directive 77/249/EEC;
	(ii) the certification of documents drawn up by a notary;
	(iii) legal services by a trustee or guardian, or other legal services provided by a party appointed by a court or tribunal in the Member States concerned;
	(iv) other legal services connected, even temporarily, with the exercise of official authority in the Member States concerned;
	(c) 2. national security and emergency services;
(d) financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of Directive 2004/39/EC of the European Parliament and of the Council, central bank services and operations conducted with the European Financial Stability Facility;	(d) financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of Directive 2004/39/EC of the European Parliament and of the Council, and transactions to raise money or capital for contracting authorities, central bank services and operations conducted with the European Financial Stability Facility;
(e) employment contracts;	(e) employment contracts;
	[…]
	(g) this Directive shall not apply to public service contracts awarded by a contracting authority to another contracting authority or to an association of contracting authorities on the basis of an exclusive right which they enjoy pursuant to a published law, regulation or administrative provision which is compatible with the Treaty.

Reason

(c.1) Services relating to legal representation in court and other legal services are closely linked to the relevant national legal system, which generally rules out cross-border provision. Moreover, such services require a particular level of trust, which cannot be objectively defined in a procurement procedure.

(c.2) Criteria such as economic viability should have no bearing when it comes to national security, including emergency services.

(d) The exemption for exclusive rights currently provided in Article 18 of Directive 2004/18/EC and Articles 24 and 25 of Directive 2004/17/EC should be retained, as should the exemption for transactions to raise money or capital for the contracting authorities currently provided in Article 16(d). These provisions are needed in the Member States.

(g) The European Treaties explicitly give Member States the right to transfer exclusive rights. This should be reflected in the procurement rules.

Amendment 6

COM(2011) 896 final

Article 15

Text proposed by the Commission	CoR amendment
	Article 15 In the event that a transfer of tasks and responsibilities is not subject to public procurement law, the participation of private actors is not ruled out (provided it is permissible under national law), especially in the case of institutionalised cooperation. Where private participation does occur, a transfer of tasks by means of an organisational act does not constitute an act of procurement as long as it does not involve a public contract with the private actor falling within the scope of public procurement law.

Reason

The proposed new text is intended to clarify the scope for transfers of tasks and responsibilities which are not subject to public procurement law.

Amendment 7

COM(2011) 895 final

Article 21

COM(2011) 896 final

Article 11

Text proposed by the Commission	CoR amendment
Relations between public authorities	~~**Relations between public authorities**~~
1. A contract awarded by a contracting authority to another legal person shall fall outside the scope of this Directive where the following cumulative conditions are fulfilled:	~~1. A contract awarded by a contracting authority to another legal person shall fall outside the scope of this Directive where the following cumulative conditions are fulfilled:~~
(a) the contracting authority exercises over the legal person concerned a control which is similar to that which it exercises over its own departments.	~~(a) the contracting authority exercises over the legal person concerned a control which is similar to that which it exercises over its own departments.~~
(b) at least 90 % of the activities of that legal person are carried out for the controlling contracting authority or for other legal persons controlled by that contracting authority;	~~(b) at least 90 % of the activities of that legal person are carried out for the controlling contracting authority or for other legal persons controlled by that contracting authority;~~
(c) there is no private participation in the controlled legal person.	~~(c) there is no private participation in the controlled legal person.~~
A contracting authority shall be deemed to exercise over a legal person a control similar to that which it exercises over its own departments within the meaning of point (a) of the first subparagraph where it exercises a decisive influence over both strategic objectives and significant decisions of the controlled legal person.	~~A contracting authority shall be deemed to exercise over a legal person a control similar to that which it exercises over its own departments within the meaning of point (a) of the first subparagraph where it exercises a decisive influence over both strategic objectives and significant decisions of the controlled legal person.~~
2. Paragraph 1 also applies where a controlled entity which is a contracting authority awards a contract to its controlling entity, or to another legal person controlled by the same contracting authority, provided that there is no private participation in the legal person being awarded the public contract.	~~2. Paragraph 1 also applies where a controlled entity which is a contracting authority awards a contract to its controlling entity, or to another legal person controlled by the same contracting authority, provided that there is no private participation in the legal person being awarded the public contract.~~

Text proposed by the Commission	CoR amendment
3. A contracting authority, which does not exercise over a legal person control within the meaning of paragraph 1, may nevertheless award a public contract without applying this Directive to a legal person which it controls jointly with other contracting authorities, where the following conditions are fulfilled:	~~3. A contracting authority, which does not exercise over a legal person control within the meaning of paragraph 1, may nevertheless award a public contract without applying this Directive to a legal person which it controls jointly with other contracting authorities, where the following conditions are fulfilled:~~
(a) the contracting authorities exercise jointly over the legal person a control which is similar to that which they exercise over their own departments;	~~(a) the contracting authorities exercise jointly over the legal person a control which is similar to that which they exercise over their own departments;~~
(b) at least 90 % of the activities of that legal person are carried out for the controlling contracting authorities or other legal persons controlled by the same contracting authorities;	~~(b) at least 90 % of the activities of that legal person are carried out for the controlling contracting authorities or other legal persons controlled by the same contracting authorities;~~
(c) there is no private participation in the controlled legal person.	~~(c) there is no private participation in the controlled legal person.~~
For the purposes of point (a), contracting authorities shall be deemed to jointly control a legal person where the following cumulative conditions are fulfilled:	~~For the purposes of point (a), contracting authorities shall be deemed to jointly control a legal person where the following cumulative conditions are fulfilled:~~
(a) the decision-making bodies of the controlled legal person are composed of representatives of all participating contracting authorities;	~~(a) the decision-making bodies of the controlled legal person are composed of representatives of all participating contracting authorities;~~
(b) those contracting authorities are able to jointly exert decisive influence over the strategic objectives and significant decisions of the controlled legal person;	~~(b) those contracting authorities are able to jointly exert decisive influence over the strategic objectives and significant decisions of the controlled legal person;~~
(c) the controlled legal person does not pursue any interests which are distinct from that of the public authorities affiliated to it;	~~(c) the controlled legal person does not pursue any interests which are distinct from that of the public authorities affiliated to it;~~
(d) the controlled legal person does not draw any gains other than the reimbursement of actual costs from the public contracts with the contracting authorities.	~~(d) the controlled legal person does not draw any gains other than the reimbursement of actual costs from the public contracts with the contracting authorities.~~
4. An agreement concluded between two or more contracting authorities shall not be deemed to be a public contract within the meaning of Article 2(6) of this Directive where the following cumulative conditions are fulfilled:	~~4. An agreement concluded between two or more contracting authorities shall not be deemed to be a public contract within the meaning of Article 2(6) of this Directive where the following cumulative conditions are fulfilled:~~
(a) the agreement establishes a genuine cooperation between the participating contracting authorities aimed at carrying out jointly their public service tasks and involving mutual rights and obligations of the parties;	~~(a) the agreement establishes a genuine cooperation between the participating contracting authorities aimed at carrying out jointly their public service tasks and involving mutual rights and obligations of the parties;~~
(b) the agreement is governed only by considerations relating to the public interest;	~~(b) the agreement is governed only by considerations relating to the public interest;~~

Text proposed by the Commission	CoR amendment
(c) the participating contracting authorities do not perform on the open market more than 10 % in terms of turnover of the activities which are relevant in the context of the agreement;	~~(c) the participating contracting authorities do not perform on the open market more than 10 % in terms of turnover of the activities which are relevant in the context of the agreement;~~
(d) the agreement does not involve financial transfers between the participating contracting authorities, other than those corresponding to the reimbursement of actual costs of the works, services or supplies;	~~(d) the agreement does not involve financial transfers between the participating contracting authorities, other than those corresponding to the reimbursement of actual costs of the works, services or supplies;~~
(e) there is no private participation in any of the contracting authorities involved.	~~(e) there is no private participation in any of the contracting authorities involved.~~
5. The absence of private participation referred to in paragraphs 1 to 4 shall be verified at the time of the award of the contract or of the conclusion of the agreement.	~~5. The absence of private participation referred to in paragraphs 1 to 4 shall be verified at the time of the award of the contract or of the conclusion of the agreement.~~
The exclusions provided for in paragraphs 1 to 4 shall cease to apply from the moment any private participation takes place, with the effect that ongoing contracts need to be opened to competition through regular procurement procedures.	~~The exclusions provided for in paragraphs 1 to 4 shall cease to apply from the moment any private participation takes place, with the effect that ongoing contracts need to be opened to competition through regular procurement procedures.~~

Reason

Article 11 and Article 21, respectively, should be deleted as a consequence of amendment 3.

Amendment 8

COM(2011) 895 final

Article 31

COM(2011) 896 final

Article 17

Text proposed by the Commission	CoR amendment
Reserved contracts	**Reserved contracts**
Member States may reserve the right to participate in procurement procedures to sheltered workshops and economic operators whose main aim is the social and professional integration of disabled and disadvantaged workers or provide for such contracts to be performed in the context of sheltered employment programmes, provided that more than 30 % of the employees of those workshops, economic operators or programmes are disabled or disadvantaged workers.	Member States may reserve the right to participate in procurement procedures to sheltered workshops and economic operators whose main aim is the social and professional integration of disabled and disadvantaged workers or provide for such contracts to be performed in the context of sheltered employment programmes, provided that more than 30 % of the ~~employees of~~ persons on those workshops, economic operators or programmes are disabled or disadvantaged workers. The term "disadvantaged workers" shall include, *inter alia*, unemployed people who have particular problems integrating, and particularly vulnerable groups and minorities.
The call for competition shall make reference to this provision.	The call for competition shall make reference to this provision.

Reason

This is a new provision, and it is therefore necessary to define which groups it covers, especially as it is more wide ranging than the current Article 19.

Amendment 9

COM(2011) 895 final

Article 34

COM(2011) 896 final

Article 19(7)

Text proposed by the Commission	CoR amendment
Member States shall ensure that, at the latest 2 years after the date provided for in Article 92(1), all procurement procedures under this Directive are performed using electronic means of communication, in particular e-submission, in accordance with the requirements of this Article.	Member States shall work actively to ensure that~~, at the latest 2 years after the date provided for in Article 92(1),~~ all procurement procedures under this Directive are performed using electronic means of communication, in particular e-submission, in accordance with the requirements of this Article.

Reason

Given that there are wide variations in conditions both for contracting authorities – particularly at local level – and for suppliers within different sectors, it is more appropriate to urge Member States to work actively to prepare for e-procurement than to impose it as a requirement with a short deadline.

Amendment 10

COM(2011) 896 final

Article 24

Text proposed by the Commission	CoR amendment
Choice of procedures	**Choice of procedures**
1. In awarding their public contracts, contracting authorities shall apply the national procedures adjusted to be in conformity with this Directive, provided that, without prejudice to Article 30, a call for competition has been published in accordance with this Directive.	1. In awarding their public contracts, contracting authorities shall apply the national procedures adjusted to be in conformity with this Directive, provided that, without prejudice to Article 30, a call for competition has been published in accordance with this Directive.
Member States shall provide that contracting authorities may apply open or restricted procedures as regulated in this Directive.	Member States shall provide that contracting authorities may apply open or restricted procedures, competitive procedures with negotiation or competitive dialogue, at the choice of the contracting authority, as regulated in this Directive.
Member States may provide that contracting authorities may apply innovation partnerships as regulated in this Directive.	Member States ~~may~~ shall provide that contracting authorities may apply innovation partnerships as regulated in this Directive.
They may also provide that contracting authorities may use a competitive procedure with negotiation or a competitive dialogue in any of the following cases:	~~They may also provide that contracting authorities may use a competitive procedure with negotiation or a competitive dialogue in any of the following cases:~~
(a) with regard to works, where the works contract has as its object both the design and the execution of works within the meaning of Article 2(8) or where negotiations are needed to establish the legal or financial makeup of the project;	~~(a) with regard to works, where the works contract has as its object both the design and the execution of works within the meaning of Article 2(8) or where negotiations are needed to establish the legal or financial makeup of the project;~~

Text proposed by the Commission	CoR amendment
(b) in respect of public works contracts, for works which are performed solely for purposes of research or innovation, testing or development and not with the aim of ensuring profitability or recovering research and development costs;	~~(b) in respect of public works contracts, for works which are performed solely for purposes of research or innovation, testing or development and not with the aim of ensuring profitability or recovering research and development costs;~~
(c) with regard to services or supplies, where the technical specifications cannot be established with sufficient precision with reference to any of the standards, European technical approvals, Common technical specifications or technical references within the meaning of points 2 to 5 of Annex VIII;	~~(c) with regard to services or supplies, where the technical specifications cannot be established with sufficient precision with reference to any of the standards, European technical approvals, Common technical specifications or technical references within the meaning of points 2 to 5 of Annex VIII;~~
(d) in the event of irregular or unacceptable tenders within the meaning of Article 30(2)(a) in response to an open or a restricted procedure;	~~(d) in the event of irregular or unacceptable tenders within the meaning of Article 30(2)(a) in response to an open or a restricted procedure;~~
(e) due to specific circumstances related to the nature or the complexity of the works, supplies or services or the risks attaching thereto, the contract cannot be awarded without prior negotiations.	~~(e) due to specific circumstances related to the nature or the complexity of the works, supplies or services or the risks attaching thereto, the contract cannot be awarded without prior negotiations.~~
Member States may decide not to transpose into their national law the competitive procedure with negotiation, the competitive dialogue and the innovation partnership procedures.	~~Member States may decide not to transpose into their national law the competitive procedure with negotiation, the competitive dialogue and the innovation partnership procedures.~~

Reason

The Committee of the Regions feels that the negotiated procedure should be subject to the same terms in the conventional sector as in the utilities sector, as should competitive dialogue. There is no reason to assume that authorities within the conventional sector are less suited to this procedure than entities in the utilities sector. It should be up to the contracting authority to determine which procedure should be used, depending on the procurement procedure in question.

It is also important to make clear that it is the contracting authority which must choose the appropriate procedure in each case, not the national or EU level. The EU and the national level must make all procedures available to contracting authorities. To do otherwise would mean different rules and procedures in different Member States, distortions of competition and an unlevel playing field.

Amendment 11

COM(2011) 896 final

Article 30(2)(a)

Text proposed by the Commission	CoR amendment
(a) where no tenders or no suitable tenders or no requests to participate have been submitted in response to an open procedure or a restricted procedure, provided that the initial conditions of the contract are not substantially altered and that a report is sent to the Commission or the national oversight body designated according to Article 84 where they so request.	(a) where no tenders or no suitable tenders or no requests to participate have been submitted in response to an open procedure or a restricted procedure, provided that the initial conditions of the contract are not substantially altered ~~and that a report is sent to the Commission or the national oversight body designated according to Article 84 where they so request.~~

Reason

Together with Article 84 (which introduces a new national oversight body), this reporting obligation produces unnecessary red tape. New administrative tasks absolutely must be avoided in the interests of simplifying EU public procurement law and making it more flexible. This addition should therefore be deleted.

Amendment 12

COM(2011) 895 final

Article 44(3)(d)(i) and 44(3)(e)

COM(2011) 896 final

Article 30(2)(c)(i) and 30(2)(d)

Text proposed by the Commission	CoR amendment
(c) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:	(c) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:
(i) the absence of competition for technical reasons;	(i) the absence of competition for technical or legal reasons;
[…]	[…]
(d) insofar as is strictly necessary where, for reasons of extreme urgency brought about by force majeure, the time limits for the open, restricted or competitive procedures with negotiation cannot be complied with; the circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority;	(d) insofar as is strictly necessary when, for reasons of extreme urgency brought about by ~~force majeure,~~ events unforeseeable by the contracting entities in question, the time limits for the open, restricted or competitive procedures with negotiation cannot be complied with; the circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority;

Reason

Legal reasons should be added to the article to cover situations where, for example, the contracting authority needs to construct a building (e.g. a school) in a particular place but the landowner will only agree to sell the land on condition that they can do the building work themselves.

Specifying "force majeure" is a stricter requirement than that currently laid down in Article 31(1)(c) of Directive 2004/18/EC. The current text should be used. During court proceedings to review a procurement procedure it should be possible to use the non-competitive negotiated procedure to purchase supplies and services that the contracting authority is obliged to provide under other legislation (such as food for care homes or heart valves for hospitals).

Amendment 13

COM(2011) 895 final

Article 45

COM(2011) 896 final

Article 31

Framework agreements

Text proposed by the Commission	CoR amendment
1. Contracting authorities may conclude framework agreements, provided that they apply the procedures provided for in this Directive.	1. Contracting authorities may conclude framework agreements, provided that they apply the procedures provided for in this Directive.

Text proposed by the Commission	CoR amendment
A framework agreement means an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.	A framework agreement means an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
The term of a framework agreement shall not exceed four years, save in exceptional cases duly justified, in particular by the subject of the framework agreement.	~~The term of a framework agreement shall not exceed four years, save in exceptional cases duly justified, in particular by the subject of the framework agreement.~~
2. Contracts based on a framework agreement shall be awarded in accordance with the procedures laid down in this paragraph and paragraphs 3 and 4.	2. Contracts based on a framework agreement shall be awarded in accordance with the procedures laid down in this paragraph and paragraphs 3 and 4.
Those procedures may be applied only between those contracting authorities clearly identified for this purpose in the call for competition or the invitation to confirm interest and those economic operators originally party to the framework agreement.	~~Those procedures may be applied only between those contracting authorities clearly identified for this purpose in the call for competition or the invitation to confirm interest and those economic operators originally party to the framework agreement.~~
Contracts based on a framework agreement may under no circumstances make substantial modifications to the terms laid down in that framework agreement, in particular in the case referred to in paragraph 3.	Contracts based on a framework agreement may under no circumstances make substantial modifications to the terms laid down in that framework agreement, in particular in the case referred to in paragraph 3.
Contracting authorities shall not use framework agreements improperly or in such a way as to prevent, restrict or distort competition.	~~Contracting authorities shall not use framework agreements improperly or in such a way as to prevent, restrict or distort competition.~~

Reason

In the Committee of the Regions' view, framework agreements should in principle be regulated in the same way as they currently are under Directive 2004/17/EC, as there is no reason to lay down rules regarding, for example, the period of validity for such agreements and not for other types of contract. As is the case for dynamic purchasing systems, it should be possible to bring new economic operators on board during the term of the agreement, as this benefits both purchasers and vendors. The final sentence is unnecessary, as it follows from the principles.

Amendment 14

COM(2011) 895 final

Article 45(4)

COM(2011) 896 final

Article 31(4)

Framework agreements

Text proposed by the Commission	CoR amendment
4. Where a framework agreement is concluded with more than one economic operator, it may be performed in one of the two following ways:	4. Where a framework agreement is concluded with more than one economic operator, it may be performed in ~~one of~~ the ~~two~~ following way~~s~~:
a) following the terms and conditions of the framework agreement, without reopening competition, where it sets out all the terms governing the provision of the works, services and supplies concerned and the objective conditions for determining which of the economic operators, party to the framework agreement, shall perform them; the latter conditions shall be indicated in the procurement documents;	a) ~~following~~ where all the terms and conditions for the provision of works, services or supplies concerned are set out in~~of~~ the framework agreement, the contract shall be awarded without reopening competition, in accordance with~~, where it sets out all~~ the terms ~~governing the provision of the works, services and supplies concerned and the objective conditions for determining which of the economic operators, party to the framework agreement, shall perform them; the latter conditions shall be indicated in~~of the framework agreement~~procurement documents; the latter conditions shall be indicated in the procurement documents;~~

Text proposed by the Commission	CoR amendment
b) where not all the terms governing the provision of the works, services and supplies are laid down in the framework agreement, through reopening competition amongst the economic operators parties to the framework agreement.	b) where not all the terms governing the provision of the works, services and supplies are laid down in the framework agreement, the contract shall be awarded through reopening competition amongst the economic operators parties to the framework agreement. The choice between the methods set out in subparagraphs (a) and (b) shall be based on objective criteria informed by the principles of non-discrimination and transparency. For any given framework agreement it shall be possible to choose between the methods in points (a) and (b) or a combination of those methods.

Reason

The Directive does not clarify how framework agreements are to be applied. This is notably the case with regard to implementing and choosing between direct awarding of contracts or reopening competition. To make implementation flexible, it should be possible to use a combination of these methods, so that the terms and conditions set can be referred to directly in the case of smaller contracts, while allowing for a competition to be reopened with the same framework agreement in the case of larger contracts.

Amendment 15

COM(2011) 896 final

Article 37

Occasional joint procurement

Text proposed by the Commission	CoR amendment
1. One or more contracting authorities may agree to perform certain specific procurements jointly.	1. One or more contracting authorities may agree to perform certain specific procurements jointly.
2. Where one contracting authority alone conducts the procurement procedures concerned in all its stages from the publication of the call for competition to the end of the performance of the ensuing contract or contracts, that contracting authority shall have sole responsibility for fulfilling the obligations pursuant to this Directive.	2. Where one contracting authority alone conducts the procurement procedures concerned in all its stages from the publication of the call for competition to the end of the performance of the ensuing contract or contracts, that contracting authority shall have sole responsibility for fulfilling the obligations pursuant to this Directive.
However, where the conduct of the procurement procedures and the performance of the ensuing contracts is carried out by more than one of the participating contracting authorities, each shall continue to be responsible for fulfilling its obligations pursuant to this Directive in respect of the stages it conducts.	However, where the conduct of the procurement procedures and the performance of the ensuing contracts is carried out by more than one of the participating contracting authorities, each shall continue to be responsible for fulfilling its obligations pursuant to this Directive in respect of the stages it conducts.
	3. Contracting authorities may engage in occasional joint procurement without applying the procedures provided for in this Directive, including where one or more of them is remunerated by the others for so doing.

Reason

This addition ensures that joint procurement is not unnecessarily onerous. The same principle should apply for occasional cooperation as for central purchasing bodies (see Article 35(5)).

Amendment 16

COM(2011) 895 final

Article 54

COM(2011) 896 final

Article 40

Text proposed by the Commission	CoR amendment
1. The technical specifications as defined in point 1 of Annex VIII shall be set out in the procurement documents. They shall define the characteristics required of a works, service or supply.	1. The technical specifications as defined in point 1 of Annex VIII shall be set out in the procurement documents. They shall define the characteristics required of a works, service or supply.
These characteristics may also refer to the specific process of production or provision of the requested works, supplies or services or of any other stage of its life cycle as referred to in point (22) of Article 2.	These characteristics may also refer to the specific process of production or provision of the requested works, supplies or services or of any other stage of its life cycle as referred to in point (22) of Article 2.
The technical specifications shall also specify whether the transfer of intellectual property rights will be required.	The technical specifications shall also specify whether the transfer of intellectual property rights will be required.
For all procurement the subject of which is intended for use by persons, whether general public or staff of the contracting authority, those technical specifications shall, except in duly justified cases, be drawn up so as to take into account accessibility criteria for people with disabilities or design for all users.	~~For all procurement the subject of which is intended for use by persons, whether general public or staff of the contracting authority, those technical specifications shall, except in duly justified cases, be drawn up so as to take into account accessibility criteria for people with disabilities or design for all users.~~ Whenever possible these technical specifications should be defined so as to take into account accessibility criteria for people with disability or design for all users.
Where mandatory accessibility standards are adopted by a legislative act of the Union, technical specifications shall, as far as accessibility criteria are concerned, be defined by reference thereto.	Where mandatory accessibility standards are adopted by a legislative act of the Union, technical specifications shall, as far as accessibility criteria are concerned, be defined by reference thereto.

Reason

The proposed text goes much too far, in view of the major variations that exist in procurement procedures. Moreover, provisions of this kind are often included in national building standards. The text of the current Article 23(1) of Directive 2004/18/EC and Article 34(1) of Directive 2004/17/EC should be retained.

Amendment 17

COM(2011) 896 final

Article 44

Division of contracts into lots

Text proposed by the Commission	CoR amendment
1. Public contracts may be subdivided into homogenous or heterogeneous lots. For contracts with a value equal to or greater than the thresholds provided for in Article 4 but not less than EUR 500 000, determined in accordance with	1. Public contracts may be subdivided into homogenous or heterogeneous lots. ~~For contracts with a value equal to or greater than the thresholds provided for in Article 4 but not less than EUR 500 000, determined in accordance with~~

Text proposed by the Commission	CoR amendment
Article 5, where the contracting authority does not deem it appropriate to split into lots, it shall provide in the contract notice or in the invitation to confirm interest a specific explanation of its reasons.	Article 5, where the contracting authority does not deem it appropriate to split into lots, it shall provide in the contract notice or in the invitation to confirm interest a specific explanation of its reasons.
Contracting authorities shall indicate, in the contract notice or in the invitation to confirm interest, whether tenders are limited to one or more lots only.	~~Contracting authorities shall indicate, in the contract notice or in the invitation to confirm interest, whether tenders are limited to one or more lots only.~~

Reason

This imposes an unnecessary administrative burden on the contracting authorities and should therefore be deleted.

Amendment 18

COM(2011) 896 final

Article 54(2)

Text proposed by the Commission	CoR amendment
Article 54	*Article 54*
Contracting authorities may decide not to award a contract to the tenderer submitting the best tender where they have established that the tender does not comply, at least in an equivalent manner, with obligations established by Union legislation in the field of social and labour law or environmental law or of the international social and environmental law provisions listed in Annex XI.	Contracting authorities may decide not to award a contract to the tenderer submitting the best tender where they have established that the tender does not comply, at least in an equivalent manner, with obligations established by Union and national legislation in the field of social and labour law or environmental law or of the international social and environmental law provisions listed in Annex XI.

Reason

Tenderers must comply with national as well as EU legislation.

Amendment 19

COM(2011) 896 final

Article 55(3)

Text proposed by the Commission	CoR amendment
Article 55	*Article 55*
In order to apply the ground for exclusion referred to in point (d) of the first subparagraph, contracting authorities shall provide a method for the assessment of contractual performance that is based on objective and measurable criteria and applied in a systematic, consistent and transparent way. Any performance assessment shall be communicated to the contractor in question, which shall be given the opportunity to object to the findings and to obtain judicial protection.	~~In order to apply the ground for exclusion referred to in point (d) of the first subparagraph, contracting authorities shall provide a method for the assessment of contractual performance that is based on objective and measurable criteria and applied in a systematic, consistent and transparent way. Any performance assessment shall be communicated to the contractor in question, which shall be given the opportunity to object to the findings and to obtain judicial protection.~~

Reason

The explanation given in the last paragraph of Article 55(3) is unintelligible and thus reduces legal certainty, which would result in more actions being brought. The paragraph also introduces new obligations for contracting authorities which should be cut in order to avoid extra red tape.

Amendment 20

COM(2011) 895 final

Article 76

COM(2011) 896 final

Article 66

Contract award criteria

Text proposed by the Commission	CoR amendment
1. Without prejudice to national laws, regulations or administrative provisions concerning the remuneration of certain services, the criteria on which contracting authorities shall base the award of public contracts shall be one of the following:	1. Without prejudice to national laws, regulations or administrative provisions concerning the remuneration of certain services, the criteria on which contracting authorities shall base the award of public contracts shall be one of the following:
(a) the most economically advantageous tender;	(a) the most economically advantageous tender;
(b) the lowest cost.	(b) the lowest ~~cost~~ price.
Costs may be assessed, on the choice of the contracting authority, on the basis of the price only or using a cost-effectiveness approach, such as a life-cycle costing approach, under the conditions set out in Article 67.	~~Costs may be assessed, on the choice of the contracting authority, on the basis of the price only or using a cost-effectiveness approach, such as a life-cycle costing approach, under the conditions set out in Article 67.~~
2. The most economically advantageous tender referred to in point (a) of paragraph 1 from the point of view of the contracting authority shall be identified on the basis of criteria linked to the subject-matter of the public contract in question. Those criteria shall include, in addition to the price or costs referred to in point (b) of paragraph 1, other criteria linked to the subject-matter of the public contract in question, such as:	2. The most economically advantageous tender referred to in point (a) of paragraph 1 from the point of view of the contracting authority shall be identified on the basis of criteria linked to the subject-matter of the public contract in question. Those criteria shall include, in addition to the price ~~or costs referred to in point (b) of paragraph 1~~, other criteria linked to the subject-matter of the public contract in question, such as:
(a) quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, environmental characteristics and innovative character;	(a) quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, environmental characteristics and innovative character and short production circuits;
(b) for service contracts and contracts involving the design of works, the organisation, qualification and experience of the staff assigned to performing the contract in question may be taken into consideration, with the consequence that, following the award of the contract, such staff may only be replaced with the consent of the contracting authority, which must verify that replacements ensure equivalent organisation and quality;	(b) for service contracts and contracts involving the design of works, the organisation, qualification and experience of the staff assigned to performing the contract in question may be taken into consideration, with the consequence that, following the award of the contract, such staff may only be replaced with the consent of the contracting authority, which must verify that replacements ensure equivalent organisation and quality;
(c) after-sales service and technical assistance, delivery date and delivery period or period of completion;	(c) after-sales service and technical assistance, delivery date and delivery period or period of completion;

Text proposed by the Commission	CoR amendment
(d) the specific process of production or provision of the requested works, supplies or services or of any other stage of its life cycle as referred to in point (22) of Article 2, to the extent that those criteria are specified in accordance with paragraph 4 and they concern factors directly involved in these processes and characterise the specific process of production or provision of the requested works, supplies or services.	(d) the specific process of production or provision of the requested works, supplies or services or of any other stage of its life cycle as referred to in point (22) of Article 2, to the extent that those criteria are specified in accordance with paragraph 4 and they concern factors directly involved in these processes and characterise the specific process of production or provision of the requested works, supplies or services. (e) criteria related to social considerations.

Reason

It is positive that contracting authorities can choose between the most economically advantageous tender and the lowest cost. However, the term used in the current directive – "lowest price" – should be retained, because "lowest cost" indicates that factors other than the price will be considered, as cost is a broader term than price. The "most economically advantageous tender" criterion is the one to use if other parameters such as life-cycle costs are to be taken into account.

In some cases, the contracting authority indicates the price they will pay in the tender documentation, and it must be made absolutely clear that this is an option.

The reason for including the short production criterion is to give contracting authorities added value for certain products and services. This added value consists of the fact that short production circuits usually enable products and services to reach purchasing bodies more quickly, with faster and more flexible adaptation to their requirements. In addition, the criterion also makes for a convincing improvement in environmental standards (shorter transport and storage times, less emissions), which will ultimately benefit both purchasing bodies and the public. Thus, purchasing bodies would have the option of including in their award criteria parameters giving broader indications in certain categories regarding the tender of a particular economic operator, which may meet the public procurement requirements even better.

It should also be expressly permitted to consider social criteria, for example by awarding bonus points for a corporate equal opportunities policy for employees, and for recruiting more long-term unemployed people.

Amendment 21

COM(2011) 896 final

Article 66(3)

Text proposed by the Commission	CoR amendment
Article 66	*Article 66*
Member States may provide that the award of certain types of contracts shall be based on the most economically advantageous tender referred to in point (a) of paragraph 1 and in paragraph 2.	~~Member States may provide that the award of certain types of contracts shall be based on the most economically advantageous tender referred to in point (a) of paragraph 1 and in paragraph 2.~~

Reason

The purpose of modernising public procurement is to provide contracting authorities and tenderers with as much flexibility as possible. Contracting authorities must therefore be able to decide themselves whether they grant contracts based on the most economically advantageous tender or on the lowest price. Member States should not anticipate the needs of local authorities in this regard. If a contract can no longer be awarded based on the lowest price, this would significantly limit opportunities for small companies to compete. Article 66(3) should therefore be deleted.

Amendment 22

COM(2011) 895 final

Article 76(4)

COM(2011) 896 final

Article 66(4)

Contract award criteria

Text proposed by the Commission	CoR amendment
4. Award criteria shall not confer an unrestricted freedom of choice on the contracting authority. They shall ensure the possibility of effective competition and shall be accompanied by requirements that allow the information provided by the tenderers to be effectively verified. Contracting authorities shall verify effectively, on the basis of the information and proof provided by the tenderers, whether the tenders meet the award criteria.	~~4. Award criteria shall not confer an unrestricted freedom of choice on the contracting authority. They shall ensure the possibility of effective competition and shall be accompanied by requirements that allow the information provided by the tenderers to be effectively verified. Contracting authorities shall verify effectively, on the basis of the information and proof provided by the tenderers, whether the tenders meet the award criteria.~~

Reason

This provision is unnecessary and adds nothing new, and should therefore be deleted. The substance of the provision is already covered by the general principles.

Amendment 23

COM(2011) 896 final

Article 73(a)

Text proposed by the Commission	CoR amendment
(a) the exceptions provided for in Article 11 cease to apply following a private participation in the legal person awarded the contract pursuant to Article 11(4);	~~(a) the exceptions provided for in Article 11 cease to apply following a private participation in the legal person awarded the contract pursuant to Article 11(4);~~

Reason

Consequential amendment to the Commission text following deletion of Article 11(5) of COM(2011) 896 final and Article 21(5) of COM(2011) 895 final (Amendment 7). This situation can no longer apply after the award of the contract.

Amendment 24

COM(2011) 895 final

Article 77

COM(2011) 896 final

Article 67

Life-cycle costing

Text proposed by the Commission	CoR amendment
3. Whenever a common methodology for the calculation of life-cycle costs is adopted as part of a legislative act of the Union, including by delegated acts pursuant to sector specific legislation, it shall be applied where life-cycle costing is included in the award criteria referred to in Article 76 (1).	~~3. Whenever a common methodology for the calculation of life-cycle costs is adopted as part of a legislative act of the Union, including by delegated acts pursuant to sector specific legislation, it shall be applied where life-cycle costing is included in the award criteria referred to in Article 76 (1).~~

Text proposed by the Commission	CoR amendment
A list of such legislative and delegated acts is set out in Annex XV. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 concerning the update of this list, when on the basis of the adoption of new legislation, repeal or modification of such legislation, such amendments prove necessary.	~~A list of such legislative and delegated acts is set out in Annex XV. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 concerning the update of this list, when on the basis of the adoption of new legislation, repeal or modification of such legislation, such amendments prove necessary.~~

Reason

The Committee of the Regions supports the Europe 2020 strategy goals and acknowledges the importance of a sustainable, socially responsible and pro-innovation public procurement process. It is also a good thing that the Commission is encouraging contracting authorities to take account of life-cycle costs. A great deal of work is under way in this field, but much still remains to be done, and the Committee feels that the requirement to use EU methods in this case is too far-reaching in the current circumstances.

Amendment 25

COM(2011) 895 final

Article 79

COM(2011) 896 final

Article 69

Abnormally low tenders

Text proposed by the Commission	CoR amendment
1. Contracting authorities shall require economic operators to explain the price or costs charged, where all of the following conditions are fulfilled:	~~1. Contracting authorities shall require economic operators to explain the price or costs charged, where all of the following conditions are fulfilled:~~
(a) the price or cost charged is more than 50 % lower than the average price or costs of the remaining tenders;	~~(a) the price or cost charged is more than 50 % lower than the average price or costs of the remaining tenders;~~
(b) the price or cost charged is more than 20 % lower than the price or costs of the second lowest tender;	~~(b) the price or cost charged is more than 20 % lower than the price or costs of the second lowest tender;~~
(c) at least five tenders have been submitted.	~~(c) at least five tenders have been submitted.~~
	1. If, for a given contract, tenders appear to be abnormally low in relation to the goods, works or services, the contracting authority shall, before it may reject those tenders, request in writing details of the constituent elements of the tender which it considers relevant. Those details may relate in particular to:
	(a) the economics of the construction method, the manufacturing process or the services provided;
	(b) the technical solutions chosen and/or any exceptionally favourable conditions available to the tenderer for the execution of the work or for the supply of the goods or services;
	(c) the originality of the work, supplies or services proposed by the tenderer;

Text proposed by the Commission	CoR amendment
	(d) compliance with the provisions relating to employment protection and working conditions in force at the place where the work, service or supply is to be performed;
	(e) the possibility of the tenderer obtaining State aid.
	2. The contracting authority shall verify those constituent elements by consulting the tenderer, taking account of the evidence supplied.
	3. Where a contracting authority establishes that a tender is abnormally low because the tenderer has obtained State aid, the tender can be rejected on that ground alone only after consultation with the tenderer where the latter is unable to prove, within a sufficient time limit fixed by the contracting authority, that the aid in question was granted legally. Where the contracting authority rejects a tender in these circumstances, it shall inform the Commission of that fact.
2. Where tenders appear to be abnormally low for other reasons, contracting authorities may also request such explanations.	~~2~~ 4. Where tenders appear to be abnormally low for other reasons, contracting authorities may also request such explanations.
3. The explanations referred to in paragraphs 1 and 2 may in particular relate to:	~~3. The explanations referred to in paragraphs 1 and 2 may in particular relate to~~
(a) the economics of the construction method, the manufacturing process or the services provided;	~~(a) the economics of the construction method, the manufacturing process or the services provided;~~
(b) the technical solutions chosen or any exceptionally favourable conditions available to the tenderer for the execution of the work or for the supply of the goods or services;	~~(b) the technical solutions chosen or any exceptionally favourable conditions available to the tenderer for the execution of the work or for the supply of the goods or services;~~
(c) the originality of the work, supplies or services proposed by the tenderer;	~~(c) the originality of the work, supplies or services proposed by the tenderer;~~
(d) compliance, at least in an equivalent manner, with obligations established by Union legislation in the field of social and labour law or environmental law or of the international social and environmental law provisions listed in Annex XI or, where not applicable, with other provisions ensuring an equivalent level of protection;	~~(d) compliance, at least in an equivalent manner, with obligations established by Union legislation in the field of social and labour law or environmental law or of the international social and environmental law provisions listed in Annex XI or, where not applicable, with other provisions ensuring an equivalent level of protection;~~
(e) the possibility of the tenderer obtaining State aid.	~~(e) the possibility of the tenderer obtaining State aid.~~
4. The contracting authority shall verify the information provided by consulting the tenderer. It may only reject the tender where the evidence does not justify the low level of price or costs charged, taking into account the elements referred to in paragraph 3.	~~4. The contracting authority shall verify the information provided by consulting the tenderer. It may only reject the tender where the evidence does not justify the low level of price or costs charged, taking into account the elements referred to in paragraph 3.~~
Contracting authorities shall reject the tender, where they have established that the tender is abnormally low because it does not comply with obligations established by Union legislation in the field of social and labour law or environmental law or by the international social and environmental law provisions listed in Annex XI.	~~Contracting authorities shall reject the tender, where they have established that the tender is abnormally low because it does not comply with obligations established by Union legislation in the field of social and labour law or environmental law or by the international social and environmental law provisions listed in Annex XI.~~

Text proposed by the Commission	CoR amendment
5. Where a contracting authority establishes that a tender is abnormally low because the tenderer has obtained State aid, the tender may be rejected on that ground alone only after consultation with the tenderer where the latter is unable to prove, within a sufficient time limit fixed by the contracting authority, that the aid in question was compatible with the internal market within the meaning of Article 107 of the Treaty. Where the contracting authority rejects a tender in those circumstances, it shall inform the Commission thereof.	~~5. Where a contracting authority establishes that a tender is abnormally low because the tenderer has obtained State aid, the tender may be rejected on that ground alone only after consultation with the tenderer where the latter is unable to prove, within a sufficient time limit fixed by the contracting authority, that the aid in question was compatible with the internal market within the meaning of Article 107 of the Treaty. Where the contracting authority rejects a tender in those circumstances, it shall inform the Commission thereof.~~
6. Upon request, Member States shall make available to other Member States, in accordance with Article 88, any information relating to the evidence and documents produced in relation to details listed in paragraph 3.	~~6. Upon request, Member States shall make available to other Member States, in accordance with Article 88, any information relating to the evidence and documents produced in relation to details listed in paragraph 3.~~

Reason

The Committee of the Regions prefers the wording in Article 55 of the current Directive 2004/18/EC on abnormally low tenders, because the proposed text would impose an administrative burden both on contracting authorities and on suppliers. The proposed text also reduces the contracting authority's room for manoeuvre in this field, which is unfortunate.

Amendment 26

COM(2011) 895 final

Article 81

COM(2011) 896 final

Article 71

Subcontracting

Text proposed by the Commission	CoR amendment
1. In the procurement documents, the contracting authority may ask or may be required by a Member State to ask the tenderer to indicate in its tender any share of the contract it may intend to subcontract to third parties and any proposed subcontractors.	~~1. In the procurement documents, the contracting authority may ask or may be required by a Member State to ask the tenderer to indicate in its tender any share of the contract it may intend to subcontract to third parties and any proposed subcontractors.~~
2. Member States may provide that at the request of the subcontractor and where the nature of the contract so allows, the contracting authority shall transfer due payments directly to the subcontractor for services, supplies or works provided to the main contractor. In such case, Member States shall put in place appropriate mechanisms permitting the main contractor to object to undue payments. The arrangements concerning that mode of payment shall be set out in the procurement documents.	~~2. Member States may provide that at the request of the subcontractor and where the nature of the contract so allows, the contracting authority shall transfer due payments directly to the subcontractor for services, supplies or works provided to the main contractor. In such case, Member States shall put in place appropriate mechanisms permitting the main contractor to object to undue payments. The arrangements concerning that mode of payment shall be set out in the procurement documents.~~
3. Paragraphs 1 and 2 shall be without prejudice to the question of the principal economic operator's liability.	~~3. Paragraphs 1 and 2 shall be without prejudice to the question of the principal economic operator's liability.~~

Reason

The relationship between contractors and subcontractors falls under competition law and national contract law, which should not be affected by this directive.

This provision would also create legal uncertainty, because a subcontractor that carries out work for the contracting authority for payment is a contractor, not a subcontractor. In addition, these provisions may restrict the contracting authority's ability to withhold payment until the work has been completed in accordance with the contract.

Amendment 27

COM(2011) 895 final

Article 82

COM(2011) 896 final

Article 72

Modification of contracts during their term

Text proposed by the Commission	CoR amendment
1. A substantial modification of the provisions of a public contract during its term shall be considered as a new award for the purposes of this Directive and shall require a new procurement procedure in accordance with this Directive.	~~1. A substantial modification of the provisions of a public contract during its term shall be considered as a new award for the purposes of this Directive and shall require a new procurement procedure in accordance with this Directive.~~
2. A modification of a contract during its term shall be considered substantial within the meaning of paragraph 1, where it renders the contract substantially different from the one initially concluded. In any case, without prejudice to paragraph 3 and 4, a modification shall be considered substantial where one of the following conditions is met:	~~2. A modification of a contract during its term shall be considered substantial within the meaning of paragraph 1, where it renders the contract substantially different from the one initially concluded. In any case, without prejudice to paragraph 3 and 4, a modification shall be considered substantial where one of the following conditions is met:~~
(a) the modification introduces conditions which, had they been part of the initial procurement procedure, would have allowed for the selection of other candidates than those initially selected or would have allowed for awarding the contract to another tenderer;	~~(a) the modification introduces conditions which, had they been part of the initial procurement procedure, would have allowed for the selection of other candidates than those initially selected or would have allowed for awarding the contract to another tenderer;~~
(b) the modification changes the economic balance of the contract in favour of the contractor;	~~(b) the modification changes the economic balance of the contract in favour of the contractor;~~
(c) the modification extends the scope of the contract considerably to encompass supplies, services or works not initially covered.	~~(c) the modification extends the scope of the contract considerably to encompass supplies, services or works not initially covered.~~
3. The replacement of the contractual partner shall be considered a substantial modification within the meaning of paragraph 1.	~~3. The replacement of the contractual partner shall be considered a substantial modification within the meaning of paragraph 1.~~
However, the first subparagraph shall not apply in the event of universal or partial succession into the position of the initial contractor, following corporate restructuring operations or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive.	~~However, the first subparagraph shall not apply in the event of universal or partial succession into the position of the initial contractor, following corporate restructuring operations or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive.~~

Text proposed by the Commission	CoR amendment
4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below 5 % of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.	~~4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below 5 % of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.~~
5. Contract modifications shall not be considered substantial within the meaning of paragraph 1 where they have been provided for in the procurement documents in clear, precise and unequivocal review clauses or options. Such clauses shall state the scope and nature of possible modifications or options as well as the conditions under which they may be used. They shall not provide for modifications or options that would alter the overall nature of the contract.	~~5. Contract modifications shall not be considered substantial within the meaning of paragraph 1 where they have been provided for in the procurement documents in clear, precise and unequivocal review clauses or options. Such clauses shall state the scope and nature of possible modifications or options as well as the conditions under which they may be used. They shall not provide for modifications or options that would alter the overall nature of the contract.~~
6. By way of derogation from paragraph 1, a substantial modification shall not require a new procurement procedure where the following cumulative conditions are fulfilled:	~~6. By way of derogation from paragraph 1, a substantial modification shall not require a new procurement procedure where the following cumulative conditions are fulfilled:~~
(a) the need for modification has been brought about by circumstances which a diligent contracting authority could not foresee;	~~(a) the need for modification has been brought about by circumstances which a diligent contracting authority could not foresee;~~
(b) the modification does not alter the overall nature of the contract;	~~(b) the modification does not alter the overall nature of the contract;~~
(c) any increase in price is not higher than 50 % of the value of the original contract.	~~(c) any increase in price is not higher than 50 % of the value of the original contract.~~
Contracting authorities shall publish in the *Official Journal of the European Union* a notice on such modifications. Such notices shall contain the information set out in Annex VI part G and be published in accordance with Article 49.	~~Contracting authorities shall publish in the *Official Journal of the European Union* a notice on such modifications. Such notices shall contain the information set out in Annex VI part G and be published in accordance with Article 49.~~
7. Contracting authorities shall not have recourse to modifications of the contract in the following cases:	~~7. Contracting authorities shall not have recourse to modifications of the contract in the following cases:~~
(a) where the modification would aim at remedying deficiencies in the performance of the contractor or the consequences, which can be remedied through the enforcement of contractual obligations;	~~(a) where the modification would aim at remedying deficiencies in the performance of the contractor or the consequences, which can be remedied through the enforcement of contractual obligations;~~
(b) where the modification would aim at compensating risks of price increases that have been hedged by the contractor.	~~(b) where the modification would aim at compensating risks of price increases that have been hedged by the contractor.~~

Reason

The current directives include procedural rules for carrying out procurement. They do not include provisions on the modification of contracts during their term, and nor should the new directives, as these provisions impose an unnecessary administrative burden on contracting authorities and reduce flexibility. If the Commission wants to provide information on case law in this area, an interpretative communication would be a better medium.

Amendment 28

COM(2011) 896 final

Article 83

Text proposed by the Commission	CoR amendment
Article 83	*Article 83*
In conformity with Council Directive 89/665/EEC, Member States shall ensure correct application of this Directive by effective, available and transparent mechanisms which complement the system in place for the review of decisions taken by contracting authorities.	~~In conformity with Council Directive 89/665/EEC, Member States shall ensure correct application of this Directive by effective, available and transparent mechanisms which complement the system in place for the review of decisions taken by contracting authorities.~~

Reason

It is unnecessary to mention in a Directive that it is to be applied correctly. Existing systems for monitoring the decisions of contracting authorities are adequate. In the interests of simplification and flexibility, no superfluous systems should be created.

Amendment 29

COM(2011) 895 final

Article 93

COM(2011) 896 final

Article 84

Text proposed by the Commission	CoR amendment
Public oversight	~~**Public oversight**~~
1. Member States shall appoint a single independent body responsible for the oversight and coordination of implementation activities (hereinafter 'the oversight body'). Member States shall inform the Commission of their designation.	~~1. Member States shall appoint a single independent body responsible for the oversight and coordination of implementation activities (hereinafter 'the oversight body'). Member States shall inform the Commission of their designation.~~
All contracting authorities shall be subject to such oversight.	~~All contracting authorities shall be subject to such oversight.~~
2. The competent authorities involved in the implementation activities shall be organised in such a manner that conflicts of interests are avoided. The system of public oversight shall be transparent. For this purpose, all guidance and opinion documents and an annual report illustrating the implementation and application of rules laid down in this Directive shall be published.	~~2. The competent authorities involved in the implementation activities shall be organised in such a manner that conflicts of interests are avoided. The system of public oversight shall be transparent. For this purpose, all guidance and opinion documents and an annual report illustrating the implementation and application of rules laid down in this Directive shall be published.~~
The annual report shall include the following:	~~The annual report shall include the following:~~
(a) an indication of the success rate of small and medium-sized enterprises (SMEs) in public procurement; where the percentage is lower than 50 % in terms of values of contracts awarded to SMEs, the report shall provide an analysis of the reasons therefore;	~~(a) an indication of the success rate of small and medium-sized enterprises (SMEs) in public procurement; where the percentage is lower than 50 % in terms of values of contracts awarded to SMEs, the report shall provide an analysis of the reasons therefore;~~
(b) a global overview of the implementation of sustainable procurement policies, including on procedures taking into account considerations linked to the protection of the environment, social inclusion including accessibility for persons with disabilities or fostering innovation;	~~(b) a global overview of the implementation of sustainable procurement policies, including on procedures taking into account considerations linked to the protection of the environment, social inclusion including accessibility for persons with disabilities, or fostering innovation;~~

Text proposed by the Commission	CoR amendment
(c) information on the monitoring and follow-up of breaches to procurement rules affecting the budget of the Union in accordance with paragraphs 3 to 5 of the present article;	~~(c) information on the monitoring and follow-up of breaches to procurement rules affecting the budget of the Union in accordance with paragraphs 3 to 5 of the present article;~~
(d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union.	~~(d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union.~~
3 The oversight body shall be responsible for the following tasks:	~~3 The oversight body shall be responsible for the following tasks:~~
(a) monitoring the application of public procurement rules and the related practice by contracting authorities and in particular by central purchasing bodies;	~~(a) monitoring the application of public procurement rules and the related practice by contracting authorities and in particular by central purchasing bodies;~~
(b) providing legal advice to contracting authorities on the interpretation of public procurement rules and principles and on the application of public procurement rules in specific cases;	~~(b) providing legal advice to contracting authorities on the interpretation of public procurement rules and principles and on the application of public procurement rules in specific cases;~~
(c) issuing own-initiative opinions and guidance on questions of general interest pertaining to the interpretation and application of public procurement rules, on recurring questions and on systemic difficulties related to the application of public procurement rules, in the light of the provisions of this Directive and of the relevant case-law of the Court of Justice of the European Union;	~~(c) issuing own-initiative opinions and guidance on questions of general interest pertaining to the interpretation and application of public procurement rules, on recurring questions and on systemic difficulties related to the application of public procurement rules, in the light of the provisions of this Directive and of the relevant case-law of the Court of Justice of the European Union;~~
(d) establishing and applying comprehensive, actionable 'red flag' indicator systems to prevent, detect and adequately report instances of procurement fraud, corruption, conflict of interest and other serious irregularities;	~~(d) establishing and applying comprehensive, actionable 'red flag' indicator systems to prevent, detect and adequately report instances of procurement fraud, corruption, conflict of interest and other serious irregularities;~~
(e) drawing the attention of the national competent institutions, including auditing authorities, to specific violations detected and to systemic problems;	~~(e) drawing the attention of the national competent institutions, including auditing authorities, to specific violations detected and to systemic problems;~~
(f) examining complaints from citizens and businesses on the application of public procurement rules in specific cases and transmitting the analysis to the competent contracting authorities, which shall have the obligation to take it into account in their decisions or, where the analysis is not followed, to explain the reasons for disregarding it;	~~(f) examining complaints from citizens and businesses on the application of public procurement rules in specific cases and transmitting the analysis to the competent contracting authorities, which shall have the obligation to take it into account in their decisions or, where the analysis is not followed, to explain the reasons for disregarding it;~~
(g) monitoring the decisions taken by national courts and authorities following a ruling given by the Court of Justice of the European Union on the basis of Article 267 of the Treaty or findings of the European Court of Auditors establishing violations of Union public procurement rules related to projects cofinanced by the Union; the oversight body shall report to the European Anti-Fraud Office any infringement to Union procurement procedures where these were related to contracts directly or indirectly funded by the European Union.	~~(g) monitoring the decisions taken by national courts and authorities following a ruling given by the Court of Justice of the European Union on the basis of Article 267 of the Treaty or findings of the European Court of Auditors establishing violations of Union public procurement rules related to projects cofinanced by the Union; the oversight body shall report to the European Anti-Fraud Office any infringement to Union procurement procedures where these were related to contracts directly or indirectly funded by the European Union.~~

Text proposed by the Commission	CoR amendment
The tasks referred to in point (e) shall be without prejudice to the exercise of rights of appeal under national law or under the system established on the basis of directive 89/665/EEC.	~~The tasks referred to in point (e) shall be without prejudice to the exercise of rights of appeal under national law or under the system established on the basis of directive 89/665/EEC.~~
Member States shall empower the oversight body to seize the jurisdiction competent according to national law for the review of contracting authorities' decisions where it has detected a violation in the course of its monitoring and legal advising activity.	~~Member States shall empower the oversight body to seize the jurisdiction competent according to national law for the review of contracting authorities' decisions where it has detected a violation in the course of its monitoring and legal advising activity.~~
4. Without prejudice to the general procedures and working methods established by the Commission for its communications and contacts with Member States, the oversight body shall act as a specific contact point for the Commission when it monitors the application of Union law and the implementation of the budget from the Union on the basis of Article 17 of the Treaty on the European Union and Article 317 of the Treaty on the Functioning of the European Union. It shall report to the Commission any violation of this Directive in procurement procedures for the award of contracts directly or indirectly funded by the Union.	~~4. Without prejudice to the general procedures and working methods established by the Commission for its communications and contacts with Member States, the oversight body shall act as a specific contact point for the Commission when it monitors the application of Union law and the implementation of the budget from the Union on the basis of Article 17 of the Treaty on the European Union and Article 317 of the Treaty on the Functioning of the European Union. It shall report to the Commission any violation of this Directive in procurement procedures for the award of contracts directly or indirectly funded by the Union.~~
The Commission may in particular refer to the oversight body the treatment of individual cases where a contract is not yet concluded or a review procedure can still be carried out. It may also entrust the oversight body with the monitoring activities necessary to ensure the implementation of the measures to which Member States are committed in order to remedy a violation of Union public procurement rules and principles identified by the Commission.	~~The Commission may in particular refer to the oversight body the treatment of individual cases where a contract is not yet concluded or a review procedure can still be carried out. It may also entrust the oversight body with the monitoring activities necessary to ensure the implementation of the measures to which Member States are committed in order to remedy a violation of Union public procurement rules and principles identified by the Commission.~~
The Commission may require the oversight body to analyse alleged breaches to Union public procurement rules affecting projects co-financed by the budget of the Union. The Commission may entrust the oversight body to follow-up certain cases and to ensure that the appropriate consequences of breaches to Union public procurement rules affecting projects co-financed are taken by the competent national authorities which will be obliged to follow its instructions.	~~The Commission may require the oversight body to analyse alleged breaches to Union public procurement rules affecting projects co-financed by the budget of the Union. The Commission may entrust the oversight body to follow-up certain cases and to ensure that the appropriate consequences of breaches to Union public procurement rules affecting projects co-financed are taken by the competent national authorities which will be obliged to follow its instructions.~~
5. The investigation and enforcement activities carried out by the oversight body to ensure that contracting authorities' decisions comply with this Directive and the principles of the Treaty shall not replace or prejudge the institutional role of the Commission as guardian of the Treaty. When the Commission decides to refer the treatment of an individual case pursuant to paragraph 4, it shall also retain the right to intervene in accordance with the powers conferred to it by the Treaty.	~~5. The investigation and enforcement activities carried out by the oversight body to ensure that contracting authorities' decisions comply with this Directive and the principles of the Treaty shall not replace or prejudge the institutional role of the Commission as guardian of the Treaty. When the Commission decides to refer the treatment of an individual case pursuant to paragraph 4, it shall also retain the right to intervene in accordance with the powers conferred to it by the Treaty.~~
6. Contracting authorities shall transmit to the national oversight body the full text of all concluded contracts with a value equal to or greater than	~~6. Contracting authorities shall transmit to the national oversight body the full text of all concluded contracts with a value equal to or greater than~~
(a) EUR 1 000 000 in the case of public supply contracts or public service contracts;	~~(a) EUR 1 000 000 in the case of public supply contracts or public service contracts;~~

Text proposed by the Commission	CoR amendment
(b) EUR 10 000 000 in the case of public works contracts.	~~(b) EUR 10 000 000 in the case of public works contracts.~~
7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, upon written request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.	~~7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, upon written request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.~~
Access to the parts that may be released shall be given within a reasonable delay and no later than 45 days from the date of the request.	~~Access to the parts that may be released shall be given within a reasonable delay and no later than 45 days from the date of the request.~~
The applicants filing a request for access to a contract shall not need to show any direct or indirect interest related to that particular contract. The recipient of information should be allowed to make it public.	~~The applicants filing a request for access to a contract shall not need to show any direct or indirect interest related to that particular contract. The recipient of information should be allowed to make it public.~~
8. A summary of all the activities carried out by the oversight body in accordance with paragraphs 1 to 7 shall be included in the annual report mentioned in paragraph 2.	~~8. A summary of all the activities carried out by the oversight body in accordance with paragraphs 1 to 7 shall be included in the annual report mentioned in paragraph 2.~~

Reason

The requirement to set up national oversight bodies and to send contracts to them is a clear infringement of the subsidiarity principle. It is up to the Member States to organise their own public administration. Monitoring of compliance with procurement rules at national level is a matter for the national courts, oversight bodies and audit bodies. The rules also create new administrative burdens for contracting authorities.

Amendment 30

COM(2011) 896 final

Article 85, 1st paragraph

Text proposed by the Commission	CoR amendment
Article 85	*Article 85*
For every contract or framework agreement, and every time a dynamic purchasing system is established, contracting authorities shall draw up a written report which shall include at least the following:	~~For every contract or framework agreement, and every time a dynamic purchasing system is established, contracting authorities shall draw up a written report which shall include at least the following:~~
(a) the name and address of the contracting authority, the subject-matter and value of the contract, framework agreement or dynamic purchasing system;	~~(a) the name and address of the contracting authority, the subject-matter and value of the contract, framework agreement or dynamic purchasing system;~~
(b) the names of the successful candidates or tenderers and the reasons for their selection;	~~(b) the names of the successful candidates or tenderers and the reasons for their selection;~~
(c) the names of the candidates or tenderers rejected and the reasons for their rejection;	~~(c) the names of the candidates or tenderers rejected and the reasons for their rejection;~~

Text proposed by the Commission	CoR amendment
(d) the reasons for the rejection of tenders found to be abnormally low;	~~(d) the reasons for the rejection of tenders found to be abnormally low;~~
(e) the name of the successful tenderer and the reasons why its tender was selected and, where known, the share of the contract or framework agreement which the successful tenderer intends to subcontract to third parties;	~~(e) the name of the successful tenderer and the reasons why its tender was selected and, where known, the share of the contract or framework agreement which the successful tenderer intends to subcontract to third parties;~~
(f) for negotiated procedures without prior publication, the circumstances referred to in Article 30 which justify the use of this procedure;	~~(f) for negotiated procedures without prior publication, the circumstances referred to in Article 30 which justify the use of this procedure;~~
(g) where necessary, the reasons why the contracting authority has decided not to award a contract or framework agreement or to establish a dynamic purchasing system	~~(g) where necessary, the reasons why the contracting authority has decided not to award a contract or framework agreement or to establish a dynamic purchasing system~~
(h) where applicable, conflicts of interests detected and subsequent measures taken.	~~(h) where applicable, conflicts of interests detected and subsequent measures taken.~~

Reason

These documentation requirements represent a disproportionate burden for local authorities and serve no purpose. The aim of the reform is precisely to remove superfluous documentation requirements, and not to create new red tape.

Amendment 31

COM(2011) 896 final

Article 85, last two subparagraphs

Individual reports on procedures for the award of contracts

Text proposed by the Commission	CoR amendment
Article 85 **Individual reports on procedures for the award of contracts**	*Article 85* **~~Individual reports on procedures for the award of contracts~~**
The contracting authorities shall document the progress of all procurement procedures, whether or not those are conducted by electronic means. To that end, they shall document all stages in the procurement procedure, including all communications with economic operators and internal deliberations, preparation of the tenders, dialogue or negotiation if any, selection and award of the contract.	~~The contracting authority shall document the progress of all procurement procedures, whether or not those are conducted by electronic means. To that end, they shall document all stages in the procurement procedure, including all communications with economic operators and internal deliberations, preparation of the tenders, dialogue or negotiation if any, selection and award of the contract.~~
The report, or its main elements, shall be communicated to the Commission or to the national oversight body where they so request.	~~The report, or its main elements, shall be communicated to the Commission or to the national oversight body where they so request~~s.

Reason

In the Committee of the Regions' view, the reporting system set out in Article 43 of Directive 2004/18/EC is preferable to the proposed system, and is easier for contracting authorities to administrate.

Amendment 32

COM(2011) 895 final

Article 95

COM(2011) 896 final

Article 86

Text proposed by the Commission	CoR amendment
National reporting and lists of contracting authorities	~~**National reporting and lists of contracting authorities**~~
1. The bodies established or appointed in accordance with Article 84 shall forward to the Commission an implementation and statistical report on each year, based on a standard form, not later than 31 October of the following year.	~~1. The bodies established or appointed in accordance with Article 84 shall forward to the Commission an implementation and statistical report on each year, based on a standard form, not later than 31 October of the following year.~~
2. The report referred to in paragraph 1 shall contain at least the following information:	~~2. The report referred to in paragraph 1 shall contain at least the following information:~~
(a) a complete and up-to-date list of all central government authorities, sub-central contracting authorities and bodies governed by public law, including sub-central authorities and associations of contracting authorities awarding public contracts or framework agreements, indicating for each authority the unique identification number where such number is provided for in national legislation; this list shall be grouped by type of authority;	~~(a) a complete and up-to-date list of all central government authorities, sub-central contracting authorities and bodies governed by public law, including sub-central authorities and associations of contracting authorities awarding public contracts or framework agreements, indicating for each authority the unique identification number where such number is provided for in national legislation; this list shall be grouped by type of authority;~~
(b) a complete and up-to-date list of all central purchasing bodies;	~~(b) a complete and up-to-date list of all central purchasing bodies;~~
(c) for all contracts above the thresholds laid down in Article 4 of this Directive:	~~(c) for all contracts above the thresholds laid down in Article 4 of this Directive:~~
(i) the number and value of contracts awarded broken down for each type of authority by procedure and by works, supplies and services identified by division of the CPV nomenclature;	~~(i) the number and value of contracts awarded broken down for each type of authority by procedure and by works, supplies and services identified by division of the CPV nomenclature;~~
(ii) where the contracts have been concluded under the negotiated procedure without prior publication, the data referred to in point (i) shall also be broken down according to the circumstances referred to in Article 30 and shall specify the number and value of contracts awarded, by Member State and third country of the successful contractor;	~~(ii) where the contracts have been concluded under the negotiated procedure without prior publication, the data referred to in point (i) shall also be broken down according to the circumstances referred to in Article 30 and shall specify the number and value of contracts awarded, by Member State and third country of the successful contractor;~~
(d) for all contracts which fall below the thresholds laid down in Article 4 of this Directive, but would be covered by this Directive if their value exceeded the threshold, the number and value of contracts awarded broken down by each type of authority.	~~(d) for all contracts which fall below the thresholds laid down in Article 4 of this Directive, but would be covered by this Directive if their value exceeded the threshold, the number and value of contracts awarded broken down by each type of authority.~~
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to amend Annex I, in order to update the list of contracting authorities following notifications from Member States, where such amendments prove necessary to correctly identify contracting authorities;	~~3. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to amend Annex I, in order to update the list of contracting authorities following notifications from Member States, where such amendments prove necessary to correctly identify contracting authorities;~~

Text proposed by the Commission	CoR amendment
The Commission may periodically publish the list of bodies governed by public law transmitted according to point (a) of paragraph 2 for information in the *Official Journal of the European Union*.	~~The Commission may periodically publish the list of bodies governed by public law transmitted according to point (a) of paragraph 2 for information in the *Official Journal of the European Union*.~~
4. Member States shall make available to the Commission information on their institutional organisation related to the implementation, monitoring and enforcement of this Directive, as well as on national initiatives taken to provide guidance on or assist in implementation of Union rules on public procurement, or to respond to challenges confronting the implementation of those rules.	~~4. Member States shall make available to the Commission information on their institutional organisation related to the implementation, monitoring and enforcement of this Directive, as well as on national initiatives taken to provide guidance on or assist in implementation of Union rules on public procurement, or to respond to challenges confronting the implementation of those rules.~~
5. The Commission shall establish the standard form for the annual implementation and statistical report referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 91.	~~5. The Commission shall establish the standard form for the annual implementation and statistical report referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 91.~~

Reason

The proposed provisions should be deleted. They would create a great deal of administrative work for the bodies compiling all this information and for the contracting authorities that would have to process it.

Amendment 33

COM(2011) 895 final

Article 96

COM(2011) 896 final

Article 87

Text proposed by the Commission	CoR amendment
Assistance to contracting authorities and businesses	~~**Assistance to contracting authorities and businesses**~~
1. Member States shall make available technical support structures in order to provide legal and economic advice, guidance and assistance to contracting authorities in preparing and carrying out procurement procedures. Member States shall also ensure that each contracting authority can obtain competent assistance and advice on individual questions.	~~1. Member States shall make available technical support structures in order to provide legal and economic advice, guidance and assistance to contracting authorities in preparing and carrying out procurement procedures. Member States shall also ensure that each contracting authority can obtain competent assistance and advice on individual questions.~~
2. With a view to improving access to public procurement for economic operators, in particular SMEs, and in order to facilitate correct understanding of the provisions of this Directive, Member States shall ensure that appropriate assistance can be obtained, including by electronic means or using existing networks dedicated to business assistance.	~~2. With a view to improving access to public procurement for economic operators, in particular SMEs, and in order to facilitate correct understanding of the provisions of this Directive, Member States shall ensure that appropriate assistance can be obtained, including by electronic means or using existing networks dedicated to business assistance.~~
3. Specific administrative assistance shall be available to economic operators intending to participate in a procurement procedure in another Member State. Such assistance shall at least cover administrative requirements in the Member State concerned, as well as possible obligations related to electronic procurement.	~~3. Specific administrative assistance shall be available to economic operators intending to participate in a procurement procedure in another Member State. Such assistance shall at least cover administrative requirements in the Member State concerned, as well as possible obligations related to electronic procurement.~~

Text proposed by the Commission	CoR amendment
Member States shall ensure that interested economic operators have easy access to appropriate information on the obligations relating to taxes, environmental protection, and to social and labour law obligations, which are in force in the Member State, in the region or locality where the works are to be carried out or the services are to be provided and which will be applicable to the works carried out on site or to the services provided during the performance of the contract.	~~Member States shall ensure that interested economic operators have easy access to appropriate information on the obligations relating to taxes, environmental protection, and to social and labour law obligations, which are in force in the Member State, in the region or locality where the works are to be carried out or the services are to be provided and which will be applicable to the works carried out on site or to the services provided during the performance of the contract.~~
4. For the purposes of paragraphs 1, 2 and 3, Member States may appoint a single body or several bodies or administrative structures. Member States shall ensure due coordination between those bodies and structures.	~~4. For the purposes of paragraphs 1, 2 and 3, Member States may appoint a single body or several bodies or administrative structures. Member States shall ensure due coordination between those bodies and structures.~~

Reason

Organising activities to assist procurement at national level is a matter for the Member States, and this article should be deleted. There would probably be less need for assistance in understanding the procurement rules if the regulatory framework were simpler.

Amendment 34

COM(2011) 896 final

Article 88(3)

Text proposed by the Commission	CoR amendment
Article 88	*Article 88*
For the purposes of this Article, Member States shall designate one or more liaison points, the contact details of which shall be communicated to the other Member States, the oversight bodies and the Commission. Member States shall publish and regularly update the list of liaison points. The oversight body shall be in charge of the coordination of such liaison points.	For the purposes of this Article, Member States shall designate one or more liaison points, the contact details of which shall be communicated to the other Member States~~, the oversight bodies~~ and the Commission. Member States shall publish and regularly update the list of liaison points. ~~The oversight body shall be in charge of the coordination of such liaison points.~~

Reason

Article 88 should be kept, but without the reference to the new oversight bodies. The aim of the reform is precisely to remove superfluous documentation requirements, and not to create new red tape.

Brussels, 9 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

Opinion of the Committee of the Regions on the 'European Maritime and Fisheries Fund (EMFF)'

(2012/C 391/10)

THE COMMITTEE OF THE REGIONS

— approves the setting-up of the new fund, the EMFF, to implement the CFP and considers that it is important to maintain the budget necessary to keep pace with the changes imposed by the CFP;

— welcomes the simplification introduced by the regrouping within the new EMFF of most of the financial instruments of the CFP and the Integrated Maritime Policy (IMP), which had previously been distributed among several funds;

— asks that the EMFF's objectives be focused on fishing and not, as has been stated on several occasions, on giving priority to its replacement by other activities and considers it important to increase the attractiveness of the fishing profession;

— is concerned about the cuts in the budget for data collection at a time when additional resources are needed. Having data available that is complete and processed for management purposes should be a precondition for the PCP and a budget priority for the EMFF;

— condemns the abolition of any fleet adjustment measures, at a time when compliance with the new objectives of the CFP, particularly the progressive achievement of MSY, will require decommissioning or temporary stoppages;

— considers that the introduction of the gradual reduction of discards will require the adaptation and modernisation of fishing vessels and appropriate investments in ports;

— is amazed at the lack of funding for the preparation of the multi-year plans provided for;

— asks that significant aid be given to technological innovation and investments which increase the selectivity of fishing gear;

— considers that the phasing-out of storage aid is irrelevant.

Rapporteur	Mr Pierre MAILLE (FR/PES), President of the General Council of Finistère
Reference document	Proposal for a Regulation of the European Parliament and of the Council on the European Maritime and Fisheries Fund [repealing Council Regulation (EC) No. 1198/2006, Council Regulation (EC) No. 861/2006 and Council Regulation (EC) No. XXX/2011 on integrated maritime policy] COM(2011) 804 final

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS:

1. is satisfied, given the importance of fishing for many regions of the European Union, that the Commission wishes to maintain a Common Fisheries Policy (CFP);

2. approves the setting-up of the new fund, the EMFF, to implement the CFP and considers that it is important to maintain the budget necessary to keep pace with the changes imposed by the CFP;

3. considers that the CFP's priority must be to re-establish sustainable economic conditions for fisheries, within an ecosystem approach, by achieving maximum sustainable yield (MSY), and also to ensure supplies for European consumers by moving towards self-sufficiency in food;

4. welcomes the simplification introduced by the regrouping within the new EMFF of most of the financial instruments of the CFP and the Integrated Maritime Policy (IMP), which had previously been distributed among several funds;

5. approves the incorporation of the IMP into the EMFF since economic activities, respect for the environment, knowledge acquisition and data collection, monitoring and control are interrelated;

6. would, however, like the conditions for the direct management of the IMP to be better defined so as to clarify where appropriations are to go and which bodies are to receive aid;

7. recognises the value of the proposed Common Strategic Framework for the cohesion funds (ERDF, ESF, Cohesion Fund, EAFRD, EMFF) which should make for simplification, consistency and pooled arrangements for managing these funds;

8. asks that the EU be given a sufficiently large budget to ensure the effectiveness of cohesion policy and fulfil the ambitions of the Europe 2020 strategy;

9. welcomes the possibility for the Member States and Regions using the ERDF, the Cohesion Fund, the ESF or the EMFF to take action in the field of fisheries and the development of territories dependent on fishing;

10. asks that, in accordance with the principles of multilevel governance and respect for the national distribution of terms of reference, the local and regional authorities in each Member State be fully involved in the preparation, negotiation, implementation and review of the various strategic documents, including those relating to an integrated maritime policy;

11. rejects the proposals to link cohesion policy with respecting the stability and growth pact, as the objectives of macroeconomic conditionality are not the same as those of cohesion policy;

12. supports the principle of ex ante conditionality, so as to ensure that the preconditions of respecting the objectives of the CFP are met on the basis of past experiences;

13. wants the consequences of the changes to the criteria for allocating resources between Member States to be evaluated, since these criteria are different from those used previously for the EFF;

14. points out that in its opinion on CFP reform it was against the obligation to require each Member State to establish transferable fishing concessions (TFCs) and hoped that the reduction of discards would be introduced gradually;

15. approves of the importance given to improving knowledge and data collection and emphasises the value of the partnership between fishermen and scientists. Having data available that is complete and processed for management purposes should be a precondition for the PCP and a budget priority for the EMFF;

16. condemns the abolition of any fleet adjustment measures, at a time when compliance with the new objectives of the CFP, particularly the progressive achievement of MSY, will require decommissioning or temporary stoppages. Would like this to be possible, at least for some fisheries, by providing for strict supervisory measures, especially as regards fishing rights, and, possibly, a gradual decrease of aid in line with trends in stocks;

17. considers it important to increase the attractiveness of the fishing profession by improving working conditions, health and safety on board and funding the investments necessary, without limiting them to one operation per vessel;

18. notes that TFCs are voluntary. Considers that the EMFF should accompany their creation by financing advice, experience sharing and transitional measures;

19. is amazed at the lack of funding for the preparation of the multi-year plans provided for, as they are a major tool set up by the basic CFP regulation for the proper management of resources and the marine environment;

20. approves of the reduction of discards and unwanted catches and asks that significant aid be given to technological innovation and investments which increase the selectivity of fishing gear;

21. considers that technological developments can help one and the same vessel in several ways to improve selectivity, reduce its impact on the marine environment and provide a high level of safety for seamen, provided that the equipment in question is not superfluous and represents genuine progress without increasing the overall amount of fishing;

22. approves of the support given to fishermen when they take part in the protection and restoration of biodiversity and marine ecosystems. This support must enable their involvement in fisheries management measures especially in Natura 2000 sites and protected marine areas, such as temporary cessation schemes, licensing, etc. Since fishermen are not solely responsible for protecting the marine environment, the EMFF must not be used to directly fund the management of these areas or their environmental monitoring;

23. considers that the fishing industry must also help to combat global warming and pollution. The EMFF must be able to support research and innovation in order to have greater efficiency and fewer CO_2 emissions, especially when the price of fuel has made the activity less competitive. It is therefore necessary to be able to help vessels replace their engines and allow the fishing industry to benefit from the technological advances in this field;

24. considers that the introduction of the gradual reduction of discards will require the adaptation and modernisation of fishing vessels and appropriate investments in ports;

25. opposes the development of a production chain of fish meal made from discards, but asks that calls for innovative efforts focusing on the proper identification of various types of discards so that action can be taken to reduce them and ensure their appropriate utilisation;

26. welcomes the Commission's commitment to the local development of fisheries areas. It asks that the EMFF's objectives be focused on fishing and not, as has been stated on several occasions, on giving priority to its replacement by other activities. The EMFF should support a more balanced approach, without dissociating diversification and the maintenance of direct and indirect jobs, and without forgetting the need to provide jobs for the younger generation. In particular, the regulation must allow start-up aid to help young people engage in fishing, as provided for in aquaculture, whereas the wish to introduce TFCs may make access to the profession even more difficult;

27. considers that local development can only succeed by mobilising and instilling a strong sense of partnership among local actors, politicians and local authorities, professional associations, fishermen's organisations, etc. This sense of partnership may be achieved by the spread of Fisheries Local Action Groups (FLAGs) or by enlarging the LAGs created in the context of measures inspired by the EAFRD to cover fisheries issues. Governance of the FLAGs must lie with the local and regional authorities who, together with the regions, must play an important role in defining and implementing the objectives of local development strategy as well as in managing funds;

28. asks that more support be provided for fish trading and processing firms in order to promote value added fisheries products and to improve the structure of the sector's downstream activities: technological innovations, productivity gains can be encouraged and accompanied, without being limited to one per firm;

29. suggests that more ambition should be shown in developing a European certification scheme for seafood products: the consumer must be able to identify the products of European fisheries, and know the efforts made to respect biodiversity and the health standards required by the CFP;

30. considers that the CMO market measures must contribute towards the achievement of the CFP's objectives. It therefore asks if market tools can be set up to limit the impact of the transition to MSY and maintain local economic outlets for European fisheries products;

31. considers that the phasing-out of storage aid is irrelevant when you consider the significant production and marketing variables affecting professional fishing;

32. welcomes the significant encouragement given to aquaculture and the many steps in its favour: the setting-up of young people, innovation, investments, management, relief and advisory services, insurance, etc.;

33. calls for demanding standards to be set as regards environmental conditions, the knowledge of inputs for farming and the extent of the impact on the environment;

34. considers that aquaculture must remain a net producer of fish proteins and not lead to the overfishing of species that are useful for the feeding of farmed fish, thereby running the risk of upsetting the balance in the food chain and or adversely affecting biodiversity;

35. supports the possibility of encouraging the production of seaweed, whether for food purposes or not;

36. considers that the outermost regions are all in situations recognised as being more difficult than the rest of Europe. This means that more should be done than just giving aid for the marketing of products, in order to cover the additional costs facing the fisheries and aquaculture sectors in these territories;

37. also requests that the EMFF really take into account the need to develop fisheries in the outermost regions by allowing aid to be provided for fleet renewal;

38. considers that the implementation of measures to support the installation of fish aggregating devices is important for the development of a sustainable coastal fishing industry in the outermost regions;

39. proposes the setting-up of a regional advisory council (RAC) for the outermost regions along the lines of those that already exist in continental Europe;

40. draws attention to the need for more effective controls in order to ensure that everyone respects the CFP regulations. If controls are to be credible, then the budget for them has to be adjusted accordingly and new more effective methods of control identified;

41. is concerned about the cuts in the budget for data collection at a time when additional resources are needed, since the achievement of MSY for all stocks requires the collection of additional data, as there are still many stocks about which little is known; suggests that the EMFF's contribution in this area be increased to 80 % of eligible expenses;

42. considers that RACs require clear and permanent support, particularly for their role of proposing scientific studies or management measures adapted to fisheries issues, so that the objectives of regionalisation are fully implemented;

43. is highly committed to informing EU citizens and consumers about the EU's policies and how its funds are used. It approves the transparency sought by providing a website with information about results, operations undertaken and EMFF beneficiaries;

44. considers it important to provide plenty of information about the EMFF's new instruments to potential beneficiaries so as to ensure that this fund is used properly;

45. considers that the Commission's use of delegated acts is excessive and recommends laying down a regulation which establishes most, if not all, of the rules for implementation right from the start;

46. draws attention to the difficulties linked to the timetable for the adoption of the various decisions that have a bearing on the EMFF:

a) The discussions on the Commission proposal for the multi-annual financial framework 2014-2020 are not yet concluded. It is important that the level of the budget allocated to the EMFF be preserved;

b) The CFP's guidelines are not known for sure, and several topics are still being debated (achievement of MSY, prohibition of discards, obligation to create transferable fishing concessions, banning of aid for decommissioning plans or temporary cessations …);

47. therefore considers that the current draft of the EMFF regulation will still have to undergo significant changes before it can be adopted.

II. **AMENDMENTS**

Amendment 1

Recital 9

Text proposed by the Commission	CoR amendment
(9) It is paramount to better integrate environmental concerns into the CFP which should deliver on the objectives and targets of the Union's environmental policy and the Europe 2020 Strategy. The CFP is aimed at an exploitation of living marine biological resources that restores and maintains fish stocks at levels which can produce the maximum sustainable yield, not later than 2015. The CFP shall implement the precautionary and eco-system approaches to fisheries management. Consequently the EMFF should contribute to the protection of the marine environment as set out in the Directive 2008/56/EC of the European Parliament and the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive).	(9) It is paramount to better integrate environmental concerns into the CFP which should deliver on the objectives and targets of the Union's environmental policy and the Europe 2020 Strategy. The CFP is aimed at an exploitation of living marine biological resources that restores and maintains fish stocks at levels which can produce the maximum sustainable yield, ~~not later than~~ where possible by 2015. The CFP shall implement the precautionary and eco-system approaches to fisheries management. Consequently the EMFF should contribute to the protection of the marine environment as set out in the Directive 2008/56/EC of the European Parliament and the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive).

Reason

The CFP basic regulation states that MSY should be achieved by 2015 if possible. This paragraph should remind readers of that nuance.

Amendment 2

Recital 37

Text proposed by the Commission	CoR amendment
(37) As a result of the establishment of systems of transferable fishing concessions envisaged in Article 27 of the [CFP Regulation] and in order to support Member States in the implementation of these new systems, the EMFF should grant support in terms of capacity building and exchange of best practices.	(37) As a result of the optional establishment of systems of transferable fishing concessions envisaged in Article 27 of the [CFP Regulation] and in order to support Member States in the implementation of these new systems, the EMFF should grant support ~~in terms of~~for capacity adjustment ~~building~~ and exchange of best practices.

Reason

Transferable fishing concessions must be optional and left to the discretion of the Member States.

Amendment 3

Recital 38

Text proposed by the Commission	CoR amendment
(38) The introduction of the transferable fishing concessions systems should make the sector more competitive. Consequently, there may be a need for new professional opportunities outside the fishing activities. Therefore, the EMFF should support the diversification and job creation in fishing communities in particular by supporting business start-ups and the reassignment of vessels for maritime activities outside fishing activities of small scale coastal fishing vessels. This last operation seems to be appropriate as the small scale coastal fishing vessels are not covered by the transferable fishing concessions systems.	(38) The optional introduction of the transferable fishing concessions systems should make the sector more competitive. Consequently, there may be a need for new professional opportunities outside the fishing activities. Therefore, the EMFF should support the diversification and job creation in fishing communities in particular by supporting fishing business start-ups, the installation of young fishermen and the reassignment of vessels for maritime activities outside fishing activities of small scale coastal fishing vessels. ~~This last operation seems to be appropriate as the small scale coastal fishing vessels are not covered by the transferable fishing concessions systems.~~

Reason

Transferable fishing concessions must be optional and left to the discretion of the Member States.

Aid for the installation of young fishermen is required to ensure a renewal of the generations and encourage the arrival of new seamen who are better trained and aware of the issues at stake as regards more assertive resource management.

Amendment 4

Recital 39

Text proposed by the Commission	CoR amendment
(39) The objective of the Common Fisheries Policy is to ensure a sustainable exploitation of fish stocks. Overcapacity has been identified as a major driver for overfishing. It is therefore paramount to adapt the Union fishing fleet to the resources available. The removal of overcapacity through public aid such as temporary or permanent cessation and scrapping schemes has proven ineffective. The EMFF will therefore support the establishment and management of systems of transferable fishing concessions aiming at the reduction of overcapacity and increased economic performance and profitability of the operators concerned.	(39) The objective of the Common Fisheries Policy is to ensure a sustainable exploitation of fish stocks. Overcapacity has been identified as a major driver for overfishing. It is therefore paramount to adapt the Union fishing fleet to the resources available. The removal of overcapacity through public aid such as temporary or permanent cessation and scrapping schemes should be continued under strict controls ~~has proven ineffective~~. The EMFF will therefore, where appropriate, support the establishment and management of systems of transferable fishing concessions aiming at the reduction of overcapacity and increased economic performance and profitability of the operators concerned.

Reason

Plans to adapt the fishing industry which involve aid for the decommissioning of vessels must not be ruled out. Aided decommissioning will make it possible to reduce fishing capacity where the circumstances are difficult (resource depletion, etc.) and thus avoid a transfer of activity to healthy fisheries. Such aid should be maintained by ensuring that attention is paid to the actual conditions under which fishing is reduced, i.e. by making such aid subject to a withdrawal of fishing rights.

Amendment 5

Recital 41

Text proposed by the Commission	CoR amendment
(41) It is paramount to integrate environmental concerns into the EMFF and support the implementation of conservation measures under the CFP taking however into account the diverse conditions throughout the Union waters. For this purpose it is essential to develop a regionalised approach to conservation measures.	(41) It is paramount to integrate environmental concerns into the EMFF and support the implementation of conservation measures under the CFP taking however into account the diverse conditions throughout the Union waters. For this purpose it is essential to develop a regionalised approach to conservation measures. (42) Implementation of the CFP must not disregard the protection of aquatic ecosystems, in all their complexity and interactions, given the fragility of transitional waters and river and lake eco-corridors; particular attention must be paid to conserving and replenishing high-value endangered fish stocks, and anadromous and catadromous species in particular.

Reason

It is important to strengthen the role of river and lake eco-corridors, for example by removing any barriers in rivers, so as to ensure that migratory fish can complete their life-cycle.

Amendment 6

Recital 62

Text proposed by the Commission	CoR amendment
(62) Priority should be given to producer organisations and associations of producer organisations by granting them support. The compensation for storage aid and aid for production and marketing plans should gradually be phased out as the importance of this particular kind of support has lost its interest in the light of the evolving structure of the Union market for this kind of products and the growing importance of strong producer's organisations.	(62) Priority should be given to producer organisations and associations of producer organisations by granting them support. ~~The compensation for storage aid and aid for production and marketing plans should gradually be phased out as the importance of this particular kind of support has lost its interest in the light of the evolving structure of the Union market for this kind of products and the growing importance of strong producer's organisations.~~

Reason

The phasing-out of storage aid seems irrelevant when, under Article 15 of the basic CFP regulation, vessels will have to gradually land all their catches, including discards. It seems a good idea to provide for storage aid so as to enable the organisations to manage the quantities landed before placing a value on them.

Amendment 7

Article 3

Text proposed by the Commission	CoR amendment
Article 3	*Article 3*
Definitions	**Definitions**
1. For the purposes of this Regulation and without prejudice to paragraph 2, the definitions referred to in Article 5 of the [Regulation on the Common Fisheries Policy], Article 5 of the [Regulation on the Common Organisation of the markets in fishery and aquaculture products] and Article 4 of the Council Regulation (EC) No 1224/2009 and Article 2 of Regulation No [Regulation laying down Common Provisions] shall apply.	1. For the purposes of this Regulation and without prejudice to paragraph 2, the definitions referred to in Article 5 of the [Regulation on the Common Fisheries Policy], Article 5 of the [Regulation on the Common Organisation of the markets in fishery and aquaculture products] and Article 4 of the Council Regulation (EC) No 1224/2009 and Article 2 of Regulation No [Regulation laying down Common Provisions shall apply.
2. For the purpose of this Regulation, the following definitions shall apply:	2. For the purpose of this Regulation, the following definitions shall apply:
(1) 'Common Information Sharing Environment (CISE)' means a network of systems with a decentralised set-up developed for the exchange of information across users from different sectors to improve situational awareness of activities at sea;	(1) 'Common Information Sharing Environment (CISE)' means a network of systems with a decentralised set-up developed for the exchange of information across users from different sectors to improve situational awareness of activities at sea;
(2) 'cross-sectoral operations' means initiatives that mutually benefit different sectors and/or sectoral policies, as referred to in the Treaty on the Functioning of the European Union, and that cannot be accomplished entirely through measures encompassed within respective policy areas;	(2) 'cross-sectoral operations' means initiatives that mutually benefit different sectors and/or sectoral policies, as referred to in the Treaty on the Functioning of the European Union, and that cannot be accomplished entirely through measures encompassed within respective policy areas;
(3) 'electronic recording and reporting system' (ERS) means a system for the electronic recording and reporting of data as referred to in Articles 15, 24 and 63 of Council Regulation (EC) No 1224/2009;	(3) 'electronic recording and reporting system' (ERS) means a system for the electronic recording and reporting of data as referred to in Articles 15, 24 and 63 of Council Regulation (EC) No 1224/2009;
(4) 'European Marine Observation and Data Network' means a network that integrates national marine observation and data programmes into a common and accessible European resource;	(4) 'European Marine Observation and Data Network' means a network that integrates national marine observation and data programmes into a common and accessible European resource;
(5) 'fisheries area' means an area with sea or lake shore or including ponds or a river estuary with a significant level of employment in fisheries or aquaculture and designated as such by the Member State;	(5) 'fisheries area' means an area with sea or lake shore or including ponds or a river estuary with a significant level of employment in fisheries or aquaculture and designated as such by the Member State;

Text proposed by the Commission	CoR amendment
(6) 'fisherman' means any person engaging in professional fishing, as recognised by the Member State, on board of an operational fishing vessel or engaging in professional harvesting of marine organisms, as recognised by the Member State, without a vessel;	(6) 'fisherman' means any person engaging in professional fishing, as recognised by the Member State, on board of an operational fishing vessel or engaging in professional harvesting of marine organisms, as recognised by the Member State, without a vessel;
(7) 'Integrated Maritime Policy' (IMP) means a Union policy whose aim is to foster coordinated and coherent decision making to maximise the sustainable development, economic growth and social cohesion of Member States, and notably the coastal, insular and outermost regions in the Union, as well as maritime sectors, through coherent maritime-related policies and relevant international cooperation;	(7) 'Integrated Maritime Policy' (IMP) means a Union policy whose aim is to foster coordinated and coherent decision making to maximise the sustainable development, economic growth and social cohesion of Member States, and notably the coastal, insular and outermost regions in the Union, as well as maritime sectors, through coherent maritime-related policies and relevant international cooperation;
(8) 'Integrated Maritime Surveillance' is a EU initiative aiming to enhance effectiveness and efficiency in surveillance activities of the European seas through information exchange and collaboration across sectors and borders;	(8) 'Integrated Maritime Surveillance' is a EU initiative aiming to enhance effectiveness and efficiency in surveillance activities of the European seas through information exchange and collaboration across sectors and borders;
(9) 'irregularity' means irregularity as defined in Article 1(2) of the Council Regulation 2988/95;	(9) 'irregularity' means irregularity as defined in Article 1(2) of the Council Regulation 2988/95;
(10) 'inland fishing' means fishing carried out for commercial purposes by vessels operating exclusively in inland waters or by other devices used for ice fishing;	(10) 'inland fishing' means fishing carried out for commercial purposes by vessels operating exclusively in inland waters or by other devices used for ice fishing;
(11) 'integrated coastal zone management" means such strategies and measures as defined in the Recommendation of the European Parliament and of the Council (2002/413/EC)of 30 May 2002 concerning the implementation of Integrated Coastal Zone Management in Europe;	(11) 'integrated coastal zone management" means such strategies and measures as defined in the Recommendation of the European Parliament and of the Council (2002/413/EC)of 30 May 2002 concerning the implementation of Integrated Coastal Zone Management in Europe;
(12) 'integrated maritime governance' means the coordinated management of all sectoral policies of the EU affecting the oceans, seas, and coastal regions; 23 O.J. L 148 of 6.6.2002	(12) 'integrated maritime governance' means the coordinated management of all sectoral policies of the EU affecting the oceans, seas, and coastal regions; 23 O.J. L 148 of 6.6.2002
(13) 'marine regions' means the geographical areas set out in Annex I to Council Decision 2004/585/EC and the areas established by the regional fisheries management organisations;	(13) 'marine regions' means the geographical areas set out in Annex I to Council Decision 2004/585/EC and the areas established by the regional fisheries management organisations;
(14) 'maritime spatial planning' means a process by which public authorities analyse and allocate the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic and social objectives;	(14) 'maritime spatial planning' means a process by which public authorities analyse and allocate the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic and social objectives;
(15) 'measure' means a set of operations;	(15) 'measure' means a set of operations;
(16) 'public expenditure' means any contribution to the financing of operations derived from the Member State's budget or from the budget of regional or local authorities, or the European Union and any similar expenditure. Any contribution to the financing of operations whose origin is the budget of public-law bodies or associations of one or more regional or local authorities or public-law bodies acting in accordance with Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts shall be regarded as a public contribution;	(16) 'public expenditure' means any contribution to the financing of operations derived from the Member State's budget or from the budget of regional or local authorities, or the European Union and any similar expenditure. Any contribution to the financing of operations whose origin is the budget of public-law bodies or associations of one or more regional or local authorities or public-law bodies acting in accordance with Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts shall be regarded as a public contribution;

Text proposed by the Commission	CoR amendment
(17) 'sea basin strategy' means a structured framework of cooperation in respect to a given geographical area, developed by European Institutions, Member States, their regions and where appropriate third countries sharing a sea basin; the strategy takes into account the geographic, climatic, economic and political specificities of the sea basin;	(17) 'sea basin strategy' means a structured framework of cooperation in respect to a given geographical area, developed by European Institutions, Member States, their regions and where appropriate third countries sharing a sea basin; the strategy takes into account the geographic, climatic, economic and political specificities of the sea basin;
(18) 'small scale coastal fishing' means fishing carried out by fishing vessels of an overall length of less than 12 metres and not using towed gear as listed in Table 3 Annex I of Commission Regulation (EC) No 26/2004 of 30 December 2003 regarding the fishing vessels register of the Union;	(18) 'small scale coastal fishing' means fishing carried out by fishing vessels of an overall length of less than 12 metres and not using towed gear as listed in Table 3 Annex I of Commission Regulation (EC) No 26/2004 of 30 December 2003 regarding the fishing vessels register of the Union, barring regional or local specificities requiring an adapted definition;
(19) 'vessels operating exclusively in inland waters' means vessels engaged in commercial fishing in inland waters and not included in the Union fishing fleet register.	(19) 'vessels operating exclusively in inland waters' means vessels engaged in commercial fishing in inland waters and not included in the Union fishing fleet register.;
	(20) "aquaculture farmer" means any individual carrying out his or her activity in the professional aquaculture sector as recognised by the relevant Member State, on board an aquaculture vessel, or who carries out professional farming activities without the use of a vessel;
	20(a) "shellfish catcher/grower" means any individual carrying out extraction, cultivation or semi-cultivation, whether on foot or on board a vessel, exclusively and using selective, specific gear for the capture of one or more species of molluscs, crustaceans, tunicates, echinoderms or other marine invertebrates;
	(21) 'fish-breeding activities' means activities conducted in public waters to conserve and replenish fish stocks. These activities include the production of fish for restocking at any life stage.

Amendment 8

Article 6(4)

Text proposed by the Commission	CoR amendment
(4) Promoting a sustainable and resource efficient fisheries through the focus on the following areas:	(4) Promoting a sustainable and resource efficient fisheries through the focus on the following areas:
(a) reduction of the impact of fisheries on the marine environment;	(a) reduction of the impact of fisheries on the marine environment;
(b) protection and restoration of marine biodiversity and ecosystems including the services they provide.	(b) protection and restoration of marine biodiversity and ecosystems including the services they provide;
	(c) conservation and replenishment of overfished, endangered species that are important for conservation and/or commercial reasons, inter alia through the implementation and development of fish-breeding activities.

Reason

Fish-breeding is necessary in some areas where stocks are seriously depleted.

Amendment 9

Article 13

Text proposed by the Commission	CoR amendment
The following operations shall not be eligible under the EMFF:	The following operations shall not be eligible under the EMFF:
a) operations increasing the fishing capacity of the vessel;	a) operations increasing the fishing capacity of the vessel;
b) construction of new fishing vessels, decommissioning or importation of fishing vessels;	b) ~~construction of new fishing vessels, decommissioning or importation of fishing vessels;~~
c) temporary cessation of fishing activities;	~~c) temporary cessation of fishing activities;~~
d) experimental fishing;	~~d) experimental fishing;~~
e) transfer of ownership of a business;	~~e) transfer of ownership of a business;~~
f) direct restocking, unless explicitly foreseen as a conservation measure by a Union legal act or in the case of experimental restocking.	~~f)~~ direct restocking, unless explicitly foreseen as a conservation measure by a Union legal act or in the case of experimental restocking.

Reason

Aid should be provided for the construction of vessels in the outermost regions, as these must upgrade their working tools so that vessels comply more with the requirements of resource management and the health standards for products.

Aided decommissioning will make it possible to reduce fishing capacity where the circumstances are difficult (resource depletion, etc.) and thus avoid a transfer of activity to healthy fisheries. Such aid should be maintained by ensuring that attention is paid to the actual conditions under which fishing is reduced, through a better management of fishing rights.

Funding for the temporary cessation of fishing activities will compensate for stoppages forced on vessels because of pollution or in connection with a biological recovery period decided for certain species (as was done for anchovies). Without funding, the vessels concerned will probably transfer their activity and target other species of fish and affect their stocks.

Amendment 10

Article 15

Text proposed by the Commission	CoR amendment
1. The resources available for commitments from the EMFF for the period 2014 to 2020 under shared management shall be EUR 5 520 000 000 in current prices in accordance with the annual breakdown set out in Annex II.	1. The resources available for commitments from the EMFF for the period 2014 to 2020 under shared management shall be EUR 5 520 000 000 in current prices in accordance with the annual breakdown set out in Annex II.
2. EUR 4 535 000 000 of the resources referred to in paragraph (1) shall be allocated to the sustainable development of fisheries, aquaculture and fisheries areas under Chapters I, II and III of Title V.	2. EUR 4 535 000 000 of the resources referred to in paragraph (1) shall be allocated to the sustainable development of fisheries, aquaculture and fisheries areas under Chapters I, II, ~~and~~ III and IV of Title V.

Text proposed by the Commission	CoR amendment
3. EUR 477 000 000 of the resources referred to in paragraph (1) shall be allocated to control and enforcement measures referred to in Article 78.	3. EUR 477 000 000 of the resources referred to in paragraph (1) shall be allocated to control and enforcement measures referred to in Article 78.
4. EUR 358 000 000 of the resources referred to in paragraph (1) shall be allocated to measures on data collection referred to in Article 79.	4. EUR 358 000 000 of the resources referred to in paragraph (1) shall be allocated to measures on data collection referred to in Article 79.
5. The resources allocated to compensation of outermost regions under Chapter V of Title V, shall not exceed per year:	5. The resources allocated to compensation of outermost regions under Chapter V of Title V, shall not exceed per year:
— EUR 4 300 000 for the Azores and Madeira;	— EUR 4 300 000 for the Azores and Madeira;
— EUR 5 800 000 for the Canary Islands;	— EUR 5 800 000 for the Canary Islands;
— EUR 4 900 000 for the French Guiana and Réunion.	— EUR 4 900 000 for the French Guiana and Réunion~~.~~;
	— EUR Xxx for Guadeloupe, Martinique and Mayotte.
6. EUR 45 000 000 of the resources referred to in paragraph (1) shall be allocated to the storage aid referred to in Article 72 from 2014 to 2018 included.	6. EUR 45 000 000 of the resources referred to in paragraph (1) shall be allocated to the storage aid referred to in Article 72 from 2014 to 2018 included.

Reason

This article, doubtless through an oversight, does not cover funding for marketing and processing measures provided for in Title V of this regulation. Under the CFP basic regulation all the outermost regions should be taken into account when allocating compensation aid. Provision must be made for a specific amount for Guadeloupe, Martinique and Mayotte.

Amendment 11

Article 26

Text proposed by the Commission	CoR amendment
Support under this Chapter shall contribute to the achievement of the Union priorities identified in Article 6(2) and (4).	Support under this Chapter shall contribute to the achievement of the Union priorities identified in Article 6(1), (2) and (4).

Reason

Article 6(1) of this regulation is about increasing employment and territorial cohesion. It seems essential that this chapter on the sustainable development of fishing areas should incorporate this ambition.

Amendment 12

Article 31

Text proposed by the Commission	CoR amendment
1. In order to promote human capital and social dialogue, the EMFF may support:	1. In order to promote human capital and social dialogue, the EMFF may support:
(a) lifelong learning, dissemination of scientific knowledge and innovative practices, and acquisition of new professional skills in particular linked to the sustainable management of marine ecosystems, activities in the maritime sector, innovation and entrepreneurship;	(a) lifelong learning, dissemination of scientific knowledge and innovative practices, and acquisition of new professional skills in particular linked to the sustainable management of marine ecosystems, activities in the maritime sector, innovation and entrepreneurship;

Text proposed by the Commission	CoR amendment
(b) networking and exchange of experience and best practice between stakeholders including among organisations promoting equal opportunities between men and women;	(b) networking and exchange of experience and best practice between stakeholders including among organisations promoting equal opportunities between men and women;
(c) promoting the social dialogue at national, regional or local level involving fishermen and other relevant stakeholders.	(c) promoting the social dialogue at national, regional or local level involving fishermen and other relevant stakeholders.
2. The support referred to in paragraph 1 shall also be granted to spouses of self-employed fishermen or, when and in so far as recognised by national law, the life partners of self-employed fishermen, not being employees or business partners, where they habitually, under the conditions laid down by national law, participate in the activities of the self-employed fishermen or perform ancillary tasks.	2. The support referred to in paragraph 1 shall also be granted to spouses of self-employed fishermen or, when and in so far as recognised by national law, the life partners of self-employed fishermen, not being employees or business partners, or any person with a professional qualification, where they habitually, under the conditions laid down by national law, participate in the activities of the self-employed fishermen or perform ancillary tasks.

Amendment 13

Article 32

Text proposed by the Commission	CoR amendment
1. In order to facilitate diversification and job creation outside fishing, the EMFF may support:	1. In order to facilitate diversification and job creation ~~outside fishing~~, the EMFF may support:
a) business start-ups outside fishing;	a) the access of young fishermen to the profession by the award of individual allowances;
b) retrofitting of small scale coastal fishing vessels in order to reassign them for activities outside fishing.	b) the development of actions for the discovery of the marine environment that complement the maintenance of a fishing activity;
	c) business start-ups outside fishing;
	d) retrofitting of small scale coastal fishing vessels in order to reassign them for activities outside fishing;
	e) funding for a final cessation of fishing activities by fishing vessels.
2. Support under paragraph 1 (a) shall be granted to fishermen who:	2. Support under paragraph 1 (a)(c) shall be granted to fishermen who:
a) submit a business plan for the development of their new activities;	a) submit a business plan for the development of their new activities;
b) possess adequate professional skills which may be acquired through operations financed under Article 31(1)(a).	b) possess adequate professional skills which may be acquired through operations financed under Article 31(1)(a).
3. Support under paragraph 1(b) shall be granted to small scale coastal fishermen owning a Union fishing vessel registered as active and which have carried out fishing activities at sea at least 60 days during the two years preceding the date of submission of the application. The fishing licence associated with the fishing vessel shall be permanently withdrawn.	3. Support under paragraph 1(~~b~~d) shall be granted to small scale coastal fishermen owning a Union fishing vessel registered as active and which have carried out fishing activities at sea at least 60 days during the two years preceding the date of submission of the application. The fishing licence associated with the fishing vessel shall be permanently withdrawn.
4. Beneficiaries of the support referred to in paragraph 1 shall not engage in professional fishing in the five years following the reception of the last payment of the support.	4. Where a fishing activity has ceased, beneficiaries of the support referred to in paragraph 1 shall not engage in professional fishing in the five years following the reception of the last payment of the support.

Text proposed by the Commission	CoR amendment
5. Eligible costs under paragraph 1(b) shall be limited to the costs of modification of a vessel undertaken for the purpose of its reassignment.	5. Eligible costs under paragraph 1(~~b~~d) shall be limited to the costs of modification of a vessel undertaken for the purpose of its reassignment.
6. The amount of financial assistance granted under paragraph 1 (a) shall not exceed 50 % of the budget foreseen in the business plan for each operation and shall not exceed a maximum amount of 50 000 EUR for each operation.	6 The final cessation referred to in paragraph 1(e), can only be done by: — scrapping a fishing vessel; — reassigning it, under the flag of a Member State and registered within the EU, to activities other than fishing. 7. The costs eligible for aid under paragraph 1(e) shall be limited to: — the price of the fishing vessel on the national market or its value for insurance purposes; — the turnover of the fishing vessel; or — the age of the fishing vessel and its tonnage in GT or its power in kW. 8. In the event of a final cessation of activities under paragraph 1(e), the fishing licence and the other fishing rights relating to the vessel shall be withdrawn permanently. 9. The amount of financial assistance granted under paragraph 1(~~a~~c) shall not exceed 50 % of the budget foreseen in the business plan for each operation and shall not exceed a maximum amount of 50 000 EUR for each operation.

Reason

Funding for retraining must be supplemented by aid for decommissioning by destruction, as provided for in the former Fund (EFF). If the associated fishing rights are actually abolished, this measure will enable overall fishing to be reduced.

It also seems essential to provide specific aid for the installation of young fishermen, so as to ensure a renewal of the generations and encourage the arrival of new seamen who are better trained and aware of the issues at stake as regards more assertive resource management.

Amendment 14

Article 33

Text proposed by the Commission	CoR amendment
1. In order to improve working conditions on board for fishermen the EMFF may support investments on board or in individual equipments providing that these investments go beyond standards required under national or Union law.	1. In order to improve working conditions on board for fishermen the EMFF may support investments on board or in individual equipments providing that these investments go beyond standards required under ~~national or~~ Union law.
2. The support shall be granted to fishermen or owners of fishing vessels.	2. The support shall be granted to fishermen or owners of fishing vessels.

Text proposed by the Commission	CoR amendment
3. When the operation consists in an investment on board, the support shall not be granted more than once during the programming period for the same fishing vessel. When the operation consists of an investment in individual equipment, the support shall not be granted more than once during the programming period for the same beneficiary.	3. ~~When the operation consists in an investment on board, the support shall not be granted more than once during the programming period for the same fishing vessel. When the operation consists of an investment in individual equipment, the support shall not be granted more than once during the programming period for the same beneficiary.~~
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 150 in order to identify the types of operations eligible under paragraph 1.	~~4.~~ 3. The Commission shall be empowered to adopt delegated acts in accordance with Article 150 in order to identify the types of operations eligible under paragraph 1.

Reason

Aid should not be withheld from fishermen who are nationals of countries which already have a high level of health and safety requirements. For the sake of equality between fishermen, it is the European standard which should be considered as the basic reference.

Moreover, if one wants safety conditions for seamen to improve, it is unreasonable to limit the possibility of aid to just once in an EMFF programme lasting 7 years.

Amendment 15

Article 33a

Text proposed by the Commission	CoR amendment
	Public aid for the temporary cessation of fishing activities *1. The EMFF may contribute to the funding of aid measures for the temporary cessation of fishing activities provided to fishermen and the owners of fishing vessels for a maximum duration (to be determined depending on the issues) during the period 2014-2020. This measure should target those actors who are most dependent on the fishery concerned and do not have other fishing alternatives (other species).* *2. Recurrent seasonal stoppages of fishing activities shall not be taken into account when granting allowances or payments under this Regulation.*

Reason

Funding for the temporary cessation of fishing activities will compensate for stoppages forced on vessels because of pollution or in connection with a biological recovery period decided for certain species (as was done for anchovies). Without funding, the vessels concerned will probably transfer their activity and target other species of fish. In the previous fund (EFF) this measure was used effectively on several occasions.

Amendment 16

Article 35

Text proposed by the Commission	CoR amendment
1. In order to ensure efficient implementation of conservation measures under Articles 17 and 21 of the [Regulation on Common Fisheries Policy] the EMFF may support:	1. In order to ensure the efficient preparation and implementation of conservation measures under Articles 17 and 21 of the [Regulation on Common Fisheries Policy] the EMFF may support:

Text proposed by the Commission	CoR amendment
a) the design and development of technical and administrative means necessary for the implementation of conservation measures in the meaning of Articles 17 and 21 of the [Regulation on Common Fisheries Policy];	a) the design and development of technical and administrative means necessary for the preparation and implementation of conservation measures in the meaning of Articles 17 and 21 of the [Regulation on Common Fisheries Policy];
b) stakeholder participation in designing and implementing conservation measures in the meaning of Articles 17 and 21 of the [Regulation on Common Fisheries Policy];	b) stakeholder participation in designing and implementing conservation measures in the meaning of Articles 17 and 21 of the [Regulation on Common Fisheries Policy];
2. The support referred to in paragraph 1 shall only be granted to public authorities.	2. The support referred to in paragraph 1 shall only be granted to public authorities and, where appropriate, advisory councils.

Reason

Multi-year plans and other conservation measures provided for in Articles 17 and 21 of the basic regulation must also be supported in their development phase with clear support from advisory councils as an important element of regionalisation.

Amendment 17

Article 36

Text proposed by the Commission	CoR amendment
1. In order to reduce the impact of fishing on the marine environment, foster the elimination of discards and facilitate the transition to exploitation of living marine biological resources that restores and maintains populations of harvested species above levels which can produce the MSY, the EMFF may support investments in equipment:	1. In order to reduce the impact of fishing on the marine environment, foster the elimination of discards and facilitate the transition to exploitation of living marine biological resources that restores and maintains populations of harvested species above levels which can produce the MSY, the EMFF may support investments in equipment:
a) improving size selectivity or species selectivity of fishing gear;	a) improving size selectivity or species selectivity of fishing gear;
b) reducing unwanted catches of commercial stocks or other by-catches;	b) reducing unwanted catches of commercial stocks or other by-catches;
c) limiting the physical and biological impacts of fishing on the ecosystem or the sea bed.	c) limiting the physical and biological impacts of fishing on the ecosystem or the sea bed.;
	d) forming part of the effective implementation of the conservation measures provided for in Articles 17 and 21 of the [Regulation on Common Fisheries Policy].
2 Support shall not be granted more than once during the programming period for the same Union fishing vessel and for the same type of equipment.	~~2 Support shall not be granted more than once during the programming period for the same Union fishing vessel and for the same type of equipment.~~
3. Support shall only be granted when the gear or other equipment referred under paragraph 1 has demonstrably better size-selection or lower impact on non-target species than the standard gear or other equipment permitted under Union law or relevant national law of Member States adopted in the context of regionalisation as referred to in the [Regulation on the CFP].	2.~~3.~~ Support shall only be granted when the gear or other equipment referred under paragraph 1 has demonstrably better size-selection or lower impact on non-target species than the standard gear or other equipment permitted under Union law or relevant national law of Member States adopted in the context of regionalisation as referred to in the [Regulation on the CFP].
4. Support shall be granted to:	3.~~4.~~ Support shall be granted to:
a) owners of Union fishing vessels whose vessels are registered as active vessels and which have carried a fishing activity of at least 60 days at sea during the two years preceding the date of submission of the application;	a) owners of Union fishing vessels whose vessels are registered as active vessels and which have carried out a fishing activity of at least 60 days at sea during the two years preceding the date of submission of the application;

Text proposed by the Commission	CoR amendment
b) fishermen who own the gear to be replaced and who have worked on board of a Union fishing vessel for at least 60 days during the two years preceding the date of submission of the application;	b) fishermen who own the gear to be replaced and who have worked on board of a Union fishing vessel for at least 60 days during the two years preceding the date of submission of the application;
c) organisations of fishermen recognised by the Member State.	c) organisations of fishermen recognised by the Member State.

Reason

To develop the fishing techniques needed to achieve MSY as soon as possible, encouragement must be provided for the modernisation of gear and vessels as well as the implementation of the technical measures provided for by the CFP basic regulation. Moreover, if one really wants fishing techniques to become more sustainable, it is unreasonable to limit the possibility of aid to just one EMFF programme lasting 7 years.

Amendment 18

Article 38

Text proposed by the Commission	CoR amendment
2. Operations under this Article shall be implemented by public law bodies and shall involve fishermen or organisations of fishermen, recognised by the Member State, or non-governmental organisation in partnership with organisations of fishermen or FLAGs as defined under Article 62.	2. Operations under this Article shall be implemented by public law bodies and shall involve fishermen or organisations of fishermen, recognised by the Member State, or non-governmental organisation, an advisory council, in partnership with organisations of fishermen or FLAGs as defined under Article 62.

Reason

Articles 52 *et seq*. of the CFP basic regulation provide for a greater involvement of regional advisory councils in management measures and even gives them a greater possibility of making proposals. These councils must therefore be allowed to have EMFF support to accompany them in their actions.

Amendment 19

Article 39

Text proposed by the Commission	CoR amendment
2. Support shall not contribute to the replacement or modernisation of main or ancillary engines. Support shall only be granted to owners of fishing vessels and not more than once during the programming period for the same fishing vessel.	~~2. Support shall not contribute to the replacement or modernisation of main or ancillary engines. Support shall only be granted to owners of fishing vessels and not more than once during the programming period for the same fishing vessel.~~

Reason

Funding must be allowed for engine changes because it is very surprising, even paradoxical, to exclude engine renewal from EMFF aid. Engines are in fact the main article of equipment on which efforts could be focused to reduce pollutant emissions or fuel consumption.

Amendment 20

Article 40

Text proposed by the Commission	CoR amendment
3. Support under this Article shall not be granted more than once during the programming period for the same fishing vessel or the same beneficiary.	~~3. Support under this Article shall not be granted more than once during the programming period for the same fishing vessel or the same beneficiary.~~

Reason

To encourage innovation and a real improvement in product quality, encouragement must be provided for modifications in vessels to make them more respectful of the resource and the marine environment. For this reason, if one wants fishing techniques to become more sustainable, it is unreasonable to limit the possibility of aid to just once in an EMFF programme lasting 7 years.

Amendment 21

Article 41

Text proposed by the Commission	CoR amendment
4. Support shall not cover the construction of new ports, new landing sites or new auction halls.	~~4. Support shall not cover the construction of new ports, new landing sites or new auction halls.~~

Reason

It must be possible to provide funding for the fitting-out of sites that are not yet equipped to take account of the obvious and inevitable changes in the workplaces of vessels.

Amendment 22

Article 42

Text proposed by the Commission	CoR amendment
Article 42	*Article 42*
Inland fishing	**Inland fishing**
1. In order to reduce the impact of inland fishing on the environment, increase energy efficiency, increase the quality of fish landed, or to improve safety or working conditions, the EMFF may support the following investments:	1. In order to reduce the impact of inland fishing on the environment, increase energy efficiency, increase the quality of fish landed, or to improve safety or working conditions, the EMFF may support the following investments:
(a) on board or in individual equipment as referred to in Article 33 and under the conditions set out in that Article;	(a) on board or in individual equipment as referred to in Article 33 and under the conditions set out in that Article;
(b) in equipment as referred to in Article 36 and under the conditions set out in that Article;	(b) in equipment as referred to in Article 36 and under the conditions set out in that Article;
(c) on board and energy efficiency audits and schemes as foreseen in Article 39 and under the same conditions set out in that Article;	(c) on board and energy efficiency audits and schemes as foreseen in Article 39 and under the same conditions set out in that Article;
(d) on existing ports and landing sites as referred to in Article 41 and under the conditions set out in that Article.	(d) on existing ports and landing sites as referred to in Article 41 and under the conditions set out in that Article.
2 For the purposes of paragraph 1:	2 For the purposes of paragraph 1:
(a) References made in Articles 33, 36 and 39 to fishing vessels shall be understood as references to vessels operating exclusively in inland water;	(a) References made in Articles 33, 36 and 39 to fishing vessels shall be understood as references to vessels operating exclusively in inland water;

Text proposed by the Commission	CoR amendment
(b) References made in Article 36 to the marine environment shall be understood as references to the environment in which the inland fishing vessel operates.	(b) References made in Article 36 to the marine environment shall be understood as references to the environment in which the inland fishing vessel operates.
3. In order to sustain diversification by inland fishermen, the EMFF may support the reassignment of vessels operating in inland fishing to other activities outside fishing under the conditions of Article 32 of this Regulation.	3. In order to sustain diversification by inland fishermen, the EMFF may support the reassignment of vessels operating in inland fishing to other activities outside fishing under the conditions of Article 32 of this Regulation.
4. For the purposes of paragraph 3, references made in Article 32 to fishing vessels shall be understood as references to vessels operating exclusively in inland water.	4. For the purposes of paragraph 3, references made in Article 32 to fishing vessels shall be understood as references to vessels operating exclusively in inland water.
5. In order to protect and develop aquatic fauna and flora, the EMFF may support the participation of inland fishermen in managing, restoring and monitoring NATURA 2000 sites where these areas directly concern fishing activities as well as the rehabilitation of inland waters, including spawning grounds and migration routes for migratory species, without prejudice of Article 38(1)(d).	5. In order to protect and develop aquatic fauna and flora, the EMFF may support the participation of inland fishermen in managing, restoring and monitoring NATURA 2000 sites where these areas directly concern fishing activities as well as the rehabilitation of inland waters, including spawning grounds and migration routes for migratory species, without prejudice of Article 38(1)(d).
6. Member States shall ensure that vessels receiving support under this Article continue to operate exclusively in inland waters.	6. In order to assist public authorities in the hydrobiological protection of fish species, and to enable the free exercise of fishing as a profession, the EMFF may support the adoption of measures to overturn exclusive private fishing rights in public lakes and rivers, in cases where such rights act as an impediment.
	7. With a view to the sustainable development of fish biodiversity and the resilience of aquatic ecosystems, the EMFF may support works to open up major corridors linking rivers, lakes and sea, along with works in rivers that make it possible to open up migratory routes for fish.
	~~6.~~8. Member States shall ensure that vessels receiving support under this Article continue to operate exclusively in inland waters.

Reason

It would be helpful to overturn private fishing rights – old rights *in rem* which make it difficult for the public authorities to manage waters and which reduce fishermen's incomes. The role of river and lake eco-corridors should also be strengthened, for example by removing barriers in rivers, so as to ensure that migratory fish can complete their life-cycle.

Amendment 23

Article 45

Text proposed by the Commission	CoR amendment
1. In order to stimulate innovation in aquaculture, the EMFF may support operations:	1. In order to stimulate innovation in aquaculture, the EMFF may support operations:
(a) introducing new technical or organisational knowledge in aquaculture farms which reduces their impact on the environment or fosters a more sustainable use of resources in aquaculture;	(a) introducing new technical or organisational knowledge in aquaculture farms which reduces their impact on the environment or fosters a more sustainable use of resources in aquaculture, or creation from scratch of facilities using such knowledge;

Text proposed by the Commission	CoR amendment
(b) developing or introducing in the market new or substantially improved products compared to the state of art, new or improved processes, new or improved management and organisation systems.	(b) developing or introducing in the market new or substantially improved products compared to the state of art, new or improved processes, new or improved management and organisation systems.
2. Operations under this Article must be carried out in collaboration with a scientific or technical body as recognised by the national law of each Member State which shall validate the results of such operations.	2. Operations under this Article must be carried out in collaboration with a scientific or technical body as recognised by the national law of each Member State which shall validate the results of such operations.
3. The results of operations receiving support shall be subject to adequate publicity by the Member State according to Article 143	3. The results of operations receiving support shall be subject to adequate publicity by the Member State according to Article 143.
	4. The support provided for under point 1 may be granted to enterprises and public bodies.

Reason

There are farms where it will not be possible to use new knowledge or technical resources due to their physical set-up or to legal impediments. It is therefore necessary to leave open the possibility of creating a new facility where these more advanced, innovative resources could be implemented.

Official aquaculture centres provide a reference for the aquaculture sector which should not be left out when it comes to accessing this support.

Amendment 24

Article 46

Text proposed by the Commission	CoR amendment
Article 46	*Article 46*
Investments in off-shore and non-food aquaculture	**Investments in off-shore ~~and~~ or non-food aquaculture**
1. In order to foster forms of aquaculture with high growth potential, the EMFF may support investment in the development of off-shore or non food aquaculture.	1. In order to foster forms of aquaculture with high growth potential, the EMFF may support investment in the development of off-shore or non food aquaculture.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 150 in order to identify the type of operations and the eligible costs.	2. The Commission shall be empowered to adopt delegated acts in accordance with Article 150 in order to identify the type of operations and the eligible costs.

Reason

Changing "and" to "or" in the title of the Article opens up the scope to types of aquaculture with a high potential for growth that are not carried out off-shore.

Amendment 25

Article 48

Text proposed by the Commission	CoR amendment
4. Aquaculture farms shall not receive support for the advisory services more than once for each category of services covered under paragraph 2 (a) to (e) during the programming period.	~~4. Aquaculture farms shall not receive support for the advisory services more than once for each category of services covered under paragraph 2 (a) to (e) during the programming period.~~

Reason

If one wants to make aquaculture more sustainable, it is unreasonable to limit the possibilities of receiving advice to just once in an EMFF programme lasting seven years.

Amendment 26

Article 62

Text proposed by the Commission	CoR amendment
Fisheries local action groups	**Fisheries local action groups**
1. For the purposes of the EMFF the local action groups referred to in Article 28(1)(b) of [Regulation (EU) No […] laying down Common Provisions] shall be designated as Fisheries Local Action Groups (hereinafter "FLAGs")	1. For the purposes of the EMFF the local action groups referred to in Article 28(1)(b) of [Regulation (EU) No […] laying down Common Provisions] shall be designated as Fisheries Local Action Groups (hereinafter "FLAGs")
2. The FLAGs shall propose an integrated local development strategy based at least on the elements set out in Article 61 and be responsible for its implementation.	2. The FLAGs shall propose an integrated local development strategy based at least on the elements set out in Article 61 and be responsible for its implementation.
3. The FLAGs shall:	3. The FLAGs shall:
(a) broadly reflect the main focus of their strategy and the socio-economic composition of the area through a balanced representation of the main stakeholders, including private sector, public sector and civil society;	(a) broadly reflect the main focus of their strategy and the socio-economic composition of the area through a balanced representation of the main stakeholders, including private sector, public sector and civil society;
(b) ensure a significant representation of fisheries and aquaculture sectors.	(b) ensure a significant representation of fisheries and aquaculture sectors.
4. If the local development strategy is supported by other Funds in addition to the EMFF a specific selection body for EMFF supported projects shall be established according to the criteria set out in paragraph (3).	4. If the local development strategy is supported by other Funds in addition to the EMFF a specific selection body for EMFF supported projects shall be established according to the criteria set out in paragraph (3).
5. The minimum tasks of FLAGs are set out in Article 30(3) of the [Regulation (EU) No […] laying down Common Provisions]:	5. The minimum tasks of FLAGs are set out in Article 30(3) of the [Regulation (EU) No […] laying down Common Provisions]:
6. FLAGs may also carry out additional tasks delegated to them by the managing authority and/or the paying agency.	6. FLAGs may also carry out additional tasks delegated to them by the managing authority and/or the paying agency.
7. The respective roles of the FLAG, the managing authority /the paying agency for all implementation tasks relating to the strategy shall be clearly described in the operational programme.	7. The respective roles of the FLAG, the managing authority /the paying agency for all implementation tasks relating to the strategy shall be clearly described in the operational programme.
	8. FLAGs may originate from other rural development groups, without prejudice to the provisions of paragraph 4 of this article.

Reason

FLAGs could in some cases be an extension of other rural development groups that can broaden their geographical scope. This would also allow more integrated projects to be implemented, with lower management, control and monitoring costs.

Amendment 27

Article 69

Text proposed by the Commission	CoR amendment
1. The EMFF may support the preparation and implementation of production and marketing plans referred to in Article 32 of [Regulation (EU) No on the common organisation of the markets in fishery and aquaculture products].	1. The EMFF ~~may~~shall support the preparation and implementation of production and marketing plans referred to in Article 32 of [Regulation (EU) No on the common organisation of the markets in fishery and aquaculture products].

Reason

Each producers' organisation must prepare and submit to the competent authorities of the Member State an operational programme for the fishing season. The question here is to express more explicitly support for these tools that make for a better management of resources and thus enable the fishing industry to adapt to meet consumer needs.

Amendment 28

Article 70

Text proposed by the Commission	CoR amendment
1. The EMFF may support compensation to recognised producer organisations and associations of producers organisations which store fishery products listed in Annex II of Regulation No. [on the common organisation of the market in fishery and aquaculture products], provided that the products are stored in conformity with Articles 35 and 36 of Regulation No …[on the common organisation of the markets in fishery and aquaculture products]:	1. The EMFF may support compensation to recognised producer organisations and associations of producers organisations which store fishery products listed in Annex II of Regulation No. [on the common organisation of the market in fishery and aquaculture products], provided that the products are stored in conformity with Articles 35 and 36 of Regulation No …[on the common organisation of the markets in fishery and aquaculture products]:
a) the amount of the storage aid shall not exceed the amount of the technical and financial costs of the actions required for the stabilisation and storage of the products in question;	a) the amount of the storage aid shall not exceed the amount of the technical and financial costs of the actions required for the stabilisation and storage of the products in question;
b) the quantities eligible for storage aid shall not exceed 15 % of the annual quantities of the products concerned put up for sale by the producer organisation;	b) the quantities eligible for storage aid shall not exceed 15 % of the annual quantities of the products concerned put up for sale by the producer organisation;
c) the financial assistance per year shall not exceed the following percentages of the average annual value of the marketed production at first sale of the members of producer organisation in the period 2009-2011. In the case that members of producer organisation did not have any marketed production in 2009-2011, the average annual value of marketed production in the first three years of production of such member shall be taken into account:	c) the financial assistance per year shall not exceed the following percentages of the average annual value of the marketed production at first sale of the members of producer organisation in the period 2009-2011. In the case that members of producer organisation did not have any marketed production in 2009-2011, the average annual value of marketed production in the first three years of production of such member shall be taken into account.~~:~~
— 1 % in 2014.	— ~~1 % in 2014.~~
— 0.8 % in 2015.	— ~~0.8 % in 2015.~~
— 0.6 % in 2016.	— ~~0.6 % in 2016.~~
— 0.4 % in 2017.	— ~~0.4 % in 2017.~~
— 0.2 % in 2018.	— ~~0.2 % in 2018.~~
2. By 2019 support referred to in paragraph 1 shall be phased out.	~~2. By 2019 support referred to in paragraph 1 shall be phased out.~~

Reason

The phasing-out of storage aid seems irrelevant when, under Article 15 of the basic CFP regulation, vessels will have to gradually land all their catches, including discards. It seems a good idea to provide for storage aid so as to enable the organisations to manage the quantities landed before placing a value on them.

Amendment 29

Article 71

Text proposed by the Commission	CoR amendment
Article 71	*Article 71*
Marketing measures	**Marketing measures**
1. The EMFF may support marketing measures for fishery and aquaculture products which aim at:	1. The EMFF may support marketing measures for fishery and aquaculture products which aim at:
(a) improving the conditions for the placing on the market of:	(a) improving the conditions for the placing on the market of:
(i) surplus or underexploited species;	(i) surplus or underexploited species;
(ii) unwanted catches landed in conformity with Article 15 of [Regulation on the Common Fisheries Policy] and Article 8 (b) second indent of the [Regulation (EU) No on the common organisation of the markets in fishery and aquaculture products];	~~(ii) unwanted catches landed in conformity with Article 15 of [Regulation on the Common Fisheries Policy] and Article 8 (b) second indent of the [Regulation (EU) No on the common organisation of the markets in fishery and aquaculture products];~~
(iii) products obtained using methods with low impact on the environment or organic aquaculture products as defined in Council Regulation(EC) No 834/2007 on organic production.	~~(iii)~~ products obtained using methods with low impact on the environment or organic aquaculture products as defined in Council Regulation(EC) No 834/2007 on organic production.
(b) promoting the quality by facilitating:	(b) promoting the quality by facilitating:
(i) the application for registration of a given product under the terms of Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs[1];	(i) the application for registration of a given product under the terms of Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs[1];
(ii) certification and promotion including of sustainable fishery and aquaculture products and of environmentally friendly processing methods;	(ii) certification and promotion including of sustainable fishery and aquaculture products and of environmentally friendly processing methods;
(iii) direct marketing of fishery products by small scale coastal fishermen.	(iii) direct marketing of fishery products by small scale coastal fishermen.
(c) contributing to the transparency of production and the markets and conducting market surveys;	(c) contributing to the transparency of production and the markets and conducting market surveys;
(d) drawing up standard contracts which are compatible with Union law;	(d) drawing up standard contracts which are compatible with Union law;
(e) creating producers' organisations, associations of producer organisations or inter-branch organisations recognised under Chapter II, Section III of Regulation [on the Common Organisation of the markets in fisheries and aquaculture products];	(e) creating producers' organisations, associations of producer organisations or inter-branch organisations recognised under Chapter II, Section III of Regulation [on the Common Organisation of the markets in fisheries and aquaculture products];
(f) conducting regional, national or transnational promotional campaigns for fishery and aquaculture products.	(f) conducting regional, national or transnational promotional campaigns for fishery and aquaculture products.
2. Operations under paragraph (1)(b) may include the integration of production, processing and marketing activities of the supply chain.	2. Operations under paragraph (1)(b) may include the integration of production, processing and marketing activities of the supply chain.

Reason

As landing all catches is not a real solution to the problem of discards, it should not be mentioned here. The only alternative to landing all catches is to encourage the development and implementation of more selective fishing gear. This amendment brings the text into line with the opinion of the Committee of the Regions on the CFP Regulation, which proposed the amendment of Article 15 on the landing of all catches.

Amendment 30

Title Chapter V

Text proposed by the Commission	CoR amendment
Compensation for additional costs in outermost regions for fishery and aquaculture products	Compensation for additional costs in outermost regions for fishery and aquaculture products and the needs of sustainable fisheries development

Amendment 31

Article 73

Text proposed by the Commission	CoR amendment
1. The EMFF may support the compensation regime introduced by Council Regulation (EC) No 791/2007 for the additional costs incurred by the operators in the fishing, farming and marketing of certain fishery and aquaculture products from the Azores, Madeira, the Canary Islands, French Guiana, and Réunion.	1. The EMFF shall introduce a~~may support the~~ compensation regime ~~introduced by Council Regulation (EC) No 791/2007~~ for the additional costs incurred by the operators in the fishing, farming and marketing of certain fishery and aquaculture products from the outermost regions~~Azores, Madeira, the Canary Islands, French Guiana, and Réunion~~.

Reason

Regulation (EC) No. 791/2007 will be repealed at the end of 2013, when the current EMFF regulation comes into force. Account should be taken of the specific features of all of the outermost regions without distinction, as in the CFP basic regulation, as they are in similar situations.

Amendment 32

Article 75a

Text proposed by the Commission	CoR amendment
	Aid for fleet renewal and the installation of fish aggregating devices *The EMFF may support:* 1. *the renewal of production tools with the aim of adapting to the present and future fishing potential of the outermost regions. Such aid must promote fleet development in the DOMs in their regional environment;* 2. *the construction and installation of fish aggregating devices. The operations funded under this paragraph must be carried out in collaboration with a scientific or technical body approved by the national law of each Member State, which will endorse the results of these operations.*

Reason

The outermost regions are highly dependent on fishing, which is often carried out by very small vessels. It is important to provide support for equipment and construction so that vessels comply more with the requirements of resource management and the health standards for products.

To reduce fishing near coasts, it must be possible to provide funding for such equipment installed offshore if its construction and development is conducted in cooperation with a scientific body.

Amendment 33

Article 85

Text proposed by the Commission	CoR amendment
Article 85 **Scientific Advice and knowledge**	*Article 85* **Scientific Advice and knowledge**
1. The EMFF may support the provision of scientific deliverables, particularly applied-research projects directly linked to the provision of scientific opinions and advice, for the purpose of sound and efficient fisheries management decisions under the CFP.	1. The EMFF may support the provision of scientific deliverables, particularly applied-research projects directly linked to the provision of scientific opinions and advice, for the purpose of sound and efficient fisheries management decisions under the CFP.
2. In particular, the following types of operations shall be eligible:	2. In particular, the following types of operations shall be eligible:
(a) studies and pilot projects needed for the implementation and development of the CFP, including on alternative types of sustainable fishing management techniques;	(a) studies and pilot projects needed for the implementation and development of the CFP, including on alternative types of sustainable fishing and aquaculture management techniques;
(b) the preparation and provision of scientific opinions and advice by scientific bodies, including international advisory bodies in charge of stock assessments, by independent experts and by research institutions;	(b) the preparation and provision of scientific opinions and advice by scientific bodies, including international advisory bodies in charge of stock assessments, by independent experts and by research institutions;
(c) the participation of experts in the meetings on fisheries scientific and technical issues and expert working groups as well as in international advisory bodies and in meetings where contribution of fisheries experts will be required;	(c) the participation of experts in the meetings on fisheries scientific and technical issues and expert working groups as well as in international advisory bodies and in meetings where contribution of fisheries and aquaculture experts will be required;
(d) expenditure incurred by the Commission for services related to collection, management and use of data, to the organisation and management of fisheries expert meetings and the management of annual work programmes related to fisheries scientific and technical expertise, to the processing of data calls and datasets, to the preparatory work aiming at delivering scientific opinions and advice;	(d) expenditure incurred by the Commission for services related to collection, management and use of data, to the organisation and management of fisheries expert meetings and the management of annual work programmes related to fisheries scientific and technical expertise, to the processing of data calls and datasets, to the preparatory work aiming at delivering scientific opinions and advice;
(e) cooperation activities between the Member States in the field of data collection, including the setting-up and running of regionalized databases for storage, management and use of data which will benefit regional cooperation and improve data collection and management activities as well as the scientific expertise in support of fisheries management.	(e) cooperation activities between the Member States in the field of data collection, including the setting-up and running of regionalized databases for storage, management and use of data which will benefit regional cooperation and improve data collection and management activities as well as the scientific expertise in support of fisheries management.

Reason

In the context of the CFP, extensive consideration is given to the difficulties faced by maritime fishing due to overfishing, fuel prices and administrative hurdles. Therefore, the studies and pilot projects necessary to apply and implement the CFP should include aquaculture as well as fishing as a source of food production with a high potential for development in the EU.

Amendment 34

Article 88

Text proposed by the Commission	CoR amendment
1. The EMFF may support operating costs of the Advisory Councils as set up by Article 52 of [Regulation on Common Fisheries Policy].	1. The EMFF ~~may~~shall support the ~~operating~~ costs necessary for the functioning of the Advisory Councils as set up by Article 52 of [Regulation on Common Fisheries Policy] in order to allow them to carry out their missions fully and efficiently.

Reason

The general rules and guidelines of the Common Fisheries Policy are decided by co-decision between the European Parliament and the Council (environmental objectives, industry support mechanisms, common market organisation, etc.). However, the specific regulations must be defined on a fishing area scale (specific technical measures and multi-year management plans). This is why the basic regulation provides for a greater involvement of advisory councils in decision-making.

Such an institutional organisation has many advantages over the current situation: it would be structured in accordance with ecosystems, it would facilitate adaptive management, assign priorities, make for a clearer division of authority and encourage the participation of stakeholders.

A stronger RAC would remain a light structure made up of four to five permanent posts.

Amendment 35

Article 100

Text proposed by the Commission	CoR amendment
Decommitment	**Decommitment**
The Commission shall decommit any portion of a budget commitment for an operational programme that has not been used for the purpose of pre-financing or making interim payments or for which no declaration of expenditure fulfilling the requirements laid down in Article 98(3) has been presented to it in relation to expenditure incurred by 31 December of the second year following that of the budget commitment.	1. The Commission shall decommit any portion of a budget commitment for an operational programme that has not been used for the purpose of pre-financing or making interim payments or for which no declaration of expenditure fulfilling the requirements laid down in Article 98(3) has been presented to it in relation to expenditure incurred by 31 December of the ~~second~~ third year following that of the budget commitment. 2. From the third year, the Commission shall decommit any portion of a budget commitment for an operational programme that has not been used for the purpose of pre-financing or making interim payments or for which no declaration of expenditure fulfilling the requirements laid down in Article 98(3) has been presented to it in relation to expenditure incurred by 31 December of the second year following that of the budget commitment.

Reason

The EMFF is likely to be put in practice slowly in view, firstly, of the slow rate of implementation of the present EFF, together with the possibility of continuing to make commitments and payments with this fund until the end of 2015. Secondly, and following the above-mentioned overlap, the economic and financial situation of public administrations, together with the limits on bank credit for private promoters, will not be such as to generate a rate of economic development matching the "N + 2" rule. The rule should therefore be made more flexible, moving to "N + 3" at least for the first three years (2014-2016) until the programme has reached proper cruising speed.

Brussels, 9 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

Opinion of the Committee of the Regions on 'Global Europe: a new approach to financing EU external action'

(2012/C 391/11)

THE COMMITTEE OF THE REGIONS

— welcomes the jointly presented "Global Europe" package, as it will help to provide a more holistic perspective and more coherent development policy than has previously been the case. It agrees that funding should be increased for "external relations" where the EU can provide clear added value;

— notes that an updated framework for EU aid and a simplification of the rules for planning and implementing the instruments are welcomed by local and regional authorities, particularly those who want to contribute to development work despite their limited administrative resources;

— is keen to highlight the role of local and regional authorities in the EU's development work, as well as their role in the context of individual Member States' efforts to promote decentralisation and deeper democracy and in direct international cross-border cooperation between actors at subnational level;

— believes that the Commission's proposal for financing "Global Europe" should include adequate provision for strengthening the participation and cooperation of local and regional authorities, for example by limiting, or even removing, the co-financing requirement. Decentralisation is a good thing, strengthening as it does the role of local and regional authorities – all over the world;

— points out that creating local ownership and promoting democracy at grass-roots level require trust in the political system and in its representatives. A decentralised structure results in more effective institutions with greater legitimacy, and is the most important way of bringing the authorities and the public closer together. Open decision-making processes that respect the subsidiarity principle help to establish democratic principles among the general public, which paves the way for a pluralistic and tolerant society.

Rapporteur	Lotta HÅKANSSON HARJU (SE/PES)
Reference documents	Joint communication to the European Parliament and the Council – Global Europe: A New Approach to financing EU external action COM(2011) 865 final Proposal for a Regulation of the European Parliament and of the Council establishing common rules and procedures for the implementation of the Union's instruments for external action COM(2011) 842 final Communication from the Commission to the European Parliament and the Council – Preparation of the multiannual financial framework regarding the financing of EU cooperation for African, Caribbean and Pacific States and Overseas Countries and Territories for the 2014-2020 period (11th European Development Fund) COM(2011) 837 final Proposal for a Regulation of the European Parliament and of the Council on the Instrument for Pre-accession Assistance (IPA II) COM(2011) 838 final Proposal for a Regulation of the European Parliament and of the Council establishing a European Neighbourhood Instrument COM(2011) 839 final Proposal for a Regulation of the European Parliament and of the Council establishing a financing instrument for development cooperation COM(2011) 840 final Proposal for a Regulation of the European Parliament and of the Council establishing a Partnership Instrument for cooperation with third countries COM(2011) 843 final Proposal for a Regulation of the European Parliament and of the Council establishing a financing instrument for the promotion of democracy and human rights worldwide COM(2011) 844 final

I. **POLICY RECOMMENDATIONS**

THE COMMITTEE OF THE REGIONS

General comments

1. welcomes the new generation of financing instruments for development policy, which aim to facilitate political dialogue and the implementation of measures, in line with the overarching "Agenda for Change" strategy [1] and within the proposed multiannual financial framework. The Committee welcomes the European Commission's proposal to increase the budget to EUR 70 billion, which is just under 7 % of the EU's overall budget;

2. welcomes the jointly presented "Global Europe" [2] package, as it will help to provide a more holistic perspective and more coherent development policy than has previously been the case. It agrees that funding should be increased for "external relations" where the EU can provide clear added value by acting as an entity, and therefore finds it regrettable that the European Development Fund (EDF) is outside the EU's multiannual financial framework: more than EUR 34 billion is channelled through the EDF, but these funds are not included in the budget. The EDF should be subject to the same requirements in terms of transparency, effectiveness and accountability as the other financing instruments within the "Global Europe" package;

[1] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Increasing the impact of EU Development Policy: an Agenda for Change (COM(2011) 637 final).

[2] "Global Europe" or "Europe in the World" comprises COM(2011) 865, COM(2011) 842, COM(2011) 837, COM(2011) 838, COM(2011) 839, COM(2011) 840, COM(2011) 843 and COM(2011) 844.

3. notes that an updated framework for EU aid and a simplification of the rules for planning and implementing the instruments are welcomed by local and regional authorities, particularly those who want to contribute to development work despite their limited administrative resources. There have been clear calls during the current programming period for the instruments to be simplified and clarified, and the CoR is pleased that the results of the Commission's consultations have been taken into account;

4. notes that a simpler regulatory framework, lower costs for participants and faster procedures for awarding contracts and grants are all much sought after improvements. Increasing flexibility and being quicker to adapt and adjust where the local context requires should also create the conditions for more effective work;

5. is keen to highlight the role of local and regional authorities in the EU's development work, as well as their role in the context of individual Member States' efforts to promote decentralisation and deeper democracy and in direct international cross-border cooperation between actors at subnational level, therefore points out that the particular role of the outermost regions must be taken into account – their geostrategic position makes them active borders and platforms of the EU in the world which can boost the effectiveness of EU development policy, as stated in Opinions CdR 408/2010 and CdR 364/2011;

6. notes that urbanisation has presented local and regional authorities with major challenges in terms of improving their own capacities and effectiveness and implementing strong and transparent systems of governance in order to meet the expectations of the population. To achieve this, they need the knowledge and experience of other municipalities. Local and regional partnership in its various forms often involves a broad spectrum of stakeholders. It has been shown that cooperation, particularly closer forms of cooperation such as public-public partnerships, and also public-private partnerships, involves few costs, but produces tangible and sustainable results, not least because it focuses on strengthening existing structures, with their existing statutory duties and responsibilities, and improving the capabilities of staff already working in local and regional government. The Commission's proposal for financing "Global Europe" should therefore include adequate provision for strengthening the participation and cooperation of local and regional authorities, for example by limiting, or even removing, the co-financing requirement. Decentralisation is a good thing, strengthening as it does the role of local and regional authorities – all over the world;

7. notes that development cooperation support for "civil society and local authorities" quite rightly gives explicit recognition to these stakeholders. However, the Committee calls for local and regional authorities and their public services also to have access to support within the framework of other thematic and geographical instruments. Support for and the involvement of local and regional authorities in community development is a *horizontal* issue and should not be restricted to a minor element of a single instrument;

8. believes that local and regional authorities should also be encouraged more strongly to cooperate within the "migration and asylum" thematic programme and thus to benefit from the funding. Cross-border international cooperation between local authorities that receive migrants and asylum seekers and the local authorities they come from could be improved and developed significantly. Local government plays an important role in shaping and implementing integration and repatriation programmes;

9. welcomes the fact that decentralised international development cooperation is getting explicit recognition and ever greater visibility, not only in the Commission's communication but also in other international contexts over recent years ([3]). The role of local and regional authorities in sound community development and their importance in developing links between the public and different levels of government cannot be emphasised enough;

10. believes that, in the context of budgetary or sectoral support, requirements should be placed on partner countries to ensure that adequate levels of development aid actually reach the levels of government responsible for providing much needed and heavily utilised services for local residents. Resources and skilled staff should not be concentrated centrally, but distributed to the relevant subnational authorities;

11. stresses that local and regional authorities provide leadership and a combined voice for their respective citizens. They thus enable strong public participation that is rooted in the reality of everyday life. Local and regional authorities also provide many public services. In many cases, it is local and regional authorities who coordinate and promote cooperation between key social stakeholders such as non-profit organisations, private enterprise, faith communities and academia;

12. points out that the UN's global development goals, the millennium goals, are relevant not only to Member States and the UN but also, of course, to municipalities and regions. Local and regional authorities work to promote the sustainable development of society, and action at local and regional level is

([3]) Agenda 21, adopted in Rio de Janeiro in 1992; the UN's Millennium Summit in 2000; the 2005 Paris Declaration; Busan 2011; Council of Europe Resolution 251 (2008) on City Diplomacy; and the UN Development Cooperation Forum taking place on 6 July 2012.

absolutely vital to achieving the millennium goals. Awareness needs to be raised regarding the role of subnational actors in local – and global – development. For example, projects are underway in the Netherlands and Sweden to highlight municipalities' contribution to, and responsibility for, the healthy, sustainable development of societies and the link with the UN's millennium goals;

13. supports the call made in the European Parliament's report on the future of EU development policy to dedicate the year 2015 to a "European Year for Development" in order to prepare the adequate follow-up to the MDGs;

14. welcomes the Commission's proposal for a joint seven-year programme, and considers that it will help to create a better environment for comprehensive social reform. The CoR advocates putting a clearer emphasis on results and setting stricter conditions, as proposed in the instruments. The Commission and the Member States' representatives should be aware that local and regional authorities can contribute to a proactive dialogue to provide inspiration for the programming of the relevant instruments;

15. would stress that decentralisation reforms and democracy building are complex, wide-ranging and disruptive processes that require persistence, predictability and a long-term perspective on the part of finance providers and cooperation partners;

16. points out that creating local ownership and promoting democracy at grass-roots level require trust in the political system and in its representatives. A decentralised structure results in more effective institutions with greater legitimacy, and is the most important way of bringing the authorities and the public closer together. Open decision-making processes that respect the subsidiarity principle help to establish democratic principles among the general public, which paves the way for a pluralistic and tolerant society;

17. believes that local and regional authorities both in the European Union and in the partner countries can – and should – play a decisive role in shaping policy and strategies at their respective levels, and similarly that they can and should be given the opportunity to contribute to work at national and international level. Moreover, local and regional authorities are responsible, as service providers, for managing, coordinating and implementing the priorities set within, for example, healthcare, education and culture;

18. feels that, thanks to their intellectual resources, national associations representing municipalities and regions can play a decisive and supportive role in comprehensive societal reform, particularly with regard to decentralisation and democracy building. Local and regional authority associations and similar bodies can support members of these organisations by developing methods and tools, by speaking on their behalf and representing their common interests, and by coordinating the activities of various finance providers within their own domains. These associations' expertise should be harnessed to strengthen local and regional democracy in the context of development cooperation; therefore calls on the EU, its Member States and their sub-national levels of government to support the role of national associations of local and regional authorities in partner countries;

19. points out that local and regional authorities have expertise in most of the sectors that are key to economically, socially and environmentally sustainable development. It is worth noting that they have experience both in practical action and in political control in fields such as public health, education, waste and water management, local entrepreneurship and conditions for the creation of SMEs, transport and infrastructure, the environment and natural resources, and agriculture, as well as in terms of broader responsibility and protection of true democracy and respect for human rights. This expertise can easily be accessed and mobilised from local and regional authorities directly or from their national, European or global associations, and through the CoR;

20. notes that in 2008 the European Commission called for the development of a holistic approach to local authorities as actors in development at global, European and national level, proposing three tools under the aegis of the CoR, given its role in providing local authorities with a voice at EU level; recalls that the Atlas on Decentralised Cooperation to map activities and best practice, the web information exchange platform to match skills and capacities with needs, and the Assises of Decentralised cooperation for political dialogue have now been delivered involving the European Commission and key EU and partner country local and regional authority networks, such as the Platforma working group within the Council of European Municipalities and Regions (CEMR); calls on local and regional authorities, their representative associations in the EU and partner countries to make further use of these instruments in the interest of greater coherence and improved aid effectiveness;

21. notes that, as a result of the structured dialogue on development cooperation undertaken from March 2010 to May 2011 between the EU institutions, civil society representatives and representatives of local and regional authorities, the Commission has proposed that a permanent high level forum for development issues should be set up. The Committee warmly welcomes this initiative and expects to continue to play its institutional role, as it feels that a formal forum would institutionalise the dialogue and improve its substance, and also make it possible to hold a systematic debate

on development issues, with regular updates, peer review and exchange of experience. The Committee also welcomes the forthcoming communications on the role of NGOs and local authorities in development cooperation. They will provide a formal basis on which to continue and further develop cooperation with the Commission, the importance of which was highlighted during the bi-annual Assises of Decentralised Cooperation, as well as in the structured dialogue;

Comments regarding the European Instrument for Democracy and Human Rights (EIDHR)

22. notes that the budget for the thematic instrument for democracy and human rights will be increased by almost 35 % over the current programming period, but will still make up only a marginal proportion (approx. 2 %) of EU development aid. The Committee finds it regrettable that this horizontal instrument is not better resourced, as it is applicable in all geographical areas at different stages of development, and focuses on fundamental issues such as respect for basic human rights and support for and consolidation of democratic reforms;

23. stresses that democracy and human rights are universal values for the EU, and for the international community. These values are an asset and a strength that, in many societies, are protected by local and regional authorities, a functional judicial system, civil society, media and other stakeholders;

24. feels that human rights must be fostered and given greater prominence at all levels of society, and the Committee therefore considers it appropriate for the instrument to put greater emphasis on local and regional government with regard to institution building;

25. feels that the level of government closest to the citizens can also implement national decisions at local level in a way that adapts them to and takes account of local circumstances, so as to avoid possible negative effects on local people's rights regarding, for example, language requirements or ethnic identity. Local and regional authorities are also in the best position to organise and coordinate efforts to raise awareness among local groups such as young people and women of their human rights and how to exercise them;

Comments on the financing instrument for development cooperation, with support for civil society organisations and local and regional authorities (as part of the Development Cooperation Instrument (DCI))

26. is of course keen, as are the local and regional authorities it represents, to make an active contribution to implementing the Commission's proposal to further strengthen its dialogue and cooperation with civil society and local and regional authorities, through the tools it has developed with the European Commission and key EU and partner country local and regional authority networks, and through the new permanent high level forum for development;

27. welcomes the fact that local and regional authorities will continue to have access to development cooperation funding, but would stress that a clear distinction between civil society and local and regional authorities would be useful with regard to policy, instruments and actual funding;

28. calls for more resources to be provided for local and regional authorities within the development cooperation instrument for civil society ("non-state actors") and local authorities (NSA-LA). The current programming period has resulted in an imbalance in the distribution of funds between civil society organisations and local and regional authorities. Earmarking at least 25 % of funding (rather than 15 %, as at present) for local and regional authorities would make it possible to make better use of their rightful role and expertise;

29. believes that local and regional authorities can safeguard long-term democratic development, and should be provided with adequate resources to put them on an equal footing with initiatives from well-resourced national or international non-profit organisations. Local and regional authorities in the partner countries are vital in coordinating initiatives and actions by various stakeholders and in ensuring that they fit in with a locally and regionally formulated development policy with strong political roots, at least where those initiatives and actions focus on public service provision;

30. points out that local and regional authorities have invaluable expertise and experience with development work relating to local and regional government and administration, the construction of systems and platforms for political dialogue, broader and deeper party-political work, creating the conditions for civic participation and dialogue – in other words building a deep and sustainable democracy;

31. notes that many of the European Union's local and regional authorities have a democratic tradition going back many years, but conversely many Member States are new and fragile democracies. The different experiences and perspectives of the European Union's local and regional authorities should therefore be incorporated in the EU's joint development cooperation with partner countries and used to help those countries with reforming and/or establishing public institutions,

paying particular attention to local self-government as the level of government closest to the citizens and supporting and strengthening civil society as the foundation of any democracy;

32. stresses that strengthening directly elected local and regional politicians, and employed officials, in partner countries is a key factor in the successful implementation of decentralisation reforms and achieving good social governance – effective governance should be both a means and an end in the EU's development efforts;

33. believes that deeper democracy and better local services require a willingness and ability to make systemic changes at all levels *simultaneously*. Political commitment, the release of resources, division of competences and decentralisation require consensus at national, regional and local level. A national legal and financial system that allows for accountability at local and regional level creates the conditions for improvements and for the necessary local ownership of efforts to develop the local environment;

Comments on the European Neighbourhood Instrument (ENI)

34. welcomes the proposed European Neighbourhood Instrument and feels that it largely takes account of the changes that needed to be made to the current instrument. It would, however, suggest certain adjustments to further increase the effectiveness and impact of neighbourhood assistance;

35. suggests that, to ensure that the EU's aim of establishing deep and sustainable democracy is achieved, specific comments should be added highlighting decentralisation, local democracy and capacity-building in the provision of public local and regional services;

36. urges the Commission to earmark funds within this instrument for programmes that support local and regional democracy building and decentralisation. It should be clarified that potential beneficiaries and partners should definitely be local and regional authorities;

37. urges the Commission to make it clear that cross-border cooperation, including cooperation between several countries, is not restricted to those countries that physically border each other but includes all EU Member States, regions and cities, regardless of geographical proximity. It is important for experience, knowledge and examples of good practice to be transferred across borders regardless of physical distance, and it is necessary, where the outermost regions are concerned, to remove the 150 km eligibility requirement laid down by the European Neighbourhood Instrument;

38. notes that the requirement for co-financing for the implementation of neighbourhood policy projects may in some cases present an obstacle to the involvement of local and regional authorities. The co-financing level in some countries conflicts with national legislation that does not allow subnational authorities to participate in development cooperation;

39. urges the Commission to focus still more closely, in the Regulation, on institutional partnership and TAIEX ([4]), and to analyse in depth how to continue to promote them. The fact is that few ministries responsible for local and regional government have either the interest or the capacity to propose this kind of partnership or TAIEX;

40. feels that the recognised and increasingly valued role incumbent on local and regional authorities, civil society and cooperation between the two when states transform from one-party systems and dictatorships to democracies is important and provides an added value that deserves much greater prominence in EU neighbourhood policy and financial resource management;

41. has been involved in intensive and concrete exchanges and cooperation with, for example, the Eastern Partnership (CORLEAP) and ARLEM as part of its work. These exchanges have, among other things, drawn attention to the aim and purpose of the EU's "Global Europe" and "Agenda for Change" strategies, including outside the EU's borders;

Comments on the Instrument for Pre-Accession Assistance (IPA)

42. has worked – through opinions, workshops, working groups, the Local Administration Facility (LAF), etc. – to extend the implementation of pre-accession funding, and it fully endorses the approach of making support from the IPA more results-oriented, flexible and tailored;

43. notes that the EU aims to use a multi-level, partnership-based approach to ensure that the provision and impact of development assistance are more effective. The Committee has promoted these efforts in practical terms by, for example, arranging the Conference of the Parliaments ("Assises") and by drawing up an atlas of decentralised cooperation. The Committee and the Commission are jointly responsible for

([4]) TAIEX: Technical Assistance and Information Exchange Instrument, an instrument that supports partner countries in aligning with EU legislation.

the Local Administration Facility, which involves study visits by politicians and business people from candidate and potential candidate countries;

44. urges the Commission to do more to facilitate and promote the exchange of experience between local and regional authorities, and to ensure that this exchange is not primarily dominated by central government levels in the Member States and enlargement countries;

45. has observed that, over many years, cooperation with local and regional authorities in enlargement and neighbouring countries has become increasingly professional, and would stress that it is important for the financing instrument to continue to promote this development and allow it to intensify;

46. feels that, particularly in enlargement and neighbouring countries, appropriate instruments and indicators should be used to ensure a clearer link between the allocation of aid and actual results in the implementation process, in terms of decentralisation, multi-level governance and thus the influence of local and regional authorities on the relevant decision-making levels;

47. urges the Commission to ensure that funding is set aside specifically for capacity building and development in local and regional authorities in enlargement countries and for facilitating the development of knowledge and skills. Local and regional authorities should not be seen and treated as passive recipients, but given a role as proactive stakeholders with a good understanding of needs, preconditions and realistic goals;

48. feels that, if local and regional authorities work more actively to meet the need for capacity building that greater cooperation in IPA implementation entails, this will give them the opportunity to educate themselves through practical work prior to EU accession. For example, funds could be used to encourage these stakeholders to develop project ideas and to provide support in this process. Many countries have had positive experiences with the decentralised administration of IPA funds;

49. points out that one challenge in implementing IPA resources is corruption, and all levels – local, regional and national – need support in this regard. A continuous and rigorous monitoring system, and support for "watchdogs" such as civil society organisations, media and local and regional authorities, are key to achieving the necessary knowledge and accountability;

50. believes that integrating IPA funds more fully with ongoing local and regional development work will strengthen the foundations for sustainable multi-level governance and viable decentralisation. Involving local and regional authorities in developing programmes and projects, in the decision-making process and in monitoring and control will lay the groundwork for ongoing development work even without external support;

51. points out that many countries in the Western Balkans are undergoing extensive societal reforms, which could be further consolidated and accelerated with greater cooperation from politicians at local and regional level. In many cases, these levels of government do not have the administrative, financial and human resources to manage the IPA: the necessary resources and capacity can be found at central level, which further reinforces an already centralised system and slows down improvements in the involvement of minorities and local and regional political actors;

52. observes that, all too often, decentralisation reforms grind to a halt due to a lack of capacity at local and regional level, when the decentralisation of powers is imposed but is not accompanied by a financial decentralisation process. The EU's management of the IPA can accelerate the necessary parallel processes to keep a balance between responsibilities and resources;

Comments on the Partnership Instrument (PI)

53. notes that the partnership instrument covers countries such as China, Brazil, South Africa, Russia and so on, and primarily aims to develop and promote trade and contacts between the EU and these countries. It focuses on areas such as climate, the environment and trade;

54. would draw attention to the fact that pockets of underdevelopment are hidden in national statistics that focus on average GDP per capita at national level. Disadvantaged regions within well-developed countries cannot apply for support other than from the partnership instrument. The Committee therefore suggests that attention should be paid to *regional* differences, such levels of income distribution and poverty from a geographical point of view. The Commission should hold discussions with the countries affected regarding the importance of inclusive and general development and thus demand efforts to improve regional cohesion so that the country can invoke EU financial support;

55. points out that the instrument should also be used to develop social safety nets, to reform the welfare sector in general, to provide resources to strengthen institutions at local and regional authority level and to ensure that it promotes partnership and democratic development in these countries.

II. **RECOMMENDATIONS FOR AMENDMENTS**

Amendment 1

COM(2011) 838 final

Article 2

Text proposed by the Commission	Amendment
Article 2	*Article 2*
1. Assistance under this Regulation shall pursue the following specific objectives according to the needs of each beneficiary country and their individual enlargement agenda:	1. Assistance under this Regulation shall pursue the following specific objectives according to the needs of each beneficiary country at local, regional and national levelland their individual enlargement agenda:
(a) Support for political reforms, *inter alia*:	(a) Support for political reforms, *inter alia*:
(i) strengthening of democratic institutions and the rule of law, including its implementation;	(i) strengthening of democratic institutions and the rule of law, including its implementation;
(ii) promotion and protection of human rights and fundamental freedoms, enhanced respect for minority rights, promotion of gender equality, non-discrimination and freedom of the press, and promotion of good neighbourly relations;	(ii) promotion and protection of human rights and fundamental freedoms, enhanced respect for minority rights, promotion of gender equality, non-discrimination and freedom of the press, and promotion of good neighbourly relations;
(iii) the fight against corruption and organised crime;	(iii) the fight against corruption and organised crime;
(iv) public administration reform and good governance;	(iv) public administration reform and good governance, including capacity building at all levels;
(v) the development of civil society and social dialogue;	(v) the development of civil society and social dialogue;
(vi) reconciliation, peace building and confidence-building measures.	(vi) reconciliation, peace building and confidence-building measures.
…	…

Reason

The issue of building democratic capacity is particularly important at local and regional level. Therefore, particular attention should be paid to this aspect. The amendment is referring to point 45 of the opinion.

Amendment 2

COM(2011) 839 final

Article 4

Text proposed by the Commission	Amendment
Article 4	*Article 4*
3. Union support under this Regulation shall in principle be co-financed by the partner countries through public funds, contributions from the beneficiaries or other sources. The same principle shall be applicable to the cooperation with the Russian Federation, particularly with regard to programmes referred to in Article 6(1)(c). Co-financing requirements may be waived in duly justified cases and when this is necessary to support the development of civil society and non-state actors, without prejudice to compliance with the other conditions set out in the Financial Regulation.	3. Union support under this Regulation shall in principle be co-financed by the partner countries through public funds, contributions from the beneficiaries or other sources. The same principle shall be applicable to the cooperation with the Russian Federation, particularly with regard to programmes referred to in Article 6(1)(c). Co-financing requirements may be waived in duly justified cases and when this is necessary to support the development of civil society and non-state actors~~,~~ or in order to facilitate the participation of local or regional authorities of the partner countries in projects which are aimed at developing local or regional democracy building without prejudice to compliance with the other conditions set out in the Financial Regulation.

Reason

In some cases the co-financing requirement may prevent local or regional authorities in the partner countries (which should be the main beneficiaries of these programmes) from putting in viable and useful projects. Since local democracy building is one of the priorities of the programme, it should also be one of the reasons for which derogations from the co-financing requirements are possible under certain circumstances.

Amendment 3

COM(2011) 840 final

Article 8

Text proposed by the Commission	Amendment
Article 8	*Article 8*
1. The objective of the programme on civil society organisations and local authorities in development shall be to finance initiatives in the area of development by or for civil society organisations and local authorities originating from partner countries, the Union, candidate countries and potential candidates.	1. The objective of the programme on civil society organisations and local or regional authorities in development shall be to finance initiatives in the area of development by or for civil society organisations and local or regional authorities originating from partner countries, the Union, candidate countries and potential candidates. In these activities, account will be taken of the different structures and specific roles of civil society organisations on the one hand, and local or regional authorities, on the other.
2. Detailed areas of activities to be pursued by the Union assistance under this Article, as well as an indicative list of categories of civil society organisations and local authorities, are set out in Annex V.	2. Detailed areas of activities to be pursued by the Union assistance under this Article, as well as an indicative list of categories of civil society organisations and local and regional authorities, are set out in Annex V.

Reason

It is important to underline that this programme should also be open to allow for cooperation with "regional authorities" from partner, candidate or potential candidate countries. At the same time, it should be underlined that civil society organisations and local or regional authorities may have often different roles to play in the specific context of a given country or project. It refers to point 25 of the general comments of the CoR opinion.

Amendment 4

COM(2011) 838 final

Article 14

Text proposed by the Commission	Amendment
Article 14	*Article 14*
1. The financial reference amount for the implementation of this Regulation for the period from 2014 to 2020 shall be EUR 14 110 100 000 (current prices). Up to 3 % of the financial reference amount shall be allocated to cross-border cooperation programmes between beneficiary countries and EU Member States.	1. The financial reference amount for the implementation of this Regulation for the period from 2014 to 2020 shall be EUR 14 110 100 000 (current prices). Up to 3 % of the financial reference amount shall be allocated to cross-border cooperation programmes between beneficiary countries and EU Member States and including support for capacity building at local and regional level.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the Union Multi-annual Financial Framework.	2. The annual appropriations shall be authorised by the budgetary authority within the limits of the Union Multi-annual Financial Framework.
3. As referred to in Article 13, paragraph 2 of the "Erasmus for All" Regulation, in order to promote the international dimension of higher education, an indicative amount of EUR 1 812 100 000 from the different external	3. As referred to in Article 13, paragraph 2 of the "Erasmus for All" Regulation, in order to promote the international dimension of higher education, an indicative amount of EUR 1 812 100 000 from the different external

Text proposed by the Commission	Amendment
instruments (Development Cooperation Instrument, European Neighbourhood Instrument, Instrument for Pre-accession Assistance, Partnership Instrument and the European Development Fund), will be allocated to actions of learning mobility to or from non EU countries and to cooperation and policy dialogue with authorities/ institutions/organisations from these countries. The provisions of the "Erasmus for All" Regulation will apply to the use of those funds. The funding will be made available through 2 multiannual allocations only covering the first 4 years and the remaining 3 years respectively. This funding will be reflected in the multiannual indicative programming of these instruments, in line with the identified needs and priorities of the countries concerned. The allocations can be revised in case of major unforeseen circumstances or important political changes in line with the EU external priorities.	instruments (Development Cooperation Instrument, European Neighbourhood Instrument, Instrument for Pre-accession Assistance, Partnership Instrument and the European Development Fund), will be allocated to actions of learning mobility to or from non EU countries and to cooperation and policy dialogue with authorities/ institutions/organisations from these countries. The provisions of the "Erasmus for All" Regulation will apply to the use of those funds. The funding will be made available through 2 multiannual allocations only covering the first 4 years and the remaining 3 years respectively. This funding will be reflected in the multiannual indicative programming of these instruments, in line with the identified needs and priorities of the countries concerned. The allocations can be revised in case of major unforeseen circumstances or important political changes in line with the EU external priorities.

Reason

The amendment follows from the previous one- local and regional capacity building should be one of the priorities to be reflected in the financial allocation (based on point 45 of the general comments).

Amendment 5

COM(2011) 839 final

Article 18

Text proposed by the Commission	Amendment
Article 18 1. The financial envelope available for implementing this Regulation over the period 2014 to 2020 shall be EUR 18 182 300 000 (current prices). Up to 5 % of the financial envelope shall be allocated to the Cross-Border Cooperation programmes referred to in Article 6(1)(c).	*Article 18* 1. The financial envelope available for implementing this Regulation over the period 2014 to 2020 shall be EUR 18 182 300 000 (current prices). Up to 5 % of the financial envelope shall be allocated to the Cross-Border Cooperation programmes referred to in Article 6(1)(c) including programmes that support local and regional democracy building.

Reason

The development for local and regional-level democracy is an important pre-condition for other elements of the stated aims of the instrument. A certain amount of financial assistance should therefore be earmarked for projects in this area. The amendment refers to point 34 of the opinion.

Brussels, 9 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

Opinion of the Committee of the Regions on 'Review of the Directive on reuse of public sector information and open data'

(2012/C 391/12)

THE COMMITTEE OF THE REGIONS

— welcomes the Commission's initiative to review the *Re-use of public sector information* (PSI) Directive and the accompanying Communication on *Open Data*, as they have the potential to become valuable assets for citizens, businesses and public authorities and could help to create jobs and improve the quality of public services;

— has emphasised the importance of having common rules and practices governing the re-use and exploitation of public sector information to ensure that the same basic conditions are applied to all players in the European information market, that conditions for re-using such information are more transparent, and that distortions of the internal market are eliminated;

— notes that local and regional authorities are among the main target groups for measures under the Digital Agenda, which include the revision of the PSI directive and the Communication on *Open Data,* and that they play a particularly important role in driving its implementation;

— considers it important that the re-use of public sector data fully respect EU and national privacy legislation. The use of open data must also respect the intellectual property rights of third parties, at the same time as ensuring that the same data protection and privacy standards apply to a situation in which public sector data is used for commercial purposes as when such data remains within the public sector.

Rapporteur	Anne KARJALAINEN (FI/PES), Member of Kerava City Council
Reference documents	Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/98/EC on re-use of public sector information COM(2011) 877 final Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on *Open data: An engine for innovation, growth and transparent governance* COM(2011) 882 final

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

Introduction

1. welcomes the Commission's initiative to review the *Re-use of public sector information* (PSI) Directive and the accompanying Communication on *Open Data*, as they have the potential to become valuable assets for citizens, businesses and public authorities and could help to create jobs and improve the quality of public services ([1]);

2. notes that the purpose of the current PSI Directive, which was adopted in 2003, was to facilitate commercial re-use of public sector information throughout the Union by harmonising the basic conditions for facilitated re-use. The PSI Directive also contains provisions on non-discrimination, charging, exclusive arrangements, transparency, licensing and practical tools to facilitate the discovery and re-use of public documents. Cities and regions are simultaneously actors and providers in relation to such documents;

3. points out that in its 2011 Communication on *Open Data* the Commission notes that, despite progress made, a number of barriers still persist to the use of public sector information, such as failure to see its economic potential, lack of information on available PSI, technical and practical issues hindering re-use;

4. observes that the review of the Directive forms part of the Digital Agenda for Europe, which itself is part of the Europe 2020 strategy to turn Europe into a "smart, sustainable and inclusive economy delivering high levels of employment, productivity and social cohesion" ([2]);

5. emphasises that Europe's biggest challenge in the near future will be to generate economic growth while promoting sustainable development. There is an opposition between these objectives, which is addressed in the Europe 2020 strategy by making sustainable development a top priority. Sustainable development means development that meets the needs of modern society without making compromises that will be paid for by future generations. The digital economy has the greatest potential to generate sustainable growth ([3]);

6. has highlighted the importance of re-using public sector information for both commercial and non-commercial purposes, and investing in research to support specific activities and the development of future applications to enhance the value of the ICT domain ([4]);

7. has emphasised the importance of having common rules and practices governing the re-use and exploitation of public sector information to ensure that the same basic conditions are applied to all players in the European information market, that conditions for re-using such information are more transparent, and that distortions of the internal market are eliminated ([5]);

8. notes that local and regional authorities are among the main target groups for measures under the Digital Agenda, which include the revision of the PSI directive and the Communication on *Open Data*, and that they play a particularly important role in driving its implementation ([6]);

9. observes that public bodies produce, collect and hold a wealth of information and content. Public sector information is an important raw material for digital content products and services, and its considerable potential in the European Union has not yet been fully exploited;

10. points out that, in order to develop a market for the reuse of PSI, it is necessary to review exclusive agreements by public sector bodies and private firms and to implement policies that apply licensing and charging models to facilitate and optimise the re-use of PSI, while ensuring that there is

([1]) CdR 247/2009.
([2]) CdR 104/2010.
([3]) Idem.
([4]) CdR 247/2009.
([5]) Idem.
([6]) CdR 104/2010.

funding to preserve and update documents. It is also important to consider and clarify how mechanisms, many of which are already used for the management of public data, can be organised so as to ensure maximum consistency, thus enabling major synergies ([7]);

11. believes that it is essential to determine a way of objectively measuring the economic value of information, given its public nature and connection with public authorities ([8]);

12. stresses that the full potential of public sector information re-use could be reached with closer involvement of LRAs, which could significantly contribute to promoting public sector information re-use, thereby improving conditions for businesses and creating jobs ([9]);

13. encourages policy-makers at local and regional level to consider how local and regional authorities can promote open public data and re-use of information;

14. considers it important that the re-use of public sector data fully respect EU and national privacy legislation. The use of open data must also respect the intellectual property rights of third parties, at the same time as ensuring that the same data protection and privacy standards apply to a situation in which public sector data is used for commercial purposes as when such data remains within the public sector;

15. has stressed the need for involvement of local and regional authorities in a broad collaboration to improve the interoperability of government systems and make the provision of public services more effective ([10]);

Principles of the Directive on re-use of public sector information

16. notes that the Commission's revised strategy for open public data is based on three mutually reinforcing policy strands:

— adapting the legal framework for data re-use;

— mobilising financing instruments in support of open data, and deployment actions such as the creation of European data-portals;

— facilitating coordination and experience-sharing across the Member States.

17. notes that the reviews of the Directive introduce the principle that all public information that is not explicitly covered by one of the exceptions is re-usable for commercial and non-commercial purposes;

18. points out that the proposal, which expands the scope of the Directive to include libraries (including university libraries), archives and museums, should take into account the special purpose of such institutions, whose contents are accessible to the public; points out that extending the scope of the directive should minimise the possible financial effects and not impose a major administrative burden and significant additional expenditure on such bodies; underlines that, while cultural institutions should not be forced into digitalisation, the proposed method of setting charges over and above the marginal costs, should not undermine digitalisation and long-term archiving efforts of the aforementioned bodies due to high digitalisation and data storage costs and more limited money-earning options;

19. points out that the proposal also limits the amount that can be charged for public sector information, to not more than the marginal costs of producing and disseminating it, other than in exceptional cases where the public sector body generates a substantial proportion of the funding relating to the performance of its public service tasks from the exploitation of its intellectual property rights; proposes making it generally possible to also take PSI Directive compliance costs into account in setting charges;

20. notes that, under the proposal, the Member States are required to organise supervision by independent authorities of matters pertaining to re-use of public sector information; does not feel that such authorities are necessary as sufficient provisions already exist in the Member States to ensure supervision of the public sector. The Member States must submit a yearly report to the Commission on the situation with re-use of public sector information and the procedures and measures to ensure this;

21. notes that the Commission intends to work together with Member States, public sector bodies and regional aggregators to establish a pan-European data portal that would give direct access to a range of datasets from across the EU, including the data available through the Commission portal;

22. urges the Commission to support measures to promote open public data in its funding programmes, taking local and regional government into account;

([7]) CdR 247/2009.
([8]) Idem.
([9]) Idem.
([10]) CdR 10/2009.

23. urges public bodies to publish data in machine-readable format where possible, but notes that the Directive will not require that all data be converted into machine-readable format; this should also be set out clearly in the recitals to the Directive;

Opportunities

24. believes that the re-use of public sector information benefits society as a whole. The development of new practices using linked open data is a step towards user-centric service processes. Other benefits can come in the form of innovative services, new business models and enhanced public sector efficiency ([11]);

25. notes that according to Commission studies, ready access to public-sector data boosts economic growth and creates new business opportunities, including for small businesses, regardless of their location. In this connection, participation in re-use by SMEs in particular should be encouraged and the necessary refinancing ensured for the production, storage and updating of public sector documents;

26. observes that re-use of public information and the importance of open data for businesses can have a positive impact on the development of an entire region;

27. notes that studies carried out by the Commission and other international studies support the view that the social and macroeconomic benefits of releasing public data resources for re-use are, at a conservative estimate, substantially greater than the loss of future sales revenues. However, targeted (support) measures from the European Union might be needed, enabling additional PSI tasks to be performed at a time of reduced revenues, given budgetary constraints now and in the foreseeable future;

28. notes that the economic value of information depends on its content. Economic benefits and new innovations are produced in particular through combining information, e.g. geographical information with service information;

29. notes that the opening up of PSI for re-use will also have a positive effect on the transparency, efficiency and accountability of public authorities and contribute to citizen empowerment and promote democracy. The information will then be verifiable and transparent;

30. points out that open public data improves the knowledge on which decision-making is based and its quality, for instance in information-based decision-making in the transport, land-use and climate change spheres;

31. notes that open public data resources and crowdsourcing provide a considerable opportunity for local media to present local decision-making in an understandable and interesting way;

32. points out that open public data also makes it possible to provide public e-services more cost-effectively and means that less duplicated information is kept;

33. emphasises that broad opening up of public data for re-use not only creates new business activity but gives public authorities the opportunity to develop their own systems and processes, and to develop interfaces between those systems;

34. notes that many products and services based on public sector information have a cross-border nature, and believes that it should be made easier for businesses to deliver services across the whole of the EU;

35. stresses that open public data helps to improve the conditions for an efficient digital internal market where consumers can be offered easy, safe and flexible access to legal digital content and services ([12]);

36. notes that European citizens – both as consumers and entrepreneurs, and as workers in creative sectors and the information sector – benefit from the developing digital internal market and from the services and information products that open public data facilitates ([13]);

37. points out that local public sector operators often do not have sufficient resources, know-how or funding to develop user-driven service innovations. Local and regional operators should therefore be supported and encouraged to optimise public sector data released for re-use to developers and businesses, including SMEs, thus providing new business opportunities and creating jobs, while at the same time potentially creating completely new digital services from which the local and regional public sector is also likely to benefit;

38. notes that securing the supply of natural resources and reducing the carbon footprint are key aspects of sustainable development, but that they constrain production-based growth. Europe's economic growth should thus be based on something other than increasing the production of consumer goods. Products and services that can be made and sold digitally can create growth with a reduced burden on natural resources; stresses, however, that an increase in digitalisation processes – not least because of demand for previously unrequested products and services – increases consumption of energy and of resources needed in the manufacture of digital media;

([11]) CdR 104/2010.

([12]) CdR 104/2010.

([13]) Idem.

39. notes that open public data creates new ways of developing innovative digital business activity. As public authority information is increasingly being made available for re-use in machine-readable format, companies can develop and offer new types of service using that information. Information service interfaces and automated data verification reduce manual data storage and correction work;

40. emphasises that open public data can generate innovation not just from businesses, but also from public authorities, research establishments, the third sector and individuals;

41. points out that broader use of information produces economic and social multiplier effects and synergies, for instance through increasing the data sources available in research and education;

42. notes that open public data for re-use benefits tourism, making it easy to provide services and destination-specific information to tourists in their own language;

43. notes that re-use of available information helps to improve the potential for information and communications technology to enhance energy efficiency and thus the European Union's competitiveness, and to increase business opportunities at local and regional level ([14]);

44. stresses that the innovation opportunities provided by open public data should also be taken into account when implementing the EU Horizon 2020 framework programme;

45. welcomes the fact that during the period 2014-2020, funding for the European e-service infrastructure for public data will come from the Connecting Europe Facility. When earmarking funding it is important to also take into account the needs of local and regional authorities and the challenges that opening up data resources for re-use creates for them;

Challenges

46. believes that where public sector bodies generate a substantial part of their operating costs relating to the performance of their public service tasks from exploitation of their intellectual property rights it is important that they be allowed to charge for the re-use of documents over and above marginal costs;

47. notes that local and regional authorities may still face problems in accessing, collecting, processing and re-using data produced by national authorities. Local, regional and national authorities should cooperate more closely so that open public data resources can be used efficiently;

48. believes that particular attention should be paid to what kinds of obstacles and problems have arisen for local and regional authorities and developers with using public sector information and what should be done to resolve these issues. It is also important that documents only have to be made available in machine-readable form and together with metadata where it is feasible and appropriate to do so;

49. points out that the technology needed to open up public data is already well advanced, but that at local and regional level this technology may not necessarily be well enough mastered and there may not be the tools required to find information available for re-use. There is also a lack of skills, which means that open public data is not used effectively enough in services provided to the general public;

50. notes that local and regional authorities, especially the smallest municipalities, do not necessarily have the resources or capacity to mount large-scale data accessibility measures, but need help with this task (guidelines and recommendations, replicable technical infrastructure, common data catalogues, financing, etc.);

51. notes that if open public data is completely decentralised, without any central management, it is harder for developers and businesses to develop applications based on such data;

52. notes that given the diversity of local and regional players in Europe, it may be difficult for developers to create replicable technical platforms and applications, and would recommend that Europe-wide projects be organised in which applications are developed and piloted in a coordinated way. An example of this is the CitySDK project, in which a number of European cities are cooperating in developing applications and sharing their experiences;

53. points out that once the foundations of open public data have been established and assimilated, maintaining it will not require so many resources as during the study phase. Training courses on open public data should be organised for local and regional employees, which would enhance understanding of the importance of open data in their own organisation;

54. notes that it is not enough for data to be opened up to decision-makers and citizens since specific skills are needed to use information. Data management and analysis skills should be taught in courses and continuing training provided at different levels;

55. draws particular attention to the fact that the proposal for a directive should not affect the core activities of libraries, archives and museums in the digital environment. The proposal should not result in a situation where a public body's ability to manage its core activity is undermined because the directive significantly reduces its options for developing financially viable activities using collections in cooperation with public

([14]) CdR 65/2011.

and private sector operators. Especially with respect to contractual arrangements, such as in the case of large-scale digitalisation projects, exclusive rights should be considered for a transitional period if proved necessary for the provision of a service in the public interest;

56. believes that special attention should be paid to the logistics needed to handle the large amount of data that will be used by the applications developed and used by public administrations;

57. notes that there are different levels of availability of public information, and data whose accessibility promotes social transparency (e.g. personal tax information) can, when accessible on demand, create a problem of privacy protection if published as a re-use of open public data;

58. believes it is critically important that security requirements at every level should be met in order to ensure optimum levels of privacy and protection of personal data and prevent unauthorised tracking of any kind of personal information and profiling, including shopping preferences, medical status, health records, etc. Privacy protection should also be looked at in terms of how data from different files can be automatically merged to create highly personal profiles of individuals;

59. notes that opening up data containing personal information, including for use in research and development (e.g. medical research) is conditional on removing data that allow personal identification and on defining measures to prevent data being combined in this way. Authorities managing basic data should be encouraged to anonymise their data. Anonymised data can be also be used in developing services, in both the public and private sectors, provided there is no risk of such data being combined in such a way as to sufficiently reconstruct protected personal data. Charges should be allowed to reflect the cost of anonymising data;

60. notes that meta-data is an important aspect of information re-use and that publishing meta-data in a standardised format would in particular enhance the cross-border exchange of information. The Commission should draw up a recommendation for a standardised meta-data model; among other things, this could be based on meta-data requirements in the INSPIRE directive;

61. points out that the proposal for a directive should not affect the core activities of local, regional and national authorities;

62. feels it is vital to ensure that key public interests are protected at all levels. Any use of data which would put these interests at risk must be prevented;

Conclusions

63. considers that, as they stand, the actions put forward in the proposal for a Directive do not appear to raise any issue of compliance with the principles of subsidiarity and proportionality. To avoid an eventual risk of breach of these principles, local and regional authorities should be systematically consulted in the framing, implementation and governance of measures designed to stimulate the re-use of public-sector information for promoting economic growth and job creation;

64. believes it is particularly important to apply the subsidiarity principle in coordinated action by the European Union, the Member States, and local and regional authorities, which leads to responsibility being shared between the different tiers of government concerned and is underpinned by all sources of democratic legitimacy and the representative nature of the different players involved, as stated in the CoR's White Paper on Multilevel Governance ([15]);

65. notes that the purpose of the proposal to amend the directive is not to decide what documents in the Member States should be public. Legislation governing public access to information would continue to be an exclusive competence of the Member States. The proposed provisions would apply to the re-use of documents where these are generally accessible, including under national access rules. However, in this context, we would expect a definition of "generally accessible documents", a concept which should only include documents to which Member State legislation enshrines the right of access;

66. believes it is important that clear procedures should be available to members of the public and businesses with respect to complaints and appeals concerning irregularities in the re-use of information;

67. notes that improving and opening up access to public information for the purpose of re-use should be well planned, drawing on study data, existing experience and best practice;

68. notes that online government services have to date consisted too much in transferring paper-based bureaucracy online. The EU and Member States should be forerunners, spearheading efforts at European and national level in close collaboration with local and regional authorities to bring about greater change in governmental procedures and structures by using ICT, including the use of open data, to improve the meaningfulness, quality and productivity of work and efficiency of public authorities and to reduce red tape for the general public and business;

69. believes that the Commission should promote open public data through technical guidelines and recommendations, by publishing a common data catalogue and by introducing a common open data licence;

([15]) CdR 89/2009.

II. **RECOMMENDATIONS FOR AMENDMENTS**

Amendment 1

Article 1.6.1.2

Text proposed by the Commission	CoR amendment
2. In exceptional cases, in particular where public sector bodies generate a substantial part of their operating costs relating to the performance of their public service tasks from the exploitation of their intellectual property rights, public sector bodies may be allowed to charge for the re-use of documents over and above the marginal costs, according to objective, transparent and verifiable criteria, provided this is in the public interest and subject to the approval of the independent authority referred to in Article 4(4), and without prejudice to paragraphs 3 and 4 of this Article.	2. In exceptional cases, in particular where public sector bodies are required to generate revenues to cover a substantial part of their operating costs relating to the performance of their public service tasks ~~from the exploitation of their intellectual property rights~~, public sector bodies may ~~be allowed to~~ charge for the re-use of documents over and above the marginal costs, according to objective, transparent and verifiable criteria, provided this is in the public interest ~~and subject to the approval of the independent authority referred to in Article 4(4),~~ and without prejudice to paragraphs 3 and 4 of this Article.

Reason

The wording used in this section is unclear and could easily lead to misinterpretations in a matter that is central to the implementation of the directive. The amendment is intended to describe the nature of exceptional cases more precisely and prevent misunderstandings resulting from misinterpretation of the text.

Amendment 2

Article 1.4.2

Text proposed by the Commission	CoR amendment
The means of redress shall include the possibility of review by an independent authority that is vested with specific regulatory powers regarding the re-use of public sector information and whose decisions are binding upon the public sector body concerned.	The means of redress shall include the possibility of review by an independent authority ~~that is vested with specific regulatory powers regarding the re-use of public sector information and~~ whose decisions are binding upon the public sector body concerned.

Reason

It is not clear what is meant by "an independent authority that is vested with specific regulatory powers regarding the re-use of public sector information". Since the value of a proposed independent authority in this field is not clear or is disproportionate to the costs for Member States concerned, this proposal should be rejected or at least not welcomed.

Brussels, 10 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

Opinion of the Committee of the Regions on 'Data protection package'

(2012/C 391/13)

THE COMMITTEE OF THE REGIONS

— welcomes the proposals for a reform of European data protection law as a contribution by the European Union to the global debate on adequately protecting privacy in a digital world;

— considers it imperative that key questions surrounding protection of personal data be resolved as part of the proper legislative process, so as to ensure transparency and democratic legitimacy through the full involvement of the Council of the European Union, the European Parliament and representatives of European LRAs;

— notes that notwithstanding the unresolved issues of compliance of the regulation's underlying concept with the principles of subsidiarity and proportionality, certain detailed rules also place additional undue limits on national legislation on data processing by public bodies in the Member States;

— further considers that the proposed regulation should give greater decision-making scope to the Member States and, where appropriate, to the regions, so that, in accordance with domestic law, it regulates the general conditions applicable to members of the supervisory authority to ensure they are able to perform their duties independently.

Rapporteur	Ursula MÄNNLE (DE/EPP), Member of the Bavarian State Assembly
Reference documents	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Safeguarding Privacy in a Connected World: A European Data Protection Framework for the 21st Century COM(2012) 9 final Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data COM(2012) 10 final Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) COM(2012) 11 final

I. **POLICY RECOMMENDATIONS**

Given the ubiquity of data processing in the modern information society, data protection rules are of key importance for economic development, for the smooth operation and efficiency of government activity and for European citizens' individual liberties. Adapting data protection to the changed demands of a digital world, where ever more spheres of life are linked up via the internet, is thus one of the key reform projects not only for the European Union, but also for other international organisations such as the Council of Europe, and countries such as the USA. Personal data protection raises questions in all policy areas. Data protection is cross-sectoral and touches on areas such as security and justice policy, the economy, communications, education, health, administration and consumer protection. As a result, enhancing data protection law is also of key importance to Europe's towns and cities in securing and bolstering their future viability at a time of fundamental technological change and global competition.

THE COMMITTEE OF THE REGIONS

1. welcomes the proposals for a reform of European data protection law as a contribution by the European Union to the global debate on adequately protecting privacy in a digital world;

2. underlines the pivotal role of local and regional authorities (LRAs) in implementing the recommendations of the Digital Agenda for Europe. They represent the engine of economic growth at local and regional level and generate, use and manage many digital information products and services, supported by databases of public sector information. For this reason, LRAs must have extensive and effectively input into laws that will affect their data protection competences; the regulation will introduce new red tape and costs for municipalities and regions which in the Committee's view are not offset by the benefits to citizens;

3. welcomes the reform package's general objectives of ensuring, in accordance with Article 8 of the Charter of Fundamental Rights and Article 16 of the Treaty on the Functioning of the European Union, a harmonisation at European level of the protection of individuals with regard to the processing of personal data;

4. notes that harmonising legal data protection requirements by way of binding common standards means that data protection procedures carried out by businesses, government bodies and individuals will be subject to the same requirements despite differing levels of risk and different operating environments. The Committee of the Regions believes that the regulation is unduly negative for public authorities and leaves ambiguities with regard to their competences as well as in the context of employment law. The regulation also introduces a series of requirements for local and regional authorities (e.g. increased documentation, obligation to ensure data portability) which are not offset by marked improvements in the rights of those concerned. The Committee points out that, because of its level of abstraction, the proposed legal act in the form of a regulation may open the way to a misuse of Article 290 TFEU, which gives the Commission powers to issue further rules, even on essential matters, and it is therefore incompatible with the subsidiarity and proportionality principles. It therefore calls for processing by public authorities of personal data and in the context of employment law to be excluded from the scope of the regulation so that processing by public authorities of personal data and in the context of employment law continue to be governed by a directive;

5. underlines the key responsibility of independent data protection authorities for the protection of personal data; however, a high level of data protection in a connected world with virtual ubiquity of data processing will not be guaranteed only by attempts to strengthen statutory duties, but requires also additional incentive instruments for processors to reward efforts for data protection i.e. by facilitating the burden of proof for processors who submit to demanding self regulation standards or codes of conduct or establish voluntary data protection impact assessments;

6. considers it imperative that key questions surrounding protection of personal data be resolved as part of the proper legislative process, so as to ensure transparency and democratic legitimacy through the full involvement of the Council of the European Union, the European Parliament and representatives of European LRAs;

7. recognises the general need to create binding rules for police and judicial co-operation on protecting personal data that is exchanged across borders;

8. warns against imposing excessive constraints on individuals in the exercise of their right to control of their own information in an effort to increase the protection of personal data, depriving them of the possibility of giving consent, particularly in relation to public authorities, within the scope of both the General Data Protection Regulation and the Data Protection Directive;

9. with these considerations in mind, feels that the following individual issues need to be addressed at later stages of the legislative process:

Subsidiarity and proportionality

10. is convinced that, insofar as it concerns the private sector, there is good reason to try to fully harmonise parts of European data protection law by replacing it with a regulation;

11. notes, however, that given the fact that numerous European and national data protection laws relating to telecommunications in particular are being retained, the package of the General Data Protection Regulation and the Directive relating to the police and justice have repeatedly prompted basic objections in consultation concerning its compliance with the principles of subsidiarity and proportionality. Objections have been raised about:

— the scope of EU jurisdiction under Article 16(2) TFEU, which places limits on the desired full harmonisation of public sector data processing in particular, and raises questions about encroachment on purely national level affairs when it comes to the Directive relating to the police and justice;

— the level of abstraction of the regulation, which is comparable to an EU directive, but provides too little legal certainty in the absence of transposing measures by the Member States, and the European Commission's power to adopt delegated acts (cf. Article 86) on issues that are no matters of detail, which is problematic;

— the lack of clarity concerning the scope of application of the national laws (Chapter IX), in those cases where more than one Member States are involved;

— the lack of coordination between the rules to be introduced by the Regulation and large sections of directives – provisions concerning telecommunications that form a key part of the legal framework governing use of the internet (e.g. Directive 2002/58/EC);

— the failure to secure adequate legal protection against violation of fundamental rights, given that there is no direct appeal process to the Court of Justice of the European Union offering legal protection for individuals;

— the failure to adequately address tensions between data protection interests and other fundamental rights, such as freedom of speech and the principle of public access; and

— the lack of clear borders between the scope of the draft regulation and the draft directive.

12. underlines that these objections reflect the misgivings of many European LRAs about draft regulations that, for example, make national exceptions impossible when protecting data in social services, or burden public bodies with data protection requirements like the right to data portability, that may seem only relevant to the data processing procedures of business and that entail heavy administrative sanctions in view of local authorities' financial resources;

13. feels that the proposed Data Protection Regulation should make it clearer that the restrictions set out in Article 83 regarding the processing of personal data for historical, statistical and scientific research purposes must not curtail the ability of public bodies to store documents in line with national legislation on archives and on access to administrative documents;

14. therefore underlines the need at later stages of the legislative process to reflect even more on which legal instrument is chosen and how the borders are drawn between the scope of the draft regulation and that of the draft directive, investigating potential alternatives that are more in line with the principles of subsidiarity and proportionality than this package. These would include the option of processing by public authorities of personal data and in the context of employment law continuing to be governed by a directive, so that processing of personal

data by public authorities and processing of data in the employment context would be excluded from the scope of application of the general data protection regulation;

International consistency rather than the principle of the marketplace

15. supports the objective of also applying European data protection standards to international suppliers of information services;

16. is convinced that the initiative for a legal framework for privacy protection in a global information economy, which is being proposed at the same time by the US government, offers an opportunity to combine reform efforts for common protection standards in key spheres of international data traffic, thus not only implementing effective data protection rules but also avoiding divergent conditions for competition more effectively than through application of the marketplace principle, which is limited in its practical application;

Future viability of the reform proposal

17. notes that the draft General Data Protection Regulation is essentially based on the principles of the Data Protection Directive 95/46 EC, which are only improved in certain cases such as the principle of "privacy by design", but are certainly modified. Unlike when the Data Protection Directive was drafted, the risks involved in processing personal data in an information society, be it in the private or public sector, are no longer shaped by one-to-one relationships. Digitalisation and networking are instead creating systems in which several authorities are involved in processing data, e.g. combining of records or sharing of data between authorities;

18. underlines that the questions this raises about protection of personal data cannot be adequately addressed with such traditional bipolar concepts as "controller", the "right to be forgotten" or the principle of prohibition concerning the relationship between government and citizen (Articles 6 and 9 of the draft regulation). Some changes to the provisions in the Directive, such as the redefinition of "personal data" and "consent", do more to exacerbate legal ambiguities than resolve them;

19. therefore believes that if the Commission maintains its preference for a regulation, the proposal should specify that an employer may process data based on the employee's consent; the same applies to public authorities, within the scope of both the General Data Protection Regulation and the Data Protection Directive; in accordance with the Regulation, Member States may, by law, regulate the processing of employees' personal data in the employment context;

20. therefore considers it necessary, given that a completely new concept is no longer possible at this stage of the legislative process, to rethink the enforcement mechanisms that have so far focused too much on regulatory, equally bipolar legal instruments and sanctions. In the view of LRAs, which are closest to data subjects, the following may be of key importance:

— measures to raise awareness of data protection issues among all generations and sections of the population;

— mechanisms for sharing proven and technologically advanced approaches to data protection, for example as part of a seal of quality scheme;

— standardised, easily comprehensible information and public awareness campaigns using the traffic light principle;

— binding and regulated certification mechanisms; and

— mechanisms for self-regulation;

21. stresses here that these tasks, which are to be discharged mainly by the supervisory authorities, are currently given a lower priority in the draft General Data Protection Regulation, for example as part of information sharing under Article 52(2) of the draft regulation, or in the codes of conduct in Article 38;

Retaining latitude for national legislation

22. notes that notwithstanding the unresolved issues of compliance of the regulation's underlying concept with the principles of subsidiarity and proportionality, certain detailed rules also place additional undue limits on national legislation on data processing by public bodies in the Member States;

23. therefore considers that processing by public authorities of personal data and the sphere of employment law should continue to be governed by a directive;

24. therefore takes the view that, if the Commission maintains its preference for a regulation that would also govern public bodies and the context of employment law:

— the conditions for Member State regulation of the basis of data processing obligations, provided for in Article 6(3) of the draft regulation, should not be further complicated by invoking the limits contained in Article 52 of the Charter of Fundamental Rights in a way that exceeds its intended scope;

— the same applies to giving the Commission powers to issue delegated acts further specifying the limits on regulatory areas given over to the Member States, such as processing of health or employee data, or data processing for historical or statistical purposes, or for the purpose of scientific research;

— in both fields, the possibility of consent must be expressly mentioned; in relation to public authorities, this also applies within the scope of the Data Protection Directive;

— in order to comply with the principles of proportionality and subsidiarity, the Commission should, with regard to all delegated acts (Article 86), be obliged to carry out a comprehensive impact assessment and to consult the Council, the parliaments of the Member States and affected members of the public, as well as the Committees, which under the TFEU must be involved when introducing legislative acts, and the European Data Protection Board; similarly, when issuing implementing acts, procedures should be chosen that ensure timely and full participation by all affected groups;

— in addition to the rights given to Member States to grant exceptions stipulated in Article 21, the regulation should also at least allow Member States scope for national legislation that subjects data processing used in exercising public authority to different safeguards in line with the objectives of Article 8 of the Charter of Fundamental Rights, as currently provided for in the regulation;

— in fixing the scope of the regulation, it should be made clear that its rules only apply to activities within "the scope of Union law", in which the European Union is empowered to issue binding regulations, and not in areas that still fall within Member State competence, or in which the Treaties expressly preclude the power to harmonise legal and administrative requirements, for example in education systems (Article 165(4) TFEU):

— Article 82 of the regulation should stipulate that specific rules may be adopted for processing of personal data in the context of collective agreements in the employment context;

— the regulation must ensure that management rights are not limited, e.g. in the context of recruitment or dismissal of a controller;

— it must be ensured that powers to penalise non-compliance with data protection requirements should clearly differentiate between private, profit-oriented bodies and other bodies, particularly government bodies, for which fines levied on profits are not appropriate and where political control mechanisms are more effective;

Reinforcing democratic responsibility

25. is deeply concerned that if and when the regulation takes effect, the elaborated and extended legal requirements for data protection will translate into procedures that offer no guarantee of transparency or sufficient democratic legitimacy, unlike legislation by the Member States or the European Union or implementation of national and European law by administrative bodies supervised by parliaments in the Member States;

26. justifies this concern with reference to the draft regulation's creation of deeply abstract, binding, yet standardised and enforceable obligations in an area that is to be pivotal in securing various fundamental rights, and which is already characterised by a barely comprehensible array of different areas of application, ranging from private address directories and public registers of residents to data from social networks and internet search machine providers. Moreover, all but unavoidable shortcomings in clarity of rules, legal certainty and enforceability are, on the one hand, meant to be offset by a series of powers to issue delegated acts that often touch on fundamental aspects of the regulatory framework, such as the power granted in Article 6(5). On the other hand, independent data protection authorities are given powers well beyond their traditional implementing tasks to create what are, in effect, equally abstract and general rules as part of general guidelines on interpreting the Data Protection Regulation. They are thereby subject to undue powers by the Commission to exert influence under the "consistency mechanism", throwing into question the independence granted to them under Article 16(2)(2) TFEU;

27. considers it therefore necessary to fundamentally change the arrangements for Commission participation through the consistency mechanism to guarantee the independence of data protection authorities, particularly their competences under Articles 60 and 62(1)(a) of the draft regulation, as well as the definition of "serious doubts", under the same Articles, on the basis of which the Commission interferes;

28. further considers that the proposed regulation should give greater decision-making scope to the Member States and, where appropriate, to the regions, so that, in accordance with domestic law, it regulates the general conditions applicable to members of the supervisory authority to ensure they are able to perform their duties independently;

29. is also convinced that the control instruments for the independent supervisory authorities that are also recognised by the Court of Justice of the European Union, such as reports and other regular forms of consultation with lawmaking bodies, should be further developed to allow the Parliament, the Council and the Committee of the Regions, as part of their rights of participation, a regular overview of how European data protection law is implemented, and to give them the opportunity to launch initiatives to improve it. In addition, in accordance with the fundamental right to be heard, additional procedural regulations should be introduced to oblige supervisory authorities and the European Data Protection Board to involve associations and interest groups materially affected by decisions, for example under Article 58(2), in a transparent process of developing and improving data protection law, for example by way of hearings or consultation procedures;

Limits of harmonisation of data protection relating to the police and justice

30. doubts whether regulation of exclusively national-level data processing by way of a proposal for a directive relating to the police and justice falls within the legislative competence of the European Union or complies with the principles of subsidiarity and proportionality. Apart from crime-fighting tasks related to terrorism, organised crime and cybercrime, large databases are still available to the police and law enforcement authorities that are only processed at national level and therefore do not require data protection regulation at European level. A further consequence of data protection regulations that needs to be taken into consideration is their direct impact on other police and law enforcement legislation, and thus their indirect harmonising force even though the European Union does not have adequate competence in this area;

31. is surprised that the European institutions and organs, starting with Eurojust and Europol, are excluded from the scope of the directive;

32. besides these general reservations, calls on the Commission to review the following at later stages of the legislative process:

— the extent to which obligations to extensively document and report on their activities can lead to delays in police investigations and law enforcement;

— whether the provisions under (b), (c) and (d) of Article 7 of the draft directive are compatible with Article 1 (1), which defines the subject matter and objectives of the directive;

— that while proven forms of data sharing with third countries should not be unduly limited or impeded, adequate safeguards should be applied for derogations related to international transfers in individual cases (Article 36); and

— which powers for the Commission to issue delegated acts and stipulate implementation rules could be replaced by the Member States with more specific rules in a normal act or with an equivalent opening clause;

33. reserves the right to submit another opinion including detailed proposed amendments as soon as the positions of the Council of the European Union and of the European Parliament on the aforementioned issues becomes clear at a later stage of the legislative process.

II. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1

Article 36

Text proposed by the Commission	CoR amendment
By way of derogation from Articles 34 and 35, Member States shall provide that a transfer of personal data to a third country or an international organisation may take place only on condition that:	By way of derogation from Articles 34 and 35, Member States shall provide that a transfer of personal data to a third country or an international organisation may take place only on condition that:
(a) the transfer is necessary in order to protect the vital interests of the data subject or another person; or	(a) the transfer is necessary in order to protect the vital interests of the data subject or another person; or
(b) the transfer is necessary to safeguard legitimate interests of the data subject where the law of the Member State transferring the personal data so provides; or	(b) the transfer is necessary to safeguard legitimate interests of the data subject where the law of the Member State transferring the personal data so provides; or
(c) the transfer of the data is essential for the prevention of an immediate and serious threat to public security of a Member State or a third country; or	(c) the transfer of the data is essential for the prevention of an immediate and serious threat to public security of a Member State or a third country; or
(d) the transfer is necessary in individual cases for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties; or	(d) the transfer is necessary in individual cases for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties; or
(e) the transfer is necessary in individual cases for the establishment, exercise or defence of legal claims relating to the prevention, investigation, detection or prosecution of a specific criminal offence or the execution of a specific criminal penalty.	(e) the transfer is necessary in individual cases for the establishment, exercise or defence of legal claims relating to the prevention, investigation, detection or prosecution of a specific criminal offence or the execution of a specific criminal penalty.
	The use of these derogations shall be duly documented.

Reason

The expression "is necessary" is far too vague and leaves room for non-restrictive use of the derogations, which is against the spirit of this particular article.

Amendment 2

Article 86.6

Text proposed by the Commission	CoR amendment
	The Commission shall consult, with regard to all delegated and implementing acts, the Council, the parliaments of Member States, as well as the committees, which under TFEU must be involved when introducing legislative acts, and the European Data Protection Board.

Reason

Including an obligation for the Commission to consult the European Data Protection Board (EDPB) with regard to all delegated and implementing acts constitutes a vital safeguard.

Brussels, 10 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

Opinion of the Committee of the Regions on 'Package on protection of the licit economy'

(2012/C 391/14)

THE COMMITTEE OF THE REGIONS

— welcomes the European Commission's proposals, which group together coherently the legislative measures and strategies to be implemented in order offer the licit economy useful and rapid protection;

— endorses the Commission's initiatives aimed at preventing unwholesome practices such as conflicts of interest, favouritism and corruption by incriminating forms of behaviour that are still not penalised in some Member States and that obstruct free access to public contracts;

— supports the implementation of a new evaluation mechanism, the EU's future Anti-Corruption Report, to be published every two years, starting in 2013;

— welcomes the draft directive on the freezing and confiscation of criminal proceeds in the EU, as these are indispensable instruments for protecting the global economy, ensuring that "crime does not pay" and that "ill-gotten gains never prosper";

— approves of the reasoning behind the Stockholm Programme whereby it is preferable to make minimum standards under TFEU Article 83 compulsory (including extended confiscation, value confiscation, third party confiscation and confiscation without criminal conviction) rather than seeking to improve the EU's current mechanism, which has no real power;

— calls on Member States to provide for a share of the criminal assets seized to be returned to local and/or regional authorities (once legal claims for recovery have been met) as they are the first victims of criminal organisations that destabilise the social order at local level. They are also best placed to take local-level measures to eradicate the deep-rooted causes of crime. This is one way of showing the work of public authorities in a positive light and creating a virtuous cycle involving elected representatives, civil society and families;

— would encourage local and regional elected representatives to sign a code of ethics entitled "Obliti privatorum, publica curate" (forget private affairs, take care of public ones), which would help to build and preserve a relationship of trust between the public and those governing them;

— encourages elected representatives to submit a declaration of income regarding their properties and their commercial or business interests to an independent public authority.

Rapporteur-General	Christophe ROUILLON (FR/PES), Mayor of Coulaines
Reference documents	Proposal for a Directive of the European Parliament and of the Council on the freezing and confiscation of the proceeds from crime in the European Union COM(2012) 85 final Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – On the protection of the financial interests of the European Union by criminal law and by administrative investigations – An integrated policy to safeguard taxpayers' money COM(2011) 293 final Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Fighting Corruption in the EU COM(2011) 308 final Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law COM(2012) 363 final

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

General comments

1. notes that corruption, organised crime and fraud plague the European Union. According to the NGO Transparency International, these practices result in a loss of EUR 120 billion a year, i.e. 1 % of the EU's GDP. The illicit economy pushes countries further into debt, holds back government action against the crisis, reduces investment levels, favours the capital flight and saps public confidence in their representatives and institutions;

2. recalls that the Lisbon Treaty has given the EU enhanced tools to fight cross-border crime by defining Eurojust's role, providing for the introduction of a European Public Prosecutor (Treaty on the Functioning of the European Union (TFEU) Articles 85 and 86) and including clauses on the fight against fraud and any other illegal activity damaging the EU's financial interests (TFEU Articles 310(6) and 325);

3. points out that according to Eurobarometer, 75 % of Europeans see corruption as a serious problem for the Member States;

4. notes that the confiscation and freezing of criminal assets have been recognised to be effective tools in the fight against serious forms of organised crime and have been given strategic priority at EU level;

5. considers that to protect the EU's interests there must be better control over the use of subsidies granted for instance in connection with the European social funds, territorial cohesion or the common agricultural policy; fraud is in danger of undermining the legitimacy of these integrated European policies designed to benefit the regions;

6. would underline that at local level, organised crime targets regional and local authority decision-makers in connection with public procurement, public service contracts, building permits and business licences;

7. observes that organised criminal activities such as drugs trafficking and human trafficking are of lasting danger to public order, public health and social cohesion;

8. recalls that, by applying European tax laws in a seemingly legal and sometimes highly innovative way, as in the case of the carbon tax, criminal organisations are robbing and weakening the EU's Member States and also its local and regional authorities;

9. stresses that corruption in sport (betting scams, bribes for the choice of venues for major competitions, secret commissions linked to the transfer of players, etc.) is a source of particular concern, as it undermines the humanist values upheld by millions of amateur athletes and club volunteers;

10. considers that in accordance with the principle of subsidiarity, local and regional authorities are key players in protecting the licit economy, as they launch policies promoting freedom, security and justice.

THE COMMITTEE OF THE REGIONS

11. would draw attention to the shortcomings of current EU law when it comes to the fight against fraud, corruption and the confiscation of criminal assets.

On the fight against fraud

12. notes that in its second report on implementation of the 1995 Convention on the protection of the European Communities' financial interests (COM(2008) 77), the Commission finds that only five Member States have taken "all" the measures needed for "satisfactory" compliance;

On the fight against corruption

13. regrets that Framework Decision 2003/568/JHA on combating active and passive corruption in the private sector and setting out rules on the liability of legal persons has yet to be transposed;

14. deplores the fact that certain Member States have yet to ratify the international criminal law conventions of the Council of Europe, the United Nations and the OECD;

On the freezing and confiscation of criminal assets

15. notes inadequacies in the transposition of the five framework decisions drawn up in this area:

— most Member States have adopted only parts of Framework Decision 2005/212/JHA, which allows for value confiscation and extended confiscation;

— whereas Framework Decision 2003/577/JHA provides for the principle of the mutual recognition of freezing orders, the Commission regrets having very little information on its application;

— Framework Decision 2006/783/JHA, which provides for the mutual recognition of confiscation orders, failed to make more of the optional rules on extended confiscation established by Framework Decision 2005/212/JHA. In addition, Framework Decision 2006/783/JHA applies only to confiscation orders issued within criminal proceedings and not civil confiscation procedures, whose use is however on the increase;

— not all Member States have implemented Council Decision 2007/845/JHA concerning cooperation between Asset Recovery Offices, obliging Member States to set them up in order to make cooperation between them possible and to facilitate the tracing of proceeds of crime.

THE COMMITTEE OF THE REGIONS

16. welcomes the European Commission's proposals, which group together coherently the legislative measures and strategies to be implemented in order offer the licit economy useful and rapid protection;

17. recalls that the legal bases for legislative measures in this area were provided by the TFEU in its Articles 82, 83, 310(6) and 325;

18. places considerable importance on the protection of EU public funds against fraud and embezzlement, but at the same time notes that, on grounds of subsidiarity and efficacy, additions to Union criminal law only make sense when they address demonstrable shortcomings in Member States' law enforcement practice;

19. welcomes the definition at EU level of basic crimes such as fraud and the embezzlement of public funds;

20. endorses the Commission's initiatives aimed at preventing unwholesome practices such as conflicts of interest, favouritism and corruption by incriminating forms of behaviour that are still not penalised in some Member States and that obstruct free access to public contracts ([1]);

21. welcomes the thrust of the OLAF reform aimed at protecting tax payers' money:

— the *de minimis rule* to be applied will assist OLAF in setting its priorities when it comes to serious fraud investigations;

— the requirement to follow up administrative investigations means that Member States, previously under no obligation, will now at least have to inform OLAF of the follow-up given to files;

22. is fully satisfied by the political boost given to the fight against corruption within the Union and the overall approach adopted by the Commission on this matter;

23. supports the implementation of a new evaluation mechanism, the EU's future Anti-Corruption Report, to be published every two years, starting in 2013;

24. backs the Commission's proposal to adjust to existing mechanisms such as those of the OECD or the Council of Europe;

25. would nevertheless draw the Commission's attention to the need to learn fast from this global mechanism based on mutual trust between countries and recalls the need to legislate in order to make virtuous practice mandatory, in accordance with TFEU Article 83;

26. is totally satisfied by the Commission's holistic approach, which has also led it to look at accounting and auditing standards for EU companies.

([1]) COM(2007) 328 final and COM(2011) 309 final. The report states that only nine Member States (Belgium, Bulgaria, Cyprus, the Czech Republic, Finland, France, Ireland, Portugal, and the United Kingdom) have correctly transposed all the basic elements constituting the crime of corruption as defined by the 2003 framework decision.

THE COMMITTEE OF THE REGIONS

27. welcomes the draft directive on the freezing and confiscation of criminal proceeds in the EU, as these are indispensable instruments for protecting the global economy, ensuring that "crime does not pay" and that "ill-gotten gains never prosper";

28. approves of the reasoning behind the Stockholm Programme whereby it is preferable to make minimum standards under TFEU Article 83 compulsory (including extended confiscation, value confiscation, third party confiscation and confiscation without criminal conviction) rather than seeking to improve the EU's current mechanism, which has no real power;

29. supports the draft directive inasmuch as it takes up the legal provisions and concepts already defined in earlier framework decisions on the confiscation of the proceeds and instruments of crime and the confiscation of property of value equivalent to the proceeds of crime;

30. also welcomes the fact that it provides for a very broad understanding of the proceeds of crime (including the recycling of proceeds into property or rights) and enabling property to be seized provisionally pending a decision;

31. ***with regard to extended confiscation***, while the CoR welcomes the removal of the options available to Member States under the 2005 framework decision and considers existing provisions on extended confiscation to have thus been improved, it considers Article 4(1) to be too vague and in need of improvement. Under extended confiscation, the law aims to allow confiscation beyond the direct proceeds of the crime, precisely because it can presume that there is a link between the crime and the property or rights it intends to confiscate. The CoR would suggest that the "concrete facts and circumstances" on which the court bases its decision should for instance be illustrated by the imbalance between the value of property and legal income. This most frequent example of "concrete facts and circumstances" also has the advantage of stressing that the onus is then upon the person concerned to show proof that property or rights that are not the direct proceeds of a crime but which are to be confiscated are the fruit of other legal sources of income;

32. welcomes the possibility of ***confiscating third party assets***; criminals never have property or rights in their own name and the third party whose role it is to conceal or recycle property is very often a legal person; criminal organisations have long been using highly sophisticated legal techniques to protect property from confiscation. The CoR would therefore strongly recommend extending the principle of the criminal liability of legal persons and introducing the notion of "effective beneficiary";

33. would also suggest including within the present proposal the possibility of considering that the third party is behaving like the real owner and/or sole financial beneficiary. This proof could be provided by evidence: managing a legal entity for personal ends in fact or in law, financing a property, making a property available without payment, etc. This concept, well known in Luxembourg for instance, enables the real beneficiary of a company to be arrested and complements the principle of the liability of legal persons;

34. has some reservations regarding confiscation without conviction as in most Member States confiscation is a penalty linked to a criminal conviction; Furthermore, confiscation without conviction is based on *civil proceedings* and is not covered by the legal base concerned here: the present proposal is based explicitly on TFEU Article 82(2) which refers to criminal matters only. It also undermines legal traditions in countries such as France where property rights are upheld by the constitution;

35. would point out that confiscation without conviction is not covered by TFEU Article 83(1) either, which states that the Parliament and the Council "*establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension*";

36. proposes a criminal law route so as to arrive at an equivalent level of effectiveness in the law on seizures and confiscation based on criminal provisions that have stood the test of time;

37. on this note recalls that civil confiscation is based on the third FATF recommendation, which encourages countries to take confiscatory measures "without requiring a criminal conviction". The same recommendation adds that countries should also adopt measures that "require an offender to demonstrate the lawful origin of the property alleged to be liable to confiscation". The aim here appears therefore to secure the main advantage of confiscation without conviction: a reversal in the burden of proof. The creation of a new criminal offence for the possession of "unjustified" assets, or the inability to account for resources, would achieve the same result. (See for instance the new Article 321-6 of the French *Code pénal* which broadly condemns the inability of a person to account for resources relating to their lifestyle or give the origin of property in cases where that person is in habitual contact with offenders sentenced to a minimum of five years' imprisonment.) This achieves the desired reversal of the burden of proof;

38. In accordance with the principle of subsidiarity, this proposal should leave Member States the choice of whether or not to include confiscation without conviction, providing they are able to demonstrate that their legislation is equally efficacious and that they will not obstruct the principle of mutual recognition.

THE COMMITTEE OF THE REGIONS

39. expresses less serious reservations regarding overly detailed guarantees given at the various stages in the freezing and confiscation of criminal assets, as this could paralyse the new legal basis for the seizure and confiscation of assets in the EU;

40. would nevertheless insist on the need to introduce a European Public Prosecutor and to move immediately to strengthen the police and judicial structures that deal with organised crime within the Member States.

THE COMMITTEE OF THE REGIONS

41. believes that the introduction of a post of European Public Prosecutor can contribute to more effective reform of OLAF;

42. considers that financial investigations into corruption and the involvement of influential financial and political players or investigations involving cross-border criminal networks would be carried out more effectively and reliably by a European public prosecutor;

43. considers that the development of Eurojust as the basis for a European public prosecutor, with the capacity to initiate criminal investigations, at least when the EU's interests are at serious risk, and the possibility to launch judicial enquiries is an effective way of avoiding situations of the kind mentioned in the Commission Communication on the protection of financial interests, COM(2011) 293 final, the subject of this opinion. The CoR would recall that TFEU Articles 85 and 86 provide for this necessary move in the face of the dual challenge represented by the threat of the financial crisis and serious crime;

44. considers that this move should include the preparation and implementation of a joint European programme for training financial investigators and that the Commission should make this a priority;

45. considers that the effective protection of whistleblowers against reprisals is central both to anti-corruption policies and to the fight against organised crime. However, the relevant legal framework in the EU is uneven. The CoR would also therefore strongly endorse the Commission's initiatives aimed at protecting whistleblowers;

Bolstering the role of local authorities in combating corruption and organised crime

46. calls on Member States to provide for a share of the criminal assets seized to be returned to local and/or regional authorities (once legal claims for recovery have been met) as they are the first victims of criminal organisations that destabilise the social order at local level. They are also best placed to take local-level measures to eradicate the deep-rooted causes of crime. This practice already exists in Italy, where a third of 12 000 buildings seized were either given to or resold for the benefit of local authorities to carry out social work. This is one way of showing the work of public authorities in a positive light and creating a virtuous cycle involving elected representatives, civil society and families;

47. would encourage local and regional elected representatives to sign a code of ethics entitled "Obliti privatorum, publica curate" (forget private affairs, take care of public ones), which would help to build and preserve a relationship of trust between the public and those governing them. This code would set out the rules of impartiality (the imperatives of avoiding any conflict of interest, refusing private invitations from natural or legal persons whose activity has a connection with the authority, handing over to the State gifts worth more than EUR 150, not acting on behalf of family members, etc.) and integrity (not using public funds for personal ends or for electoral campaigns, upholding the rules of public office, etc.);

48. encourages elected representatives to submit a declaration of income regarding their properties and their commercial or business interests to an independent public authority;

49. urges Member States to arrange for the public financing of electoral campaigns, to outlaw donations from legal persons and to establish rules for local elected representatives that guarantee their financial independence and autonomy;

50. calls for an effective fight against money laundering involving the proceeds of corruption and organised crime in tax havens;

51. recommends that Member States equip themselves with the right tools to prevent and detect attacks on probity, such as services to evaluate anti-corruption mechanisms and to monitor public procurement and the subcontracting of public services;

52. calls for the establishment of a European platform for the exchange of good local practice in the fight against corruption and organised crime and in the restitution of seized criminal assets, and of European forums for combating corruption and organised crime;

53. suggests that local authorities should ensure that their grants to top athletes and professional clubs are governed by ethical obligations and strict financial transparency;

54. proposes that the Committee of the Regions appoint an observer within the European Parliament's special committee on corruption and the Council of Europe's Group of States against Corruption (GRECO);

55. will broaden its examination of good practice in governance and administrative management to include the protection of the licit economy in neighbourhood policy partner countries that are members of ARLEM (Euro-Mediterranean Regional and Local Assembly) and CORLEAP (Conference of the Regional and Local Authorities for the Eastern Partnership).

Brussels, 10 October 2012.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO

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