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P5_TA-PROV(2003)0401

Iraq

European Parliament recommendation to the Council on the situation in Iraq (2003/2178/(INI))

The European Parliament,

- having regard to Rule 104 of its Rules of Procedure,
 - having regard to Article 17(2) of the EU Treaty,
 - having regard to its previous resolutions of 16 May 2002¹ and 30 January 2003² on the situation in Iraq,
 - having regard to the UN Security Council resolutions 1483³, 1500⁴ and 1502⁵,
 - having regard to the Recommendation of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy (A5-0306/2003),
- A. recalling that a democratic, secure and prosperous Iraq is only possible if the nation and its people make full use of the remarkable potential which the country offers in terms of people, oil and water resources, and if democracy is established, as well as full human rights observance for all, good governance and the rule of law; noting that only then will it be possible for Iraq to resume its rightful place in the international community,
- B. recalling that the natural resources in Iraq, in particular oil, are the property of the Iraqi people, and insisting that the Iraqi people should control their own natural resources,
- C. reaffirming the primary responsibility of the international community to address the challenges of the post-war period in Iraq by supporting internal security and enforcing political stability and progress in the country, with a view to achieving, as soon as possible, the sovereignty and territorial integrity of Iraq within the framework of a democratic process,
- D. underlining, however, that until the coalition forces relinquish control over Iraqi territory, they remain responsible under international humanitarian law for providing safety and

¹ OJ C 180 E, 31.07.2003, p. 499.

² P5_TA(2003)0032.

³ UNSCR 1483 of 22 May 2003 on the "Authority" in Iraq after the war and the competence of the UN Special Representative.

⁴ UNSCR 1500 of 14 August 2003 on the establishment of the Representative Governing Council of Iraq and the establishment of the United Nations Assistance Mission.

⁵ UNSCR 1502 of 26 August 2003 calling for the protection of the UN and all humanitarian personnel.

security to the Iraqi population and ensuring the effective protection and respect of their human rights,

- E. reiterating the need for the leading and vital role of the United Nations in Iraq, in particular in bringing a broad international legitimacy to its democratisation, in maintaining internal and regional peace and security, ensuring a multilateral framework for the international response to the current situation and in improving the efficiency of international assistance,
- F. welcoming the change of attitude of the Bush administration towards a more active role of the International Community in the peace and reconstruction process in Iraq,
- G. aware of the need to reach, with the utmost urgency, an EU Common Position to be presented on the role and responsibilities of the UN, the Coalition Provisional Authority (CPA), the Iraqi Interim Government Council and the recently appointed provisional Government,
- H. underlining the urgency to ensure the transfer of sovereignty to Iraqis in a peaceful manner by creating, as soon as possible, the necessary security and stability which will, in addition, facilitate the urgent rehabilitation, reconstruction and economic development that the Iraqi people deserve,
- I. reaffirming the need to empower the people and the country of Iraq, by ensuring the fullest consultation and participation of the Iraqi people in the decision-making process on the future of their country, and enabling the establishment of its sovereignty,
- J. emphasising that the reconciliation of all groups and a balance in their participation, the establishment of the rule of law and a functioning and reliable judiciary, as well as effective policing and criminal systems, will be essential to promote the development of Iraq, its economic recovery and encourage internal and foreign investments,
- K. pointing out that security and stability in Iraq and in the region will only be possible with the constructive contribution of, and in straightforward cooperation with, the bordering countries and the international regional organisations such as the Arab League and the Gulf Cooperation Council,
- L. strongly condemning the terrorist attacks in Iraq, which are wholly indefensible in their killing of Iraqis, UN personnel, including the Special Representative of the UN Secretary General, as well as high dignitaries of Iraqi society and the security forces; expressing its sympathy for the wounded and their families, as well as for the families of the victims; welcoming UN Security Council resolution 1502, classifying the attacks on the UN and its staff, as well as on humanitarian organisations, as war crimes and providing that those responsible must be identified and brought to justice,
- 1. Recommends that the Council adopt with the utmost urgency an EU Common Position within the framework of the current international agreement, making it clear that it is necessary to galvanize the international support for Iraq's stability and its reconstruction, and presenting the following political guidelines:

- 1.1. The European Union will continue and, wherever the case, reinforce its support for the Iraqi people within the framework of its humanitarian assistance and reconstruction programmes and in direct cooperation with the UN and its specialised agencies;
- 1.2. Providing security and basic services, such as electricity, water distribution and public health facilities to the Iraqi people, as well as ensuring the proper functioning of a sewage system and developing an economic regulatory environment encouraging small and medium sized enterprises, must be the first and immediate priority of the international community in Iraq as these are pre-requisites for an effective reconstruction and the development of the country;
- 1.3. These priorities have to be accompanied, with the utmost urgency, by the establishment of the rule of law and order, which are necessary to create the conditions for employment and to provide the basic conditions for social and economic development;
- 1.4. It is also necessary to promote the development of democratic structures and a civil society taking into account the need for the democratic forces in Iraq to participate in the transition process from the very beginning;
- 1.5. Reinforcing the establishment of a democratic legal system, the functioning of an independent judiciary and developing an active policy against organised crime will be essential to accelerate the transition process; it is desirable that this should include the possibility of receiving technical assistance by international judges and experts;
- 1.6. The promotion of the Iraqi's progressive ownership of civil and political authority has to be developed under the leadership of the UN and with a clear UN mandate on the political and economic transition process of Iraq; it must include the adoption of a political agenda for electing a constitutive assembly, preferably by the end of 2003; this assembly should be mandated to adopt a new Constitution for Iraq as an independent state whose territorial sovereignty and integrity should be reaffirmed, within its internationally recognised borders and that should be united on the basis of equal rights of all groups of the population; its mandate should also include adopting constitutional rules expressing the universal principles of democracy and respect for humankind, in particular ethnic and religious differences, freedom of association and expression and equal opportunities for men and women;
- 1.7. The EU, through its Member States acting in the UN Security Council, must take the initiative on such a political agenda, with a view to transferring the sovereignty to the Iraqi people and its representatives as soon as possible; this political agenda should be the basis for a UN Security Council resolution; for this purpose, an understanding with the USA and possibly within NATO has to be reached;
- 1.8. The international community should agree, on the basis of such a clear political timetable, to enforce internal security in Iraq with a multinational military force and a police force, mandated by the United Nations and benefiting also from the contribution and cooperation of NATO;

- 1.9 The international community should also reinforce, with the utmost urgency, the involvement of Iraqi military and police forces in the functioning of the security and defence sectors of Iraq, by appropriate training and accompanying measures, in order to envisage the possibility of withdrawing foreign forces once democratic elections at all political levels have taken place;
 - 1.10 To fulfil this aim, it is desirable that the Iraqi democratic political forces participate more actively in the transition process; at the same time, the Iraqi provisional institutions such as the Interim Governing Council (IGC) and the provisional government recently appointed, should be replaced as soon as possible by a new, internationally recognised elected government so that Iraq can exercise, during the current transition phase, its international rights in international organisations such as the UN, the Arab League, the Gulf Cooperation Council, OPEC and others; welcomes, in this respect, the admittance of the Iraqi Governing Council to the meetings of the Arab League;
 - 1.11 All necessary measures should be taken with the utmost urgency to bring those responsible for human rights abuses in Iraq before an ad hoc International Tribunal for Iraq, if the ICC has no mandate, which should be empowered to judge the leadership of the former Iraqi regime; this will give a clear message to help the Iraqi people benefit from the advantages of democracy; prior to its establishment, an office for inquiry on human rights violations should be set up under the UN, in order to prepare the necessary evidence and an official register of the numerous violations perpetrated by the former Iraqi regime, as well as any violation of international conventions during and after the war;
 - 1.12 The launching of regular consultations and contacts between the Council and the new, internationally recognised Iraqi interim Government, should be accompanied by regular information to the Council and the Commission on the progress achieved in the implementation of the transition process to democracy; the representatives of this new interim Government should also address the committee on foreign affairs of the European Parliament;
 - 1.13 The EU should promote the launching, within the framework of the United Nations, of an international conference on Iraq with a view to jointly define a long term strategy in favour of stability and disarmament in the Middle East;
2. Recommends that the Council agree with the European Parliament that the International Conference of Donors, foreseen for 23 and 24 October 2003 in Madrid, should be preceded by a clear framework, agreed by the international community. In this regard the following conditions should be respected:
 - continuation of, and wherever the case, reinforcement of, the substantial humanitarian aid already granted by the European Union to the Iraqi people;
 - the administration of the Iraqi oil sales should be given in trust to the UN, in order to finance, design and implement reconstruction in Iraq under a UN mandate, until an Iraqi administration takes over as soon as possible; in this context, international assistance to Iraq for reconstruction and development should be implemented within the framework of an International Trust Fund to be managed under a UN mandate;

its management should respect EU financial rules, in particular the principles of sound and efficient management;

- any sound pledges and commitments by the European Union shall depend on the model of economic development to be agreed for Iraq and on the outcome of an in-depth evaluation of the real needs, the feasibility and political suitability of their financing by the EU in the areas of rehabilitation, reconstruction, support for democracy and human rights, as well as in the provision of technical assistance;
 - implementation of the European Union's pledge will depend on the capacity to ensure a reasonable level of security and stability in the country and on clearly identifying internationally recognised Iraqi negotiating interlocutors;
 - any substantial contribution by the EU to the reconstruction and development of Iraq should not be offered to the detriment of assistance to other countries or regions; EU assistance will be financed taking into consideration the budgetary procedures and, if necessary, on the basis of all possibilities provided for in the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure¹;
3. Requests, therefore, that the Council, taking into account the coming responsibilities of the EU, in particular within the framework of the reconstruction of Iraq, appoint a special representative of the European Union to Iraq;
 4. Invites the permanent and non-permanent Member States of the UN Security Council to act within the United Nations in accordance with the new common position proposed by this recommendation;
 5. Recommends that the Council follow up the said common position with the necessary common actions in the field of CFSP and that it agree with the European Parliament on the necessary measures to be taken under the first, second and possibly third pillars, including the adjustments deemed necessary in the financial and budgetary sectors of the Union;
 6. Instructs its President to forward this recommendation to the Council and, for information, to the Commission, as well as to the UN Secretary General, the UN Security Council and the Coalition Provisional Authority in Iraq, the Iraqi Interim Governing Council and the Iraqi Provisional Government.

¹ OJ C 172, 18.6.1999, p. 1.

P5_TA-PROV(2003)0402

Patentability of computer-implemented inventions ***I

European Parliament legislative resolution on the proposal for a directive of the European Parliament and of the Council on the patentability of computer-implemented inventions (COM(2002) 92 – C5-0082/2002 – 2002/0047(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2002) 92)¹,
 - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0082/2002),
 - having regard to the opinion of the European Economic and Social Committee²,
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the Internal Market and the opinions of the Committee on Industry, External Trade, Research and Energy and the Committee on Culture, Youth, Education, the Media and Sport (A5-0238/2003),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 1

(1) The realisation of the internal market implies the elimination of restrictions to free circulation and of distortions in competition, while creating an environment which is favourable to innovation and investment. In this context the protection of inventions by

(1) The realisation of the internal market implies the elimination of restrictions to free circulation and of distortions in competition, while creating an environment which is favourable to innovation and investment. In this context the protection of inventions by

¹ OJ C 151 E, 25.6.2002, p 129.

² OJ C 61, 14.3.2003, p. 154.

means of patents is an essential element for the success of the internal market. *effective* and harmonised protection of computer-implemented inventions throughout the Member States is essential in order to maintain and encourage investment in this field.

means of patents is an essential element for the success of the internal market. *Effective, transparent* and harmonised protection of computer-implemented inventions throughout the Member States is essential in order to maintain and encourage investment in this field.

Amendment 2
Recital 5

(5) Therefore, the legal rules *as interpreted by Member States' courts* should be harmonised *and the law governing the patentability of computer-implemented inventions should be made transparent*. The resulting legal certainty *should* enable enterprises to derive the maximum advantage from *patents for computer-implemented inventions* and provide an incentive for investment and innovation.

(5) Therefore, the legal rules *governing the patentability of computer-implemented inventions* should be harmonised *so as to ensure that* the resulting legal certainty *and the level of requirements demanded for patentability* enable innovative enterprises to derive the maximum advantage from *their inventive process* and provide an incentive for investment and innovation. *Legal certainty will also be secured by the fact that, in case of doubt as to the interpretation of this Directive, national courts may and national courts of last instance must seek a ruling from the Court of Justice of the European Communities.*

Amendment 88
Recital 5 a (new)

(5a) The rules pursuant to Article 52 of the Convention on the Grant of European Patents concerning the limits to patentability should be confirmed and clarified. The consequent legal certainty should help to foster a climate conducive to investment and innovation in the field of software.

Amendment 31
Recital 6

(6) The Community and its Member States are bound by the Agreement on trade-related aspects of intellectual

Deleted

property rights (TRIPS), approved by Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994). Article 27(1) of TRIPS provides that patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application. Moreover, according to TRIPS, patent rights should be available and patent rights enjoyable without discrimination as to the field of technology. These principles should accordingly apply to computer-implemented inventions.

Amendments 32 and 112
Recital 7

(7) Under the Convention on the Grant of European Patents signed in Munich on 5 October 1973 and the patent laws of the Member States, programs for computers together with discoveries, scientific theories, mathematical methods, aesthetic creations, schemes, rules and methods for performing mental acts, playing games or doing business, and presentations of information are expressly not regarded as inventions and are therefore excluded from patentability. This exception, *however*, applies *and is justified only to the extent that a patent application or patent relates to such subject-matter or activities as such*, because the said subject-matter and activities *as such* do not belong to a field of technology.

(7) Under the Convention on the Grant of European Patents signed in Munich on 5 October 1973 and the patent laws of the Member States, programs for computers together with discoveries, scientific theories, mathematical methods, aesthetic creations, schemes, rules and methods for performing mental acts, playing games or doing business, and presentations of information are expressly not regarded as inventions and are therefore excluded from patentability. This exception applies because the said subject-matter and activities do not belong to a field of technology.

Amendment 3
Recital 7a (new)

(7a) The aim of this Directive is not to

amend the aforementioned Convention, but to prevent different interpretations of its provisions.

Amendment 95
Recital 7b (new)

(7b) The European Parliament has repeatedly asked the European Patent Office to review its operating rules and for the Office to be publicly accountable in the exercise of its functions. In this connection it would be particularly desirable to reconsider the practice whereby the Office sees fit to obtain payment for the patents that it grants, as this practice harms the public nature of the institution. In its Resolution of 30 March 2000 on the decision by the European Patent Office with regard to patent No EP 695 351 granted on 8 December 1999¹, Parliament requested a review of the Office's operating rules to ensure that it was publicly accountable in the exercise of its functions.

¹ OJ C 378, 29.12.2000, p. 95.

Amendment 84
Recital 11

(11) Although computer-implemented inventions are considered to belong to a field of technology, in order to involve an inventive step, in common with inventions in general, they should make a technical contribution to the state of the art.

(11) In order to be patentable, inventions in general and computer-implemented inventions in particular must be susceptible of industrial application, new and involve an inventive step. In order to involve an inventive step, computer-implemented inventions must in addition make a new technical contribution to the state of the art, in order to distinguish them from pure software.

Amendments 114 and 125
Recital 12

(12) Accordingly, *where* an *invention* does not make a technical contribution to the state of the art, *as would be the case, for example, where its specific contribution lacks a technical character, the invention will lack an inventive step and thus will not be patentable.*

(12) Accordingly, an *innovation that* does not make a technical contribution to the state of the art *is not an invention within the meaning of patent law.*

Amendments 34 and 115
Recital 13

(13) A defined procedure or sequence of actions when performed in the context of an apparatus such as a computer may make a technical contribution to the state of the art and thereby constitute a patentable invention. However, an algorithm which is defined without reference to a physical environment is inherently non-technical and cannot therefore constitute a patentable invention.

Deleted.

Amendment 85
Recital 13a (new)

(13a) However, the mere implementation of an otherwise unpatentable method on an apparatus such as a computer is not in itself sufficient to warrant a finding that a technical contribution is present. Accordingly, a computer-implemented business method, data processing method or other method in which the only contribution to the state of the art is non-technical cannot constitute a patentable invention.

Amendment 7
Recital 13b (new)

(13b) If the contribution to the state of the art relates solely to unpatentable matter, there can be no patentable invention irrespective of how the matter is presented

in the claims. For example, the requirement for technical contribution cannot be circumvented merely by specifying technical means in the patent claims.

Amendment 8
Recital 13c (new)

(13c) Furthermore, an algorithm is inherently non-technical and therefore cannot constitute a technical invention. Nonetheless, a method involving the use of an algorithm might be patentable provided that the method is used to solve a technical problem. However, any patent granted for such a method should not monopolise the algorithm itself or its use in contexts not foreseen in the patent.

Amendment 9
Recital 13d (new)

(13d) The scope of the exclusive rights conferred by any patent are defined by the claims. Computer-implemented inventions must be claimed with reference to either a product such as a programmed apparatus, or to a process carried out in such an apparatus. Accordingly, where individual elements of software are used in contexts which do not involve the realisation of any validly claimed product or process, such use will not constitute patent infringement.

Amendment 86
Recital 14

(14) The legal protection of computer-implemented inventions *should* not necessitate the creation of a separate body of law in place of the rules of national patent law. The rules of national patent law *should* remain the essential basis for the legal protection of computer-implemented

(14) The legal protection of computer-implemented inventions *does* not necessitate the creation of a separate body of law in place of the rules of national patent law. The rules of national patent law remain the essential basis for the legal protection of computer-implemented

inventions *as adapted or added to in certain specific respects as set out in this Directive*.

inventions. *This Directive simply clarifies the present legal position with a view to securing legal certainty, transparency, and clarity of the law and avoiding any drift towards the patentability of unpatentable methods such as trivial procedures and business methods.*

Amendment 11

Recital 16

(16) The competitive position of European industry in relation to its major trading partners *would* be improved if the current differences in the legal protection of computer-implemented inventions *were* eliminated and the legal situation *was* transparent.

(16) The competitive position of European industry in relation to its major trading partners *will* be improved if the current differences in the legal protection of computer-implemented inventions *are* eliminated and the legal situation *is* transparent. *With the present trend for traditional manufacturing industry to shift their operations to low-cost economies outside the European Union, the importance of intellectual property protection and in particular patent protection is self-evident.*

Amendment 12

Recital 17

(17) This Directive *shall* be without prejudice to the application of the competition rules, in particular Articles 81 and 82 of the Treaty.

(17) This Directive *should* be without prejudice to the application of the competition rules, in particular Articles 81 and 82 of the Treaty.

Amendment 13

Recital 18

(18) *Acts permitted under* Directive 91/250/EEC on the legal protection of computer programs by copyright, in particular provisions thereof *relating to* decompilation and interoperability, *or the provisions concerning semiconductor topographies or trade marks, shall not be affected through the protection granted by patents for inventions within the scope of*

(18) *The rights conferred by patents granted for inventions within the scope of this Directive should not affect acts permitted under Articles 5 and 6 of* Directive 91/250/EEC on the legal protection of computer programs by copyright, in particular *under the* provisions thereof *in respect of* decompilation and interoperability. *In particular, acts which, under Articles 5 and 6 of that Directive, do*

this Directive.

not require authorisation of the rightholder with respect to the rightholder's copyrights in or pertaining to a computer program, and which, but for those Articles, would require such authorisation, should not require authorisation of the rightholder with respect to the rightholder's patent rights in or pertaining to the computer program.

Amendment 75
Recital 18 a (new)

(18a) At all events, the legislation of the Member States must ensure that patents contain innovations and involve an inventive step, so as to prevent inventions already in the public domain from being appropriated simply by being incorporated into a computer program.

Amendments 36, 42 and 117
Article 2, point (a)

(a) "computer-implemented invention" means any invention the performance of which involves the use of a computer, computer network or other programmable apparatus and having *one or more prima facie novel* features which are realised wholly or partly by *means of* a computer program or computer programs;

(a) "computer-implemented invention" means any invention *within the meaning of the European Patent Convention* the performance of which involves the use of a computer, computer network or other programmable apparatus and having *in its implementations one or more non-technical* features which are realised wholly or partly by a computer program or computer programs, *besides the technical features that any invention must possess;*

Amendments 107 and 69
Article 2, point (b)

(b) "technical contribution" means a contribution *to the state of the art in a technical field which is not obvious to a person skilled in the art.*

(b) "technical contribution", *also called "invention"*, means a contribution to the state of the art in a technical field. *The technical character of the contribution is one of the four requirements for patentability. Additionally, to deserve a patent, the technical contribution has to*

be new, non-obvious, and susceptible of industrial application. The use of natural forces to control physical effects beyond the digital representation of information belongs to a technical field. The processing, handling, and presentation of information do not belong to a technical field, even where technical devices are employed for such purposes.

Amendments 55/rev, 97 and 108
Article 2, point (ba) (new)

(ba) "technical field" means an industrial application domain requiring the use of controllable forces of nature to achieve predictable results. "Technical" means "belonging to a technical field".

Amendments 38, 44 and 118
Article 2, point (bb) (new)

(bb) "industry" within the meaning of patent law means the automated production of material goods;

Amendment 15
Article 3

Article 3

Deleted.

Computer-implemented inventions as a field of technology

Member States shall ensure that a computer-implemented invention is considered to belong to a field of technology.

Amendment 45
Article 3a (new)

Article 3a

Member States shall ensure that data processing is not considered to be a field

of technology within the meaning of patent law, and that innovations in the field of data processing are not considered to be inventions within the meaning of patent law.

Amendments 16, 100, 57, 99, 110 and 70
Article 4

1. *Member States shall ensure that a computer-implemented invention is patentable on the condition that it is susceptible of industrial application, is new, and involves an inventive step.*

2. Member States shall ensure that *it is a condition of involving an inventive step that* a computer-implemented invention *must make* a technical contribution.

3. The technical contribution shall be assessed by consideration of the difference between the scope of the patent claim considered as a whole, *elements of which may comprise both technical and non-technical features*, and the state of the art.

1. *In order to be patentable, a computer-implemented invention must be susceptible of industrial application and new and involve an inventive step. In order to involve an inventive step, a computer-implemented invention must make a technical contribution.*

2. Member States shall ensure that a computer-implemented invention *making* a technical contribution *constitutes a necessary condition of involving an inventive step.*

3. *The significant extent of* the technical contribution shall be assessed by consideration of the difference between *all of the technical features included in* the scope of the patent claim considered as a whole and the state of the art, *irrespective of whether or not such features are accompanied by non-technical features.*

3a. In determining whether a given computer-implemented invention makes a technical contribution, the following test shall be used: whether it constitutes a new teaching on cause-effect relations in the use of controllable forces of nature and has an industrial application in the strict sense of the expression, in terms of both method and result.

Amendment 17
Article 4a (new)

Article 4a

Exclusions from patentability

A computer-implemented invention shall

not be regarded as making a technical contribution merely because it involves the use of a computer, network or other programmable apparatus. Accordingly, inventions involving computer programs which implement business, mathematical or other methods and do not produce any technical effects beyond the normal physical interactions between a program and the computer, network or other programmable apparatus in which it is run shall not be patentable.

Amendment 60
Article 4b (new)

Article 4b

Member States shall ensure that computer-implemented solutions to technical problems are not considered to be patentable inventions merely because they improve efficiency in the use of resources within the data processing system.

Amendments 102 and 111
Article 5, paragraph 1

Member States shall ensure that a computer-implemented invention may be claimed as a product, that is as a programmed **computer, a programmed computer network or other programmed apparatus**, or as a process **carried out by such a computer, computer network or apparatus through the execution of software**.

I. Member States shall ensure that a computer-implemented invention may be claimed **only** as a product, that is as a programmed **device**, or as a **technical production** process.

Amendment 72
Article 5, paragraph 1 a (new)

1a. *Member States shall ensure that patent claims granted in respect of computer-implemented inventions include only the technical contribution which justifies the*

patent claim. A patent claim to a computer program, either on its own or on a carrier, shall not be allowed.

Amendments 103 and 119
Article 5, paragraph 1 b (new)

1b. Member States shall ensure that the production, handling, processing, distribution and publication of information, in whatever form, can never constitute direct or indirect infringement of a patent, even when a technical apparatus is used for that purpose.

Amendments 104 and 120
Article 5, paragraphs 1 c and 1 d (new)

1c. Member States shall ensure that the use of a computer program for purposes that do not belong to the scope of the patent cannot constitute a direct or indirect patent infringement.

1d. Member States shall ensure that whenever a patent claim names features that imply the use of a computer program, a well-functioning and well documented reference implementation of such a program shall be published as a part of description without any restricting licensing terms.

Amendment 19
Article 6

Acts permitted under Directive 91/250/EEC on the legal protection of computer programs by copyright, in particular provisions thereof *relating to* decompilation and interoperability, *or the provisions concerning semiconductor topographies or trademarks, shall not be affected through the protection granted by patents for inventions within the scope of this Directive.*

The rights conferred by patents granted for inventions within the scope of this Directive shall not affect acts permitted under Articles 5 and 6 of Directive 91/250/EEC on the legal protection of computer programs by copyright, in particular under the provisions thereof in respect of decompilation and interoperability.

Amendment 76
Article 6a (new)

Article 6a

Use of patented techniques

Member States shall ensure that, wherever the use of a patented technique is needed for a significant purpose such as ensuring conversion of the conventions used in two different computer systems or networks so as to allow communication and exchange of data content between them, such use is not considered to be a patent infringement.

Amendment 71
Article 7

The Commission shall monitor the impact of computer-implemented inventions on innovation and competition, both within Europe and internationally, and on European businesses, ***including*** electronic commerce.

The Commission shall monitor the impact of computer-implemented inventions on innovation and competition, both within Europe and internationally, and on European businesses, ***especially small and medium-sized enterprises and the open source community, and*** electronic commerce.

Amendment 92
Article 8, point (b)

(b) whether the rules governing the determination of the patentability requirements, and more specifically novelty, inventive step and the proper scope of claims, are adequate; and

(b) whether the rules governing ***the term of the patent and*** the determination of the patentability requirements, and more specifically novelty, inventive step and the proper scope of claims, are adequate; and

Amendment 23
Article 8, point (ca) (new)

(ca) whether difficulties have been experienced in respect of the relationship between the protection by patent of computer-implemented inventions and the

protection by copyright of computer programs as provided for in Directive 91/250/EEC and whether any abuse of the patent system has occurred in relation to computer-implemented inventions;

Amendment 24
Article 8, point (cb) (new)

(cb) whether it would be desirable and legally possible having regard to the Community's international obligations to introduce a "grace period" in respect of elements of a patent application for any type of invention disclosed prior to the date of the application;

Amendment 25
Article 8, point (cc) (new)

(cc) the aspects in respect of which it may be necessary to prepare for a diplomatic conference to revise the Convention on the Grant of European Patents, also in the light of the advent of the Community patent;

Amendment 26
Article 8, point (cd) (new)

(cd) how the requirements of this Directive have been taken into account in the practice of the European Patent Office and in its examination guidelines.

Amendment 81
Article 8, point (c e) (new)

(ce) whether the powers delegated to the EPO are compatible with the need to harmonise Community legislation, and with the principles of transparency and accountability.

Amendment 89
Article 8, point (cf) (new)

(cf) the impact on the conversion of the conventions used in two different computer systems to allow communication and exchange of data;

Amendment 93
Article 8, point (cg) (new)

(cg) whether the option outlined in the Directive concerning the use of a patented invention for the sole purpose of ensuring interoperability between two systems is adequate;

Amendment 94
Article 8, paragraph 1a (new)

In this report the Commission shall justify why it believes an amendment of the Directive in question necessary or not and, if required, will list the points which it intends to propose an amendment to.

Amendment 27
Article 8a (new)

Article 8a

Impact assessment

In the light of the monitoring carried out pursuant to Article 7 and the report to be drawn up pursuant to Article 8, the Commission shall assess the impact of this Directive and, where necessary, submit proposals for amending legislation to the European Parliament and the Council.

Amendment 28
Article 9, paragraph 1, subparagraph 1

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than *[DATE (last day of a month)]*. They shall forthwith inform the Commission thereof.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than ...*. They shall forthwith inform the Commission thereof.

** Eighteen months after the entry into force of the Directive.*

P5_TA-PROV(2003)0403

Community actions in support of consumer policy 2004-2007 ***I

European Parliament legislative resolution on the proposal for a decision of the European Parliament and of the Council establishing a general framework for financing Community actions in support of consumer policy for the years 2004-2007 (COM(2003) 44 – C5-0022/2003 – 2003/0020(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2003) 44)¹,
 - having regard to Article 251(2) and Article 153 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0022/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Policy and the opinion of the Committee on Budgets (A5-0232/2003),
1. Approves the Commission proposal as amended;
 2. Considers that the financial statement of the Commission Proposal attached to the current report is compatible with the ceiling of heading 3 of the Financial Perspective without restricting existing policies;
 3. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 4. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 3

(3) The objectives and actions in the Consumer Policy Strategy should steer the allocation of funds for actions implemented

(3) The objectives and actions in the Consumer Policy Strategy should steer the allocation of funds for actions implemented

¹ OJ C not published yet.

under this Framework.

under this Framework. ***In addition, activities intended to integrate consumer interests into other areas of activity in accordance with Article 153 of the Amsterdam Treaty should be given high priority with the three key objectives referred to in recital 2.***

Amendment 29
Recital 4a (new)

(4a) A general objective for the European Union is according to Article 2 of the Treaty on European Union a balanced and sustainable development. In line with the Johannesburg Declaration on Sustainable Development, the Plan of Implementation of the World Summit on Sustainable Development, and the Cardiff process, actions should be taken in order to achieve sustainable development.

Amendment 2
Recital 5

(5) This Framework should provide for actions by the Community, in compliance with the principle of subsidiarity, to support and build the capacity of organisations and bodies which work to promote consumer interests at Community ***or*** national level.

(5) This Framework should provide for actions by the Community, in compliance with the principle of subsidiarity, to support and build the capacity of organisations and bodies which work to promote consumer interests at Community, national ***or regional*** level.

Amendment 30
Recital 5a (new)

(5a) In addition to the actions contained in this framework, the Commission should also ensure that consumer organisations and other relevant non-governmental organisations can contribute to the implementation of the Consumer protection Strategy through their involvement in the work of the Consumer Committee as established by Commission decision 2000/323/EC.

Amendment 31
Recital 10

(10) In order to improve administrative efficiency, and the effectiveness and impact of specific projects, calls for specific projects should be published at least every two years and support should be provided for up to a maximum of **70%** of the cost of the eligible expenses for implementing the projects.

(10) In order to improve administrative efficiency, and the effectiveness and impact of specific projects, calls for specific projects should be published at least every two years and support should be provided for up to a maximum of **75%** of the cost of the eligible expenses for implementing the projects.

Amendment 32
Recital 12

(12) This general framework should be open to the participation of *the* associated **Central, Eastern and South Eastern European** countries, **Cyprus, Malta and Turkey**, in accordance with the conditions laid down in the respective bilateral agreements establishing the general principles for their participation in Community programmes.

(12) This general framework should be open to the participation of associated countries, in accordance with the conditions laid down in the respective bilateral agreements establishing the general principles for their participation in Community programmes.

Amendment 33
Article 1, paragraph 1

1. This Decision establishes a general Framework for Community actions in support of consumer policy, hereinafter referred to as “the framework”, for the period **from 1 January 2004 to 31 December 2007**.

1. This Decision establishes a general Framework for Community actions in support of consumer policy, hereinafter referred to as “the framework”, for the period **set out in Article 5**.

Amendment 34
Article 1, paragraph 2

2. The actions to be undertaken under the Framework shall supplement the actions undertaken by and in the Member States to protect the interests of consumers and to promote their right to information, education and **organisation**.

2. The actions to be undertaken under the Framework shall supplement the actions undertaken by and in the Member States to protect the **health, safety and economic** interests of consumers and to promote their right to information, education and **to organise themselves in order to safeguard**

their interests.

Amendment 35
Article 2, point (b)

(b) protection of the economic interests of consumers;

(b) protection of the economic *and legal* interests of consumers;

Amendment 36
Article 2, point (d)

(d) promotion of consumer organisations at European level.

(d) promotion of *the capacity of* consumer organisations *to contribute* at European level.

Amendment 37
Article 3, point (a)

(a) A high common level of consumer protection through the establishment of common consumer protection rules and practices and the integration of consumer interests into other Community policies;

(a) A high common level of consumer protection, *in particular* through the establishment of common consumer protection rules and practices and the integration of consumer interests into other Community policies;

Amendment 38
Article 3, point (b)

(b) effective enforcement of consumer protection rules, through market surveillance, administrative and enforcement co-operation and consumer access to resolution of complaints and disputes; and

(b) effective enforcement of consumer protection rules, *in particular* through market surveillance, administrative and enforcement co-operation, *consumer access to information about services and non-food products* and consumer access to resolution of complaints and disputes; and

Amendment 39
Article 3, point (c)

(c) proper involvement of consumer organisations in the development of Community policies affecting consumer

(c) proper involvement of consumer organisations in the development of *consumer policy and other* Community

interests.

policies affecting consumer interests.

Amendment 40
Article 5, paragraph 1

The financial *budget* for the implementation of this *framework* for the period *referred to in Article 1* is set at EUR 72 million.

The financial *framework* for the implementation of this *Decision* for the period *from 1 January 2004 to 31 December 2007* is set at EUR 72 million, *of which EUR 54 million for the period until 31 December 2006.*

For the period following 31 December 2006, the amount proposed shall be deemed to be confirmed if it is consistent for this phase with the financial perspectives in force for the period commencing in 2007.

Amendment 41
Article 6, paragraph 1

1. The Community contribution to joint actions 9 and 10 as specified in the Annex will, in principle, be 50%, and in no event exceed 70%, of the total cost of the action.

1. The Community contribution to joint actions 9 and 10 as specified in the Annex will, in principle, be 50%, and in no event exceed 70%, of the total cost of the action. *The Commission will set out clearly which joint actions will be eligible for a financial contribution of more than 50% .*

Amendment 42
Article 6, paragraph 4

4. The financial contributions for actions 16 and 17 to eligible organisations that in the preceding year have proven actively and effectively to represent consumer interests shall not be subject to the rule of gradual decrease *upon renewal*.

4. The *renewal of the* financial contributions for actions 16 and 17 to eligible organisations that in the preceding year have proven actively and effectively to represent consumer interests shall not be subject to the rule of gradual decrease.

Amendment 43
Article 6, paragraph 5

5. The financial contributions for action 18 will, in principle, be 50%, and in no event

5. The financial contributions for action 18 will, in principle, be 50%, and in no event

exceed **70%**, of the eligible expenses for implementing the project.

exceed **75%**, of the eligible expenses for implementing the project. ***The Commission will set out clearly which specific projects will be eligible for a financial contribution of more than 50%.***

Amendment 12

Article 7, paragraph 2, point (a)

(a) are non-governmental, independent of industry, ***commerce and other business interests and non-profit-making***, and have as their primary objectives and activities the promotion and protection of the health, safety and economic interests of consumers in the Community, and

(a) are non-governmental, ***non-profit-making, commercial and business or other conflicting interests***, and have as their primary objectives and activities the promotion and protection of the health, safety and economic interests of consumers in the Community, and

Amendment 14

Article 7, paragraph 2, point (ba) (new)

(ba) have provided to the Commission satisfactory accounts of their membership, internal rules and sources of funding.

Amendment 15

Article 7, paragraph 3, point (a)

(a) are non-governmental, independent of industry ***and commerce and non-profit-making***, and have as their primary objectives and activities to represent consumer interests in the standardisation process at Community level, and

(a) are non-governmental, ***non-profit-making, commercial and business or other conflicting interests***, and have as their primary objectives and activities to represent consumer interests in the standardisation process at Community level, and

Amendment 44

Article 7, paragraph 3, point (b)

(b) have been mandated to represent the interests of consumers at Community level by national consumer organisations in the Member States that are representative, in accordance with national rules or practice, of consumers and are active at national

(b) have been mandated ***in at least two-thirds of the Member States*** to represent the interests of consumers at Community level
- by ***bodies representative, in accordance with national rules or practice, of national***

level.

consumer organisations in the Member States, or

- in the absence of such bodies, by national consumer organisations in the Member States that are representative, in accordance with national rules or practice, of consumers and are active at national level.

Amendment 45
Article 7, paragraph 4

4. The financial contributions for action 18 may be awarded to any legal person or association of legal persons that acts independently of industry and commerce and is actually responsible for the implementation of the projects.

4. The financial contributions for action 18 may be awarded to any legal person or association of legal persons, ***including appropriate independent public bodies and regional consumer organisations***, that acts independently of industry and commerce and is actually responsible for the implementation of the projects.

Amendment 46
Article 8

Applicants or tenderers and contractors who are found guilty of making false declarations, or are found to have seriously failed to meet their contractual obligations, shall be excluded from the award of further contracts ***in accordance with the rules*** set out in the Financial Regulation applicable to the general budget of the European Communities, hereinafter referred to as “the Financial Regulation”.

Applicants or tenderers and contractors who are found guilty of making false declarations, or are found to have seriously failed to meet their contractual obligations, shall be excluded from the award of further contracts ***as*** set out in ***Article 96 of*** the Financial Regulation applicable to the general budget of the European Communities, hereinafter referred to as “the Financial Regulation”.

Amendment 47
Article 9, point (b)

(b) Associated countries ***of Central, Eastern and South Eastern Europe, Cyprus, Malta and Turkey***, in accordance with the conditions laid down in the respective bilateral agreements establishing the general principles for their participation in Community programmes.

(b) Associated countries, in accordance with the conditions laid down in the respective bilateral agreements establishing the general principles for their participation in Community programmes.

Amendment 48
Article 10, paragraph 1

The Commission shall ensure that the actions implemented under this framework are consistent with the Consumer Policy Strategy **2002-2006 and subsequent consumer policy development.**

The Commission shall ensure that the actions implemented under this framework are consistent with the Consumer Policy Strategy.

Amendment 49
Article 11, point (d)

(d) in the case of calls for proposals, the selection and award criteria for actions 16, 17 and 18, and the indicative amount available for each of these calls for proposals.

(d) in the case of calls for proposals, the selection and award criteria for actions 16, 17 and 18, **the criteria for financial contributions of more than 50% for action 18**, and the indicative amount available for each of these calls for proposals, **in accordance with the relevant provisions of the Financial Regulation and taking into account to the extent possible the need to set simple administrative requirements in particular in the case of small amounts of financial contributions for specific projects.**

Amendment 50
Article 12, title

Publication

Publication **and procedures**

Amendment 51
Article 12, paragraph 1a (new)

1a. At an early stage in the evaluation process of applications for financial contributions, the Commission shall inform the applicants if they are not eligible or if their application does not provide the information that is necessary to verify the application's conformity with the selection criteria.

Amendment 52
Article 12, paragraph 1b (new)

1b. The Commission shall, within three months of the deadline for the submission of applications, decide on the attribution of financial contributions for actions 16, 17 and 18.

Amendment 53
Article 13, paragraph 1

1. The Commission shall ensure effective and regular monitoring of the actions undertaken under the Framework and shall present to the European Parliament and to the Council a mid-term report on the implementation of the Framework by 31 December 2005.

1. The Commission shall ensure effective and regular monitoring of the actions undertaken under the Framework and shall present to the European Parliament and to the Council a mid-term report on the implementation of the Framework by 31 December 2005. ***The Commission shall inform the European Parliament annually if the decision-making procedure concerning applications for actions 16, 17 and 18 exceeds the three-month period as set out in Article 12(1b).***

Amendment 22
Annex, Action 1

Action 1. Scientific advice ***and*** risk analysis relevant to consumer health and safety regarding non-food products and services.

Action 1. Scientific advice, risk analysis, ***including comparative assessment, and assessment of risk reduction options*** relevant to consumer health and safety regarding non-food products and services.

Amendment 23
Annex, Action 6

Action 6. Development of databases covering the application of and jurisprudence on consumer rights deriving from Community consumer protection legislation, including the completion and improvement of the database on unfair contract terms.

Action 6. Development of ***easily and publicly accessible*** databases covering the application of and jurisprudence on consumer rights deriving from Community consumer protection legislation, including the completion and improvement of the database on unfair contract terms.

Amendment 54
Annex, Action 10

Action 10. Financial contributions for joint surveillance and enforcement actions to improve administrative and enforcement co-operation on Community consumer protection legislation, including the General Product Safety Directive, and other actions in the context of administrative co-operation, under the conditions set out in Article 7(1).

Action 10. Financial contributions for *specific* joint surveillance and enforcement actions to improve administrative and enforcement co-operation on Community consumer protection legislation, including the General Product Safety Directive, and other actions in the context of administrative co-operation, under the conditions set out in Article 7(1).

Amendment 55
Annex, Action 11

Action 11. Provision of specific technical and legal expertise to consumer organisations to support their participation in, and input into, consultation processes on Community legislative and non-legislative policy initiatives, as well as their contribution to market surveillance.

Action 11. Provision of specific technical and legal expertise to consumer organisations to support their participation in, and input into, consultation processes on Community legislative and non-legislative policy initiatives *in relevant policy areas, such as internal market policies, services of general interest and the 10-year framework programme on sustainable production and consumption*, as well as *to support* their contribution to market surveillance.

Amendment 56
Annex, Action 13

Action 13. Training for staff members of consumer organisations and other capacity building actions.

Action 13. Training for staff members of *regional, national and European* consumer organisations and other capacity building actions, *including training courses in project development and project application procedures, internet forum on specific projects, workshops and meetings to promote project partnership*.

Amendment 57
Annex, Action 14

Action 14. Information actions about

Action 14. Information actions about

consumer rights conferred by consumer protection legislation and other Community consumer protection measures.

consumer rights conferred by consumer protection legislation and other Community consumer protection measures, *particularly in the new Member States, in cooperation with their consumer organisations.*

Amendment 58
Annex, Action 15

Action 15. Consumer education, including *the Young Consumer Competition* and the development of on-line interactive consumer education tools on consumer rights in the internal market and on cross-border transactions.

Action 15. Consumer education, including *actions targeted at young consumers*, and the development of on-line interactive consumer education tools on consumer rights in the internal market and on cross-border transactions.

Amendment 59
Annex, Action 18

Action 18. Financial contributions for specific projects at Community or national level in support of consumer policy objectives as defined in *Article 2*, under the conditions set out in Article 7(4).

Action 18 Financial contributions for specific projects at Community or national level in support of consumer policy objectives as defined in *Article 3*, under the conditions set out in Article 7(4), *including, amongst others, financial contributions for:*

- *specific projects undertaken by consumer organisations and aiming to accelerate the effective implementation of the acquis communautaire on consumer protection in the new Member States*
- *specific projects promoting the crossborder exchange of information and best practice concerning the integration of consumer rights into other policies.*

P5_TA-PROV(2003)0404

Taxation of energy products and electricity *

European Parliament legislative resolution on the draft Council directive restructuring the Community framework for the taxation of energy products and electricity (8084/2003 – C5-0192/2003 – 1997/0111(CNS))

(Consultation procedure – Renewed consultation)

The European Parliament,

- having regard to the Council draft (8084/2003)¹,
 - having regard to the Commission proposal to the Council (COM(1997) 30)²,
 - having regard to its position of 13 April 1999³,
 - having been reconsulted by the Council pursuant to Article 93 of the EC Treaty (C5-0192/2003),
 - having regard to Rules 67 and 71(3) of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Industry, External Trade, Research and Energy (A5-0302/2003),
1. Approves the Council draft as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Calls on the Council to consult Parliament again if it intends to amend the draft substantially or replace it with another text;
 5. Instructs its President to forward its position to the Council and Commission.

¹ OJ not yet published.

² OJ C 139, 6.5.1997, p. 14.

³ OJ C 219, 30.7.1999, p. 91.

Amendment 1
Recital 28b

(28b) It is necessary to provide for a procedure authorising the introduction by Member States, for a set period, of other exemptions or reduced levels of taxation. The regular review of such exemptions or reductions should be undertaken;

(28b) It is necessary to provide for a procedure authorising the introduction by Member States, for a set period, of other exemptions or reduced levels of taxation. The regular review of such exemptions or reductions, **to which a time limit should apply**, should be undertaken;

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Amendment 16
Article 2, paragraph 1, point (a)

(a) products falling within CN codes 1507 to 1518, if these are intended for use as heating fuel or motor fuel;

Deleted

Amendment 17
Article 2, paragraph 2a (new)

2a. This Directive shall not apply to 'chemically unmodified pure vegetable oil', which is covered by codes NC 1507 to 1515.

Amendment 7
Article 7, paragraph 1

1. As from 1 January 2004 and from ***1 January 2010***, the minimum levels of taxation applicable to motor fuels shall be fixed as set out in Annex 1.A.

Not later than ***1 January 2012***, the Council, ***acting unanimously after consulting the European Parliament***, shall, on the basis of a report and a proposal from the Commission, decide upon the minimum levels of taxation for gas oil for a further period beginning on ***1***

1. As from 1 January 2004 and from ***1 January 2008***, the minimum levels of taxation applicable to motor fuels shall be fixed as set out in Annex 1.A.

Not later than ***1 January 2010***, the Council shall, on the basis of a report and a proposal from the Commission, decide upon the minimum levels of taxation for gas oil for a further period beginning on ***1 January 2011***.

January 2013.

Amendment 4
Article 12, paragraph 2a (new)

2a. The unit of measurement used as the basis for calculating the taxation must not give rise to distortions between the different energy sources.

Amendment 9
Article 14, paragraph 1, point (b)

(b) energy products supplied for use as fuel for the purpose of air navigation other than in private pleasure-flying.

(b) energy products supplied for use as fuel for the purpose of air navigation other than in private pleasure-flying **for as long as such products are exempt as a result of international obligations.**

Amendment 10
Article 15, paragraph 1

Facultative exemptions or reductions

1. Without prejudice to other Community provisions, Member States **may** apply under fiscal control total or partial exemptions or reductions in the level of taxation to:

Exemptions or reductions

1. Without prejudice to other Community provisions, Member States **shall** apply under fiscal control total or partial exemptions or reductions in the level of taxation to:

Amendment 11
Article 15, paragraph 1, point (b)

(b) electricity:

- of solar, wind, wave, tidal or geothermal origin;
- of hydraulic origin produced in hydroelectric installations;
- generated from biomass or from products produced from biomass;
- generated from methane emitted by abandoned coalmines;

(b) electricity, **hydrogen or any vector used in fuel cells:**

- of solar, wind, wave, tidal or geothermal origin;
- of hydraulic origin produced in hydroelectric installations;
- generated from biomass or from products produced from biomass;
- generated from methane emitted by abandoned coalmines;

- generated from fuel cells;

Amendment 12
Article 15, paragraph 3

3. Member States may apply a level of taxation down to zero to energy products and electricity used for agricultural, horticultural or piscicultural works, and in forestry.

On the basis of a proposal from the Commission, the Council shall before 1 January 2008 examine *if* the possibility of applying a level of taxation down to zero *shall be repealed*.

3. Member States may apply, *until the end of 2007*, a level of taxation down to zero to energy products and electricity used for agricultural, horticultural or piscicultural works, and in forestry.

On the basis of a proposal from the Commission, the Council shall, before 1 January 2008, examine *whether* the possibility of applying a level of taxation down to zero *should be extended*.

Amendment 6
Article 16, paragraph 1

1. Member States may, without prejudice to paragraph 5, apply an exemption or a reduced rate of taxation under fiscal control on the taxable products referred to in Article 2 where such products are made up of, or contain, one or more of the *following* products:

- products falling within CN codes 1507 to 1518;

- products falling within CN codes 3824 90 55 and 3824 90 80 to 3824 90 99 for their components produced from biomass;

- products falling within CN codes 2207 20 00 and 2905 11 00 which are not of synthetic origin;

- products produced from biomass, including products falling within CN codes 4401 and 4402.

Member States may also apply a reduced rate of taxation under fiscal control on the taxable products referred to in Article 2

1. Member States may, without prejudice to paragraph 5, apply an exemption or a reduced rate of taxation under fiscal control on the taxable products referred to in Article 2 where such products are made up of, or contain, one or more of the products *listed in Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport.*¹

where such products contain water (CN codes 2201 and 2851 00 10).

“Biomass” shall mean the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste.

¹ OJ L 123, 17.5.2003, p. 42.

Amendment 13

Article 19, paragraph 1, subparagraph 1

1. In addition to the provisions set out in the previous Articles, in particular in Articles 5, 15 and 17, the Council, **acting unanimously** on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions for specific policy considerations.

1. In addition to the provisions set out in the previous Articles, in particular in Articles 5, 15 and 17, the Council, on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions for specific policy considerations.

Amendment 18

Article 20, paragraph 1, point (a)

(a) products falling within CN codes 1507 to 1518, if these are intended for use as heating fuel or motor fuel;

Deleted

Amendments 14 and 15

Annex 1, table A

Text proposed by Council

| | 1 January 2004 | 1 January 2010 |
|--|----------------|----------------|
| Leaded petrol (in euro per 1000 l) CN codes 2710 11 31, 2710 11 51 and 2710 11 59 | 421 | 421 |
| Unleaded petrol (in euro per 1000 l) | 359 | 359 |

| | | |
|--|------------|------------|
| CN codes 2710 11 31, 2710 11 41, 2710 11 45 and 2710 11 49 | | |
| Gas oil (in euro per 1000 l) | 302 | 330 |
| CN codes 2710 19 41 to 2710 19 49 | | |
| Kerosene (in euro per 1000 l) | 302 | 330 |
| CN codes 2710 19 21 and 2710 19 25 | | |
| .LPG (in euro per 1000 kg) | 125 | 125 |
| CN codes 2711 12 11 to 2711 19 00 | | |
| Natural gas (in euro per gigajoule) | 2.6 | 2.6 |
| CN codes 2711 11 00 and 2711 21 00 | | |

Amendment by Parliament

| | 1 January 2004 | 1 January 2008 |
|--|-------------------|--------------------------|
| Leaded petrol (in euro per 1000 l) | 450 | 450 |
| CN codes 2710 11 31, 2710 11 51 and 2710 11 59 | | |
| Unleaded petrol (in euro per 1000 l) | 417 | 417 |
| CN codes 2710 11 31, 2710 11 41, 2710 11 45 and 2710 11 49 | | |
| Gas oil (in euro per 1000 l) | 343 | 393 |
| CN codes 2710 19 41 to 2710 19 49 | | |
| Kerosene (in euro per 1000 l) | 343 | 393 |

| | | |
|---|------------|------------|
| CN codes 2710 19 21 and 2710 19 25 | | |
| LPG (in euro per 1000 kg) CN codes 2711 12 11 to 2711 19 00 | 174 | 174 |
| Natural gas (in euro per gigajoule) CN codes 2711 11 00 and 2711 21 00 | 3.5 | 3.5 |

P5_TA-PROV(2003)0405

EU-Mauritius fisheries agreement *

European Parliament legislative resolution on the proposal for a Council regulation on the conclusion of the Agreement in the form of an Exchange of Letters concerning the extension of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters for the period 3 December 2002 to 2 December 2003 (COM(2003) 202 - C5-0236/2003 - 2003/0074(CNS))

The European Parliament,

- having regard to the proposal for a Council regulation (COM(2003) 202)¹,
 - having regard to Articles 37 and 300(2), first subparagraph, of the EC Treaty,
 - having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0236/2003),
 - having regard to Rules 67 and 97(7) of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A5-0289/2003),
1. Approves the proposal for a Council regulation as amended and approves conclusion of the agreement;
 2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States and Mauritius.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Article 4a (new)

Article 4a

Before the start of negotiations on renewal of the Protocol, the Commission shall submit a general assessment of its application, including a cost-benefit analysis, to the European Parliament and the Council.

Amendment 2

¹ Not yet published in OJ.

Article 4b (new)

Article 4b

On the basis of the assessment referred to in Article 4a, and after consulting Parliament, the Council shall where appropriate mandate the Commission to open negotiations for the adoption of a new protocol.

Amendment 3
Article 4c (new)

Article 4c

The Commission shall respect the need for consistency between its policies, particularly between its fisheries, development and trade policies.

Amendment 4
Article 4d (new)

Article 4d

The Commission shall ensure that it preserves the particularly positive economic and social effects of its tuna fishing agreements with the ACP countries, such as Mauritius, and that to this end it maintains a customs differential for its imports of canned tuna from those countries.

P5_TA-PROV(2003)0406

Adequate and sustainable pensions

European Parliament resolution on the Joint Report by the Commission and the Council on adequate and sustainable pensions (COM(2002) 737 - 2003/2040(INI))

The European Parliament,

- having regard to the Commission Communication (COM(2002) 737 - C5-0074/2003),
- having regard to the Joint Report by the Commission and the Council on Adequate Pensions (7165/03) as endorsed both by the Council on Employment, Social Policy, Health and Consumer Affairs and by the Council on Economic and Financial Affairs on 6 and 7 March 2003 respectively,
- having regard to the Brussels European Council of 20 and 21 March 2003 as well as to previous conclusions of European Councils on pension policy, in particular the European Councils of Lisbon of 23-24 March 2000, Stockholm of 23-24 March 2001, Göteborg of 15-16 June 2001, Laeken of 14-15 December 2001 and Barcelona of 15-16 March 2002,
- having regard to its resolution of 11 April 2002 on the Commission Communication Supporting national strategies for safe and sustainable pensions through an integrated approach¹,
- having regard to its resolution of 17 May 2001 on the Commission Communication on the future evolution of social protection from a long-term point of view: safe and sustainable pensions²,
- having regard to its resolution of 16 February 2000 on the Commission Communication on a concerted strategy for modernising social protection³,
- having regard to the Council conclusions of 17 December 1999 on the strengthening of cooperation for modernising and improving social protection⁴,
- having regard to the Joint Report of the Economic Policy Committee and the Committee on Social Protection to the Council, on objectives and working methods in the pensions field: the application of the open coordination process (14098/01),
- having regard to the Commission Communication "The contribution of public finances to growth and employment: quality and sustainability" (COM(2000) 846),
- having regard to Rules 47(2) and 163 of its Rules of Procedure,

¹ OJ C 127 E, 29.5.2003, p. 659.

² OJ C 34 E, 7.2.2002, p. 362.

³ OJ C 339, 29.11.2000, p. 154.

⁴ OJ C 8, 12.1.2000, p. 7.

- having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Women's Rights and Equal Opportunities (A5-0259/2003),
- A. whereas around one-tenth of the EU's GDP is currently devoted to public spending on pensions; whereas all predictions point to a future scenario where the amount of public spending on pension systems will increase further; whereas it is notable that the level of employment among older people is lower today than it was thirty years ago,
- B. whereas it is widely accepted that the adequacy and sustainability of pension systems have implications that go beyond national borders; whereas the stability of the common currency depends on a globally sound finance policy throughout the Euro-zone,
- C. whereas some Member States have undertaken reforms that represent steps in the right direction,
- D. whereas a long-term perspective is needed in the field of pensions; whereas the public legitimacy of reform hinges a great deal on there being a transparent debate in order to allow the public to anticipate any changes,
- E. whereas the fundamental responsibility of pensions policy and financing remain, and must continue to remain, with the Member States, in accordance with the subsidiarity principle,
- F. whereas the pensions policy of each Member State should be to provide adequate and fair incomes to older people, and prevent poverty in old age,
- G. whereas this Member State responsibility in no way diminishes the value of the European contribution through the exchange of best practice and consensus-building, as well as common regulation with regard to aspects necessary for enabling and securing the portability of pension entitlements of any kind,
- H. whereas increased life expectancy rates and the fact that the average older person does not run a significantly higher risk of becoming poor than other people are indications of the great achievement that today's European welfare societies constitute; whereas poverty and social exclusion among pensioners are a persistent problem in certain Member States, especially for older women,
- I. whereas the existing gender inequalities, highlighted by the fact that older women run a higher risk of becoming poor than other groups, stem to a significant extent from inequalities in the labour market, the prevalence of the male-breadwinner-model and calculation methods providing for an unfavourable coverage of career breaks and non-standard forms of employment in pension systems themselves,
- J. whereas pension systems not only act as redistributors of income between generations but also between groups within the same generation; whereas the concept of sustainability requires the social welfare of present and future generations alike to be safeguarded by today's pension systems,

- K. whereas the combination of more people reaching retirement age together with increasing life expectancy will double the proportion of over-65s from 25% to 50% of the working-age population by 2050 compared with 2000,
- L. whereas certain EU institutions continue to discriminate against allowing older workers to apply for jobs, and whereas continuation of such policies is absolutely unacceptable,
1. Welcomes the close cooperation between the Member States in the area of pensions; this cooperation is carried out by means of the open method of coordination; stresses that pension systems are an instrument of welfare provision and an important tool to foster social cohesion;
 2. Looks to the Member States to give a clear indication to their citizens of what they may expect from their pension systems, and what they must do to achieve an appropriate standard of living later in life;
 3. Considers that the funding of public pension systems ought to take priority in the budgets of the Member States and applicant countries;
 4. Emphasises the importance of integrating public pension systems with appropriate public health care systems specifically geared to the needs of those elderly people who cannot look after themselves;
 5. Reiterates its support for the three fundamental aims – adequacy, financial sustainability and modernisation – underpinning the strategy; recognises also the pertinence of the eleven underlying objectives, highlighting in particular those objectives pertaining to the social and redistributive aims of pension systems;
 6. Regrets however that the projections lack any appraisal of how the imminent enlargement will affect the situation and the possible scenarios for the future; welcomes the call by the European Council for a review of the progress made, including for the then new Member States; stresses in that context the need for a particular focus on poverty levels among pensioners; welcomes the call for indicators that cover all three aims of the strategy;
 7. Agrees that any analysis of current and future pension systems must include not only a financial dimension, but must take into due account also social and welfare aspects, along with a clear focus on to what extent pension systems contribute to intra- and intergenerational solidarity; concludes that this underlines how the fields of macroeconomic policy, employment policy and social policy are closely connected;
 8. Concludes that all schemes, even if based on different funding principles, share the inherent precondition that in order to be financially sustainable, there needs to be growth and sufficient productivity in the economy, as well as full employment, with quality jobs in a healthy and safe working environment, which is the best way to ensure the sustainability of pensions; points out that, in addition, Member States might consider setting up reserve funds in order to guarantee long-term financial sustainability;
 9. Concludes that public pension schemes, due to their inherently strong redistributive effects, remain vital in providing for a socially acceptable allocation and distribution of income for pensioners; takes the view that all public pension schemes must contribute to

the fight against poverty through, inter alia, a sufficient level of minimum guarantee pensions;

10. Notes that the growing number of retired people and their longevity will put pay-as-you-go pension systems under considerable pressure; points, therefore, to the necessity of taking measures in good time to ensure that a balance between pension contributions and incomes is maintained; notes that some Member States have undertaken reforms to this end; stresses also that measures to e.g. reduce administrative costs and bureaucracy can contribute to the overall sound management of pensions;
11. Considers that in order for there to be a sufficient degree of legitimacy and security in pensions systems, it is vital that there be comprehensive safeguards for transparency and information in the systems; stresses the importance of predictability and clarity not only for the direct benefit of the public, but also to enable continuous evaluation of the system's effectiveness as regards the attainment of social objectives and its financial sustainability;
12. Also urges the Member States to develop a European benchmark for national regulations with cross-border implications, so that differences of interpretation arising from bilateral taxation agreements can be reduced; urges the Member States to continue with the coordination of tax systems concerning supplementary pension schemes by introducing a separate code of conduct governing the individual underlying taxation principles in this area;
13. Calls for pension rights accrued in a Member State to be recognised in full and paid out, although this should never lead to reductions in pension payments in another Member State;
14. Sees an opportunity to maintain the fairness of statutory pensions by increasing the flexibility of the pensionable age and the transition from work to retirement, so that additional pension entitlements may be obtained by lengthening working life;
15. Calls for the increase in the effective retirement age to be implemented together with incentives, not disincentives such as drastic reductions in pension values;
16. Underscores, however, that in order to promote such an increase in the effective retirement age through the objective of increasing employment rates among older workers, pension level incentives and stronger links between pension earnings and benefits cannot stand alone;
17. Regrets in this context that the Commission has not sufficiently highlighted the clear causal relation between the attainment of that objective and the active promotion of possibilities for lifelong learning, quality of work and a safe and healthy working environment;
18. Points in this regard to the important contribution of the European employment strategy, and specifically to the objectives to date of its adaptability and employability pillars, particularly as it is the challenge of employers as well as the social partners to promote a working life which does not in effect hinder the continued employment and hiring of older workers; considers that the Social Fund should also promote measures for the

integration and re-integration of elderly people into the labour market; calls on the Member States to urgently adopt measures to discourage companies from systematically dismissing workers from vulnerable groups, such as older people or the disabled;

19. Stresses that the number of atypical, parasubordinated and mobile workers is rising continually; points out that this group of workers is in general not well covered by pension systems as a whole, and even less so by company schemes, and that procedures must therefore be developed in order to improve the protection of atypical workers with regard to the labour market to guarantee them fair old-age insurance; urges the Member States to remove requirements in national legislation on supplementary pension provision, such as waiting periods and other conditions of access, which result in restrictions on the mobility of workers;
20. Notes in this connection that the modernisation of existing pension systems must not only guarantee the financial sustainability of these systems but also take account of the changed social requirements, so that the pension system can continue to fulfil its social policy objectives;
21. Highlights in this context that providing occupational pensions through collective agreements has proven to be successful;
22. Agrees that the financial sustainability of funded pension provision depends on the sound governance of the funds and on the performance of financial markets;
23. Calls on the Member States to eliminate from their pension systems any remaining forms of discrimination on grounds of sex which run counter to the directives in force concerning equal treatment for women and men in the area of social security;
24. Underscores however that a major task in this regard is to increase the level of employment among women at equal pay levels; points in that context to the guidelines to date of the equal opportunities pillar of the European employment strategy and stresses that the new proposal for guidelines must not be weakened in that regard; also reminds Member States of their commitments on increasing employment levels among women and on providing more widely available child care; reminds them that care for other dependants also needs to be addressed;
25. Points out that, as a result of their lower employment rate, the higher proportion who work part time, their lower incomes and their slower earnings growth - partly due to time spent bringing up children - women have and have had lower pensions on average than men; according to the Commission report, the gap between men's and women's pensions varies from 16% to 45% depending on the country;
26. Draws attention to the fact that the unequal situation for women as regards salaries and levels of employment poses a problem to divorced or separated women when it comes to their social security cover; one possible remedy that Member States might take into consideration is to enable the sharing of pension rights acquired during marriage with a view to ensuring that the spouse who interrupted his or her professional life in order to take on family duties enjoys independent social security cover;

27. Calls on the Member States to promote the individualisation of pension rights, without, however, abolishing survivors' (widows/widowers and children) derivative rights;
28. Urges the Member States to guarantee, under their pension systems, continuity of membership during parental leave or leave taken in order to care of children or other dependent persons, as is already the case in several Member States, and calls for a proper assessment of these pension rights; points out that it is women in particular who tend to take carer's leave and that they should not be penalised in terms of pension accrual as a result;
29. Calls on the Commission and the Member States, in the context of employment policy, to offer women greater incentives to join the labour market and become economically independent at all stages of their lives; draws attention in this connection to the target set by the Lisbon European Council in 2001 of raising the number of women in employment to 60% by 2010; this policy should also tackle the causes of the earnings differentials between men and women which have an impact on invalidity and old-age pension levels; believes that this can be achieved by, inter alia, offering girls and women a wider range of professional choices and by guaranteeing life-long education and vocational training at all stages of their lives, particularly for women returning to work after a period spent devoting themselves to family duties; emphasises that, amongst other instruments, the European Social Fund should be used for this purpose;
30. Reiterates its previous demands to be kept duly consulted and given sufficient time to comment on reports by the Commission on the progress of the work, and notes the importance of a continuous dialogue with the Committee on Social Protection;
31. Instructs its President to forward this resolution to the Council, the Commission and the parliaments of the Member States and candidate countries.

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European Constitution and IGC *

European Parliament resolution on the draft Treaty establishing a Constitution for Europe and the European Parliament's opinion on the convening of the Intergovernmental Conference (IGC) (11047/2003 - C5-0340/2003 - 2003/0902(CNS))

(Consultation procedure)

The European Parliament,

- having been consulted by the Council, pursuant to the second paragraph of Article 48 of the Treaty on European Union, on the convening of an intergovernmental conference (IGC) to consider the changes to be made to the treaties on which the Union is founded (11047/2003 – C5-0340/2003),
- having regard to the draft Treaty establishing a Constitution for Europe¹ prepared by the Convention on the Future of Europe,
- having regard to its resolution of 31 May 2001 on the Treaty of Nice and the future of the European Union²,
- having regard to its resolution of 29 November 2001 on the constitutional process and the future of the Union³,
- having regard to its resolutions of 16 May 2002 on the distribution of competences⁴, of 14 March 2002 on the Union's legal personality⁵, of 7 February 2002 on the role of the national parliaments⁶ and of 14 January 2003 on the role of the regions in European integration⁷,
- having regard to the Charter of Fundamental Rights of the European Union,
- having regard to the Commission's communication entitled "A Constitution for the Union" (COM(2003) 548),
- having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy; Committee on Budgets; Committee on Budgetary Control; Committee on Citizens' Freedoms and Rights, Justice and Home Affairs; Committee on Economic and Monetary

¹ CONV 850/03, OJ C 169, 18.7.2003, p. 1.

² OJ C 47 E, 21.2.2002, p. 108.

³ OJ C 153 E, 27.6.2002, p. 310.

⁴ OJ C 180 E, 31.7.2003, p. 493.

⁵ OJ C 47 E, 27.2.2003, p. 594.

⁶ OJ C 284 E, 21.11.2002, p. 322.

⁷ P5_TA (2003)0009.

Affairs; Committee on Legal Affairs and the Internal Market; Committee on Industry, External Trade, Research and Energy; Committee on the Environment, Public Health and Consumer Policy; Committee on Agriculture and Rural Development; Committee on Fisheries; Committee on Regional Policy, Transport and Tourism; Committee on Development and Cooperation; Committee on Women's Rights and Equal Opportunities and the Committee on Petitions (A5-0299/2003),

Whereas:

- A. the citizens, parliaments, governments and political parties - in both the Member States and at the European level - as well as the institutions of the Union are entitled to take part in the democratic process of drawing up a Constitution for Europe; therefore, this Resolution constitutes Parliament's evaluation of the draft Constitutional Treaty produced by the Convention on the Future of Europe,
- B. the preparation, the conduct and above all the outcome of the Nice Conference definitively demonstrated that the intergovernmental method for the revision of the Union's treaties has reached its limits and that purely diplomatic negotiations are not capable of providing solutions to the needs of a European Union with twenty-five Member States,
- C. the quality of the Convention's work on the preparation of the draft Constitution and the reform of the Treaties fully vindicates the decision of the Laeken European Council to move away from the intergovernmental method by adopting Parliament's proposal for the setting up of a constitutional Convention; the result of the Convention, in which the representatives of the European Parliament and of national parliaments played a central role, shows that open discussions within the Convention are far more successful than the method followed up to now of intergovernmental conferences held in camera,
- D. Parliament demands to be actively and continually involved not only in the Intergovernmental Conference but also in the future phases of the constitutional process,
- E. important progress has been made by the Convention's proposals, but the new provisions will have to be tested with respect to the challenges presented by the enlarged Union; the method of the Convention should apply for all future revisions,
- F. the Convention, like its predecessor on the Charter of Fundamental Rights, has initiated a new phase in European integration, during which the European Union will consolidate its legal order into a constitutional order binding on its Member States and citizens, even if the Constitution is ultimately approved in the form of an international treaty,
- G. despite the many differences of opinion initially existing between the members of the Convention, a large majority of all four component parts of the Convention, including Parliament, supported the Convention's final proposal, which is therefore based on a fresh and broad consensus, even if not all of Parliament's demands concerning democracy, transparency and efficiency in the European Union were met; to reopen the important compromises reached within the Convention would not only jeopardise the progress made by the Convention in re-founding the Union on a more efficient and democratic constitutional basis but would also subvert the whole Convention method,

- H. the draft Treaty establishing a Constitution for Europe should be evaluated on the basis of the following criteria:
- a. respect for the preservation of peace, democracy, freedom, equality, linguistic and cultural diversity, the rule of law, social justice, solidarity, the rights of minorities and cohesion, all of which can never be deemed to have been definitely achieved but must be kept under constant review as to their meaning and must be fought for anew through historical developments and over generations;
 - b. respect for the European Union as an entity united in its diversity;
 - c. confirmation of the unique nature and of the dual legitimacy of the Union drawn from its Member States and citizens;
 - d. commitment to the preservation of the principle of equivalence between the Member States and the interinstitutional balance, which guarantees the Union's dual legitimacy;
 - e. efficiency in a Union composed of twenty five or more Member States while enhancing the democratic functioning of its Institutions;
 - f. development of a system of values with cultural, religious and humanist roots which, going beyond a common market and within the framework of a social market economy, aims at a better quality of life for Europe's citizens and society at large and seeks economic growth, stability and full employment, greater promotion of sustainable development and better implementation of citizenship of the Union;
 - g. strong political legitimacy in the eyes of the Union's citizens and through the European political parties;
 - h. an overall constitutional settlement which should enhance the Union's credibility and its role at home and abroad,
1. Welcomes the progress towards European integration and democratic development represented by the Convention's proposed "Constitution for Europe", to be established through a Treaty establishing a Constitution for Europe enshrined in a text expressing the political will of the European citizens and the Member States in a solemn and comprehensive way;
 2. Notes with satisfaction that the draft Constitution entrenches to a significant extent the values, objectives, principles, structures and institutions of Europe's constitutional heritage, so that, to a great extent, the draft not only assumes the character of a constitutional text but also provides for its continuous evolution;
 3. Welcomes the inclusion of the symbols of the Union in the draft Constitution;

Important steps towards a more democratic, transparent and efficient European Union

Democracy

4. Greatly welcomes the inclusion of the Charter of Fundamental Rights as an integral, legally binding part of the Constitution (Part II) and stresses the importance of human dignity and the fundamental rights of the individual as crucial elements of a civic, social and democratic Union;
5. Welcomes the new "legislative procedure", which will become the general rule, as an essential step towards increasing the democratic legitimacy of the Union's activities, acknowledges this notable extension of codecision and stresses that this must be pursued further;
6. Regards as positive the election of the President of the European Commission by Parliament and stresses that this is in any case an important step towards an improved system of parliamentary democracy at European level;
7. Acknowledges the possibilities for increased participation by European citizens and the social partners and, especially, the introduction of the citizens' legislative initiative;
8. Regards as important the increased role of the national parliaments and of the regional and local authorities in the Union's activities;
9. Supports national parliaments in their efforts to carry out more effectively their task of guiding and monitoring their respective governments as members of the Council of the Union, which is the effective way of ensuring the participation of national parliaments in the legislative work of the Union and in the shaping of common policies;
10. Instructs its competent Committee to organise joint meetings with representatives of national parliaments, if possible including former members of the Convention, to ensure the follow-up and evaluation of the proceedings of the Intergovernmental Conference;

Transparency

11. Regards as fundamentally important the fact that the Union will acquire a single legal personality and that the pillar structure will formally disappear, even if the Community method does not fully apply to all Common Foreign and Security Policy, Justice and Home Affairs and coordination of economic policy decisions;
12. Welcomes the introduction of a hierarchy and the simplification of the legal acts of the Union, and the explicit recognition of the primacy of the Constitution and of Union law over the law of the Member States;
13. Recognises the steps made towards greater transparency and clarification of the respective competences of the Member States and of the Union, with the retention of a certain level of flexibility to allow for future adaptations in an evolving Union comprising twenty five or more Member States;
14. Welcomes the separation of the Euratom Treaty from the legal structure of the future Constitution; urges the Intergovernmental Conference to convene a Treaty revision conference in order to repeal the obsolete and outdated provisions of that Treaty,

especially those relating to the promotion of nuclear energy and the lack of democratic decision-making procedures;

15. Welcomes the commitment given by the President of the Convention that the entire text of the Constitution will be written in gender-neutral language and calls on the Intergovernmental Conference to arrange for the necessary editorial changes to be made to the draft Constitution in this respect;

Efficiency

16. Attaches great importance to the extension of qualified majority voting in the Council, as far as legislation is concerned; welcomes the improvement of the system, while underlining the need for further extensions of qualified majority voting or for the use of special qualified majority voting in the future, without prejudice to the possibilities provided for in Article I - 24 (4) of the draft Constitution;
17. Stresses that Parliament must be the responsible parliamentary body with respect to the Common Foreign and Security Policy and the European Security and Defence Policy in so far as EU competences are concerned;
18. Welcomes the fact that the draft Constitution makes other important improvements in the sphere of decision-making and policy-making, and in particular:
 - the fact that the Union has now acquired a clear commitment to a social market economy as expressed in its values and objectives, with emphasis being placed *inter alia* on the importance of growth, employment, competitiveness, gender equality and non-discrimination and on socially and environmentally sustainable development,
 - the fact that the Legislative and General Affairs Council, although not acting as a wholly separate Legislative Council, will in the future always meet in public when performing its legislative duties,
 - the extension of qualified majority voting and co-decision to, in particular, the area of freedom, security and justice and the extension of the general system of jurisdiction of the Court of Justice of the European Communities to justice and home affairs,
 - the fact that, for international agreements and the common commercial policy, the assent of Parliament will now be required as a general rule,
 - the provisions on transparency and access to documents, the simplification of the legislative and non-legislative procedures and the use of language commonly understood by citizens,
 - the abolition of the distinction between obligatory and non-obligatory expenditure in the budget and the extension of co-decision to the common agricultural policy and the common fisheries policy,
 - the introduction of a multiannual strategic programme of the Union,

- the recognition of the growing importance of the regional dimension to European integration,
 - the modification of the rules concerning access to the Court of Justice,
 - the provisions on the adoption of delegated regulations by the Commission with "call-back" rights for Parliament and the Council,
 - the provision under which those countries which have undertaken to participate in enhanced cooperation may introduce, among themselves, qualified majority voting where unanimity is otherwise prescribed by the draft Constitution, and adopt the legislative procedure where other procedures would normally apply;
19. Endorses the solidarity clause regarding the fight against terrorism and the possibility of structural cooperation in security and defence policy while respecting NATO commitments;

Aspects requiring further monitoring during their implementation

20. Believes that the election of the President of the European Council cannot in itself solve all the current problems affecting the functioning of that institution and could entail unforeseeable consequences for the institutional balance of the Union; the role of the President must be strictly limited to that of a chairperson in order to avoid possible conflicts with the President of the Commission or the Union Minister for Foreign Affairs and not to endanger their status or encroach in any way on the Commission's role in external representation, legislative initiative, executive implementation or administration;
21. Emphasises that the provisions concerning the presidencies of Council of Ministers formations other than the Foreign Affairs Council leave the details to a subsequent decision, which should be carefully assessed, bearing in mind the requirement of coherence, efficiency and accountability and the need to address the problem of the presidency of the Council's preparatory bodies;
22. Welcomes the disappearance of the link between the weighting of votes in the Council and the distribution of seats in Parliament, as established in the Protocol on the enlargement of the European Union annexed to the Treaty of Nice; supports the system set out in the draft Constitution as regards the future composition of Parliament and suggests that this be implemented without delay, because it is a core element of the global balance between the Member States within the different institutions;
23. Understands that the creation of the office of Union Minister for Foreign Affairs will enhance the Union's visibility and capacity for action on the international stage but stresses that it is vital that the Union Minister for Foreign Affairs be supported by a joint administration within the Commission;
24. Suggests that the European Ombudsman, who is elected by Parliament, and the national ombudsmen might propose a more comprehensive system of non-judicial remedies in close cooperation with Parliament's Committee on Petitions;

25. Considers that the Intergovernmental Conference should adopt a decision on the repeal, upon entry into force of the Members' Statute adopted by Parliament on 4 June 2003, of Articles 8, 9 and 10 of the Protocol on Privileges and Immunities and of Article 4(1) and (2) of the Act on direct elections;
26. Regrets the insufficient congruence of Part III with Part I of the draft Constitution, particularly in relation to Article I-3;
27. Welcomes the introduction of the 'passerelle' clause which allows the European Council to decide to have recourse to the ordinary legislative procedure in cases where special procedures apply, after consulting Parliament and informing national parliaments;
28. Believes that Parliament must, within the budgetary procedure, retain the rights it currently has and that its powers must not be weakened; considers that the satisfactory exercise of Parliament's power to approve the multiannual financial framework presupposes the rapid opening of interinstitutional negotiations, in addition to the Intergovernmental Conference, on the structure of this framework and the nature of the constraints on the budgetary procedure; believes that the multiannual financial framework should leave the budgetary authority significant room for manoeuvre during the annual procedure;
29. Expresses its concern regarding the unsatisfactory answers given to certain fundamental questions, which were clearly pointed out in Parliament's previous resolutions, concerning in particular:
 - further consolidation of economic and social cohesion policy, closer coordination of Member States' economic policies with a view to effective economic governance, and a more explicit integration of employment, environmental and animal welfare aspects in all EU policies,
 - full recognition of the role played by public services, (deletion) based on the principles of competition, continuity, solidarity and equal access and treatment for all users;
 - the suppression of the requirement of unanimity in the Council in certain vital areas, including in particular the Common Foreign and Security Policy (at least as regards the proposals made by the Union Minister for Foreign Affairs with the Commission's support), and certain areas of social policy;
30. Understands that the solution proposed for the Commission by the draft Constitution is an important part of the global institutional compromise; hopes that the reform of the Commission will not weaken its collegiality or give rise to a lack of continuity; regrets that the system envisaged makes it difficult to keep a good European Commissioner for a second term;

General assessment

31. Notes that the draft Constitution prepared by the Convention represents the result of a broad democratic consensus involving Parliament and the national parliaments and governments of the Union, thus expressing the will of the citizens;

32. Welcomes the provision whereby Parliament now also has the right to propose constitutional amendments and, moreover, must approve any attempt to amend the Constitution without convening a convention, which will enable it to exert a de facto control over the use of this new instrument of constitutional revision; regrets, however, that the unanimity of the Member States and ratification by national parliaments or in accordance with other constitutional requirements will both still be *necessary* to allow the entry into force of constitutional amendments of even minor importance; strongly deplores the fact that Parliament's approval is not systematically required for the entry into force of newly adopted constitutional texts;
33. Resolves that notwithstanding certain limits and contradictions, the result of the work of the Convention should be endorsed, representing as it does an historic step towards a European Union which is more democratic, efficient and transparent;
34. Believes that in the light of the experience of two Conventions this method ensures democratic legitimacy and, through its working methods, guarantees openness and participation; considers nevertheless that for future revisions it could be sensible for the Convention itself to elect its Praesidium;

Convening of the Intergovernmental Conference and ratification process

35. Approves the convening of the Intergovernmental Conference (IGC) on 4 October 2003;
36. Urges the IGC to respect the consensus reached by the Convention, to avoid negotiations on the fundamental decisions reached by the Convention and to approve the draft Treaty establishing a Constitution for Europe without altering its basic balance while aiming at reinforcing its coherence;
37. Calls on the political parties, both in the Member States and at European level, the representative associations and civil society to reflect comprehensively not only on the outcome of the Convention but also on Parliament's views as expressed in this Resolution;
38. Strongly welcomes the Italian Presidency's assurance that Parliament will be closely and continuously involved in the IGC at both levels, namely that of the Heads of State or Government and that of the Foreign Affairs Ministers, and supports its intention to close the conference by December 2003;
39. Considers that the Treaty establishing a Constitution for Europe must be signed by all the twenty five Member States on 9 May 2004, Europe Day, immediately after the accession of the new members to the Union;
40. Considers that Member States that hold referenda on the draft Constitution should if possible hold such referenda or ratify the draft Constitution in accordance with their constitutional provisions on the same day;
41. Welcomes the fact that the deliberations of the IGC are to be publicised on the Internet, but calls on the Commission, the governments of the Member States and the political parties to envisage using all possible information media to acquaint the general public

with the content of the IGC's work and the draft Constitution, including the organisation of national fora;

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42. Instructs its President to forward this resolution, constituting Parliament's opinion on the convening of the Intergovernmental Conference, to the Council, the Commission, the European Central Bank, the Heads of State or Government and the parliaments of the Member States and of the acceding and candidate States.