AGENDA

17th Meeting, 2003 (Session 2)

Tuesday 16 December 2003

The Committee will meet at 2.00 pm in the Chamber, Assembly Hall, the Mound, Edinburgh.

1. **Item in private**: The Committee will consider whether to take item 3 in private.

2. **Antisocial Behaviour (Scotland) etc Bill**: The Committee will take evidence from—
   
   Rosemarie McIlwhan, Director, the Scottish Human Rights Centre;  
   Alison Cleland, Convenor, the Scottish Child Law Centre;  
   Douglas Bulloch, Chair and Alan D Miller, Principal Reporter, the Scottish Children’s Reporter Administration;  
   George Anderson, Chair, Falkirk Children's Panel and Children’s Panel Chairman Group (CPCG) Chair;  
   John Anderson, Chair, Edinburgh Children's Panel and CPCG Depute Chair,  
   Edith Blake, Chair, Highland Children’s Panel and CPCG Secretary,  
   Diane Watt, Chair, East Lothian Children's Panel and CPCG member.

3. **Proposed Youth Justice Inquiry**: The Committee will consider the appointment of an adviser and how it wishes to take forward the proposed inquiry.

Gillian Baxendine / Lynn Tullis  
Clerks to the Committee  
Tel 0131 348 5054
The following papers are enclosed for this meeting:

**Item 2 – Antisocial Behaviour (Scotland) etc Bill**

Scottish Child Law Centre response to Scottish Executive Consultation Paper  
Written submission from the Scottish Children’s Reporter Administration  
Written submission from the Children’s Panel Chairman Group  

**Item 3 – Proposed Youth Justice Inquiry**

Note by the Clerk (private)

The following papers are enclosed for information:

- Scottish Executive consultation on protection of emergency workers (available online at: [www.scotland.gov.uk/consultations](http://www.scotland.gov.uk/consultations))
- Letter from the Minister for Justice on the Executive’s Strategic Review of the Delivery of Legal Aid
- European Commission work programme for 2004 (electronic copy only)
- Latest European sift document

**Forthcoming Meetings:**

Tuesday 6 January – Justice 2 Committee meeting (all day)  
Tuesday 13 January - Justice 2 Committee meeting (PM)  
Tuesday 20 January - Justice 2 Committee meeting (PM)  
Tuesday 27 January - Justice 2 Committee meeting (PM)  
Tuesday 3 February - Justice 2 Committee meeting (PM)
Antisocial Behaviour etc (Scotland) Bill
Scottish Child Law Centre response to Scottish Executive Consultation Paper

It should be noted that the attached submission is the Scottish Child Law Centre’s response to the Scottish Executive consultation paper, *Putting our communities first: A Strategy for tackling Anti-social Behaviour*, and not a response to the Antisocial Behaviour etc (Scotland) Bill itself.

This paper was previously circulated in paper J2/S2/03/14/2 for the 14th Meeting on Tuesday 11 November.
JUSTICE 2 COMMITTEE

17th Meeting 2003 (Session 2)

Tuesday 16 December 2003

Antisocial Behaviour etc (Scotland) Bill
Written submission from the Scottish Children’s Reporter Administration
The Scottish Children’s Reporter Administration (SCRA) welcomes the opportunity to give evidence to the Justice 2 Committee as part of its consideration of the Anti-Social Behaviour Etc (Scotland) Bill. We are also giving evidence to the Communities Committee, the Local Government and Transport Committee and the Finance Committee on this Bill.

We will also engage with the Scottish Executive in its forthcoming review of the Children’s Hearing System, taking account of the proposals in the ASB Bill and the wider issues affecting the Children’s Hearing System. We believe a major objective of this review should be to strengthen the position and authority of the Hearings themselves – service difficulties are the key challenge facing the Hearings System and require a committed and sustained approach.

The key points in our response to the Scottish Executive’s consultation “Putting Our Communities First: a strategy for tackling anti-social behaviour” were:

- The Children’s Hearings System remains the best means of addressing the anti-social behaviour of children and young people because it is integrated, wide-ranging, flexible and community based.
- The Children’s Hearings System, as a community based system, already has the remit and many of the powers to address anti-social behaviour by children and young people, and poor parenting.
- Virtually all new measures that the Scottish Executive is seeking to address anti-social behaviour by children and young people can be achieved through the Children’s Hearings System - as long as service delivery is improved so that existing powers can be used more creatively and fully.

We believe that, in dealing with anti-social behaviour by young people and with poor parenting, the appropriate balance needs to be struck between support and change measures, and enforcement action and sanctions.

Our full response to the consultation will be available to the Committee, therefore we will not repeat our comments in detail. The following comments relate to those Parts of the Bill which are most relevant to our work and that of Children's Hearings and which fall within the Committee’s remit.
Part 2: Anti-Social Behaviour Orders

We welcome the proposal for referral to a Children's Hearing to consider support needs when an ASBO is made against a child. This broadly reflects our consultation response.

In addition, the Sheriff should have the power to remit a child's case to a Hearing for disposal if that appears more appropriate than making an ASBO.

Part 9: Parenting Orders

We welcome the power for the Reporter to apply for a Parenting Order, either before or after referral to a Hearing. Estimates of numbers and cost implications of Parenting Orders may need some further work.

We would like to see

- widespread provision of parenting support on a voluntary basis
- the power to apply for an order fully integrated into the Children (Scotland) Act 1995
- the test for a Parenting Order focusing on the parent's failure rather than the child's actions and on whether the Order is necessary
- the Sheriff being given a power to remit to a Hearing for disposal.

Part 12: Children's Hearings

We welcome the following changes in policy from the consultation paper to the Bill, which again reflect our consultation response.

- section 103 - electronic monitoring is provided for as an optional condition for Hearings to use where they consider appropriate, without being tied specifically to the secure accommodation conditions (the Policy Memorandum still refers to secure accommodation being a “sanction” for breach of an RMA, but we understand this to be a mistake)

- section 104 - now spells out more clearly a process by which authorities account to the Hearing and to Ministers for any failure to give effect to a supervision requirement

As above, some further work would be useful in estimating the likely impact and costs of section 104. In addition we believe it would be helpful to

- clarify in law the duty of local authorities to service and account for diversionary decisions by the Reporter
- develop a clear statement of the overall outcomes the Hearings System is to deliver, along with the core objectives and standards required to underpin them
- make the implementation of supervision requirements a key performance indicator for local authorities
- review the framework for funding of services working to meet these standards.
JUSTICE 2 COMMITTEE

17th Meeting 2003 (Session 2)

Tuesday 16 December 2003

Antisocial Behaviour etc (Scotland) Bill
Written submission from the Children's Panel Chairmen's Group (CPCG)
Introduction

This response is made on behalf of the Children’s Panel Chairmen’s Group (CPCG) which comprises the 32 Local Authority Chairmen who are appointed by Scottish Ministers and represent Scotland's 2500 children's panel members. The CPCG meets regularly to address current issues in relation to the Children's Hearings System and advises the Scottish Executive as requested. The Chairmen’s Group welcomes the opportunity to respond to this consultation and would be willing to amplify any of the points raised.

Key points

- The Children’s Panel Chairmen’s Group broadly welcomes the initiatives proposed.
- The Children's Hearings System must be the focus for all decisions in relation to children under 16 yrs, unless under exceptional circumstances.
- Within the Children's Hearings System anti-social behaviour orders can be seen as being in a child’s welfare interests and a useful measure to ensure welfare needs are also met.
- Electronic tagging of children under 16yrs may, under certain circumstances, be a useful disposal for a children’s hearing.
- Local Authorities must be held accountable for the implementation of all Children’s Hearings decisions.

As volunteers representing diverse communities throughout Scotland, and with the added benefit of considerable insight into the causes and effects of anti-social behaviour in our own communities, the CPCG is well placed to comment on the proposals outlined in the “Putting our communities first” consultation document.

In our response we have tried to balance the ever-present welfare needs of the children and young people who will be affected by these proposals against the acknowledged rights of our communities to be protected from such behaviours. Therefore, with specific provisos as to the detail in the implementation process, the CPCG generally welcomes the measures proposed.

We do have concerns that should the proposals contained in the document be implemented in their entirety and without amendment, the Children’s Hearings System, not just the Children’s Panel element, may be damaged. While recognising the rights of other agencies to be intimately involved in making decisions in respect of children and young people under 16 yrs, it is the firm view of the CPCG that the Children’s Hearing System should be the focus for those dealings. Any dilution of the role of children’s panel members, especially in relation to giving advice on the making of anti-social behaviour orders, is likely to have a negative impact on the morale of panel members and add weight to the argument that we are not an effective force in dealing with such children.
Anti-social behaviour cannot, and should not, be addressed in isolation.

In offering broad support to the proposed measures, the CPCG restates the obvious: the success of any measures taken by the Executive to reduce both anti-social behaviour and youth crime and disorder will show success only if such measures are properly funded and those charged with their implementation held to proper account. Certain measures are already at the disposal of children’s hearings but fail through non-implementation.

**Response to consultation document**
The CPCG has restricted its response to those proposals in the consultation document which we believe have a direct bearing on the Children’s Hearings System in general and Children’s Panels in particular.

The specific proposals we wish to comment on are those in relation to:

- Acceptable Behaviour Contracts
- Anti-social Behaviour Orders
- Reparation in the Children’s Hearings System
- Electronic tagging of under 16 yr olds
- Parenting Orders
- Local Authority Accountability

The above issues constitute the main thrust of our response. A representative group from the CPCG would be very willing to offer clarification on any part of our submission.

**Acceptable Behaviour Contracts**

*General View*

The wider use of ABCs is to be encouraged. The notion of an Acceptable Behaviour Contract is not new to the Children’s Hearings System and we would welcome its wider acceptance as a first step in a process to identify what has to change and who has to make the changes.

The pilot schemes whereby children and families enter into such contracts differs from existing practice in many hearings only in that it requires to be “signed up to”. Such contracts are often agreed, albeit verbally, at hearings and taken into account at future hearings. An ABC is seen as adding weight to the importance of such agreements.

If the intention is to use the non-acceptance or the failure of an ABC as an indicator that an Anti-social Behaviour Order or Parenting Order may be necessary, then additional training in the use of such contracts would be required for panel members. It is envisaged that ABCs would be viewed by panel members as another tool in the box and welcomed as such.

Should the offer of an ABC have been refused or have been entered into on a voluntary basis and failed, the view of the CPCG is that any subsequent hearing should be fully informed of the circumstances. The duty of the hearing is to consider whether compulsory measures are required and therefore must be made aware of the failure of previous voluntary measures.
Specific comments -- p24

- Yes, especially when used as an initial voluntary means.
- They should be used at the ‘nuisance’ stage before the ‘out of control’ stage.
- Yes, if an ABC has been tried and subsequently failed, the details of both the ABC and the reasons for its failure should be included in reports if the young person comes to a children's hearing.

Anti-social Behaviour Orders
General View

The CPCG is supportive of the wider use of ASBOs and would not oppose the introduction of such measures to help address anti-social behaviour amongst the 12-16yrs age group.

Again, reflecting our position that the Children's Hearings System should continue to be the main focus for all matters relating to the placing of orders on children under 16yrs, we would wish the system to be involved in the process at as early a stage as possible.

The right of Local Authorities and RSLs to apply for ASBOs for this age group and for Sheriffs to make such orders is not disputed but we would propose changes to the procedure as laid out in the consultation document.

While it is appreciated that it may not be possible to obtain input from a children's hearing before an application for an ASBO is submitted, especially if the child is not already on supervision or known to the Reporter, the CHS must be involved nevertheless at an early stage in the process.

It is our firm view that the advice of a children’s hearing should be sought in every case whether the child is subject to a supervision requirement or not, especially if a support order is being considered by the Sheriff. The application for an ASBO should be an additional ground of referral for all under 16 year olds and advice as to the nature of any support package accompanying an ASBO should be sought from a children’s hearing.

A children’s hearing, in our view, remains the best mechanism to determine the detail of such a support package by taking into account all the circumstances of the young person and his or her family. In those cases where the Sheriff deems that there is no need for any support measures the role of the Children's Hearing System is not so crucial. However, to help ensure the effectiveness of any ASBO in the longer term, we would expect that consideration would always be given to measures designed to tackle the root cause of the anti-social behaviour. It is proposed therefore that in making any ASBO the Sheriff makes it an interim order and seeks the advice of a children’s hearing in relation to support measures.

The above proposals fit well with Scottish Ministers’ proposals to hold local authorities more accountable for orders in respect of children. The review procedure available through the Children’s Hearing System can be used very effectively to gauge the success or otherwise of an ASBO and its associated support order. The compliance of not only the young person but also the local authority can monitored and further action
taken as appropriate, including the hearing advising the reporter to raise an action in court against the local authority should it not fulfil the requirement placed upon it.

Specific Comments --p 27

- By application to the Sheriff Court by the Local Authority or an RSL.

- Yes, we would propose that where an ASBO is placed on a person under 16 years, whether on supervision or not, there be a requirement on the Court to seek advice from a Children’s Hearing on a support order to tackle the issues that gave rise to the anti-social behaviour in the first place. An additional ground of referral may be necessary for the Sheriff in this respect should the young person not be on supervision requirement.

- Those individuals working for RSLs and Housing Departments would need to be appropriately trained and would be required to furnish reports to Children’s Hearings. They should have a statutory duty to be part of the solution.

- Youth Courts are still only at the pilot stage so we could not comment. However, breach of an ASBO by an under 16 year old could be dealt with by a Children’s Hearing, with ‘Breach of an ASBO’ being a new ground of referral. The role of the Procurator Fiscal and the Reporter in determining whether such cases go to a hearing or a Youth Court is recognised.

- By sharing information and having access to all the relevant information allowed under the Data Protection Act. An interim ASBO and a subsequent “advice hearing” would ensure that all the child’s circumstances are taken into account, including information on those matters not available to the applicants. This is seen as being a necessary safeguard in the child’s welfare.

Reparation in the Children’s Hearings System

General View

The positive use of reparation in other areas is acknowledged by the CPCG. However, with a few exceptions, there is very little experience of the role of reparation in the Children’s Hearings System. Where such work is being done it has been used primarily as a diversionary measure and as such there is no broad understanding of the benefits or otherwise of reparation and its role in hearings. Furthermore, it is understood from the agencies offering such services that the “voluntary” aspect of reparation is crucial to its success. It is difficult therefore to envisage how reparation, as it is currently understood, could be a disposal of a hearing whereby it becomes compulsory. There is the added complication, technical though it may be, that should such a condition be attached to a supervision requirement and the “other party” does not wish to participate, the child would be in breach of the supervision requirement and require to be referred back to a hearing.

The principle of reparation is accepted but it is our view that the resource should first be available nationally and greater consideration given to the issue before being considered
as a disposal for hearings.

Specific Comments -- p29

- Reparation is considered generally to be a good thing and could be used in the first instance as a diversionary means. If it has been tried and failed and the child then comes to a hearing, the hearing should be informed about such attempts.

- Reparation could become part of a supervision requirement. All such reparation schemes should be carried out by agencies like SACRO or members of Youth Action Teams who have been trained to do it and whose work in the field has been evaluated.

Electronic Monitoring of Children in the Hearings System
General View

The electronic monitoring or “tagging” of children is the most contentious issue of the proposals contained in the consultation document. On balance the CPCG does see a positive role for such measures under certain circumstances but reservations have been expressed in certain local authority areas. It is fair to say that any enthusiasm shown on the one hand has been balanced by concerns on the other that there is little evidence of any success within the age group we are considering.

It is argued that an electronic tag may be seen as a “trophy” by some young people and a stigma by others. Those who offer support to the proposal view electronic monitoring as an additional means of reducing both anti-social behaviour and offending and a worthwhile alternative to secure accommodation, but only in certain cases.

The technical capabilities of the system, as we understand it, do not, at the moment, offer an electronic tracking facility. This seriously weakens any argument for the use of electronic monitoring where the young person may be a persistent run-away and at risk within the community. At best, tagging would flag up only that the young person was not where they should be, not where they were. It is accepted that the breaching of a “tagging order” should become a criterion for secure accommodation in order to safeguard the welfare of the young person. However, for this particular group of vulnerable young people there is a strong view that there is a real requirement for more places offering security rather than secure accommodation places.

Should the option of electronic monitoring become a disposal of a children’s hearing, we would fully expect such a decision to be implemented. Equally, the CPCG believes that if a hearing determines that a young person meets the criteria for secure accommodation then this decision should also be implemented, irrespective of the view of the local authority or secure establishment management.

Specific Comments -- p 32

- Not enough is known about the effectiveness or the technical aspects of electronic monitoring. However, there is a feeling that in certain very specific cases it might be a useful disposal for Children’s Hearings to have.
• Yes electronic monitoring could be part of a supervision requirement, not necessarily with secure accommodation always being seen as the next step.

• In the context of this consultation where secure accommodation is seen as the disposal which is the highest tariff for persistent young offenders, and we as panel members are taking other members of the public more into consideration in our thinking, we would like Ministers to consider giving children’s hearings the power to place young people in secure accommodation as they do with other placements. At the moment hearings can only authorise secure placements, a decision which can be overturned by Directors of Social Work or individual secure establishments.

• If secure accommodation is to be used in this way, then another type of ‘secure’ would need to be considered for those young people who are a danger to themselves.

Specific Comments -- p34

• Yes, they would be seen as part of a whole package. Every attempt must be made to ensure that the time spent “restricted” is put to some positive use.

• This would depend on the requirements of individual cases and must be subject to regular review. The frequency of reviews for young people should be much greater than that for the adult community.

Parenting Orders
General View

Poor or inadequate parenting is a common thread running throughout society and is particularly evident in the majority of cases coming to children’s hearings. It has long been the wish of panel members to be able to address this issue in a meaningful way. The CPCG would therefore welcome the opportunity for hearings to have a greater influence on the quality of parenting being provided to many children. Any viable measures which can be taken to ensure that parents fulfil their obligations to their children will be welcomed by panel members.

Specific Comments -- pp 39-40

• Parenting Orders could be very helpful in some cases. Depending upon the circumstances they could be applied for by the Local Authority, the Reporter or the Reporter at the direction of a hearing.

• Yes, courts should also be able to make Parenting Orders at their own initiative. However, Reporters and hearings need to be aware that such an order exists if there is involvement with the family through the Children’s Hearings System.

• Welfare and behaviour can be seen together. Should a court make a Parenting Order primarily on welfare grounds, the Reporter should be immediately informed.
• Yes, a Parenting Order should be used in the first instance to encourage compliance, with other available orders being used if the PO does not work.

• For the same period as a supervision requirement, with renewal an option.

• Very much dependent upon who is making the application and for what reason. Under a local authority umbrella it should be possible for all relevant information to be requested and shared. Should a child whose parents are subject to a Parenting Order attend a hearing, all information relevant the original application, irrespective of who made it, should be available to the hearing.

• It is regrettable that the POCF document has not taken the opportunity to address the role of education in supporting the desired outcome of safe communities. In particular, the Scottish Executive is currently an advocate for the development of community schools and it is unfortunate that no mention is made in the consultation document of how community education initiatives could support efforts to address anti-social behaviour. For example, parenting orders will be meaningless unless effective provision is available for parental education. It would also seem likely that the more local communities are involved in efforts to deal with local problems the greater chance of success. This is why the Children’s Hearings System is best placed to make decisions concerning the families and children of their communities.

**Local Authority Accountability**

*General View*

The CPCG does not believe that this should even be considered in the same light as other proposals. Under current legislation local authorities already have a duty to implement supervision requirements. It is in no small measure the failure of many authorities to do so that has resulted in the whole Children’s Hearing System being questioned as to its effectiveness.

Any measures which can be taken to ensure that the decisions of hearings are fully implemented by a local authority or its agents are not just welcomed but rightfully expected.

*Specific Comments -- p41*

• Yes, if these new measures are to work within the Hearings System by way of supervision requirements, then they must be complied with.

• Yes, but it’s very sad that a hearing should have to use the courts to make a local authority do what it should be doing for its children and families.

• Yes Scottish Ministers should be informed if children are not receiving appropriate services from their local authority, not just education.
COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.10.2003
COM(2003) 645 final

COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

THE COMMISSION’S LEGISLATIVE AND WORK PROGRAMME FOR 2004
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Annexes

1. List of new legislative proposals and non-legislative acts for 2004
2. List of proposals subject to an extended impact assessment before adoption
3. Provisional assessment of progress towards the Prodi Commission’s strategic objectives
4. Commission proposals awaiting action by the legislative authority in 2004
5. Simplification and codification of Community legislation
INTRODUCTION

This is the last Legislative and Work Programme of the Prodi Commission, covering a year of major changes for the European Union.

- On 1 May 2004, ten new Member States will join the European Union. Shortly afterwards, a new Constitutional Treaty will be signed by Heads of State or Government of the enlarged Union.

- In June 2004, citizens throughout the European Union will vote in elections for the European Parliament.

- On 1 November 2004, the new Commission will take up office.

It is, therefore, clear that 2004 will be a far from normal year for the programming of the EU institutions. In view of this, and as befits a Commission that is approaching the end of its mandate, the Legislative and Work Programme for 2004 is deliberately much more tightly focussed than in previous years. The Commission intends its programme to be as realistic as possible, both in terms of what it can deliver and the other EU institutions can absorb.

In these circumstances, the Commission has reviewed the key initiatives presented in the Annual Policy Strategy and has reduced them to those that are absolutely necessary and feasible in 2004.

The principal aim of the Legislative and Work Programme is to focus on the Commission’s priorities, announce its major new proposals for 2004 as well as a limited number of major proposals carried over from 2003 (Annex 1) and finalise the selection of proposals requiring an extended impact assessment (Annex 2). However, it also provides a preliminary assessment of the progress made so far towards achieving the strategic objectives of the Prodi Commission (Annex 3), highlights the need for legislative follow-up by the Council and European Parliament to proposals already presented by the Commission (Annex 4), and reports on further work concerning simplification and codification of the acquis (Annex 5).
1. **DIALOGUE WITH THE EUROPEAN PARLIAMENT AND THE COUNCIL**

On 5 March 2003, the Commission adopted its **Annual Policy Strategy for 2004**\(^1\), identifying the **accession of ten new Member States** as the central priority for 2004, supported by two connected priorities, i.e. **stability**, and **sustainable growth**.

The Commission presented its Annual Policy Strategy to the European Parliament and to the Council in March. In the months that followed, a **structured dialogue** took place with both institutions on the priorities and key initiatives for 2004. Both institutions reacted positively to the political priorities identified by the Commission and provided useful feedback on the key initiatives proposed for 2004. On 23 September 2003, Vice-President de Palacio presented the Commission’s stocktaking document on the follow-up to its Annual Policy Strategy for 2004\(^2\) to the European Parliament’s Conference of Committee Chairmen. In parallel, the document was transmitted to the Council. The other institutions’ reaction to the Commission’s priorities has been positive and a number of suggestions made regarding sectoral initiatives have been taken into account in the Legislative and Work Programme.

This year, the inter-institutional dialogue had a reinforced multiannual dimension. In line with the reforms agreed at the Seville European Council, the Council will recommend that the European Council in December 2003 endorse a **multiannual strategic programme** for 2004-2006. This programme is being prepared in consultation with the Commission, and the European Parliament will be informed about its purpose and content.

2. **OUTLOOK AND CHALLENGES FOR 2004**

**Political outlook**

The European Union faces three major challenges in 2004:

– *Shaping the future Union*

Ten new Member States will join the European Union on 1 May 2004. This historic enlargement will provide a considerable boost to the EU’s potential, but will also pose a considerable challenge for the Union. In 2004, the Union will have to start preparing the next political and financial framework, since the current medium-term financial perspective (“Agenda 2000”) expires at the end of 2006.

The strategy for future enlargements will also have to be pursued. Negotiations with Bulgaria and Romania will continue in 2004, and the Commission will prepare its formal opinion on Croatia’s application to join the Union. In December 2004, the European Council will decide, on the basis of a report from the Commission, whether Turkey meets the Copenhagen political criteria, in view of the possible opening of accession negotiations.

– *Prioritising the policy agenda*

2004 will be an important year for moving ahead with the Union’s core political agenda, notably in the areas of sustainable growth and stability.

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\(^1\) COM(2003) 83 of 5 March 2003
\(^2\) SP(2003)3092/3 of 17 September 2003
Achieving sustainable development will be the political centre of gravity for the Union’s next financial perspective (2007 onwards). In 2004, the Union will review the strategic objectives agreed at the Lisbon European Council in March 2000 and the EU strategy for sustainable development agreed in Göteborg. The Growth Initiative endorsed by the European Council in October 2003 needs to stimulate investment in networks and knowledge in 2004, thereby boosting confidence in the Union’s economic potential and consolidating economic growth.

Progress towards making the Union an area of freedom, security and justice needs to be consolidated by the May 2004 deadline for completion of the first stage of the programme agreed at the Tampere European Council in October 1999.

– Developing the Union’s external action

The international situation remains more tense and unstable than it has been for many years. This reinforces the need for the European Union to act in a more united way to promote stability, to support effective multilateral responses to crises, and to address the fundamental problems facing global development. The draft security strategy which was presented by the High Representative for the CFSP analyses these and other threats. The Commission is actively participating in the refinement of this strategy which should be endorsed by the European Council in December 2003. Further to its approval, the Commission will remain involved in the instruments aimed at reducing risks of potential crises.

Enlargement reinforces the Union’s presence on the international scene and means that the Union will have to examine its responsibilities in its neighbourhood, and take the lead in developing a close and supportive partnership with its near neighbours in the East as well as in the Mediterranean region.

A major challenge facing the Union in 2004 will be to draw the appropriate conclusions of the failed WTO Ministerial Conference in Cancun and to continue its efforts to pursue trade negotiations with its partners that result in increased economic growth and development benefits.

Economic prospects for the EU in 2004

The weak economic performance observed in the EU economies at the end of 2002 continued throughout the first half of 2003. Consequently, for a third consecutive year growth is likely to disappoint: the average growth rate is expected to be about ¾% in the EU and about ½% in the euro area. However, with accommodative macroeconomic policy conditions, supportive financial conditions, continued disinflation, progress in structural reforms, and a reduction in geopolitical uncertainty, the confidence of economic agents is returning and the international environment is improving.

In this context, the momentum for recovery is expected to pick up in the second half of 2003 and to gather pace throughout 2004. A rebound to an average growth rate of about 2% is projected for the EU next year. This is underpinned by a recovery in consumer expenditures, supported by growing external demand and a consequent recovery in investment. Despite this projected recovery, the protracted period of sluggish growth has taken its toll on the performance of the labour market and employment growth is expected to be sluggish.

The risks to the outlook appear to be more balanced than earlier this year. First, there are many factors that point to increasing optimism regarding the short-term growth path of the US economy, which should in turn provide a stimulus for growth in the EU. Nevertheless, if the
recovery in the US were to falter, then the expected pick up in the EU economy might be put at risk. Second, the strength of the euro has been weighing on the recovery through declining exports. However, this is balanced by the positive stimulus to consumption from gains in terms of trade. Finally, the financial conditions facing the corporate sector are supportive, and corporate profits have seen some improvement during the year. However, to the extent that corporate balance sheet adjustment is still incomplete, continued adjustment could hold back investment spending in the EU.

3. **COMMISSION PRIORITIES FOR 2004**

Against this background, the Commission confirms the political priorities that it identified in its Annual Policy Strategy for 2004:

- **Accession of ten new Member States**
- **stability, and**
- **sustainable growth**

The Commission invites the other EU institutions to take account of these priorities, key initiatives, legislative proposals and non-legislative acts in their own programming for 2004. The Commission confirms its readiness to cooperate with the other EU institutions to deliver these priorities through joint programming.

As explained in the introduction, the Commission has reviewed the key initiatives presented in the Annual Policy Strategy and has reduced them to those that are absolutely necessary and feasible in 2004.

The corresponding legislative proposals and non-legislative acts appear in List 1.

**3.1. The accession of 10 new Member States**

The Commission identifies three main objectives for 2004:

- To ensure the successful completion of the accession process for the ten new Member States joining the European Union on 1 May 2004. This includes fulfilling the legal obligations of the European Union and the new Member States vis-à-vis the *acquis communautaire* from the first day of accession. The top priorities are the implementation of legislation, the extension of the existing programmes, instruments and procedures to the new Member States, the further development of administrative capacity and the development of an economic convergence strategy;

- To pursue negotiations with the remaining candidate countries (Bulgaria and Romania), to assess and produce a recommendation as regards the possible opening of accession negotiations with Turkey and prepare the opinion on Croatia’s application for EU membership;

- To shape future directions for the enlarged European Union and to consolidate institutional and regulatory reform.
Key Initiatives

- **Finalise the 2004 accessions**

  1. Adapt existing programmes to the membership of the new Member States.
  2. Apply and monitor the application of Community legislation in the new Member States, including:
     - Enforcement of the acquis, especially in the areas of food safety, agriculture, environment, customs union, internal market, justice and home affairs, maritime safety;
     - Implementation of the Schengen Facility and checking implementation of the relevant acquis on external border control by the new Member States;
     - Ensuring that the levels of nuclear safety in the new Member States are as high as in the existing Member States.

- **Ongoing accession negotiations and strategy for possible future accessions**

  3. Continue negotiations for the accession of Bulgaria and Romania.
  4. Analyse Turkey's compliance with criteria for accession, as decided at the Copenhagen European Council.
  5. Examine Croatia’s application to join the European Union.

- **Adapting the framework of the enlarged European Union**

  6. Follow up the results of the Intergovernmental Conference on a Constitutional Treaty for the European Union.
  7. Prepare the EU’s financial perspective for the period after 2006, including:
     - Financial and legislative proposals for major spending programmes after 2006, a proposal on the Own Resources system and a draft inter-institutional agreement.
  8. Update, codify and simplify the *acquis communautaire* in line with the Better Regulation initiative (see Annex 5).
  9. Complete the reforms announced by the Commission in its White Paper of March 2000 and ensure that all necessary administrative preparations for accession are in place.

3.2. **Stability**

The Commission identifies two main objectives for 2004:

- To develop a stable and comprehensive political framework for cooperation with neighbouring countries in order to create an area of peace, stability and prosperity and to avoid new dividing lines in Europe subsequent to the enlargement of the Union.
• To develop internal EU policies that support stability and security, in particular consolidating progress towards creating an area of freedom, justice and security (completing the Tampere agenda) and to integrate those policies effectively in a coherent EU external action. Particular attention will be given to managing the common borders effectively, balancing tough action against illegal immigration with measures on the fair treatment and integration of legal immigrants, and further measures in the fight against crime and terrorism.

Key Initiatives

- European Neighbourhood Policy / Wider Europe

1. Creation of an enlarged area of peace, stability and prosperity encompassing the enlarged EU’s eastern and southern neighbours, based on shared values, common interests and deeper integration. This will combine progress demonstrating shared values and effective implementation of political, economic and institutional reforms, with the prospect of closer economic and political links with the EU, including a stake in the internal market and improved cross-border and regional/transnational cooperation at the EU’s external borders.

   • Prepare a series of action plans, starting with up to eight countries from Eastern Europe and the Mediterranean;

   • Develop a framework for neighbouring countries with the prospect of having a stake in the Single Market, in particular in the area of transport, energy and telecommunications networks, while paying the necessary attention to the environmental aspects of such activities;

   • Encourage greater EU political involvement in conflict and crisis prevention;

   • More cultural cooperation and efforts to enhanced mutual understanding.

- Russia and the countries of Eastern Europe

2. Implement the decision of the May 2003 EU-Russia summit at St-Petersburg to develop four “common spaces” (economic, justice and home affairs, security, research/culture). Improve implementation of the Partnership and Cooperation Agreements with Russia and Ukraine, including in the area of Justice and Home Affairs on the basis of the action plan against organised crime with Russia and the JHA action plan with Ukraine.

- Balkans

3. Pursue the agenda agreed in Thessaloniki with the Balkan countries, prepare a partnership agreement, and feasibility studies on Bosnia-Herzegovina and Serbia-Montenegro in view of the Spring 2004 European Council.

- Develop EU policies to support stability and security

4. Evaluate the progress achieved in relation to the Tampere programme, working with the Council to secure maximum adoption of proposals needed to create a European area of freedom, security and justice by the deadline of 1 May 2004.
• Present final evaluation of the implementation of the Tampere agenda and its impact, and orientations for the next stage in the development of the area of freedom, security and justice.

• Establish an agency to manage control of the external borders.

• Establish the legal framework for the second generation Schengen information system (SiS II) and the visa information system.

5. Implement new co-operation programmes with third countries in the area of migration and develop a balanced approach to immigration that both ensures the maintenance of high levels of employment and productivity and encourages better integration and fair treatment of legally-resident migrants in European societies.

6. Develop a policy for security of communication networks and information.

7. Continue action against international terrorism and bio-terrorism, and enhance European security measures in support of the Petersberg’s tasks, including in the area of research.

3.3. Sustainable growth

Sustainable growth is a broad priority, covering the actions designed to promote and develop the European Economic and Social model (prosperity, economic convergence, social cohesion, environmental protection and a better quality of life). The Commission’s aim is to highlight certain aspects of this priority that deserve a particular focus in 2004. Its objectives are:

• To reinforce the effective delivery of the strategic policy goals already set for the enlarged European Union;

• To highlight a certain number of concrete actions that will help to deliver sustainable growth and improve the quality of life for European citizens;

• To improve economic and budgetary policy coordination between Member States to secure the smooth functioning of EMU, and

• To continue combating poverty and promoting sustainable growth in the wider world.

Key Initiatives

- Cross-cutting aspects of sustainable growth

1. Accelerate progress on achieving the goals set in the European Union’s Lisbon strategy, with a particular emphasis on reviewing the strategy and the measures necessary to stimulate growth, competitiveness and employment, including investment in networks and knowledge, in a sustainable framework:

   • Spring Report to the European Council assessing progress achieved and identifying problems requiring urgent implementation;
2. Prepare the next steps in the EU’s sustainable development strategy, including:

- Review the internal and external policy dimensions of the EU’s Sustainable Development Strategy, adopted at the Göteborg European Council in June 2001 and follow-up the Johannesburg World Summit on Sustainable Development;

- Implementation of the EU water and energy initiatives announced at Johannesburg.

- Sectoral contributions to sustainable growth

3. Investment in networks and knowledge:

- Develop European transport, energy and other infrastructure networks with a view to increasing the interconnectivity and sustainability of the enlarged European Union’s economy;

- Develop the European Research Area and implement the action plan to increase investment in research and development in line with the 3% GDP objective and to attract adequate human resources in research;

- Support innovative sustainable and energy-saving technologies as well as efforts towards the long-term availability of appropriate energy sources and carriers;

- Advance preparations for the Galileo satellite, which will improve traffic management and reduce congestion and improve energy infrastructure monitoring;

- Review and adjust the eEurope 2005 initiative, in particular with a view to promote the development and use of a European secure broadband infrastructure, and improve international management of the internet.

4. Integration of sustainability considerations into European Union policies, including:

- Present a Communication on the use of economic instruments to protect the environment;

- Present environmental thematic strategies (soils, pesticides, waste prevention and recycling) within the framework of the 6th Environment Action Programme, pursue the Community strategy on climate change and put forward an action plan on environment and health 2004-2010.


- External dimension of sustainable growth

5. Take part in WTO negotiations and start, or pursue ongoing, regional or bilateral trade negotiations with partners such as Mercosur, Canada, the Gulf Cooperation countries as well as the ACP countries in the context of the regional Economic Partnership Agreement negotiations.
6. Prepare the mid-term review of the Cotonou Agreement, reflect on its revision, and prepare the successor to the 9th European Development Fund. Monitor implementation of the debt initiative and the Global Health Fund and implement the Action Plan on communicable diseases and reproductive health.

4. **EXTENDED IMPACT ASSESSMENT OF SELECTED PROPOSALS**

The Commission’s Communication of 5 June 2002 on Impact Assessment introduced a *new integrated procedure for impact assessment* of all its major initiatives, i.e. those presented in the Annual Policy Strategy or the annual Legislative and Work Programme. The objective of the new procedure is to improve the quality and coherence of the policy development process and to increase transparency and communication with the European citizens on the expected impact of European wide initiatives and legislation. This new procedure integrates, streamlines and replaces all existing separate impact assessments previously used in the analysis of Commission proposals.

The selection of proposals for extended impact assessment forms part of the Commission Programming and planning cycle. On the basis of a preliminary impact assessment statement, the Commission decides in the Annual Policy Strategy or at the latest in its annual Legislative and Work Programme which proposals should undergo an extended impact assessment. In deciding, it takes the following criteria into account:

- Whether the proposal will result in substantial economic, environmental and/or social impacts on a specific sector or several sectors;
- Whether the proposal will have a significant impact on major interested parties;
- Whether the proposal represents a major policy reform in one or several sectors.

The proposals eligible for selection include both a) proposals representing early stages of strategic decisions on options such as Communications setting out a policy, strategy or special course of action and b) legislative proposals.

The extended impact assessment focuses on the economic, social and environmental as well as the regulatory impacts of a proposal. It also includes an analysis of subsidiarity and proportionality. Finally, an extended impact assessment process normally includes a consultation with interested parties and relevant experts according to the Commission’s minimum standards for consultation.

2004 marks the first year of full implementation for the new impact assessment procedure. A number of proposals were identified in the initial APS list of proposals for extended impact assessment in 2004. Most of these have been confirmed and several have been added to produce the final list of proposals selected for extended impact assessment in this Work Programme. The proposals represent initiatives from a wide range of sectors within the three priorities for 2004.

3 **COM(2002) 276 of 5 June 2002**
In the interest of transparency, the preliminary impact assessments on major new proposals are made public when this Legislative and Work Programme is adopted⁴, while the extended impact assessments reports will be made available to other institutions and the public when the Commission adopts the corresponding proposals.

5. **CONCLUSIONS**

2004 will be a crucial year for the European Union. The overarching task in 2004 will be to complete the successful integration of ten new Member States into the European Union and to define its future shape. At the same time, the European Union will need to press forward with its policy agenda, ensuring that its 453 million citizens can enjoy good prospects for stability and sustainable growth.

The Commission intends to play its full part in meeting these challenges and will use the year ahead to complete the programme of strategic objectives announced at the start of its mandate.

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⁴ This Legislative and Work Programme and the preliminary impact assessments can be found on the following Commission website address: http://europa.eu.int/comm/off/work_programme/index_en.htm
ANNEX 1

COMMISSION LEGISLATIVE AND WORK PROGRAMME FOR 2004

List of legislative proposals and non-legislative acts

List 1: Legislative proposals and non-legislative acts corresponding to the political priorities for 2004

List 2: Other legislative proposals and non-legislative acts likely to be brought forward in 2004

Explanatory Notes

(1) List 1 contains specific proposals or non-legislative acts corresponding to the priorities as well as proposals carried over from 2003 which the Commission engages itself to pursue in 2004.

(2) List 2 contains an indicative forecast of other proposals and acts that the Commission could envisage being adopted in 2004.

(3) The lists only exist in the original language version (part English, part French).

(4) The Commission updates its planning each month and transmits a “3-month rolling programme” to the other EU institutions to help them organise their work. The first list is arranged by political priority and then by policy area (e.g. “Agriculture” or “Internal Market”), while the second list is arranged by policy area. The lists provide the following information:

- Reference number: e.g. 2004/ADMIN/001.
- Commission department(s) responsible
- estimated date of adoption
- whether legislative proposal or non-legislative act
- provisional indication of the likely legal base and the corresponding inter-institutional procedure (e.g. co-decision)
- whether mandatory or optional consultation of the Committee of the Regions (CoR) and/or the European Economic and Social Committee (CESE) is foreseen

In the interests of transparency, this is also made available to the public on the Commission’s Internet homepage http://europa.eu.int/comm/index_en.htm (“The Commission at your service”, “Work Programme”, “3-month rolling programme”).
- brief description, political motivation, and an indication of whether the proposal will undergo an extended impact assessment
- “Political motivation sort code”, enabling proposals to be re-ordered according to the political priorities: accession, stability, sustainable growth.
ANNEX 2

Proposals that will undergo an extended impact assessment before their adoption

N.B. Given the specific circumstances of 2004 (see introduction) there are a number of important proposals on which the Commission cannot guarantee the timing of the delivery, but for which it will undertake an impact assessment. They are listed in the table with an asterisk.

In the Work Programme list, these proposals are flagged with the abbreviation "EXT" in the impact assessment column.

ISG = Inter-departmental Steering Group

Before submitting any proposal in the social field, the Commission is bound to consult the social partners on its possible type and content (according to Article 138 of the Treaty). This consultation is an integral part of the impact assessment process.

<table>
<thead>
<tr>
<th>Priority</th>
<th>DG</th>
<th>Title</th>
<th>Agenda planning number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>AGRI with ISG</td>
<td>Council Regulation on support for rural development from the EAGGF</td>
<td>2004/AGRI/003</td>
</tr>
<tr>
<td></td>
<td>BUDG</td>
<td>Proposal for a Council decision on the system of the European Communities own resources</td>
<td>2004/BUDG/007</td>
</tr>
<tr>
<td></td>
<td>EMPL with ISG</td>
<td>Regulation of the European Parliament and of the Council on the European Social Fund for the next programming period</td>
<td>2004/EMPL/036</td>
</tr>
<tr>
<td></td>
<td>REGIO with ISG</td>
<td>Draft regulation for the new Structural Funds period post 2006</td>
<td>2004/REGIO/001</td>
</tr>
<tr>
<td></td>
<td>SG</td>
<td>The next financial perspectives post 2006</td>
<td>2004/SG+/011</td>
</tr>
<tr>
<td>2</td>
<td>JAI with ISG</td>
<td>Proposal for a Regulation defining the Visa Information System (VIS), the objectives of the system, the types of data to be introduced, the access issues</td>
<td>2004/JAI/014</td>
</tr>
<tr>
<td></td>
<td>JAI, TAXUD, MARKT</td>
<td>Framework Decision on the penalties in the Member States in the fight against counterfeiting</td>
<td>2004/JAI+/006</td>
</tr>
<tr>
<td></td>
<td>RELEX</td>
<td>Proposal for a Council Regulation concerning the provision of assistance to the partner States in Eastern Europe, the Caucasus and Central Asia</td>
<td>2004/RELEX/014</td>
</tr>
<tr>
<td></td>
<td>Code</td>
<td>Title</td>
<td>Document Code</td>
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<tr>
<td>3</td>
<td>AGRI</td>
<td>Report on the common market organisation for bananas</td>
<td>2004/AGRI/001</td>
</tr>
<tr>
<td></td>
<td>COMP</td>
<td>Review of the guidelines on State aid for rescue and restructuring</td>
<td>2004/COMP/011</td>
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<tr>
<td></td>
<td>DEV</td>
<td>Negotiation mandate for the Review of the Cotonou agreement</td>
<td>2004/DEV/001</td>
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<tr>
<td></td>
<td>DEV</td>
<td>Regulation on Forest Law Enforcement, Governance and Trade (FLEGT)</td>
<td>2004/DEV/003</td>
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<tr>
<td></td>
<td>EMPL</td>
<td>Follow up to the Commission Communication on working time</td>
<td>2004/EMPL/004</td>
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<tr>
<td></td>
<td>EMPL</td>
<td>Revision of the European works Councils Directive-consultation social partners</td>
<td>2004/EMPL/005</td>
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<tr>
<td></td>
<td>EMPL</td>
<td>Extending scope of directive on carcinogenic agents</td>
<td>2004/EMPL/007</td>
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<tr>
<td></td>
<td>EMPL</td>
<td>Prevention of violence at work</td>
<td>2004/EMPL/008</td>
</tr>
<tr>
<td></td>
<td>EMPL</td>
<td>Integration of persons excluded from the labour market</td>
<td>2004/EMPL/011</td>
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<tr>
<td></td>
<td>ENTR</td>
<td>Action Plan/Follow up of the Innovation Policy Communication</td>
<td>2004/ENTR/007</td>
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<tr>
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<td>ENTR</td>
<td>Commission proposal for a directive consolidating and strengthening elements common to all &quot;new approach&quot; directives</td>
<td>2004/ENTR/069</td>
</tr>
<tr>
<td></td>
<td>ENV</td>
<td>Thematic Strategy on waste</td>
<td>2004/ENV/001</td>
</tr>
<tr>
<td></td>
<td>ENV</td>
<td>Thematic Strategy on pesticides</td>
<td>2004/ENV/003</td>
</tr>
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<td></td>
<td>ENV</td>
<td>Soil Thematic Strategy</td>
<td>2004/ENV/002</td>
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<tr>
<td></td>
<td>ENV</td>
<td>Mercury Strategy</td>
<td>2004/ENV/004</td>
</tr>
<tr>
<td></td>
<td>FISH</td>
<td>Proposal for a Council Regulation on the access regime to certain Community fishing grounds beyond the 12-miles limit. (the proposal will be split into 2 proposals)</td>
<td>2004/FISH/003</td>
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<tr>
<td></td>
<td>INFSO</td>
<td>Communication on interoperability in interactive digital TV, and Cion conclusions re mandating Multimedia Home Platforms (MHP) standards</td>
<td>2004/INFSO/001</td>
</tr>
<tr>
<td></td>
<td>INFSO</td>
<td>Revised eEurope 2005 Action Plan in an enlarged Europe</td>
<td>2004/INFSO/019</td>
</tr>
<tr>
<td></td>
<td>JAI</td>
<td>Directive on small claims</td>
<td>2004/JAI/016</td>
</tr>
<tr>
<td></td>
<td>MARKT</td>
<td>Proposal for a directive on capital requirements for credit institutions and investment firms (Capital Adequacy Directive)</td>
<td>2001/103</td>
</tr>
<tr>
<td></td>
<td>MARKT</td>
<td>Action Plan for efficient implementation of the legal framework for electronic public procurement</td>
<td>2004/MARKT/004</td>
</tr>
<tr>
<td></td>
<td>MARKT</td>
<td>Proposal for a directive on collective management of copyright and related rights in the Internal Market</td>
<td>2004/MARKT/007</td>
</tr>
<tr>
<td></td>
<td>SG</td>
<td>Sustainable development strategy review</td>
<td>2004/SG/010</td>
</tr>
<tr>
<td>TAXUD</td>
<td>Council Directive to restructure the tax bases of the Annual Circulation and Registration taxes in order to make passenger car taxation more CO2 efficient and more consistent with the internal Market and introduce a Registration Tax Refund System.</td>
<td>2004/TAXUD/023</td>
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<td>TAXUD</td>
<td>Commission Communication/Recommendation on the experimental application of &quot;Home State Taxation&quot; to small and medium-sized enterprises in the EU</td>
<td>2004/TAXUD/007</td>
<td></td>
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<tr>
<td>TREN with ISG</td>
<td>ERIKA III Package on Maritime Safety</td>
<td>2004/TREN/057</td>
<td></td>
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<tr>
<td>TREN</td>
<td>Commission Communication on the rights of users in the transport sector</td>
<td>2004/TREN/052</td>
<td></td>
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ANNEX 3

Provisional assessment of progress towards the Prodi Commission’s strategic objectives

Introduction

1. The Prodi Commission established four strategic objectives at the start of its mandate:\(^6\): promoting new forms of European governance, a stable Europe with a stronger voice in the world, a new economic and social agenda and a better quality of life. An assessment of progress against these strategic objectives shows that the Prodi Commission is building a significant legacy for its successors. The Prodi Commission will leave behind a European Union of twenty-five Member States, with a reformed Treaty, a reformed Commission and reformed policies.

I. Promoting New Forms of European Governance

Revised Treaty

2. The Commission made its contribution to the Inter-Governmental Conference, which concluded in the Treaty of Nice. The Commission has supported the implementation of this Treaty. The Treaty of Nice made the adjustments necessary for the accession of the ten new Member States, and this was an important step.

3. Nevertheless, the Commission, along with other parties, considered that the Treaty of Nice could be improved. The Commission supported the establishment of the Convention to consider the institutional structure of a European Union of 25 Member States. The Commission delegation, led by Commissioners Barnier and Vitorino, have been active participants in the Convention. The Commission considers that the Convention is a significant improvement on previous negotiations on the Treaty, but also believes that the draft text can be improved in the Inter-Governmental Conference.

Internal Commission Reforms

4. The Prodi Commission came into office with a commitment to achieve a broad programme of internal reform. The three main pillars covered are personnel reform, strategic planning and programming and financial management. Key achievements include:

- Agreeing with the Council revised staff regulations, allowing new pay and pensions structures to be put in place. A new system of performance appraisal and promotion has been introduced.

- Introducing a new strategic planning and programming cycle, which has assisted in the Commission’s preparations for enlargement. Accountability has been improved through a new system of Annual Activity Reports for each Commission service.

- Agreeing a new Financial Regulation for the management of Community funds.

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• Introducing new procedures on public access to Commission documents and a code of conduct for Commission officials.

5. The scale of the reform programme means that not all of its benefits will be felt immediately and will increase in the years to come. New procedures take time to be fully established, and some, such as the accounting procedures, are not yet fully in place. Difficulties do remain in the Commission’s administration, shown by the recent allegations concerning Eurostat. The Commission remains determined to address these difficulties.

**Better Governance**

6. The Commission has carried out a number of initiatives to improve European governance. The Governance White Paper of July 2001 contained a number of proposals. This led directly to the Better Regulation package of June 2002. Measures included a new Impact Assessment procedure for developing major proposals, and minimum standards for consultation. In addition, the Commission is carrying forward a major programme to simplify European Union legislation. The full benefits of these initiatives will be evident shortly.

II. Stabilising the continent and boosting Europe’s voice in the world

**Enlargement**

7. The Prodi Commission has supported the successful conclusion of the enlargement process. At the Copenhagen European Council of December 2002, Member States agreed to the Commission’s recommendation that Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia should join the European Union. All nine subsequent referenda have shown strong popular support in those countries for entry into the European Union.

8. The Commission has supported the preparations of accession states to enter the European Union. The Commission has also carried out internal preparations to ensure that programmes and policies will accommodate the new Member States. The accession day of 1 May 2004 marks a decisive step in the history of the European continent. The Commission has also supported the preparations of Bulgaria and Romania for entry into the European Union with target dates of 2007. The Commission is supporting Turkey’s efforts made in order to fulfil the Copenhagen political criteria for opening accession negotiations with the Union and is preparing its Opinion on Croatia’s application to join the Union.

**Stability**

9. The Commission has played an important part in the development of stability beyond the borders of an enlarged European Union. The « Wider Europe » agenda is likely to continue in the years to come. A clear success at this stage has been the programme of stabilisation in the Balkans. Significant progress has been made in those countries. A European Union’s peacekeeping force is deployed in the Former Yugoslav Republic of Macedonia at the explicit request of their government.

10. The Commission has also developed its links with Russia and the other countries of Eastern Europe, the Caucasus and Central Asia.
Wider Europe - Neighbourhood

11. In a Communication on Wider Europe – Neighbourhood of March 2003, the Commission put forward an ambitious vision: the creation of an enlarged area of peace, stability and prosperity encompassing the neighbours to the East and the South that currently do not have a perspective of EU membership, based on shared values, common interests, and deep integration. This combines progress demonstrating shared values and effective implementation of political, economic and institutional reforms, with the prospect of closer economic and political links with the EU, including a stake in the internal market and improved cross-border and regional/transnational co-operation at the Union’s external borders.

12. In addition, the Commission has taken forward the Barcelona process towards a Euro-Med free trade area. Progress has been hampered by the crisis in Israel and Palestine. The Commission has supported all efforts to broker peace, notably the road-map initiative. The European Union has entered an Association Agreement with Egypt, and concluded negotiations for Association Agreements with Algeria and Lebanon.

Action in the world

13. The Prodi Commission has played a leading part in efforts to establish new multi-lateral global governance. The Commission played a leading role in the drive for ratification of the Kyoto Protocol on climate change, for a successful conclusion of the World Summit on Sustainable Development in 2002 and in the launch of new multilateral trade negotiations in Doha. The Commission remains convinced that multi-lateral dialogue is the best way forward as countries deal with the effects of globalisation. The Commission also remains committed to the United Nations’ Millennium Development goals. In this context, it completed the negotiations of the Cotonou Agreement and prepared a new Community development policy. The institution has improved the focus and delivery of development programmes to maximise its contribution.

III. A New Economic and Social Agenda

Lisbon and Sustainable Development

14. On the basis of the Commission’s contribution, the European Council agreed in March 2000 in Lisbon, on an objective that the European Union should become by 2010 «the most competitive and dynamic knowledge based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion». As proposed by the Commission, the Göteborg European Council of June 2001 integrated the environmental dimension into the Lisbon Strategy and established a sustainable development strategy. The Commission has taken forward the Lisbon economic reform agenda with determination. Achievements include the liberalisation of energy markets and telecommunications services, the creation of the European Research Area and proposals to liberate rail and air transport. A key factor in the European Union’s ultimate success in achieving the Lisbon objective will be the level of engagement of Member States.

15. The Nice Social Agenda complements and forms part of the Lisbon Strategy. It was revised in June 2003 to take into account the evolution of the labour market and of society. The Commission has introduced the open method of coordination in the fields of social inclusion and pensions, has renewed the European Employment Strategy and has coordinated the European Year of People with Disabilities. In the field of industrial relations, it has
supported social dialogue and when necessary has initiated specific legal proposals, for example on health and safety at work and on temporary work.

**Single Market and the Introduction of the Euro**

16. The euro notes and coins were successfully introduced in 12 Member States. Based on the undertaking to conduct sound macroeconomic policies, the euro contributes to growth, competitiveness and employment. However, the introduction of the euro also highlights further changes that are still needed for Europe to gain the full benefits of the single market. Given the success of the physical introduction of the euro, economic and monetary union undoubtedly qualifies as one of the significant landmarks of European integration, ranking alongside such earlier achievements as the customs union of 1968 and the single market of 1992.

**Agriculture and Fisheries**

17. The Commission’s reform agenda has continued into the Common Agricultural Policy and Common Fisheries Policy. On 26 June 2003, EU farm ministers adopted a fundamental reform of the Common Agricultural Policy (CAP). The new CAP will be geared towards sustainable agriculture, while giving EU farmers the freedom to produce what the market wants. In future, the vast majority of subsidies will be paid independently from the volume of production.

18. In December 2002, EU Fisheries Ministers agreed on a reform of the Common Fisheries Policy with a view to conserve fish stocks better, protect the marine environment, ensure the economic viability of the fishery and aquaculture sectors and provide good quality food to consumers.

**IV. Better Quality of Life**

**Justice and Home Affairs**

19. The Commission has taken forward measures to create a European area of freedom, security and justice, as mandated by the European Council in Tampere in October 1999. The Commission’s growing expertise in this area enabled it to respond promptly to the events of 11 September 2001. The Council has agreed on a number of proposals, including a common European arrest warrant and on combating illegal immigration. Nevertheless, further progress is needed to respond to the demands of citizens and the European Council’s political goals.

**Public Health, Environment, Transport and Energy**

20. The European Commission is working with Member States to ensure that the European Union achieves its goals for reduction in carbon emissions agreed at the Kyoto environmental conference. Climate change is one of the principal themes of the European Union’s Sixth Environment Action Programme, to be completed by 2012, alongside protecting nature and biodiversity, contributing to the quality of life and social well-being for citizens, better resource efficiency and resource and waste management. The Commission is managing a new Public Health Action Programme from 2003 to 2008. The Commission has established a Food Safety Authority, a Maritime Safety Agency and is proposing a European Centre for Disease Prevention and Control.
21. The Commission has also devised a ten year Transport Programme, which will run to 2010, with the goal of refocusing Europe’s transport policy on the demands and needs of its citizens. The Commission has also developed a long-term strategy to ensure the security of energy supply in Europe. The Commission has contributed actively to stimulating implementation of the trans-European transport network, opening rail networks to competition and improving transport safety (notably maritime safety). It has also actively promoted the access to quality services of general interest.

22. Finally, the Commission has introduced a “Solidarity Fund” to enable the European Union to assist Member States and accession states following a natural disaster. The Solidarity Fund has already been used following the floods in Central Europe of summer 2002 and the forest fires in Southern Europe in summer 2003.
Commission proposals awaiting action by the legislative authority in 2004

General Affairs and External Relations

- Proposal for a Regulation on decentralised co-operation (2003/0156/COD)
- Proposal for a Regulation on promoting gender equality in development co-operation (2003/0176/COD)

Taxation / Customs Union

- Proposal for a Regulation on the prevention of money laundering by means of customs co-operation (2002/0132/COD)
- Proposal for a Directive amending Directive 77/388/EEC as regards value added tax on services provided in the postal sector (2003/0091/CNS)

Justice and Home Affairs

Common asylum policy:

- Proposal for a Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status (2000/0238/CNS)

Common immigration policy and fight against illegal immigration:

- Proposal for a Directive on the conditions of entry and residence of third country nationals for the purposes of studies, vocational training or voluntary service (2002/0242/CNS)
- Proposal for a Directive on the short-term residence permit issued to victims of action to facilitate illegal immigration or trafficking in human beings who cooperate with the competent authorities (2002/0043/CNS)
- Proposal for a Directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities (2001/0154/CNS)

Internal and external borders, common visa policy:

- Proposal for a Directive relating to the conditions in which third-country nationals shall have the freedom to travel in the territory of the Member States for periods not exceeding three months, introducing a specific travel authorisation and determining the conditions of entry and movement for periods not exceeding six months (2001/0155/CNS)
- Proposal for a Regulation amending Regulation (EC) 1683/95 laying down a uniform format for visas; and Proposal for a Regulation amending Regulation (EC) 1030/2002 laying down a uniform format for residence permits for third-country nationals (2003/0217/CNS and 2003/0218/CNS)

A genuine area of justice in civil law matters:

- Proposal for a Regulation creating a European enforcement order for uncontested claims (2002/0090/CNS)
Fight against crime and terrorism and a genuine area of justice in criminal matters:
- Proposal for a Council Framework Decision on combating racism and xenophobia (2001/0270/CNS)
- Proposal for a Council Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking (2001/0114/CNS)
- Proposal for a Directive on ship-source pollution and on the introduction of sanctions, including criminal sanctions, for pollution offences (2003/0037/COD)
- Proposal for a Framework Decision to strengthen the criminal-law framework for the enforcement of the law against ship-source pollution (2003/0088/CNS)
- Proposal for a Directive on the criminal-law protection of the Community’s financial interests (2001/0115/COD)
- Proposal for a Council Framework Decision on combating the sexual exploitation of children and child pornography (2001/0025/CNS)
- Proposal for a Decision establishing a Community action programme to promote activities in the field of the protection of the Community’s financial interests (2003/0152/COD)
- Proposal for a Decision on counterfeit euro coins: analysis, cooperation and information exchange (2003/0158/CNS)

Employment, Social Policy, Health and Consumer Affairs
- Proposal for a Directive on working conditions for temporary workers (2002/0072/COD)
- Proposal for a Regulation amending Regulation (EEC) n° 1612/68 on freedom of movement for workers within the Community (1998/0229/COD) and proposal for a directive amending directive n° 68/360/EEC on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families (1998/0230/COD)
- Proposal for a Regulation on consumer protection cooperation (2003/0162/COD)
- Proposal for a Regulation establishing a European centre for disease prevention and control (2003/0174/COD)
- Social security: coordination of systems in view of the free movement of persons (1998/0360/COD)
- Proposal for a Regulation amending Council Regulation (EEC) N° 1408/71 on the application of social security schemes to employed persons and their families moving within the Community (2003/0138/COD)
- Proposal for a Council Regulation on the European Monitoring Centre on Racism and Xenophobia (2003/0185/CNS)

Competitiveness (Internal Market, Industry and Research)

Internal Market:
- Proposal for a Directive on the recognition of professional qualifications (2002/0061/COD)
- Proposal for a Regulation on sales promotion in the internal market (2001/0227/COD)
- Proposal for a Regulation on the Community Patent (2000/0177/CNS)
- Proposal for a Directive on the patentability of computer-implemented inventions (2002/0047/COD)
- Proposal for a Regulation amending the regulation on the Community Trademark (2002/0308/CNS)
- Proposal for a Directive on the enforcement of intellectual property rights (2003/0024/COD)
– Proposal for a Directive on take-over bids (2002/0240/COD)
– Proposal for a Directive on the harmonisation of transparency requirements with regard to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (2003/0045/COD)

Consumer policy:
– Proposal for a Directive on the harmonisation of the laws, regulations and administrative provisions of the Member States concerning credit for consumers (2002/0222/COD)
– Proposal for a Directive concerning unfair commercial practices (2003/0134/COD)

Enterprise:
– Proposal for a Directive on the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Recast version) (2003/0153/COD)

Competition:
– Proposal for a Regulation on the control of concentrations between undertakings (2002/0296/CNS) -if not adopted in 2003

Transport, Telecommunications and Energy
– Proposal for a Council Regulation amending Regulation (EURATOM) No 2587/1999 defining the investment projects to be communicated to the Commission in accordance with Article 41 of the Treaty establishing the European Atomic Energy Community (COM(2003) 370)
– Proposal for Directives concerning the alignment of measures with regard to security of supply for energy products (2002/0219/COD, 2002/0220/COD) and 2002/0221/CNS
– Proposal for a Regulation on the harmonisation of certain social legislation relating to road transport (2001/0241/COD)
– Proposal for a Directive on a transparent system of harmonised rules for driving restrictions on heavy goods vehicles involved in international transport on designated roads (weekend bans) (1998/0096/COD)
– Amended Proposal for a Regulation on action by Member States concerning public requirements and the award of public service contracts in passenger transport by rail, road and inland waterway (2000/0212/COD)
– Proposal for a Regulation on the negotiation and implementation of air service agreements between Member States and third countries (2003/0044/COD)
– Proposal for a Regulation amending Regulation 3922/91 to establish common requirements for the commercial operation of aeroplanes (2000/0069/COD)
Proposal for a Directive on ship-source pollution and on the introduction of sanctions, including criminal sanctions, for pollution offences (2003/0037/COD)
Proposal for a Regulation on enhancing ship and port facility security (2003/0089/COD)

Agriculture and Fisheries
Proposal for a Regulation on maximum residue levels of pesticides in products of plant and animal origin (2003/0052/COD)
Proposal for a Regulation laying down requirements for feed hygiene (2003/0071/COD)
Proposal for a Regulation on the protection of animals during transport and related operations, amending Directives 64/432/EEC and 93/119/EC (2003/0171/CNS)
Series of proposals linked to the implementation or follow-up of the reform of the Common Fisheries Policy, such as the proposal for a Council Regulation establishing measures for the recovery of cod stocks (COM(2003) 237) and the proposal for a Council Regulation establishing measures for the recovery of the Northern hake stock (COM(2003) 374- if not adopted in 2003

Education, Youth and Culture
Proposal for a Decision establishing a Community Action Programme to promote bodies active at European level in the field of youth (2003/0113/COD)
Proposal for a Decision establishing a Community action programme to promote bodies active at European level and support specific activities in the field of education and training (2003/0114/COD)
Proposal for a Decision establishing a Community action programme to promote bodies active at European level in the field of culture (2003/0115/COD)
Proposal for a Decision establishing a Community action programme to promote active European citizenship (civic participation) (2003/0116/CNS)
Environment

- Proposal for a Directive on environmental liability with regard to the prevention and remedying of environmental damage (2002/0021/COD)
- Proposal for a Directive concerning the quality of bathing water (2002/0254/COD)
- Proposal for a Directive on the management of waste from the extractive industries (2003/0107/COD)
- Proposal for a Regulation on Shipments of Waste (2003/0139/COD)
- Proposal for a Directive relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air (2003/0164/COD)
- Proposal for a Directive amending the Directive establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms (2003/0173/COD)
- Proposal for a Regulation on certain fluorinated greenhouse gases (2003/0189/COD)
- Proposal for a Directive on the protection of groundwater against pollution (2003/0210/COD)
- The REACH proposal (2002/ENV+/015), adopted by the Commission on 29 October 2003
- Proposal for a Directive on environmental access to justice (2003/0246/COD) and for a Regulation on the application of Aarhus principles to the Community (2003/0242/COD)
Simplification and codification of Community legislation

Simplification priorities 2004

The Commission launched in February 2003 a framework for action to update and simplify Community legislation. A key action of this initiative aims at legislative simplification through a reinforced political attention and a new methodology based on the following steps:

- the development of prioritisation indicators to guide the Commission in selecting sectors where simplification appears particularly relevant;
- the Commission selects policy sectors and carries out a screening for simplification potential. This screening may result in identification of specific legislative acts as candidates for simplification;
- legal acts identified as candidates for possible simplification are examined in detail and concrete simplification proposals are developed, using best practice methodology and procedures, and adopted as Commission proposals.

The main novelty of this methodology is the establishment of priority indicators and, on this basis, a more systematic and wide-spread screening of Community policy sectors by Commission services to identify simplification potential. The Framework for Action is being implemented in three phases. At the end of each phase (October 2003, April 2004 and end-2004), the Commission reports on the achievements during the previous phase and sets out planned work for the coming phase.

The Commission presented in October 2003 the first report on the implementation of the Framework for Action, covering Phase I (February – September 2003). This report demonstrates that very considerable efforts are currently being made by Commission services towards legislative simplification across a broad range of policy areas. Completion of this work, in the form of final Commission proposals, will take place over the coming years. The Commission’s programming of simplification work follows the 3-phased implementation of the February 2003 initiative, in particular the screening of policy sectors. Individual legislation with confirmed simplification potential is programmed in the context of the ordinary programming cycle.

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8 In the February Communication, the Commission defined simplification broadly. Simplification can, on the one hand, mean modification of legislation without affecting the substance of the underlying policy. This can be relevant when, for example, more efficient or proportional legislative instruments and techniques are available than those currently used. On the other hand, simplification can also mean simplifying the substance of a policy by adapting or entirely redesigning the legislative approach.
## Simplification priorities for 2004

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<td>- Processed agricultural products</td>
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<td>Agriculture</td>
<td>- Import quotas</td>
<td>- Processed citrus fruit</td>
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<td>- Sugar CMO</td>
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<td>- Information actions</td>
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<td>Health and Food Safety</td>
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<td>- Feed materials and compound feedstuffs</td>
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<td>- Novel food (procedure authorisation)</td>
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<td>Employment and Social Policy</td>
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<td>Energy and Transport</td>
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<td>- Functioning of aviation market</td>
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<td>Competition</td>
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<td></td>
<td>- Implementing and interpretative rules on mergers and antitrust</td>
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</tbody>
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Codification of EU legislation

The Commission is working towards its objective of completing its codification programme by the end of 2005. Around 60 codification proposals are planned for 2004. The Commission invites the European Parliament and the Council to give urgent consideration to the Commission’s proposals under the codification programme in order to adopt all proposals no later than the end of 2006.
## Sift of EC/EU legislative proposals and other documents

### Committee Relevancy: Next Meeting 02-Dec-2003

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<td>Amended proposal for a Council Directive on minimum standards on procedures in member States for granting and withdrawing refugee status</td>
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<td>561</td>
<td>15128/03 ADD 1</td>
<td>Commission staff working paper: Regulation of the European Parliament and of the Council amending Regulation (EC) No 975/1999 laying down the requirements for the implementation of developing cooperation operations which contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms and Regulation (EC) No 976/1999 laying down the requirements for the implementation of Community operations, which, within the framework of Community cooperation policy, contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms in third countries</td>
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25 November 2003
Scottish Child Law Centre
Response to Scottish Executive Consultation Paper:
"Putting Our Communities First"
September 2003

Significant failings of the paper’s approach
The Scottish Child Law Centre is disappointed and concerned at the approach taken by this paper to children and young people. Whether intentionally or not, the paper’s effect is to put forward what the Centre believes amounts to an anti-youth strategy. There are three main reasons for this. First, the paper approaches the issue of anti-social behaviour in an unhelpful way, by failing to discuss the situations of the children and young people involved in such behaviour. Second, the paper discussion of what amounts to anti-social behaviour is undermined by a failure adequately to define the type of behaviour involved. Third, the paper’s discussion of measures that are claimed to be “tackling the problem” is misleading and fails to acknowledge the complexity of the problems and potential solutions.

The paper begins by setting out the reasons for the Executive’s making tackling of anti-social behaviour a priority. This involves stating that people in the community feel powerless and that their concerns are ignored (p6). The paper does not acknowledge that children and young people are among the most powerless and most ignored of society’s groups. They have no political influence and their needs are often far down policy-makers list of priorities. This was one of the reasons that the Scottish Parliament supported the creation of the office of Children and Young People’s Commissioner. The paper makes reference to the causes of anti-social behaviour (p10) but the discussion of a complex issue is extremely limited. It does not acknowledge that many children and young people are victims of abuse and neglect and live in deprived and chaotic circumstances and that support and preventative work is often not offered to their families. The result of the concentration on adult victims of anti-social behaviour is that the discussion of the response to children and young people involved in offending behaviour is almost entirely negative and punitive. There is no mention of the children and young people’s welfare and the importance of the reintegation of these young people into society and their families. This is in stark and worrying contrast to the discussion of what are often the same young people, in the Child Protection Review.

The discussion of the definition of anti-social behaviour is particularly unhelpful. Having identified different types of behaviour that may meet the Crime and Disorder Act 1998 definition (p7), the paper then notes that the 2000 Scottish Crime Survey found that 40% of respondents identified “groups of young people hanging around” as a neighbourhood problem. The paper adopts this approach and refers to “young people hanging around” as a neighbourhood problem, as anti-social behaviour. “Hanging around” is not criminal or anti-social behaviour. It is a natural response by young people to the lack of facilities and amenities in their areas. Nowhere does the paper discuss young people’s concerns, their feelings of isolation and exclusion from society.

The paper claims that the Action Plan on Youth Crime, including pilot youth courts, “fast track” children’s hearings and restorative cautions are actions to tackle “the problem” of anti-social behaviour (p11). This is misguided and misleading. Research on youth courts throughout Europe, and the evidence from England that led to the Crime and Disorder Act 1998, strongly indicated that courts concentrating on punishment failed to tackle offending behaviour and simply drew young people into a cycle of criminal activity. Criminal courts, by their nature, are unable to encourage behavioural change or address deprived and abusive circumstances. They will simply give young people the message that they have been condemned by, and excluded from, society. “Fast track” children’s hearings are simply an acknowledgement that a system that is supposed to consider children’s welfare and respond to offending behaviour by providing support, supervision and guidance for young people has failed to deliver in many cases. There is no difference between a “fast track” hearing and any
other hearing, except that the measures to help the young person may be provided more quickly.

**Principles that should underlie the paper and any proposed reforms**

In discussions about child protection, child pornography, child prostitution and other policy matters affecting children and young people, the principles of the UN Convention on the Rights of the Child (UNCROC), (ratified by UK Government in 1991) are acknowledged as relevant. Article 3.1 requires that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. In the Centre's view, the paper and the proposals it makes fail to address the best interests of the child in any significant way. Article 12.1 of UNCROC requires that children capable of forming views should have the right to express those views freely and to have them taken into account in all matters affecting them. There proposals would, if implemented, fundamentally affect children and young people in Scotland. They have no influence on the political process through voting. The Executive must ensure that there is a mechanism for ascertaining and taking account of children and young people's views on anti-social behaviour.

UNCROC contains principles for the administration of juvenile justice. Article 40.1 requires that every child alleged as having infringed the penal law should have the right to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which takes account of the child's age and the desirability of promoting the child's reintegration and assuming a constructive role in society. Fundamental to children and young people's reintegration and assumption of a constructive role will be a sense of inclusion. Several measures in paper would target and stigmatise young people and, in the Centre's view, make the achievement of the Article 40 goal more unlikely. Article 40.4 of UNCROC requires that a variety of disposals should ensure that children and dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and to the offence. The Centre believes that the paper's proposals ignore the issue of children's well-being and their circumstances entirely.

**Response to the paper's proposals**

It will be clear from the above paragraphs that the Centre does not agree with the approach taken by the paper or with many of its proposals. The reasons for disagreeing with specific proposals are set out below.

**ANTI-SOCIAL BEHAVIOUR STRATEGIES**

The Criminal Justice (Scotland) Act 2003 requires local authorities and Chief Constables to produce anti-social behaviour strategies. The paper concentrates on the importance of information exchange between these agencies and asks what more could be done to promote this (p17). In the Centre's view, this is not the most important issue. The anti-social behaviour strategies should deal, in detail, with the exercise of the agencies functions. In the Centre's experience, police practice can make young people feel alienated and excluded from society. This can happen when police constantly move young people on from certain areas, and when they detain and question young people in intimidating ways, without allowing a supportive adult to be present. Aggressive and insensitive policing that does not value children and young people as part of the community may encourage, rather than prevent, anti-social behaviour. The Centre is also concerned that local authority policy in housing matters often ignores young people's welfare. Housing departments may respond to adult residents' concerns by warning or threatening to prosecute young people, with no attempt being made to consider the young person's difficult circumstances and to offer support.
Agencies should be required to consult with children and young people in relation to anti-social behaviour strategies and to carry out a review of their practice, to ensure that they are not making children's and young people's situations more difficult.

COMMUNITY REPARATION ORDERS

Discussion of this topic opens with the statement that a "central tenet of the criminal justice system is that offenders must be held to account for their actions" (p18). This should not, however, be the starting point for policy makers when dealing with children and young people involved in offending behaviour. As noted above, UNCROC requires that they be dealt with in a manner consistent with promotion of their dignity and worth. The purpose of Community Reparation Orders is to punish and this is in direct conflict with the aims of juvenile justice as required by UNCROC and the approach taken by the children's hearing system. Community Reparation Orders should not be "targeted at young people", as suggested by the paper (p19). The message given to children and young people by such a move would be that society has no interest in their circumstances, whether they have suffered abuse, neglect or other difficulties, and that the system will not take account of the disaffection that may have led to the behaviour.

ACCEPTABLE BEHAVIOUR CONTRACTS

The Centre does not support the use of these contracts, and certainly does not support their wider use. The focus on a child's behaviour entirely fails to take account of abuse, racism, lack of parenting and other pressures that may have led to the behaviour. Such contracts should not be used with young people. Intensive work with children and young people to tackle serious offending behaviour and their sense of alienation has been shown to work - this was acknowledged in the Youth Crime Review and the Executive's response to it. Signing a piece of paper will not change behaviour and the contracts are unable to deal with any of the real issues involved. The same is true of contracts for parents who, as the paper puts it, "do not take action to prevent their children acting anti-socially" (p24). The belief that the contracts might work is based on the erroneous assumption that all that the parent requires is an incentive to act. Many of the parents whose children are causing concern will be unable to act appropriately. They will not have the parenting skills, the resources and the understanding to change their own or their children's behaviour. It is this fact that led to the children's hearing approach, of involving the child's family in discussions and providing social work support to the family. A much more useful approach than acceptable behaviour contracts would be consideration of extending the resources available to children's hearings to work with families and to support them. In the Centre's view, the paper should also consider the use that could be made of community centres and education centres, and of youth work, as resources for young people to help them undertake more constructive activities.

ANTI-SOCIAL BEHAVIOUR ORDERS (ASBOs) FOR UNDER-16S

ASBOs should not be extended to under 16s. In the Centre's view, this would be a breach of the UNCROC Articles 3 and 40 and would devalue and undermine the children's hearing system. The discussion of ASBOs is based on a premise that is, the Centre believes, incorrect. That premise is that only a court, not a children's hearing, can tackle persistent anti-social behaviour (p25). As stated already, research and experience indicates that court appearances and orders rarely change children and young people's behaviour. Only intense work, addressing the behaviour and its causes, can do that. ASBOs cannot and do not attempt to do this. They are merely intended to "look tough" (the paper itself says "to make it clear that persistent disorderly behaviour will not be tolerated").

The paper talks about the possibility of the children's hearing system being by-passed completely, "where the behaviour of the child is so immediately difficult" (p26). There is
provision for a child to be prosecuted in a criminal court where this is deemed to be necessary in the public interest. The Centre sees no reason why children whose behaviour is "immediately difficult" should be taken out of the hearing system. The behaviour is an indication of severe problems for the child that require urgent action. A court order will not be able to take that action. If the executive believes that the hearing system is unable to cope with such children they should explain why they believe this to be the case. If the remedies are not sufficiently flexible, they should be made so. The paper proposes increasing the emphasis on reparation in children's hearings (p29), but does not explain why if this does not work within the hearing system, it is believed that it will work in a court setting.

The Centre is not opposed to the use of reparation in children's hearings, but is extremely concerned at the suggestion that some children will simply be removed from the hearing system to the courts.

ELECTRONIC MONITORING OF UNDER 16S

The paper refers to the availability of electronic monitoring of 10-15 year olds in England and states that "there is now potential to use electronic monitoring more in Scotland" (p29). It is astonishing and deeply worrying that the paper does not even attempt to explain in what ways electronic monitoring would be "more effective" than other remedies. Monitoring cannot tackle the children or young person's circumstances and cannot help them address the reasons for their offending behaviour.

The paper states that "no-one wants to restrict a young person's liberty lightly. It is a serious matter to consider such an intervention and would only be used to tackle serious issues" (p30). There is nothing in the paper to suggest that monitoring could tackle serious issues. In the Centre's view, the result of the use of monitoring would be to further alienate and stigmatise already vulnerable and chaotic young people. There is no clearer way to indicate to a young person that society has marked them as unacceptable and wishes to exclude them, than to monitor them electronically. The Executive should be looking at the chronic lack of adequate secure placements and places in projects to tackle offending behaviour, and concentrate resources on these placements, rather than on stigmatising young people further.

The Centre's view is that electronic monitoring should not be made a disposal for children's hearings. The Centre challenges the Executive to conduct research with young people who have been monitored in England, to ascertain how young people see the system, and to put resources into projects that tackle offending behaviour and that have been shown to be effective. The Centre also points out the Executive that the use of electronic monitoring is a restriction of liberty and its use is likely to be a breach of the ECHR Articles 5 and 8. ECHR Article 5.1(d) allows the detention of a minor for the purposes of educational supervision, but monitoring would not be educational, it would be purely punitive. A child or young person's privacy would be entirely removed by the use of the monitoring and in the Centre's view, could not be justified.

RESTRICTION OF LIBERTY ORDERS (RLOs) FOR UNDER 16S

In the Centre's view, extension of RLOs to under 16s would be a breach of ECHR Article 5, and of Article 40.4 of UNCROC, which requires disposals for young people who offend, that take account of their well-being and their circumstances. RLOs would not be educational in nature and would not take any note of children and young people's circumstances. The paper itself admits that RLOs are "primarily punitive in nature and not directly addressing offending behaviour" (p33). Again, they are a remedy designed to look tough, that will not change children's behaviour or support them or their families.

RLOs should not be used with under 16s.
PARENTING ORDERS

The Centre notes that, in contrast to the discussion on anti-social behaviour orders, electronic monitoring of children and restriction of liberty orders, the paper does attempt to present some evidence, although it is very limited, of research from England that indicated that a pilot parenting order scheme worked. The claim that "it worked" is suspect, since it relies on the low number of breach proceedings (which could simply indicate resignation to failure) and does not explain the "positive effects" that were observed.

The Centre does not believe the case for parenting orders has been made, particularly given the number of cases where, from information emerging from the Centre's advice line service, children are referred to children's hearings and then no support or adequate supervision appears to follow. A study of home supervision by Murray et al. found that participants in the hearing system identified the need for more social work time as the single most important factor that would improve home supervision; 22% of children's cases had no social worker attached to the family for several months. The Centre urges the Executive to listen to the messages from its own research and make a commitment to ensuring that the existing system resources would be more appropriately targeted at social work services available to families, rather than stigmatising parents. The Centre suggests that where a parenting order works, that is likely to be because the parent has agreed to work with social workers to change his or her parenting approach. That would happen as effectively through a children's hearing. The Kilbrandon Report that led to the setting up of the children's hearing system saw one of the most important aims of the hearing system would be to provide early preventive measures, including support for parents and help in parenting. There was an assumption that comprehensive family support services would be available to the child and the family, is made to work for children and families, rather than undermining that system by turning to the courts.

The Centre urges the Executive, therefore, to develop a strategic approach to family support services. A study by Henderson mapped available services to support parenting skills. The study found that there were over 500 separate initiatives located in statutory and voluntary agencies and that there was no strategic service development or evaluation.

The Centre does not agree that local authorities and the Reporter should be given the power to apply to the court for a parenting order.

LOCAL AUTHORITY ACCOUNTABILITY

The Centre is extremely concerned that many vulnerable children and young people are referred to the hearing system and then do not receive the support services that they need. The Centre agrees that it is desirable to require local authorities to comply with supervision requirements and that a Reporter should be able to request that a sheriff make a compliance order. Where local authorities fail to allocate social workers or to provide support, the law should specifically provide for compensation for this breach of duty to the children and young person. It should also be possible for children and young people themselves to apply to the sheriff for an order to force implementation.

The Centre points out that while it is important for their to be a sanction to support local authorities' duties to children and their families, there is a potential for decisions to be resource driven. There may be danger that the paper's proposal would increase the number of

supervision requirements made by children's hearings, rather than leading to prioritisation of preventive work with families.

The Centre welcomes the Executive's acknowledgement of the problem of children who do not receive education. The Centre does believe that the hearing and the Reporter should have a role in alerting Scottish Ministers to the failure of local authorities to provide appropriate education. Again, the Executive could usefully consider targeting resources to educational projects and educational support staff that could then be named in supervision requirements made by children's hearings.
Dear Annabel

STRATEGIC REVIEW OF THE DELIVERY OF LEGAL AID

You will be aware that I announced, at the joint Scottish Legal Aid Board and Law Society conference on 24th October, a Strategic Review of the delivery of legal aid.

The review process is a regular aspect of public sector business and the opportunity for this Strategic Review is coming around at a very important time, giving us the ideal opportunity to look more strategically at how we deliver legal aid. In this Strategic Review we will consider the role, functions and powers of the Scottish Legal Aid Board, as well as the roles of all of those involved in the delivery of publicly funded legal advice.

We will look at how these may need to be changed in the light of the policy to modernise legal aid and the objective to deliver a national framework for legal advice, information and representation. The Review will also look closely at promoting effectiveness and efficiency in the delivery of legal aid, especially criminal legal aid.

I have now agreed the terms of reference of the Review as follows:

“To carry out a Strategic Review of the delivery of legal aid, advice and information in Scotland, including the role of the Scottish Legal Aid Board, in the context of Scottish Ministers’ commitment to modernise legal aid, streamline criminal justice and pursue an active access to justice agenda for the benefit of the citizen, and taking into account the report of the inquiry on legal aid of the Justice 1 Committee”
The Review will focus on:

- the purposes and objectives of legal aid, advice and information in the context of the modernising justice agenda, and the roles, responsibilities of and relationships between the various stakeholders
- the steps that are necessary to implement the Scottish Executive’s policy to modernise legal aid and deliver a national framework for legal advice and assistance, and the role of the Scottish Legal Aid Board within that
- the respective responsibilities and working arrangements between the Scottish Executive Justice Department and the Scottish Legal Aid Board, focusing on strategic leadership and governance, and financial and other accountability, as well as links to other relevant parts of the Scottish Executive and the wider public sector
- the steps necessary for all parties to promote best value in the delivery of legal aid, with a particular focus on current pressures on criminal legal aid
- the scope for streamlining legal aid legislation
- the development of the Board’s operations, and the resourcing and powers of the Board needed to deliver future priorities in the light of Best Value principles

The Review will be carried out by a team from Scottish Executive Justice Department and Scottish Legal Aid Board. The team will consult both internal and external stakeholders at an early stage in the Review.

The Review will make recommendations to Scottish Ministers and SLAB. The Review will be advised by a Reference Group chaired by the SEJD Head of Civil and International Group. The review period will run from December 2003 to May 2004.

The Review will be carried out in line with the principles of Best Value in the wider public sector. It will also be influenced by the development of guidance on processes developed specifically to examine delivery on policy objectives.

As set out in these terms of reference, the Review will take account of the report of the Justice 1 Committee Report on its Legal Aid Inquiry. If there are any particular points the Committee would like to raise in the context of this Review process, I would be pleased to hear from you.

Best wishes,

CATHY JAMIESON