Answers

to the

Green Paper towards adequate, sustainable and safe European pension systems

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EAPSPI
Pensions for the Public Sector

European Association of Public Sector Pension Institutions

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Introductory remarks

The European Association of Public Sector Pension Institutions (EAPSPI) welcomes the present Green Paper that covers a large scale of pensions-related issues. This broad discussion within Europe is necessary to tackle the current and future problems, pensions are facing. EAPSPI is furthermore of the opinion that the joint preparation of this Green Paper by the three DG EMPL, Market and ECFIN under the chairmanship of the DG EMPL is a good approach since the issue of pensions nowadays covers a wide range of aspects to be taken into consideration and could therefore serve as model for similar national debates.

Before answering the questions of this consultation, EAPSPI would like to highlight the following key messages:

Basic differences between pensions and saving products require different solutions

1. Pensions are basically different from other financial products. Pensions – particularly as far as public sector schemes are concerned – are characterized by the following main features:
   - Coverage of biometric risks, such as longevity, invalidity and survivors' risks providing a regular old-age income by means of a regular stream of payments.
   - Collective risk sharing with solidarity elements – often through collective agreements – instead of individual saving processes.
   - Access to large parts of the population frequently through mandatory participation by law or by collective agreements.

   Therefore, EAPSPI supports the idea in the Green Paper to create a label "pensions" that is restricted to products with predefined characteristics (section 3.4.1 "Closing gaps in EU regulation" n° (4)). A clear definition is helpful for a common understanding of the notion "pensions" and to draw a clear distinction between pensions and other financial products not only in this Green Paper but also in any current and future legislative initiatives.

Pension institutions did not cause the crisis

2. The "de Larosière-report" of 25 February 2009, which made some 31 recommendations to strengthen and to reform the European supervisory framework, merely focused on other financial products and not on pensions, even if funded pension institutions were affected by the developments on the financial markets especially in 2008/2009. Pension reforms in the 90s reduced the replacement rate in every European country, in most cases shifting the insurance coverage towards the second pillar. However, the second pillar alone is not able to

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guarantee an adequate replacement rate. In fact, although both pay as you go and funded pension systems are vulnerable to demographic risks, funded systems are more affected by financial risk (as we saw in the latest economic crisis). In view of persisting market uncertainty, it seems prudent to maintain a strong first pillar, where possible. Improving the adequacy of the pension system and enhancing the coverage means also taking into account the situation of the labour market (discontinuous careers, temporary jobs and so on), which requires a special public effort for young generations, especially for women.

Uncontested responsibility of Member States and of social partners

3. Member States and often social partners are responsible for the design of the pension schemes. This uncontested responsibility that is underlined in the Green Paper itself leads to the diversity of pension plans in all Member States that should be acknowledged and respected in any further discussion. Additionally, pensions are only one part of the national welfare system and have developed over a long time. Against this background a uniform solution for all existing and future problems cannot be found; a fact that is also recognized in the Green Paper.

Promotion of the OMC

4. The challenges stemming from the demographic evolutions in all European countries require a new and innovative approach by the Commission that should be based on the Open Method of Coordination (OMC) especially by the exchange of best practice, the establishment and promotion of experts' forums and other similar measures.

Question 1

How can the EU support Member States' efforts to strengthen the adequacy of pension systems? Should the EU seek to define better what an adequate retirement income might entail?

Apart from the Regulation 1408/71, the EU mainly began to undertake legislative measures in 2003 with the IORP-Directive 2003/41/EC, which was transposed into all national legislative frameworks only in 2007. Therefore, the EU legislator should wait until the IORP-Directive have produced full impact in practice. A further argument against short-term legislative steps is the typically long-term horizon of pensions, sometimes several decades.

Analysis of the impact of existing legal framework prior to any new legislative initiative

"Each Member State is different and the EU of 27 is more diverse than in was a decade ago." This general statement of the Commission in its Europe 2020 Strategy (n° 2: "Smart, sustainable and inclusive growth" (p. 9)) also fully applies to the pension systems of the 27 countries. Therefore, the Open Method of Coordination (OMC) should be fostered and also applied to supplementary pension schemes. The best support for policy makers is a broad-based mutual information exchange of best practice.

Promotion of the OMC to foster convergence

Usually, pension systems have developed over several decades. Some countries have opted for a generous pension system especially of the first pillar, whereas others have decided to introduce a basic first-pillar income with stronger supplementary pensions on a private basis. Because of this diversity of concepts, it is questionable whether an EU-definition of an adequate retirement income is possible. Living standards in the EU, but sometimes also within one single country, are too different in order to come to a harmonised definition. Furthermore, the retirement income is only one (but certainly important) element of an adequate living standard after retirement. Further elements are the costs and the quality of medical services and care for the elderly, the tax burden of pensions and other monetary resources like support for rental, like in Sweden or heating in the UK. However, only pensions can cover biometric risks, such as longevity, and hence achieve a life-long source of income.

EU-wide definition of adequate retirement income would face the problem of the diversity of pension systems

An adequate old-age living standard consists of more elements than the retirement income

Question 2

Is the existing pension framework at EU-level sufficient to ensure sustainable public finances?

In EAPSPI's point of view, costs for pensions are only one part of public finances. Public finances is a much wider notion and covers other fields like tax revenues, trade balance, costs of education, unemployment, health care, defence and other expenditure. In its Europe 2020 strategy, the Commission also draws this distinction by recommending that *"fiscal consolidation and long-term financial sustainability should go hand in hand with important ... reforms, in particular of pensions ..." (*Europe 2020 strategy, n° 4.3: "Pursuing smart budgetary consolidation for long-term growth").

Pensions are only one element of public finances

With a particular view to pensions and financial sustainability, a distinction has to be drawn between national legislation and the framework at EU-level that is the subject of this question. As far as the EU framework is concerned, EAPSPI believes it is sufficient. Statutory pensions, which are exclusively designed by Member States, are covered by the Regulations 883/2004 and 987/2009 that only foresee the mutual recognition of the insurance periods. Hence this mechanism does not affect public expenditure since there is no transfer of money. Supplementary pension schemes are mostly covered by the IORP Directive and the future EIOPA framework or by the Life-Insurance Directives. All these rules foresee an adequate solvency margin. Therefore, public finances are not concerned either.

EU legislative framework for pensions ascertains that public finances are basically not concerned

Question 3

How can higher effective retirement ages best be achieved and how could increases in pensionable ages contribute? Should automatic adjustment mechanisms related to demographic changes be introduced in pension systems in order to balance the time spent in work and in retirement? What role could the EU level play in this regard?

The retirement age is only one element in the context of sustainability and adequacy. Due to the diversity of pension systems, no uniform solution can be found at EU-level. Here again, the OMC and / or a panel of national experts seems to be the appropriate way to develop solutions.

Retirement age should remain in the core competence of Member States and social partners

The notion of a "higher effective retirement age" should be separated from the often discussed "increase in pensionable ages". A higher effective retirement age can be achieved by various measures, e.g. the improvement of health care, better occupational health and safety and flexible retirement solutions (e.g. part time retirement) for elder workers and for those who exercise physically or psychologically arduous jobs.

Member States policies already offer solutions for increasing the effective retirement age

The other subquestion of an "increase in pensionable ages" should, however, be decided by the Member States and social partners. Instead of a mere increase in pensionable ages, other solutions might also be conceivable. For example, the German and Swedish legislators have integrated a "sustainablity factor" in the calculation mode of their statutory pension schemes that considers the relationship between contributors and future pensioners in later pension adjustments. Another way might be an automatic adjustment mechanism foreseen by law. A further frequent solution in many countries is the so-called bonus-malus-systems with pension reductions before a predefined age and higher replacement rates beyond this threshold.

Other solutions than a mere increase in pensionable ages are conceivable

Regardless of the concrete measures, a sound information policy is necessary to inform citizens in good time about the necessity, the time horizon and the impact of any reform in this field, and to avoid unrealistic expectations regarding the later pension level. Broad-based financial education at a very early stage should therefore be one of the core elements of any reform measures in this area.

A sound information policy is essential in this area

Question 4

How can the implementation of the Europe 2020 strategy be used to promote longer employment, its benefits to business and to address age discrimination in the labour market?

EAPSPI is satisfied to see the upgrading of social aspects as one of the core elements of the Europe 2020 strategy besides economic and territorial cohesion. EAPSPI therefore supports that the idea of fostering the OMC and to strengthen the role of social partners in the field of social cohesion in general terms (Boxes Flagship Initiatives „An Agenda for new skills and jobs“ and „European Platform against Poverty“) will also be extended to the specific field of pensions.

Transformed OMC and stronger role of social partners also for pensions

Question 5

In which way should the IORP Directive be amended to improve the conditions for cross-border activities?

The IORP Directive should not be amended at present because of the following reasons:

1. The final implementation was only accomplished in 2007, Therefore, the European legislator should wait until the IORP-Directive has produced its full impact in practice, at least at a mid-term horizon, before undertaking any new legislative initiatives.
2. The annual published CEIOPS reports on market developments reveal that cross-border activities of IORPs are quite limited. The majority of cross-border services furthermore take place between the UK and Ireland. The recent analysis of 2010 shows that altogether, only 78 cases of cross-border cases are reported. On the other hand, around 140 000 IORPs are registered in the 27 EU-Member States. Apart from the IORPs established by multinational companies, most of them have a limited business area, restricted to one or several companies or to an industry sector. Hence, supplementary pension schemes covered by the IORP-Directive mostly constitute a national or even regional business.

Therefore, the Commission should undertake a thorough evaluation at a mid-term horizon on the basis of a more representative number of cross-border activities. Any amendments should be based on a sound cost-benefit analysis.

The frequently discussed introduction of a 28th regime at EU-level is not necessary. The provisions of the IORP Directive already foresee enough possibilities for cross-border services at present. This point of view is supported by the recent Hewitt-study about pensions for mobile researchers that also recommends using the tools of the IORP Directive. Furthermore, it might be questionable whether such a new regime would be generally accepted in practice and therefore work in a cost-efficient manner. Only few IORPs are currently offering cross-border services in spite of the possibilities offered by the IORP Directive. Therefore, it is questionable whether the situation would change significantly with a 28th regime.

Any amendment at the moment would come too soon

CEIOPS-studies have shown only few cross-border activities of IORPs

28th regime is not necessary because of provisions in the IORP-Directive

Question 6

What should be the scope of schemes covered by EU level action on removing obstacles for mobility?

Promotion of transferability of supplementary pensions

One way to remove obstacles for mobility is the promotion of transferability of supplementary pensions according to the following conditions:

1. Only funded pension schemes are included
2. Only the cash equivalent transfer value (CETV) is transferred.
3. The CETV is calculated according to the rules of the former and later transferred into pension claims according to the rules of the new scheme.
4. Only complete transfers are permitted to disengage the former scheme from any liability.
5. Any transferability rules require sound information for the mobile worker.
6. No legal obligation to exercise transferability at present. Furthermore, already existing national transferability rules are to be taken into consideration.

Description of a sound transferability process requires …

With respect to these arguments EAPSPI suggests the following approach to promote transferability of supplementary pension rights:

1. The Commission should use the OMC to foster transferability at national level.
2. At EU-level, the Commission should firstly issue a non-binding act that covers cross-border transfers between comparable schemes.

Alternatives to a pan-European pension fund

EAPSPI would finally provide impetus for a solution for mobile researchers who usually have many short-term employments in several countries especially at the beginning of their career. This problem could be solved by promoting the transferability as outlined above. If the transferability is not feasible e.g. since one of the involved schemes is unfunded or underfunded, the problem could be solved by a mutual recognition of insurance periods in order to avoid a loss of pension rights since the mobile worker has not fulfilled the vesting or waiting period. Such a system, which is similar to the mechanism in the Regulations 883/2004 and 987/2009, is currently applied in some transfer circles of the supplementary pension schemes of the public sector in Germany. Besides the promotion of transferability, a tracking service as described below in the statement to question n° 7 could be helpful.

Tracking service for mobile workers

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Question 7

Should the EU look again at the issue of transfers or would minimum standards on acquisition and preservation plus a tracking service for all types of pension rights be a better solution?

Minimum standards might be not be the adequate solution

Any EU-standards as to acquisition and preservation of dormant pension rights are opposed to the following arguments:

- The large variety of supplementary pension schemes in the EU and their different importance within the national pension systems.
- Any harmonisation could lead to an increase in costs up to 35% and consequently to the danger of closing down already existing pension schemes and in particular DB-schemes.
- The introduction to this Green Paper acknowledges that there is no "one 'ideal' one-size-fits-all pension system design." The Commission thus accepts the differences also of supplementary pension schemes that oppose any harmonisation.
- Harmonized rules might not be in line with the principle of subsidiarity. Since 140,000 pension schemes are already established in Europe, a new EU-initiative must be in line with Art. 5 § 3 of the TEU respectively with Art. 5 of Protocol 2 of the TEU / TFEU because of the rising costs.

No EU-wide tracking-service at present

With respect to the suggested tracking service, there are doubts whether it can already be established for all types of pensions at EU-level. In any case, it should not lead to the establishment of a new EU-authority that collects data from all EU-citizens. Hence, an efficient tracking service can better be established by using the already existing and future national-level structures. Therefore, a step-by-step approach is preferable that firstly foresees the promotion of a tracking system at national levels. The Commission could assist Member States by offering a common internet platform with links to other European pension systems. At a later step, it could be developed similar to the Swedish system www.minpension.se that already foresees a tracking service for all kinds of pension rights acquired within Sweden. An alternative approach could be that every Member State designates one national authority as liaison office that would be competent for identifying the relevant pension institution in its country on request.

Promotion of the national tracking services by creating a EU-wide network at the same time.

Question 8

Does current EU-legislation need reviewing to ensure a consistent regulation and supervision of funded (i.e. backed by a fund of assets) pension scheme and products? If so, which elements?

Basic differences between pensions and saving products

In EAPSPI's point of view, any response to this question first requires a clear distinction between pensions and saving products. Pensions are characterized by the following main features:

- Coverage of biometric risks, such as longevity, invalidity and survivors' risks providing a regular old-age income by means of a regular stream of payments.
- Collective risk sharing with solidarity elements – often through collective agreements – instead of individual saving processes.
- Access to large parts of the population frequently through mandatory participation by law or by collective agreements.

Creation of a label "pensions"

Therefore, EAPSPI supports the idea in the Green Paper to create a label "pensions" that is restricted to products with predefined characteristics. A clear definition is helpful for a common understanding of the notion "pensions" and to draw a clear distinction between pensions and other financial products not only in this Green Paper but also in any current and future legislative initiatives.

No modification of the IORP-Directive at present

Currently, there is mainly the IORP Directive as existing legal framework ruling the regulation and supervision of funded pension schemes. Referring to the statement to question n° 5, EAPSPI does not see any need to modify this Directive at present.

New supervisory architecture should first start to take up its activities

Furthermore, a recent compromise has been reached on 22 September 2010 to establish a new supervisory framework for the financial sector. There will be a new EU authority EIOPA that will be competent for supplementary pension schemes as from 1 January 2011. EAPSPI therefore advocates waiting until this new authority has started its work to see how this new structure will work in practice.

Question 9

How could European regulation or a code of best practice help Member States achieve a better balance between savers and providers between risks, security and affordability?

A code of good practice is preferable

A code of best practice is preferable because it offers more flexibility to adopt pension plans according to the concrete situation they are faced with within the Member States.

Achieving a balance through ….

The balance between savers and providers between risks, security and affordability can be achieved as follows:

… the promotion of the role of social partners

1. Promotion of the role of social partners in designing pension plans like in Scandinavian countries, in the Netherlands or in Germany. Being based on the collective agreements, such schemes cover large parts of the population and thus help to promote the overall introduction of supplementary pensions with very low costs. In the public sector, such schemes have been established sometimes many decades ago e.g. in Scandinavian countries, in the Netherlands or in Germany. EAPSPI furthermore hopes that the Commission will undertake further measures to strengthen the role of social partners. This concerns conflicts between the fundamental right of social partners to negotiate conditions of workplace pensions through collective agreements and the fundamental freedoms of the TFEU.

… a representation of consumers in the supervisory entities

2. Promotion of consumers' representation in the supervisory entities of the pension funds that helps to ensure that the interests of all concerned parties are properly taken into consideration.

… the introduction of sound risk-management

3. Introduction of sound risk management systems. Such a security mechanism and a prudent investment policy have helped for example some German pension schemes to overcome the 2008/2009 crisis even with an average positive return of 4,17%.

… risk-sharing mechanism by means of a hybrid scheme consisting of DB and DC-elements

4. Introduction of a hybrid scheme consisting of DB and DC-elements like in public sector pension schemes in Germany since 2001 or in Sweden since 1986. With a view to the increasing importance of DC-schemes, the Green Paper, however, only describes the current situation and short term development. Because of the demographic evolution and the lack of qualified workforce at mid- and long-term horizon, attractive workplace pensions are expected to become more and more important.

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Question 10

What should an equivalent solvency regime for pension funds look like?

The discussion about an equivalent solvency regime for pension funds has to start from the **specific nature** of IORPs:

Specific nature of IORPs has to be taken into account

1. Great efficiency and therefore low internal costs. This efficiency was highlighted by the SPC in 2008. A Dutch survey of 2007 confirms this observation (Steenbeek/van der Lecq: "Costs and Benefits of Collective Pension Systems").
2. Solidarity as a further core element. Contributions are mostly calculated without considering the age, gender, health status and specific professional risks. Furthermore, the compulsory participation prevents participants from leaving the scheme as is the case for individual solutions.
3. Pension schemes are social institutions since capital gains and tax advantages are attributed to beneficiaries through higher pensions.
4. There are various financing methods for pension schemes from PAYG to funded schemes. Therefore, a uniform solvency regime for all kinds of pension schemes seems to be hardly feasible.

Besides these general features, there are further specific inbuilt **security mechanisms** that ensures the solvency position of pension schemes:

Further inbuilt security mechanisms of IORPs

1. Modification of the main benefit parameters by the employers and the employees' representatives.
2. Governance structure involving social partners.
3. Long term investment horizon.
4. Ultimate responsibility for the fulfilment of the pension promise in some countries.

In view of these considerations, any equivalent solvency regime for pension funds should start from a principle-based approach as recently outlined in the findings of the GCAE in its report of May 2010. The role of the Community legislator should be limited to indentify only some principles that are later defined by the national legislators or social partners. In this context, it is furthermore interesting to note that a recent study by the OECD ("The Impact of the Financial Crisis on Defined Benefit Plans …) also underlines the potential difficulty of a common approach to solvency.

Considerations about an alternative solvency approach for IORPs - basic principles by the Commission to be completed by Member States

Question 11

Should the protection provided by EU legislation in the case of insolvency of pension sponsoring employers be enhanced and if so how?

EAPSPI supports the idea of an insolvency protection because of the increasing importance of supplementary pensions. In this context, EAPSPI, however, would like to recall the results of the CEIOPS study of 15 June 2009 (Note on Member States' responses to the questionnaire of Pension Guarantee Schemes) that disclosed that only very few Member States already have introduced pension guarantee schemes (PGS) at national level. EAPSPI supports the findings of this CEIOPS-report that harmonized rules for PGS at EU level would come too soon because of the following reasons:

Insolvency protection is necessary, but any EU-harmonisation at current level would come too soon at present

1. The diversity of the different pension plans (DB and DC schemes) as well as the different prudential rules and protection mechanisms of social and labour law.
2. The still marginal implementation of PGS in the single Member States implies that an overall implementation at national level is preferable to any implementation of harmonized rules at EU level at present.
3. Any introduction of harmonized PGS-rules will have to be assessed against the other protection mechanisms of the supervisory and the social and labour law at national level.
4. The additional costs of an insolvency protection, which might result in a reduced average pension benefit level.
5. Public sector pension schemes face a different situation to that of private IORPs since their sponsors, public employers, mostly cannot become insolvent.

Diversity of pension plans

Still marginal implementation of PGS

Prior assessment of other security tools

Additional costs

Other situation of public sector IORPs

Against this background, EAPSPI, welcomes any initiative of the Commission to foster the insolvency protection at national level, e.g. by means of the OMC after having additionally analysed the ESOFAC study of 12 October 2010 ("The protection of supplementary pensions in case of insolvency of the employer for defined benefit and book reserves schemes") that is mentioned in footnote 35 of this Green Paper.

Question 12

Is there a case for modernizing the current minimum information disclosure requirements for pension products (e.g. in terms of comparability, standardisation and clarity)?

EAPSPI is of the opinion that reliable and easily understandable information is crucial to enable everyone to take the right decision as to additional pension savings. A current problem in this context is the diversity of "pension" products, which might lead sometimes to very complex descriptions and hence even entail a disorientation of the individuals. Therefore, EAPSPI supports that financial literacy, especially for younger persons, should to be improved in order to raise awareness of pension issues at a rather early stage. However, any financial education will reach its limits and it is impossible to achieve a high level of financial knowledge throughout the whole population.

Sound information is necessary but should also be extended to the statutory pension schemes

Financial education will have to be fostered – but it will reach its limits

Such information requirements, however, should not be limited to additional "pension products", i.e. on a private basis but should also be extended to statutory pension schemes. Since these are the basis for any old-age income, reliable information of these basic schemes is inevitable to assess whether there will be any gap to be filled by supplementary pensions.

Public sector pension institutions recently have undertaken many efforts to promote the information services for the employers and to employees. Therefore, EAPSPI does not see any case (in terms of needs) for modernizing the current minimum information disclosure requirement as mentioned in this question.

Public sector pension schemes have improved their information policies

Question 13

Should the EU develop a common approach for default options about participation and investment choice?

Where workers have a choice of joining a pension scheme, recent work on automatic enrolment with a possibility for opting-out on the part of the employee would seem to allow commonly observed inertia on the part of workers to generate positive outcomes, instead of putting off the decision to join until too late. However, a common European approach on this issue, which is by no means universal in Europe, would not seem to add value.

Furthermore, where workers are faced with investment choices when they join a scheme, it is of course essential that they should be able to rely on a default fund that is designed and managed in their interest. The work of various international organisations and experts (in particular the OECD: See for example “Assessing default investment strategies in defined contribution pension plans” Pablo Antolin, Stéphanie Payet, and Juan Yermo, June 2010) is interesting and could become part of an exchange of best practice, perhaps in the context of the enhanced OMC.

Question 14

Should the coordination framework at EU level be strengthened? If so, which elements need strengthening in order to improve the design and implementation of pension policy through an integrated approach? Would the creation of a platform for monitoring all aspects of pension policy in an integrated manner be part of the way forward?

EAPSPI supports the coordination framework by fostering the OMC. To EAPSPI's point of view, this method fits especially well for the pension's sector since its offers a common working procedure for the EU and the Member States on the one hand and leaves enough leeway for Member States and social partners for the concrete pension design on the other hand.

Promotion of the OMC

With respect to a platform for monitoring all aspects of future pension policy, EAPSPI suggests a further development of the Pensions Forum of the Commission. It has already existed for more than 10 years and has therefore established a working procedure to discuss all possible issues arising from pensions. The Pensions Forum consists not only of representatives from the Member States but also from stakeholder organisations; thus assuring a well balanced representation of all institutions working on pensions. Therefore, the Commission has got the advantage to have already such a platform that could be further developed as outlined in this question.

Further development of the Commission's Pensions Forum

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About EAPSPI

The European Association of Public Sector Pension Institutions (EAPSPI) is a group of 24 public sector pension schemes out of 16 European countries. The members and observers are institutions from the following countries: Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Germany, the Netherlands, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland and United Kingdom. These institutions cover the special basic schemes for civil servants or the supplementary schemes for public employees. They are responsible for more than 28 million active members in the public sector and pensioners.

The main purpose of EAPSPI is to enable their members to improve the reciprocal knowledge of their institutions and that of the social organisation of their respective countries. Furthermore, the association intends to take part in the construction of a social Europe and, in this context, to study the consequences of the opening up of Europe, particularly regarding free movement. In this context, EAPSPI analyses ways and means of improving services offered to their clients (pensioners, active members or employers). To achieve this purpose, the association mainly intends to promote exchanges of expertise and information, involving also the area of products and services linked to retirement and to position itself as a pension expert, in order to develop relations and interact with European institutions and other international organisations.

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