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### Information and Notices

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## I

*(Information)*

## COMMISSION

Communication from the Commission concerning the value of the European unit of account by virtue of Article 2 (2) of Council Decision No 75/250/EEC <sup>(1)</sup> of 21 April 1975 on the definition and conversion of the European unit of account used for expressing the amounts of aid mentioned in Article 42 of the ACP-EEC Lomé convention

The European unit of account on 6 November 1975:

Bfrs/Lfrs	46·0483	FS	3·13344
DM	3·05254	Peseta	70·1421
Fl	3·13405	Skr	5·18095
Pound sterling	0·574885	Nkr	6·52705
Dkr	7·13519	Canadian dollar	1·20624
FF	5·20496	Escudo	31·4323
Lit	802·565	Austrian schilling	21·5936
Irish pound	0·574527	Markka	4·55473
US dollar	1·18628	Yen	357·241

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<sup>(1)</sup> OJ No L 104, 24. 4. 1975, p. 35.

## II

(Preparatory Acts)

## ECONOMIC AND SOCIAL COMMITTEE

**Opinion on the proposal for a Council Directive on the approximation of the laws of the Member States relating to headlights for motor vehicles emitting an asymmetrical passing beam or a driving beam or both, and to incandescent electric lamps for such headlights**

The text referred to the Committee was published in the *Official Journal of the European Communities* No C 134 of 16 June 1975, page 1.

### A. LEGAL BASIS FOR THE OPINION

On 14 January 1975, the Council referred the abovementioned proposal to the Economic and Social Committee under Article 100 of the Treaty establishing the European Economic Community.

### B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee drew up its Opinion at its 129th plenary session, held in Brussels on 23 and 24 April 1975.

The Opinion is published below:

#### THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to the referral on 16 January 1975 by the Council of the European Communities of the proposal for a Council Directive on the approximation of the laws of the Member States relating to headlights for motor vehicles emitting an asymmetrical passing beam or a driving beam or both, and to incandescent electric lamps for such headlights;

Having regard to Article 100 of the Treaty establishing the European Economic Community;

Having regard to the decision taken by its Bureau on 28 January 1975 instructing the Section for Industry, Commerce, Crafts and Services to draw up an Opinion and a report on the matter;

Having regard to the Opinion adopted by the Section for Industry, Commerce, Crafts and Services at its meeting on 2 April 1975;

Having regard to the oral report made by the Rapporteur, Mr Marvier;

Having regard to the discussions at its meeting on 24 April 1975 (129th plenary session of 23 and 24 April 1975),

#### HAS ADOPTED THE FOLLOWING OPINION

by a unanimous vote:

The Committee approves the proposal, subject to the following comments.

1. The Committee welcomes the fact that the proposal for a Directive takes into account existing international requirements, in particular those of the United Nations Economic Commission for Europe; this will facilitate trade beyond the borders of the Community.

2. As regards the provisions of Article 5 of the proposal, the Committee asks the Commission to specify as from what number of headlights the Member State which has granted the type approval is to take the necessary measures, if it finds that the headlights offered for sale do not conform to the approved type.

3. The Committee would also draw attention to the standpoint which it has already adopted in connection with other proposals for Directives on the question of the communication to the Commission of all draft provisions which the Member States intend to adopt in the field covered by the Directive (Article 11 of the present proposal); in the Committee's view the Member States should be obliged to provide such information.

4. Finally, the Committee wonders whether the provisions of Article 9 (the field of application of the Directive) ought not logically to come at the beginning of the proposal.

Done at Brussels, 24 April 1975.

*The Chairman  
of the Economic and Social Committee*

Henri CANONGE

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**Opinion on the proposal for a Council Directive on the approximation of the laws of the Member States relating to side lights, rear lights and stop lights for motor vehicles and their trailers**

The text referred to the Committee was published in the *Official Journal of the European Communities* No C 82 of 14 April 1975, page 1.

**A. LEGAL BASIS FOR THE OPINION**

On 20 January 1975, the Council referred the abovementioned proposal to the Economic and Social Committee under Article 100 of the Treaty establishing the European Economic Community.

**B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE**

The Economic and Social Committee drew up its Opinion at its 129th plenary session, held in Brussels on 23 and 24 April 1975.

The Opinion is published below:

**THE ECONOMIC AND SOCIAL COMMITTEE,**

Having regard to the referral on 20 January 1975 by the Council of the European Communities, of the proposal for a Council Directive on the approximation of the laws of the Member States relating to side lights, rear lights and stop lights for motor vehicles and their trailers;

Having regard to Article 100 of the Treaty establishing the European Economic Community;

Having regard to the decision taken by its Bureau on 28 January 1975, instructing the Section for Industry, Commerce, Crafts and Services to draw up an Opinion and a report on the matter;

Having regard to the Opinion adopted by the Section for Industry, Commerce, Crafts and Services at its meeting on 2 April 1975;

Having regard to the report submitted by the Rapporteur, Mr Masprone;

Having regard to the discussions at its meeting on 24 April 1975 (129th plenary session of 23 and 24 April 1975),

Done at Brussels, 24 April 1975.

HAS ADOPTED THE FOLLOWING OPINION

by a unanimous vote:

1. The Committee approves the proposal.

1.1. The Committee trusts, however, that the Commission will look into the problem of the lateral visibility of motor vehicles, and, if need be, submit appropriate draft Directives at the earliest possible opportunity.

*The Chairman  
of the Economic and Social Committee*

Henri CANONGE

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**Opinion on the communication of the Commission to the Council concerning a  
Community policy on data processing**

The Opinion of the Committee does not relate to any particular text published in the *Official Journal of the European Communities*.

**A. LEGAL BASIS FOR THE OPINION**

At its 122nd plenary session held on 18 July 1974 the Committee, acting on a proposal from its Bureau, decided to deliver an Opinion on the abovementioned subject on its own initiative.

**B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE**

The Economic and Social Committee drew up its Opinion at its 129th plenary session, held in Brussels on 23 and 24 April 1975.

The Opinion is published below:

**THE ECONOMIC AND SOCIAL COMMITTEE,**

Having regard to Article 20 (4) of its rules of procedure;

Having regard to the decision of the plenary assembly on 18 July 1974, following a proposal of its Bureau, to deliver on its own initiative an Opinion on the Communication of the Commission to the Council concerning a Community policy on data processing;

Having regard to the decision taken by its Bureau on 16 July 1974, instructing the Section for Industry, Commerce, Crafts and Services, to draw up an Opinion and a report on the matter;

Having regard to the Opinion adopted by the Section for Industry, Commerce, Crafts and Services at its meeting on 2 April 1975;

Having regard to the report submitted by the Rapporteur, Mr de Ferranti;

Having regard to the discussions at its meeting on 24 April 1975 (129th plenary session of 23 and 24 April 1975);

Whereas the Commission has produced an analysis of the current data-processing position in Europe and initial proposals for strengthening the industry and promoting the effective use of computers;

Whereas the Council resolution of 15 July 1974 <sup>(1)</sup> endorsed these proposals;

Whereas the present situation of the computer market reveals the dominant position of one supplier of large- and medium-scale general purpose (mainframe) computer systems but a higher degree of competition in the other segments of the data-processing industry;

Whereas the marketing strategy of the largest mainframe manufacturer is based on the provision of a total system capability to the computer user which may not, in the long term, be in the users' interest;

Whereas the shape of the industry is changing due to various developments which include: the rapidly declining cost of semi-conductor based hardware (for example, low cost mini-computers); the growing importance of distributed systems; and various developments in the mainframe computer industry,

#### HAS ADOPTED THE FOLLOWING OPINION

unanimously, less 6 abstentions:

The Committee approves the Commission's communication with the following comments.

1. The Committee is anxious to ensure that the European policy on data processing should contribute to the economic and social development of the Community.

1.1. This can be achieved by strengthening the international competitiveness of the European data-processing industry and by protecting the best interest of users, particularly in providing a wide and more effective choice.

1.2. The Committee is aware of the need to promote the more widespread and effective use of computers and to establish competent computer users, for example, those tackling advanced applications. This is one area where public procurement policy should be used to wider purpose than that proposed in the Commission's document.

1.3. The Committee underlines the successful efforts of many companies in areas such as peripherals, terminals, mini-computers and electronic components. Though the market for many of these areas, including that part secured by large companies in some Member States, is dependent upon the mainframe computer market, it is only partly controlled and not dominated by any one company. Thus, companies, including parts of the European data-processing industry, have been able to attack these specialized market segments and establish competence so that they can play their part in competing on an international scale.

1.4. Noting the current situation in the mainframe computer industry, e.g. the effective limits on competition, the progress made in providing for compatibility, the limited steps taken to unbundle software, the growing importance of data communication based systems and the various actions in the United States against the one dominant manufacturer, the Committee urges a European policy promoting a restructured and competitive European industry while avoiding harmful effects on employment opportunities and the general public and respecting individual privacy. This policy should be established before it is too late to grasp the opportunities which the changing shape of the industry is opening up.

2. For these reasons, the Committee proposes the following strategy for data processing to complement the Commission's proposals:

2.1. The Community should encourage and, where necessary, support mainframe manufacturers in their efforts to achieve minimum viable size, having regard to the following guidelines.

2.2. The policy should be oriented towards companies which can be expected to become competitive and technically competent without support in a reasonable period.

<sup>(1)</sup> OJ No C 86, 20. 7. 1974, p. 1.

2.3. While the Committee does not believe that merger is of itself the only way of achieving minimum viable size unless it is agreed by all concerned to make technical and commercial sense, the lack of a legal framework at European level which could facilitate any desired concentration between manufacturers of different Member States is deplored. In this connection the Committee would once more call for the speedy introduction of a statute for the European company. Such a European legal structure will be eminently suitable for developing further concentration — if this is necessary — into the right channels.

2.4. This policy in the field of mainframe manufacturers should be complemented by steps to promote cooperation in other industry segments, as indicated below, where the opportunities are greater and European companies better placed to grasp them. This will provide more effective competition on an international scale and offer computer-users a wider choice. The desired cooperation should also involve the mainframe manufacturers so as to reduce the total investment required to compete internationally.

3. Thus the Committee recommends the promotion of companies in the other data-processing fields so that they can play their full part in competing internationally. These include communications and other specialized system suppliers, terminal, peripheral and mini-computer manufacturers, the semi-conductor industry and various service companies such as bureaux and systems, software and consultancy houses. Many of these will contribute to *data communication based systems* which are growing in importance and will dominate the market in the 1980's. These might be employed for connecting many terminals or sub-systems to a large central computer or to interconnect distributed but related user systems with processing input/output and file storage capacity based at many places nearer to the user environment. Larger data networks will also be developed to interconnect many dissimilar systems, perhaps using packet switching technology.

4. The Community should ensure that all suppliers follow new marketing practices, based on unbundling, which support the above strategy and open the computer market to a wide range of companies. Promotion of these practices can be effected by studying which of them can and should be followed or discouraged, discussing these with a wide range of interested parties and publishing the

conclusions and recommendations. Encouragement and enforcement, where necessary and sensible, should be effected via agreed and preferred standards (e.g. for interfaces and programming languages), by adopting other EEC measures such as those devised under Article 100 to remove technical barriers to trade and under Article 86 to avoid dominant positions and by well-conceived government procurement policies in order to work towards free access to public purchasing within the Community.

5. These steps will need to be taken in a gradual and coordinated manner and be designed to protect particular manufacturer and user interests as follows:

5.1. The mainframe manufacturers make a large investment in research and development associated with the design of a wide and, as far as possible, complete range of hardware, software and related services. If other companies need to exploit this investment in order to offer alternative products or services and thereby reduce the legitimate share of the market which the investment was designed to secure, then it is right that they should contribute a fair proportion of the cost.

5.2. Similarly, computer users should not be faced with additional charges applied retrospectively (perhaps as a result of further unbundling) and will need time to adapt to the opportunities offered by new marketing practices, particularly if multi-vendor systems are to be installed or main contractors employed other than the mainframe suppliers who traditionally offer a total system capability to users.

6. The Community should, as already mentioned in 1.2, pursue ways of promoting more effective use of computers such as those proposed by the Commission.

6.1. Thus it should encourage the provision of education and training on a national scale by independent bodies aimed at establishing a large market base of competent users able to exploit computers fully and to take advantage of the more open policies now emerging. Management education deserves special emphasis in this connection.



6.2. In particular, the Community should support pioneering applications of an advanced nature, especially in its own areas of interest such as customs administration. It should also investigate ways of interchanging user experience and of promoting the exploitation of computers in important application areas by national centres of systems and application excellence, and coordination of these at a Community level.

6.3. In this context, the Committee underlines the importance of the Council Decision of 18 March 1975 adopting a first three-year plan of action in the field of information and documentation in science and technology (based on the Commission's proposal<sup>(1)</sup>), provided that the data-processing industry of the Community would be largely responsible for its implementation.

7. The Committee would stress that whenever the Community grants financial aid the use of these funds must be subject to public scrutiny in the light of the Community's policy on data processing.

7.1. In this connection, the Commission should come to an agreement with the economic interests and social groups involved and, more especially, with the Economic and Social Committee, on all aspects of

the policy (objectives, funding, conditions for aid, etc.).

8. An effective policy for data processing requires an analysis of the current employment situation in the industry and of changes and future developments in that situation.

8.1. It is therefore necessary to survey the employment structure, working conditions and initial and further staff training in the different sectors of the computer and allied industries. The survey should take in both the production and application side.

8.2. These investigations will then serve as a basis for assessing the likely impact of the European data-processing policy on future employment opportunities in the industry, and developing a prudent manpower policy and appropriate programmes.

9. In addition, special investigations are needed into the past and future impact of computers on the performance of the economy and on workers, jobs and work organization in industry and administration.

10. A policy must be established which guarantees individual privacy to an agreed level and a European policy for data processing must encompass and support this in particular by preventing misuse.

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(<sup>1</sup>) OJ No C 126, 17. 10. 1974.

Done at Brussels, 24 April 1975.

*The Chairman  
of the Economic and Social Committee*

Henri CANONGE

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Opinion on the

- proposal for a Council Directive amending Directives No 64/432/EEC, No 64/433/EEC, No 71/118/EEC, No 72/461/EEC and No 72/462/EEC as regards the procedures of the Standing Veterinary Committee
- proposal for a Council Decision amending Decision No 73/88/EEC as regards the procedures of the Standing Veterinary Committee

The text referred to the Committee was published in the *Official Journal of the European Communities* No C 97 of 30 April 1975, page 2.

A. LEGAL BASIS FOR THE OPINION

On 7 March 1975, the Council referred the abovementioned proposals to the Economic and Social Committee under Articles 47 and 198 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee drew up its Opinion at its 129th plenary session, held in Brussels on 23 and 24 April 1975.

The Opinion is published below:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to the referral on 17 March 1975 by the Council of the European Communities;

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 47 and 198 thereof;

Having regard to the decision taken by its Bureau on 18 March 1975, instructing the Section for Agriculture to prepare the Committee's work on the matter;

Having regard to its previous work in this field and in particular its Opinions of 26 January 1967 and 19 December 1974;

Having regard to the oral report made by the Rapporteur, Mr Wick;

Having regard to the Opinion adopted by the Section for Agriculture at its meeting on 23 April 1975;

Having regard to the discussions at its meeting on 24 April 1975 (129th plenary session of 23 and 24 April 1975),

Done at Brussels, 24 April 1975.

HAS ADOPTED THE FOLLOWING OPINION

by a majority, there being 3 votes against and 4 abstentions:

The Economic and Social Committee has the following comments to make on the two proposals:

1. It approves without reservation the amendments proposed by the Commission.

It welcomes, in particular, the fact that, following the requests which it has made on several occasions, and most recently in its Opinion of 19 December 1974 <sup>(1)</sup>, the Commission has taken heed of the experience which has been acquired and is now presenting proposals which will make permanent the present provisional procedures of the Veterinary Committee.

2. The Committee stresses once more the need to provide for consultation of itself and of the socio-economic interest groups directly involved with respect to decisions to be taken in the veterinary sector.

<sup>(1)</sup> OJ No C 47, 27. 2. 1975.

*The Chairman  
of the Economic and Social Committee*

Henri CANONGE

### Opinion on education in the European Community

The document which served as a basis for the Opinion was published in the *Official Journal of the European Communities* No C 58 of 18 May 1974, page 20.

#### A. LEGAL BASIS FOR THE OPINION

At its 121st plenary session held on 26 and 27 June 1974 the Committee, acting on a proposal from its Bureau, decided to deliver an Opinion on the abovementioned subject on its own initiative.

#### B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee drew up its Opinion at its 129th plenary session, held in Brussels on 23 and 24 April 1975.

The Opinion is published below:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to Article 20 (4) of its rules of procedure;

Having regard to the decision of the plenary assembly on 26 June 1974, following a proposal from the Bureau, to deliver on its own initiative an Opinion on Education in the European Community;

Having regard to the decision taken by the Committee Bureau on 28 May 1974, instructing the Section for Social Questions to draw up an Opinion and a report on the matter;

Having regard to the Opinion delivered by the Section for Social Questions at its meeting on 10 April 1975, and the oral report by the Rapporteur, Mr Sloman;

Having regard to the discussions at its 129th plenary session on 23 and 24 April 1975, sitting of 24 April;

Whereas education is essential for the full and healthy development of the human personality and for the improvement of society;

Whereas Article 26 of the universal declaration of human rights begins 'everyone has the right to education';

Whereas educational methods and attitudes towards education must change to keep pace with the rapidly changing needs of modern society;

Whereas all interested parties — the teachers, the taught and representatives of society at large — must be involved in the formulation of educational policies;

Whereas the future well-being of the Community — its standard of living and its quality of life — is dependent upon a proper concept of education and upon imaginative and effective educational policies;

Whereas the future well-being of the Community — its standard of living and its quality of life — is dependent upon a proper concept of education and upon imaginative and effective educational policies;

Whereas in view of the need for urgent action the Community should concentrate on proposals in the educational field which are specific and practical,

HAS ADOPTED THE FOLLOWING OPINION

with unanimity and 3 abstentions:

#### 1. Introduction

1.1. In March 1974, the Commission submitted to the Council a draft Council resolution<sup>(1)</sup> on guidelines for the mutual recognition of diplomas,

<sup>(1)</sup> OJ No C 58, 18. 5. 1974.

certificates and other evidence of formal qualifications. The Council agreed to consult the Economic and Social Committee on the draft resolution and, in inviting the Committee's Opinion, it made available the Commission document 'Education in the European Community'. Exercising its right of initiative, the Economic and Social Committee decided that, in addition to issuing an Opinion on the draft Council resolution, it would prepare also an Opinion on education in the European Community, with particular reference to the proposals in the Commission document.

1.2. Education is central to the full and healthy development of the Community. Some of the Articles of the Treaty of Rome have explicit educational implications: Article 57, for example, by which, to enable professional people to practise throughout the Community, the Council is required to issue directives for the mutual recognition of qualifications; and Article 118 which requires provision for basic and advanced vocational training. But, more important, it is increasingly recognized that the economic and social objectives of the Community can be attained only if economic and social policies are accompanied by appropriate educational policies, policies which will help assure not only the economic strength of the Member States but also a richer and fuller life for every one of their citizens. The future well-being of the Community — its standard of living and its quality of life — is dependent upon an imaginative and effective educational policy. For this reason consideration has been given over the past three or four years to the possibilities for Community action in the field of education.

1.3. On 26 July 1971, in adopting general guidelines for the Community programme of vocational training, the Council stated that 'the objective should be to provide the population as a whole with the opportunities for general and vocational education, further education and life-long education which would adequately allow individuals to develop their personality and follow a skilled occupation in an economy of which the needs are constantly changing'. On 16 November 1971, the Ministers of Education of the Member States of the Community, meeting for the very first time, agreed on the need for cooperation in the field of education and set up a working party of senior officials to examine ways in which this cooperation might be achieved. The working party completed its report in November 1972. In July 1972 the Commission invited Professor Henri Janne to make suggestions on a policy for education in the Community after

consulting widely with educational authorities in the Member States. Professor Janne presented his report in February 1973.

1.4. In January 1973, the Commission established a new Directorate XII with responsibility for research, science and education. On 11 March 1974, the Commission presented to the Council its proposals for action in the field of education in its communication 'Education in the European Community'. In this communication the Commission outlined the programme of educational cooperation in three broad areas: (i) mobility, in particular for students, for teaching and research staff and for education and youth administrators; (ii) the education of children of migrant workers; (iii) a European dimension in education, in particular the learning of foreign languages, the study of Europe, collaboration between institutions of higher education and European schools. The Commission proposed the establishment of a European Committee for Educational Cooperation which would advise the Commission on the elaboration and development of a programme of action in the field of education. The Committee would be composed of three members from each Member State and three alternates, and appointed by the Council on the nomination of the Member States.

1.5. On 6 June 1974, the Ministers of Education, meeting within the Council, resolved to initiate a programme of cooperation in the field of education and identified seven areas of 'interest': (1) better facilities for the education and training of nationals and the children of nationals of other Member States of the Community and of non-member countries; (2) promotion of closer relations between educational systems in Europe; (3) compilation of up-to-date information and statistics on education; (4) increased cooperation between institutions of higher education; (5) improved possibilities for academic recognition of diplomas and periods of study; (6) encouragement of the freedom of movement and mobility of teachers, students and research workers, in particular by the removal of administrative and social obstacles to the free movement of such persons by the improved teaching of foreign languages; (7) achievement of equal opportunity for free access to all forms of education. In order to foster action in these areas, the Ministers agreed that an education committee should be set up, but, in contrast to the proposals of the Commission, it was agreed that the Committee should be composed of representatives of the Member States and of the Commission and that it should report to the Education Ministers before 30 June 1975.

1.6. The Economic and Social Committee was consulted by the Council in 1973 on the European Centre for Vocational Training, and in 1974 on the guidelines for the mutual recognition of qualifications. In 1973, it submitted to the Council a study prepared by Mrs Weber on vocational training in the Member States. The present Opinion is limited to those areas referred to by the Commission in its communication to the Council of 11 March 1974 and to the so-called priority spheres of action identified by the Ministers of Education on 6 June 1974. But the Committee attaches paramount importance to the subject of education and intends, through its Section for Social Questions to maintain a close and continuing interest in the subject.

## 2. The education of migrants and their families

2.1. Article 48 of the Treaty provides for the freedom of movement of workers, in particular the abolition of discrimination based on nationality between workers of the Member States as regards employment remuneration and other conditions of work and employment. Regulation (EEC) No 1613/68 lays down the terms of this freedom of movement. A worker, for example, 'shall, by virtue of the same right, and under the same conditions as national workers, have access to training and vocational schools and retraining centres', and 'children of a national of a Member State who is, or has been, employed in the territory of another Member State, shall be admitted to that State's general educational, apprenticeship and vocational training courses under the same conditions as the national of that State if such children are residing in its territory'. The Economic and Social Committee notes that, although Regulation (EEC) No 1613/68 is by right applicable only to nationals of Member States, the Social Action Programme is intended for all migrant workers. The Committee acknowledges the special responsibility of the Community to provide for the needs of migrants and their families from other Member States, but it particularly welcomes the concern of the Commission and of the Council of Ministers for all migrant workers whether nationals of Member States or not.

2.2. The Economic and Social Committee will shortly be delivering an Opinion on the action programme in respect of migrant workers and their families and its present comments are limited to educational matters. There is first the problem of the

migrant workers themselves, women as well as men, the great majority of whom are unskilled. They therefore need not only instruction in the language of the host country but also vocational training. Provision should be made for migrants to follow special introductory courses before they leave their own country, with a view to assisting their integration into their new linguistic and working environment. In the host country, day-release schemes are necessary to enable them to combine with their work language instruction as well as vocational training. There is the problem of the children of migrants whose educational programme should enable them to adapt to the language and culture of their host country, and, at the same time, to maintain their native culture and language. They should be so educated, that is that they have the option either to settle into the new environment of their parents or to return to their own country with appropriate recognition of the education they have received. There is the problem finally of educating, in the broadest sense, the families of migrants and fitting them into a new social environment. The Committee draws attention, in particular, to the wives of migrant workers. They face not only problems of language but the serious psychological problems which are likely to arise because their family life and their social life have inevitably been disrupted, and very special problems if they come from countries where women have not enjoyed full and equal rights with men. The difficulties of settling into a new country are, perhaps, most acute for wives, yet little or no educational provision is made for them. It is essential that adequate finance is available to cover the cost of the special educational provision necessary for migrants and their families. As a result of the Decision of the Council of Ministers of June 1974 the European Social Fund will be used and the Committee is concerned that the existence of this Fund should be given adequate publicity.

2.3. The Committee recognizes the size of this problem. It has been estimated, for example, that in 1973 there were in the Community more than six million migrant workers and a total migrant population exceeding 10 million, and nearly two million children of migrants between the ages of 4 and 18. It also recognizes the complexity of the problem. There is the problem, for example, of finding the teachers for migrant children, recruiting them from the migrant's country of origin or from amongst the migrants themselves, the problem also of ensuring that the special provision for migrant children does not adversely affect the progress of indigenous children. The Committee therefore proposes an urgent and practical programme of research and of pilot schemes to include such matters as the practical

difficulties of a bilingual and bicultural curriculum, the recruitment and training of specialist teachers and the availability of grants and other forms of help.

### 3. Mobility in education

3.1. The movement of teachers and students between countries is customarily encouraged on two grounds. First, it is an effective way of enlarging the vision and broadening the experience of those who move. Second, personal experience abroad allows the acquisition of particular skills, both by teachers and students notably in foreign languages. But greater and freer movement of teachers and students between the Member States of the Community is not just desirable. It is essential. It is central to the whole idea of the Community that its people should more and more come to see themselves as Europeans, less as nationals of the Member States than as citizens of the Community. National preferences and prejudices will be eradicated only if there is far greater movement between the Member States, far greater understanding of each other's customs and cultures. Hence the provisions of Article 48 of the Treaty of Rome relating to the freedom of movement and to the abolition of any discrimination on the basis of nationality. And, although the Article specifically excludes those employed in the public services, and therefore the teachers of many Member States, other Articles refer in general terms to the removal of obstacles to freedom of movement for all persons.

3.2. For both staff and students the opportunities for movement are greatest in higher education, particularly in universities. For teaching and research staff this is because of greater availability of funds and the arrangements which institutions of higher education make for study-leave, leave of absence and secondment. For students it is at this level that movement is easiest between the educational systems of member countries. There is in particular the provision for students of modern languages to spend a year abroad as assistants in schools or institutions of higher education. The Committee would wish to encourage far greater movement in education and not just for foreign language students. But a very special effort is needed to encourage mobility at the secondary level provided always that the teaching programmes have been carefully prepared, for it is at this stage in their education that the impact of experience abroad on students is greatest. The Committee calls attention to

the value of mobility of students following courses in vocational training in countries other than their own, with the insight such courses can provide into the different practices of Member States and their different methods of training, and it particularly stresses the value of exchanges of young workers. The joint programmes for such exchanges as envisaged under Article 50 should be greatly extended with provision for accommodation for the families of workers and for youth organizations, making the maximum use of existing educational facilities which for long periods in the year are under-utilized.

3.3. Two of the barriers to mobility — the absence of academic recognition of qualifications and the lack of competence in foreign languages — are so formidable that they are treated under separate headings. But they are not the only barriers. There are still legal barriers, particularly for the long-term appointment of foreign staff, as well as for the award of grants for students. There are administrative barriers, particularly where universities and other institutions of higher education with selective admission stipulate additionally a quota for foreign students. And, inevitably there are financial barriers, the additional cost not only of travel to and from another country but of housing and maintenance. Unless public funds are available to meet these costs, movement will clearly be impossible for all but a tiny minority with private means. The Committee recognizes also that at least in some Member States there is on all levels of education a general reluctance to move abroad, even for short periods. It will not be enough in these States simply to remove barriers. Positive incentives will be needed to stimulate and encourage movement, even to reward it.

3.4. Recent studies on mobility in education are legion. There can be no major international body which is not engaged on the study of some aspect of mobility or arranging conferences about it, but the practical results so far are singularly disappointing. The most recent UNESCO figures would seem to indicate, for example, that of all the Community students in higher education only one student in 200 is following a degree course in another Member State. It is the Committee's view that the lack of mobility in education between the Member States is a serious matter which calls for urgent action. The

barriers to mobility within the Community should be identified and specific proposals for their removal made to the Council of Ministers.

#### 4. The learning of foreign languages

4.1. The diversity of language and of cultural traditions of the Member States must be recognized and maintained. Greater communication between the Member States, both by the written and the spoken word — which is fundamental to the building of the Community — must therefore depend in large measure upon the acquisition by their citizens of at least one foreign language. The Committee endorses the objective of the Commission that as many people as possible should be able to communicate in a language of a Member State other than their own, and to comprehend a second language, although great care must be taken not to jeopardize the survival of officially recognized languages within a Member State. If this objective is to be attained, opportunities need to be provided in every Member State for every person to learn one or more foreign languages either as part of a formal educational programme or by other means. The Committee calls attention to the importance of providing in all the major centres of the Community short and intensive courses for adults as well as collections of the latest learning materials, the importance also of broadcast instruction with access to such large numbers of people.

4.2. The Committee recognizes, on the one hand, the important changes which have taken place in recent years in the methods of language teaching and, on the other, the appallingly antiquated methods which are still employed in a large number of schools. It notes the valuable work which has been done by the Council of Europe to review and document changes in language learning, and its designation of CILT (Centre for Information on Language Teaching) in London as a centre for the coordination of information. It believes that a comprehensive survey should be made of the new methods of language teaching at all levels and in all their forms, and of the effectiveness of these methods, and that the results of this survey should be brought to the urgent attention of all educational establishments in the Member States. The Committee also draws attention to the importance of the retraining of language teachers. It believes that all

existing in-service courses should be given the maximum publicity, that Member States should be required to make provision for teachers to be relieved temporarily of their duties in schools to follow such courses, and that the Community itself should encourage, by means of initial grants, the establishment of new courses for teachers from other Member States.

4.3. The Committee proposes that a small group of language experts from the Member States should be invited to make a survey of recent advances in language teaching, to identify gaps in the present language provision, with special reference to the need to retrain teachers in new methods, and to look into the implications of a compulsory language requirement for access at every level of education.

#### 5. Mutual recognition of qualifications and periods of study

5.1. Article 57 of the Treaty of Rome requires the Council to issue directives for the mutual recognition of qualifications in order to make it easier for persons to take up and pursue activities as self-employed persons. But this 'professional' recognition of qualifications, concerned with the conditions and standards of training to allow the exercise of a profession, must be distinguished from the 'academic' recognition of qualifications, concerned with the equivalence of certificates and diplomas and degrees to allow the continuation of studies. There is also the problem of recognizing periods of study abroad which have led to no qualification. The lack of mutual recognition for academic purposes is a major obstacle to the mobility of students at every stage of the educational process. It is also a serious matter for those students who, moving with their families away from or back to their own countries, find that their qualifications and periods of study are not recognized.

5.2. The question is not an easy one, in part because of the different educational systems and practices of Member States. The governments of some States, for example, have drawn up a number of bilateral agreements on equivalence. In other Member States individual institutions are themselves solely responsible for the admission of students and

their governments have no power to make agreements on mutual recognition. Both students who are seeking admission to the institutions of other Member States and those persons within these institutions responsible for admissions clearly need far more information. The Committee welcomes the undertaking of the Commission to update existing bilateral and multilateral agreements and conventions. It also recognizes the important work done in this area by other international organizations, in particular the Council of Europe and its Committee for Higher Education and Research. The Committee should encourage its work and ensure that its own work does not duplicate it.

5.3. There is also the problem of the criteria which should be used to establish the equivalence of qualifications. There should certainly be no attempt to impose on the institutions of Member States a common curriculum. With the increasing pace of change in society, curricula themselves must also be changing. The need is for greater diversity in the length of courses, in the content of courses, in the blend of practical and theoretical work, in teaching methods — and for greater flexibility. There is no single curriculum which can meet the needs of every student. Equivalence will have to be based, not on common curricula, but on common standards within broad areas of study. But equivalence of standard will not be achieved until there is far greater interchange between the Member States both of ideas and of people. Progress can be made in two directions. First, there can be encouragement of bilateral agreements of the kind made in certain fields by, for example, Germany and France and by Germany and Italy, where courses are individually evaluated taking account not only of the content of the courses but of entry standards, staff/student ratios, technical and secretarial assistance, availability of equipment. Second, far more information should be made available about courses in Member States, information which is indispensable for institutions like those of the United Kingdom, which are themselves solely responsible for admissions and which judge individual applicants on the merits of their case.

5.4. The Committee recognizes the very special difficulties that arise because of the different educational systems. But it also stresses the importance of removing what is, in many Member States, a formidable barrier to mobility. It therefore supports the proposal of the Commission that a conference should be held for representatives of

secondary and tertiary education and of departments of education to look into particular problems of academic recognition within the Community and to discuss specific solutions to these problems.

## 6. Cooperation between educational systems and between institutions

6.1. Cooperation between the educational systems of Member States must take account of the diversity of these systems. It should be directed, in the first instance, to the adequacy of the different systems to cope with some of the central educational problems common to all Member States.

6.2. There is first the capacity of existing educational systems to provide the skilled manpower necessary for the economic prosperity of the Community and its Member States. These systems will have constantly to change their educational programmes to keep pace with the changing needs of modern society. There is a need not just for the further extension of full-time initial education, but also for more part-time education and for continuing education, with increasing emphasis on special courses for particular groups, on remedial work for those who received inadequate education when they were young, and on vocational training and retraining relevant to employment needs, increasing emphasis also on new methods of learning, such as those of the so-called open universities with far more imaginative use of correspondence courses and of radio and TV. There is a need also for adequate provision in all Member States for secondment and day-release so that people at work can take time off to follow part-time or full-time professional, vocational and general courses. The Committee recognizes the important developments that are taking place in many Member States through the law and through collective agreements in the whole field of continuing or life-long education and the special need for a greater exchange of information and experience.

6.3. But better educational provision is not only necessary to ensure the scientific and technological basis for economic progress; it is even more necessary to improve the quality of life by means of trained and critical minds which are concerned with the nature of society and the values on which it is based, and to



advance social justice by meeting the very special needs of those who are disadvantaged and discriminated against. There is, for example, the striking and continuing discrimination in many fields of education against women, and priorities will need to be quite radically revised if they are to receive fair and equal treatment with men. If there is to be progress towards genuine equality of educational opportunity, it will not be enough to remove financial obstacles. Major and sustained efforts will be necessary in the form of positive discrimination towards particular groups — lower-income groups, minority racial groups, the handicapped, women — and towards particular areas: remote rural and mountain areas, for example — and educational policies will need to be coordinated with other governmental policies. These are problems which are common to all the Member States, problems also of direct and deep concern to the man in the street. And, because to solve them, new ground will have to be broken in all the Member States they are particularly appropriate for Community action. It will be a test of the political will of the Community that it does something effective about these problems.

6.4. Educational standards in each of the States can be improved through a more systematic exchange of ideas and through the greater mobility of students and teachers and administrators. More can be learnt about each other's educational systems, in particular about experimentation and innovation within these systems. There should be regular consultation between the Member States on all aspects of educational planning and method, so as to ensure that they take into account the policies of other Member States in the formulation of their own policies. Future changes in national educational systems should make cooperation between the systems easier, not more difficult.

6.5. Institutional cooperation is most effective when it takes place between individual institutes or departments, when it has the support of not just rectors but of everyone involved, teachers and taught, and when it is based on common interests and particular needs. There has been far too little contact between European institutions of higher education. All too often in the past, the leading European scholars in a particular field of study have come to know each other, not in their own countries but in the universities of the United States. Particular attention should therefore be paid to such pioneering projects as the European Consortium for Political

Research, which brings together more than 60 European institutes or departments of political science. The Community can give a boost to such cooperation by providing funds to allow cooperative projects to be planned and launched. Thereafter, if such projects prove themselves, if they are of value to those involved, the institutions will themselves give them support. The Community can also help by providing information about cooperative projects which may in turn stimulate other institutions to follow them. But the Committee wishes to emphasize that cooperation should not be limited to higher education. It should extend to other levels of general and professional education, and is the more urgent and important because so little has hitherto been done at these levels.

#### 7. Documentation and statistics of education

7.1. The Committee believes that educational development and reform in the Member States will gain immeasurably by a wider and more systematic exchange of information. It notes that within the Community's Statistical Office in Luxembourg there is a division for research, science and education statistics and that a working group has been established of education statistics experts from Member States. The Community should, in its view, develop an overall strategy of documentation and statistics. This should include the standardization of statistics in Member States so that they are more readily comparable, the regular up-dating of material and the deployment of documentation so that it is used to the best advantage. Particular effort should be made to document pilot proposals and innovation of all kinds. The Committee suggests that a survey be made of all existing sources of documentation statistics and an assessment of the most urgent and most important needs for further documentation and statistics. It is important also to recognize the different categories of users of educational material — the policy-maker, the researcher, the teacher, the student — and to identify the special needs of these users.

7.2. The Committee is concerned about three additional points. First, advantage should be taken of the expertise and experience that has been acquired in both computerized and non-computerized systems

of documentation to ensure that material is not simply collected but stored in a form in which it can easily be retrieved. Far too often material is collected and subsequently hardly, or never, used. Second, maximum effort should be given to publicizing the existence of documentation and statistics to ensure both that the work of documentation is not done again by other bodies and that it is widely used. Third, the Committee's own work on documentation and statistics should take account of the work of other bodies, national bodies of the Member States and international bodies like the Council of Europe, UNESCO and OECD, so that gaps that exist at present are filled and that, as far as possible, duplication is avoided.

## 8. European institutions

8.1. The Committee hopes that, over the years, all the educational institutions of the Community will become progressively more European: more European in their curricula, with increasing emphasis on the study of the history and culture of Member States and of Europe generally, more European also in the composition of their staff and students. It also hopes that these institutions will accept their responsibility to instruct their students in all matters concerning the Community. But the Committee recognizes the very special contribution which can be made to education within the Community by colleges, institutes, centres and schools which are European or international by foundation.

8.2. The Committee welcomes the signing in April 1972 of the Convention for the European University Institute in Florence, the coming into force of the Convention on 1 February and the accession of the three new Member States on 20 March. It also welcomes the establishment recently in Berlin of the European Centre for the Development of Vocational Training which will, it is hoped, be an effective instrument for stimulating discussion and action in the field of vocational training. It welcomes too, the work done by the College of Europe at Bruges and the European Community Institute for University Studies in Brussels.

8.3. In secondary education, the Committee wishes to draw attention to the six European schools and to other international schools in Europe, notably the

Atlantic College and the proposed Trieste College of United World Colleges. The Committee endorses the Commission's view that the European schools have served as interesting centres of educational experimentation for children of mixed nationalities, more particularly in respect of language learning and the development of a European consciousness. It therefore proposes that the work of these European schools and other international schools in Europe should be supported and access to them broadened by means of fellowships for teachers and scholarships for students. Such schools should be integrated into the local environment, and the local educational system in so far as this is consistent with maintaining their distinctive character, as quickly as possible so as to avoid their being regarded as separate or distinct from the local educational system. The Committee strongly endorses the objective of the European and international schools and believes that the Community should do everything possible to extend the system. For this purpose, account should be taken of the experience of existing European and international schools, in particular in the recruitment of appropriate staff and in the drawing up of curricula. It therefore supports the proposal of the Commission that a special Study Group should be established to look into this possibility. The Study Group should consider the extent to which European schools, established primarily to cater for the children of employees of the Community can be extended to all children, including the children of migrants.

## 9. Conclusions

9.1. The Committee believes that a Community programme in education is indispensable. The economic and social policies of the Community will be effective only if they are accompanied by appropriate educational policies. The Committee interprets the word 'education' in the widest sense. It is concerned, that is, about all forms of educational courses, whether general or vocational, whether part-time or full-time, irrespective of the content or length of these courses or of the stage of life at which they are followed.

9.2. Some educational problems — the mutual recognition of qualifications, for example, or of comparable periods of study — are by their very nature problems which call for common policies or at the very least for the coordination of national policies

which would help avoid solutions which aggravate the problems or which even conflict with each other.

9.3. Other educational problems — for example, institutions adapting themselves to changed circumstances and to changing needs — are essentially problems for action by individual Member States. But many of them, and they include the most intractable, are common to all Member States. A Community programme of investigation and discussion can provide a clearer understanding of such problems, and a Community programme of action — on vocational training, for example, and on refresher courses — can lead to speedier and more effective solutions for such problems. Educational institutions in all the Member States, including the most illustrious, have been notoriously unresponsive to change.

9.4. The Committee attaches particular importance to three such problems. First, education at every level must be open to all social groups. It must be society-wide. Means must be found by which those who are discriminated against and disadvantaged — women, for example, and the lower income groups — can enjoy the same educational facilities as everyone else. The Committee is deeply concerned that educational opportunity continues to be so blatantly and persistently unequal.

9.5. Second, education can no longer be seen as a once-and-for-all affair during adolescence. It must be life-long. A person should be able, at any stage in his life, to gain a training or re-training appropriate to his ability and experience to improve himself and his family. The Committee recognizes that this will require new attitudes not only about methods of education — following, for example, the lead of the Open University — but new attitudes also about secondment to enable people to take time off in order to follow vocational and general courses, and about the special provision necessary for those who, because of the conditions under which they work, cannot follow such courses.

9.6. Third, the very concept of the Community implies a common concern for the history and culture and traditions of all the Member States. Historical research on these cultures and traditions should increasingly be done on a Community basis, and educational institutions at every level should

increasingly include in their teaching a large European and international component to allow a more intimate knowledge of the history of other Member States and a better appreciation of that history within the broader European and international context. In the Committee's view it is a precondition of a sense of solidarity amongst the Member States, and amongst the peoples of Europe.

9.7. The educational systems of Member States are so diverse that it would be impractical to attempt to impose a single system. This would also be highly undesirable. The very diversity is a source of richness and vitality. Yet precisely because of this diversity it is imperative that there is cooperation and in some areas coordinated policies, so as to allow greater educational mobility between the Member States and a better linkage of the diverse educational systems.

9.8. Community programmes in education for cooperation and for coordinating policies in education must take account of the activity of other international organizations so that work is not duplicated. The Committee welcomes in particular the educational programmes of the Council of Europe, of OECD, of UNESCO, and of ILO. But the activities of these organizations cannot absolve the Community from taking all such action which is necessary over the whole field of education to achieve its own objectives. For many educational problems there will need to be a distinctive Community approach. For all of them, one hopes, there will be a distinctive Community effort.

9.9. The subject of cooperation in education, whether European or international, is one on which pronouncements of principle are easily made. There have been endless meetings on cooperation in recent years and a plethora of reports. The practical results have been almost nil. The enumeration of principles, however well-meaning, has little or no effect. The Community should concern itself with action and concentrate on those proposals for action by the Commission, the Education Committee and the Economic and Social Committee which are specific and practical.

9.10. The Committee welcomes the fact that, for the very first time, the Ministers of Education of Member States met in November 1971, and again in June 1974, when it set up an Education Committee to

report before 30 June 1975. But it notes with concern that the Council did not adopt the proposal of the Commission for a Committee for educational cooperation responsible to the Commission. The Committee is strongly of the view that there must be a permanent Education Committee on whose advice Community policy in the field of education can be formulated and, more important, action taken and it

would wish to be consulted on the membership of this committee and on its terms of reference including its relationship with the consultative committee on vocational training. It intends in any case to maintain a close and continuing interest in the whole subject of education which is, in its view, so central and so vital to the well-being of the Community.

Done at Brussels, 24 April 1975.

*The Chairman*  
*of the Economic and Social Committee*  
Henri CANONGE

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**Opinion on the programme of Pilot Schemes and Studies to combat poverty drawn up in accordance with the Council resolution of 21 January 1974 concerning a Social Action Programme**

The text referred to the Committee has not been published in the *Official Journal of the European Communities*.

**A. LEGAL BASIS FOR THE OPINION**

On 23 January 1975, the Council referred the abovementioned programme to the Economic and Social Committee under Article 198 of the Treaty establishing the European Economic Community.

**B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE**

The Economic and Social Committee drew up its Opinion at its 129th plenary session, held in Brussels on 23 and 24 April 1975.

The Opinion is published below:

**THE ECONOMIC AND SOCIAL COMMITTEE,**

Having regard to the referral of 23 January 1975 by the Council of the European Communities of the Programme of pilot schemes and studies to combat poverty, drawn up in accordance with the Council resolution of 21 January 1974, concerning a Social Action Programme;

Having regard to the Treaty establishing the European Economic Community and in particular Article 198 thereof;

Having regard to the decision taken by the Bureau of the Committee on 28 January 1975 instructing the Section for Social Questions to draw up an Opinion on the matter;

Having regard to the Opinion delivered by the Section for Social Questions at its meeting held on 10 April 1975 and the oral report by Mr Carroll, the Rapporteur;

Having regard to the discussions at its 129th plenary session on 23 and 24 April 1975, sitting of 24 April;

Whereas as much importance to vigorous action in the social field as to the achievement of economic and monetary union is stressed in the Social Action Programme submitted by the Commission to the Council on 25 October 1973;

Whereas the Social Action Programme envisages specific action against poverty with the objective of assisting the Member States in their efforts to ensure that the chronically poor are aided and equipped to increase their share in the economic and social well-being of the Community;

Whereas the Economic and Social Committee stressed in its Opinion on the Social Action Programme that the goals of the Social Action Programme should be borne in mind in arriving at Community decisions and stated that top priority should be given to a specific effort to help people with low incomes and those who are particularly poorly off,

HAS ADOPTED THE FOLLOWING OPINION

with unanimity and 5 abstentions:

The Committee approves the proposals for the Programme of pilot schemes and studies to combat poverty drawn up in accordance with the Council resolution of 21 January 1974 concerning a Social Action Programme subject to the following comments:

### 1. General comments

1.1. The Committee wishes to stress that the Council, in its resolution of 21 January 1974, noting the proposals contained in the Social Action Programme, expressed the political will to adopt the measures necessary to achieve a number of specific objectives during an initial stage covering the years 1974 to 1976. Some 24 actions were listed in addition to 10 actions in the social field already being processed by the Institutions of the Communities. These included the following action:

'...to implement, in cooperation with the Member States, specific measures to combat poverty by drawing up pilot schemes'.

1.2. The Committee endorses wholeheartedly the priority status which was accorded to this action against poverty, in a list of nine in respect of which the Commission undertook to submit the necessary proposals during 1974. The Committee wishes to stress that it was providing in the Council resolution, that the actions decided upon should be implemented in accordance with the provisions laid down in the Treaty, including those of Article 235 of the Treaty establishing the European Economic Community. The resolution also contained the statement that 'to achieve the proposed actions successfully, and particularly in view of the structural changes and imbalances in the Community, the necessary resources should be provided...'

### 2. Welcome for Community initiative

2.1. The Committee welcomes the proposed programme as an initiative which represents the first commitment of the Communities to the fight against poverty. While the scale and scope of this first programme are necessarily limited, the fact that the Communities can, in this manner, provide both support and stimulus for national efforts in this area is of very real importance.

2.2. It is in general true that the social policies of the Communities have concentrated on social problems arising in, or connected with, the field of employment. In the Social Action Programme it was stated that 'the purpose of economic growth should be to widen the range of social options available to the people of the Community by bringing about a continuing rise in living standards and the quality of life. Unless the process of growth can be put more fully at the service of society, growth itself may become politically unacceptable'. In this spirit the Committee wishes to stress that there is need for a broadening of the scope of social policy, so as to reflect the whole range of social problems and requirements of the people of the Member States.

2.3. Among the important social problems outside the employment area is the existence within the Member States of poverty on a significant scale. In the Social Action Programme, the Commission pointed out that there is a minority of very poor

persons in the Community, including certain of the elderly, unemployable persons and their families, the socially maladjusted, large families with exceptionally low incomes, small farmers, etc. This is a heterogeneous group, difficult to identify and measure, the parts of which are difficult to define, identify and measure.

2.4. The report of the working party set up by the Commission in 1974 commented on this phenomenon in the following terms:

'The Member States of the Community have, by international standards, a highly-developed structure of social services, social security, education — they are what are generally termed welfare states. Also, in most nations there has been a sustained history of economic growth and high levels of employment over the past 25 years. Yet, in many states poverty is a major concern and poverty persists even in the most fortunate nations'.

2.5. The Committee points out that these considerations give rise to certain key questions, most particularly in relation to the causes of continuing poverty and need among groups and individuals; to the failure of the non-poor to recognize the persistence of poverty and to make the changes necessary to end it and to the apparent fact that attempts made to resolve social problems do not eradicate poverty and may even aggravate it.

2.6. Poverty is defined in the Commission's document as 'a lack of command of resources (including cash incomes, material assets and publicly or privately organized services such as housing or education) so extreme that the individual families or categories of persons concerned are excluded from minimum acceptable ordinary living patterns, customs and activities'. This definition focuses the programme on material deprivation relative to the living patterns of the society under consideration. The Committee accepts the applicability of this wide-ranging definition which focuses attention upon the many facets of poverty in the context of advanced, modern economic systems. It is recognized that a more precise definition may be required in the future and that this may be facilitated by the results of the pilot schemes and pilot studies.

2.7. In the Committee's view the causes of poverty are manifold. It is accepted that a major element is the existence of inequality which arises to a real degree from the structure of society and of the economy. Inequality arises not only as between individuals and groups, but also as between regions within countries and within the larger Community. The national reports of governments and of private organizations, presented at the seminar held in June 1974 pointed to many of the proximate causes of poverty. These included low levels of income (in some cases also low levels of pay); the special problems of the elderly; high dependency ratios in the national population; rural income-levels; large family size; poor physical environment; handicap, etc.

2.8. The Committee feels that particular attention should appropriately be devoted to the situation of marginal groups within society: these include, in particular, the very old, and also, those afflicted by long-term illness, individuals and their families impoverished because of the effects of addiction to drugs or alcohol, of gambling and of criminal behaviour; those who suffer special deprivation because they live in isolation or in impoverished areas; those who are unable to adjust or cope with the stresses of modern industrial society. Their needs are of a special kind requiring a very real expression of solidarity and care at the appropriate levels of society.

2.9. It is the case that the present economic difficulties, with their attendant symptoms of unemployment and inflation, are understandably concentrating attention on policies for the labour market and for economic stability. Nonetheless, it is necessary to recognize the impact of economic recession on the poor and disadvantaged and to accept the need to maintain the impetus of the proposed actions against poverty.

### 3. Long-term aspects of the programme

3.1. The Committee believes that the long-term aspects of the proposed programme must be given special emphasis. The Commission states that the objective of the programme 'is to stimulate schemes to combat poverty in the Member States by selecting a limited number of projects... which can identify the main causes of poverty and indicate effective action for its alleviation'. The Commission further

develops this point when it says that the programme, despite the limitations of its scale and resources, 'can serve to develop clearer perceptions of a complex problem and pioneer new techniques for tackling it, *thus contributing to better informed and more effective policies for the future*'.

3.2. It must be of the essence of any pilot scheme, that the lessons to be drawn from it and the experience gained, can be generalized and furthermore assimilated into the long-term structures of social services and can provide guidelines for future policies at local, national, European and international level.

3.3. The Committee wishes to stress that the achievement of this important objective demands the fullest collaboration with national administrations, involving all relevant government departments. Arrangements should be made with both governmental and non-governmental organizations at local, national and Community level to ensure collection and dissemination of the findings and to promote discussion of their relevance for policy.

3.4. The eventual elimination of poverty will involve long-term structural reform. Such reform will require a wider access to knowledge, and changes in the distribution of resources, in the relative influence of different groups in society and, not least, in the acceptance of social responsibilities. Such changes will be attained only over a long period and the present programme represents a very small beginning. It must, however, be viewed from the outset as a contribution to this process.

#### 4. Action orientation

4.1. The Committee is of the opinion that the programme should have a real and fundamental action orientation. It is felt that the pilot projects should, in general, seek to achieve the following objectives:

- practical intervention in areas of deprivation or among groups in need,
- increased public awareness of the problem of poverty,
- contribution to the evolution of policy.

4.2. With these considerations in mind, the Committee accepts the Commission's definition of a pilot scheme as 'a limited experimental project which tests out certain actions to explore their effectiveness in meeting the needs of persons in poverty'.

4.3. Any successful pilot scheme must have a well-defined research element to permit evaluation of its practical operation and to facilitate the drawing of appropriate conclusions. Innovation in this aspect of action-research should be encouraged in the programme.

4.4. There is room in the overall programme for a limited number of pilot studies or research projects related to the pilot schemes which may be usefully directed towards exploring basic aspects of the causes and extent of poverty.

#### 5. Motive forces of the programme

5.1. The Committee wishes to place on record its views on a number of basic issues which it regards as constituting the motive forces of the programme of pilot schemes. These may not form part of the actual programme and will probably call for attention at the level of national governments and Community decision-making.

5.2. Poverty is not to be considered primarily as a matter of statistical fact but rather as a matter of profound concern for individuals and groups of individuals in society, and as a result of deep-seated social and economic forces. The individual should be placed at the centre of social attention and particular concern should be directed towards those in real need: the old, the isolated, the mentally ill, orphans, the handicapped and other fringe members of society. Children in need have a special call on the resources and commitment of society. All of social policy should seek to help individuals to achieve a maximum degree of self-development and fulfillment.

5.3. It should be recognized that, in considering poverty, social and economic issues are closely intertwined. Policies directed towards the poor and towards areas of deprivation cannot be effective in isolation in the absence of appropriate and equitable policies in areas such as economic development subsidies and fiscal matters. This inter-relationship of

policy is a matter of very real concern and attention should be directed to the rationalization of the activities of government departments and Community institutions dealing with such matters as regional policy, economic strategy, justice, education, culture, housing, social security and all aspects of health.

5.4. The concern of policy in general, and of the proposed programme of pilot schemes, must be met alone with economic poverty, strictly defined, but also with social, cultural and spiritual poverty and with deprivation arising from bad environment, housing deficiencies, etc.

5.5. It is necessary to see beyond the aim of simple economic advance and to see individuals as something more than productive or potentially productive units within the economic system. Policy in this area must be more than a mere ancillary to labour policy.

5.6. Crucial to all policy in the social field is the creation and maintenance of strong and progressive public opinion and awareness. The attitude of the population as a whole to improved, and necessarily more costly, social services and social action provisions will act effectively as constraints which will have to be taken into account by decision-makers. There is in this question a very great challenge to political and social leadership in the Community and at national level.

## 6. Specific comments

### 6.1. *The programme of pilot schemes*

6.1.1. In presenting its programme of pilot schemes, the Commission has stated clearly that this initiative 'cannot itself abolish poverty'. What is being proposed is a limited degree of action, but one which can have valuable effects in the development of perceptions, the improvement of services and the pioneering of new political, social and economic strategies relevant to the alleviation and elimination of hard-core poverty.

6.1.2. The Committee recognizes the limitations of the proposed programme and equally, its potential for the future. It stresses the importance of the Community taking some responsibility in this area

and injecting what may be seen as 'risk capital' which may pay off handsomely in terms of future policy and action.

## 7. Elements of the programme

7.1. The Committee accepts the view of the Commission that there is a need for 'a framework of reference setting out the most appropriate guidelines and criteria for the selection of the schemes which could qualify for its support' and for a systematic approach to the implementation, monitoring and evaluation of the various schemes.

7.2. The Committee has a number of comments to make on specific items dealt with in the Commission's outline of criteria and working regulations.

7.3. The first criterion listed is that the schemes chosen 'shall be of an innovatory nature whose results can be expected to have a significant impact on the evolution of policies...'. The Committee accepts this statement but is of the opinion that reference should be made to the need to achieve some practical results among the individuals and groups concerned.

7.4. This point is closely related to a most important element of the whole programme to which the Commission makes reference. It is considered essential by the Commission that 'all schemes... should involve the active participation of the poverty group itself in the execution of the scheme and as far as possible in its planning'. This aspect of the overall programme must be given priority consideration by the Commission in carrying out the practical planning and implementation of the pilot schemes. The history of intervention projects among poverty groups in the United States and elsewhere indicates the need for such participation on a realistic basis.

7.5. Positive and continuing participation is essential so that the pilot schemes can help the less articulate groups in European society to find a voice in the guidance and development of policies. The fact that the poorer groups in society find great difficulty in articulating their problems has been identified as one of the most significant aspects of the whole question of poverty in modern societies.



7.6. An important aspect of the programme should be to see how existing systems serve the population, looking at the situation from the viewpoint of the people concerned, rather than from above. Of significance in this connection would be the securing of the active support and involvement of the various categories of economic and social activity and also of the many kinds of voluntary and Community-based organizations, so that an overall local Community commitment to the schemes can be assured.

7.7. The classification of schemes suggested by the Commission, whereby there are seen to be four main categories of projects (area based projects; those focused on categories of persons, those related to the creation of specific new services and those concerned with existing services for the population at large) with a number of pilot studies of research, is acceptable to the Committee as realistic and comprehensive. The multi-disciplinary approach suggested, when added to this broad classification, should ensure a balance in objectives and means.

7.8. The Committee accepts the basis of Community financial support as outlined in the Commission proposals. It wishes to stress the importance of the provision for additional financial support in exceptional cases. The types of exceptional case proposed are cross-national projects and projects promoted by 'agencies which had otherwise not yet attracted adequate outside resources'.

7.9. The Committee considers that cross-national projects are of great importance since they will deal with problems found in more than one Member State or potentially common to a number of the States. The comparison of similar projects or the use of different methods to reach the same objective in different countries can result in most valuable insights.

7.10. Support for independent agencies which may lack financial resources should, in appropriate cases, be forthcoming within the framework of this programme of action research. In this way, a welcome degree of originality of approach may be facilitated.

7.11. The Committee places great emphasis on the need for careful and planned evaluation of the working and results of the pilot schemes. It accepts the Commission's proposals for regular progress reports and for publication of the information gained from the various projects. In particular, the Committee regards as most important the

Commission's statement that, through a proper system of evaluation, 'the analysis of the problems of poverty and policy alternatives will, for the first time, be given a European dimension'.

7.12. It is hoped that the Commission will come forward at an early stage with concrete proposals for the creation of a flexible yet representative mechanism for consultation on the operation and evaluation of the pilot schemes. In providing for this necessary element in the system, the Commission should seek to involve fully, not only the representatives of the governments of the Member States, but also the various public and private organizations involved and the social partners.

7.13. Finally, the Committee recognizes that the question of procedures for cooperation with the Member States, especially in respect of the submission and approval of pilot schemes, may give rise to certain difficulties. Having regard to the innovative and exploratory nature of the whole exercise, the Committee is of the opinion that, while the system must give due emphasis to the prerogatives of the Member governments and must be such as to ensure their full support for all schemes undertaken, there should be adequate safeguard for the position of private and voluntary organizations which may wish to promote pilot schemes and to seek the financial assistance of the Community for relevant projects of action research. The involvement of such bodies is crucial to the success of the overall programme.

## 8. Duration of the programme

8.1. The Commission document refers to the duration of the programme in the following terms: 'All the schemes have an anticipated duration of over two years. Community support is envisaged only to the end of 1976, after which alternative finance within the Member States will be necessary'. Reference is made also to the amounts envisaged as adequate to meet the financial needs of the programme in 1975 and 1976.

8.2. The Committee is most concerned at this limitation of the Community's financial commitment to the programme. While it recognizes that the terms of the Council resolution provide for the implementation of pilot schemes during the period 1974 to 1976, it draws attention to the resolution's

reference to this time-period as 'a first stage'. The time needed to produce meaningful results differs from one type of scheme to another. Equally worthwhile results and usable findings are unlikely to emerge from projects which must, because of the likely timing of Community decisions, be limited to little more than one year of activity in the field. Furthermore, it is unlikely that adequate arrangements can be made in respect of personnel and structures for pilot schemes of such limited duration. It should be stressed on the other hand that the very nature of pilot schemes demands that they should not be open-ended exercises, since evaluation, based on results and geared to long-term policy creation, is essential to the whole exercise.

8.3. The Committee calls for a commitment by the Council to review the progress of the programme during 1976, with a view to making adequate financial and other provisions for the continuance of schemes and studies which are determined to be effective and worthwhile. Only in this way can there be proper planning and implementation of schemes which can, for a small cost, produce valuable and long-term results of real significance.

8.4. The Committee fully endorses the view of the Commission that 'it is essential that these schemes should be free to evolve the directions which appear promising...'. Such evolution and development demands an adequate time-horizon and appropriate support and financing. It is essential to recognize that the initiation of a pilot scheme can represent the beginning of a social process that may not be easily ended or reversed.

## 9. Preliminary list of schemes and studies

9.1. The Commission has circulated a list of 20 schemes and studies which, it is said, should be seen as a first statement of the schemes which are under consideration for support. Some schemes have been submitted or promoted by the relevant services of national governments while others have been proposed by independent bodies, without formal support by the national governments. The list as a whole is to be regarded as tentative and the Section does not propose to make detailed comments on the individual schemes which will be further elaborated in consultation with the Member States. The Commission proposes also to keep open the

possibility of promoting other schemes which may fit within the criteria outlined in the programme.

9.2. The provisional list contains both Action Research Projects — 17 of the 20 — and Pure Research Projects — three in number. The Committee accepts this balance, since fundamental research projects with practical applications have relevant inherent value in terms of the development of methodology and, in one case, represent very significant cross-national collaboration.

9.3. The action-research element of the overall programme is subdivided into four categories: projects directed mainly towards poverty-stricken or poverty prone localities; projects directed towards meeting the needs of specific populations; projects directed towards providing specific services for the needs of persons or families and projects directed towards adapting organizations or services to meet needs of persons or families. This subdivision was agreed by those consulted by the Commission as providing a useful spread of project-types and the Committee accepts this view.

9.4. The Committee wishes, however, to place on record its view that very special attention should be given to projects which relate to the long-term relief of poverty, rather than to the maintenance of income. Schemes which face up to the underlying structural problems which cause poverty and militate against its elimination such as the special problems of certain remote regions, are of the utmost importance to the realization of the primary objective of the programme. Such schemes will also provide a sound basis for self-help and community development and will concentrate on the special problems of children in need and of young persons who are particularly vulnerable.

9.5. The Committee is anxious that projects with genuine cross-national relevance should be awarded particular attention. Such projects, apart from their intrinsic value and impact, are most likely to provide results which will be of significance for the future strengthening of Community social policies.

## 10. Conclusion

The Committee, in welcoming and supporting the Commission's proposals for this programme of pilot schemes and studies, wishes to make two final points.

The Committee emphasizes the importance of the Community role in this fight against poverty and accepts the Commission's view that 'the proposal to promote pilot projects demonstrates that the Community intends to play a role which, although limited in the resources involved, is potentially of great significance'. Through this programme, and with adequate arrangements to ensure follow-up action, the Community can begin to demonstrate a genuinely human face.

The Council now has the responsibility of approving and ensuring the early implementation of the programme of pilot schemes. The Section is of the opinion that approval should be forthcoming without delay, so as to permit an early start to work on the ground. This approval should be given in an appropriate legal form so as to ensure a sound basis for the long-term development and Community support of a small, but potentially most important, advance towards a comprehensive social policy of benefit to all the people of the Member States.

Done at Brussels, 24 April 1975

*The Chairman  
of the Economic and Social Committee*

Henri CANONGE

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**Opinion on the proposal for a Council Directive on harmonization of the legislation of Member States on the retention of the rights and advantages of employees in the case of mergers, takeovers and amalgamations**

The text referred to the Committee was published in *Official Journal of the European Communities* No C 104 of 13 September 1974, page 1.

**A. LEGAL BASIS FOR THE OPINION**

On 14 June 1974, the Council referred the abovementioned proposal to the Economic and Social Committee under Article 100 of the Treaty establishing the European Economic Community.

**B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE**

The Economic and Social Committee drew up its Opinion at its 129th plenary session, held in Brussels on 23 and 24 April 1975.

The Opinion is published below:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to the referral on 14 June 1974 by the Council of the European Communities of the proposal for a Council Directive on harmonization of the legislation of the Member States on the retention

of the rights and advantages of employees in the case of mergers, takeovers and amalgamations;

Having regard to the Treaty establishing the European Economic Community and in particular Article 100 thereof;

Having regard to the decision taken by its Bureau on 25 June 1974 instructing the Section for Social Questions to draw up an Opinion on the matter;

Having regard to the Opinion adopted by the Section for Social Questions at its meeting on 12 and 13 March 1975, and the report submitted by Mr Muhr, the Rapporteur;

Having regard to the discussions at its meeting on 23 and 24 April 1975 (129th plenary session of 23 and 24 April 1975);

Whereas mergers, takeovers and amalgamations may often entail manpower reviews in the course of which rights which have accrued to workers in the past may be lost or abridged, if the worker's rights are not ensured proper minimum protection under the law;

Whereas while it may be desirable to establish certain controls in respect of mergers, takeovers and amalgamations, in the general public interest and in order to ensure the protection of individuals, there is no case for blanket prohibition of such operations, which may serve technological progress, the maintenance of jobs that might otherwise be lost, and that accelerated raising of living standards which is one of the objectives of the Treaty of Rome;

Whereas important civil liability questions may arise in connection with mergers and takeovers, and whereas these questions, not dealt with in the present proposal for a directive, must not be neglected;

Whereas it is feasible to treat the proper social protection of the workers under the law and the implementation of merger, takeover or amalgamation operations separately, so that the procedures provided for in this Directive need not delay such operations,

HAS ADOPTED THE FOLLOWING OPINION

by 62 votes to 27 and with 14 abstentions:

The Committee approves the proposal for a Directive subject to the following comments:

## 1. General comments

1.1. The Committee endorses wholeheartedly the objective of the present proposal for a Directive, which is to introduce mandatory provisions to protect employees against loss of rights or claims as a result of mergers, takeovers or amalgamations. Adequate minimum protection of employees is today an even more important objective than in the past because industrial development at both national and Community level is now entailing an even larger number of changes in corporate structures, which are also on a larger scale than in the past: the effects on the social situation of the labour force of these changes are often far-reaching.

1.2. The Committee reaffirms the observation it has already made on several occasions, *viz.* that a merger, takeover or amalgamation is the right course in some circumstances, subject to certain criteria laid down in the interests of the Community economy and in the interests of employees. Such operations ought therefore not to be hampered by unnecessary or unduly burdensome obstacles. But the Committee believes that many harmful consequences for the workers could be forestalled if the implications of reorganization operations for the workers were considered carefully well before the operations were actually carried out. For it can happen that while such operations may be very beneficial for the profitability of the companies, the adverse effects are borne by the workers alone. The Committee accordingly attaches special importance to this Commission proposal, as it does to all Community proposals designed to prevent or compensate for damage inflicted on workers. The present proposal aims to ensure that workers alone do not bear the cost of achieving technological progress or alone make the sacrifices that may be necessary in the short run to achieve improved living standards in the longer run.

1.3. This said, the Committee wishes also to stress that the operations referred to in the present Directive can make an important contribution to the maintenance of employment, particularly when one of the firms concerned in the operation would otherwise not be able to stay in business. In this connection, it notes with satisfaction that the new Directive is not in any sense intended to constitute a legal obstacle to the desire of management to seek improved corporate structures and enhanced profitability.

1.4. The Committee starts from the premise that jobs and acquired rights can be safeguarded and existing terms of employment maintained by having either mandatory provisions of law which guarantee individual legal protection, or a collective system of safeguards centred on negotiations with workers' representatives. The Committee notes that the proposed directive is based on a combination of the two methods. When there is a change of employer, a system of mandatory legal provisions is to guarantee the automatic transfer of the employment relationship from the transferor to the transferee and the protection of employees against dismissal due exclusively to a change in the structure of undertakings, thereby precluding adverse effects as far as possible from the outset. And, in addition, there are to be procedures for information, consultation and negotiations with employees' representatives to find ways of offsetting in particular those negative effects which are not dealt with or satisfactorily mitigated by the system of individual legal protection.

1.5. The Commission's proposal does not cover all questions of civil liability towards employees arising in connection with changes of employer. The case for dealing with this issue under a different legal instrument from that at present referred to it has been considered by the Committee. Civil liability questions are, of course, extremely complex problems involving aspects of the law lying essentially outside the field of labour law, and they are particularly difficult to settle at Community level because of the differing legal situations in the various Member States. Another difficulty arising in connection with civil liability is that unduly strict rules could in certain circumstances hamper negotiations for takeovers.

1.6. The text as it now stands offers no answer to the question as to whether the old employer is still liable, alongside the new one, for workers' claims dating back to a time prior to the takeover or merger but not yet met by the old employer at the time of the operation. Nor is it clear whether former employees who left the firm being taken over before the time of the takeover can enforce outstanding claims against the transferee.

1.7. The Committee understands that the Commission has preferred to consider these matters as arising essentially in connection with insolvencies and bankruptcies, and prefers that they should be settled as part of the extensive work that is being carried out by the Commission in this important field.

1.8. Noting that a large number of insolvencies and bankruptcies occur outside the context of mergers, and a large number of mergers and takeovers occur without there being any danger of an insolvency or bankruptcy, the Committee considered whether it would be desirable to settle these questions of civil liability in the present Directive by providing for the joint liability of the transferee and the transferor. However, it agrees with the Commission that it would be preferable for the problem of the joint liability of the transferee and the transferor to be settled in a separate instrument. It considers that the question should be treated as a matter of urgency.

## 2. Specific comments

### 2.1. *Recitals*

The Committee considers that the fourth recital contains a statement which is too sweeping and therefore incorrect. Accordingly, this recital should be amended to read:

Whereas changes in undertakings' structure are not *always* in line with this purpose, but on the contrary adversely affect conditions for workers on and off the job, more especially as regards preservation of the workers' entitlements and benefits, and whereas the same problems arise irrespective of the precise form of the takeover.

### 2.2. *Articles 1 and 2*

No comments.

### 2.3. *Article 3*

2.3.1. No changes are proposed by the Committee to paragraph (1) of this Article, which provides that in the case of a change of employer the employment relationship entered into by the transferor shall be automatically transferred to the transferee with all rights and obligations.

2.3.2. The provisions of paragraphs (2) and (3), however, concerning the continued validity of collective bargaining agreements, prompt the following comments.

2.3.3. In the Committee's view, collective agreements which were binding on the transferor, be

they plant, company or trade association agreements, should only remain in force until a new arrangement has been concluded between the two sides. It should be possible to negotiate such arrangements at any time, for example in the course of the procedures provided for in Article 8.

2.3.4. Moreover, the Committee does not agree with the distinction in Article 3 (3) between trade association collective agreements of limited and unlimited duration as regards the period for which agreements are temporarily to continue in force. It considers that trade association collective agreements of limited duration which are not superseded by a new arrangement should also not remain applicable for longer than one year.

2.3.5. Contrary to the last sentence of Article 3 (3), the previous conditions of service laid down in a collective agreement should also continue to apply temporarily if the transferee is bound by another collective bargaining agreement which also covers the undertaking that has been transferred. Otherwise, if the collective agreement governing the transferee were less favourable than that hitherto applicable to the employees, there would be a risk that the change of employer would automatically result in less favourable terms of employment for the transferred staff.

2.3.6. Finally, the Committee would draw attention to the fact that in some circumstances there could be grounds for applying the collective agreement governing the transferee to the transferred employees at once or before a year has elapsed. It thinks it is right, therefore, to allow this matter to be settled with the workers' representatives within the framework of the negotiations provided for in Article 8. Such a procedure would both allow imperative business requirements to be catered for in the settlement, especially where a small firm is taken over by a large undertaking, and would take account of the possibility that the new collective agreement may be more favourable than that hitherto applicable to the transferred employees.

2.3.7. For these reasons, the Committee proposes that Article 3 (2) and (3) be amended to read:

2. Where the rights and obligations arising from the employment relationship are based on plant or company collective agreements concluded by the transferor, these rights and obligations

shall be automatically transferred to the transferee and *shall continue in force until such time as another collective agreement has been concluded between the parties concerned.*

3. Where the transferee is not bound by the same trade association's collective bargaining agreement as the transferor, the transferee shall nevertheless respect the terms of employment laid down in the collective agreement concluded by the transferor *until such time as another collective agreement has been concluded between the parties concerned. Should no other collective agreement be concluded between the parties within a period of one year from the date of the entry of the transferee into the employment relationship, the trade association's collective bargaining agreement, if any, by which the transferee is bound shall apply.*

#### 2.4. Article 4

2.4.1. The Committee considers that before any dismissals are effected for 'pressing business reasons' under the second sentence of Article 4 (1), the workers' representatives must in all cases be informed and consultations with them held to try to find the workers concerned other jobs with equivalent advantages.

The Committee therefore proposes that the second sentence of Article 4 (1) be amended to read:

This shall not apply to dismissals necessitated by pressing business reasons. In such cases, the employer must inform the workers' representatives of the planned dismissals and hold consultations with them to ensure that everything possible is done to help the workers concerned find other jobs with equivalent advantages.

2.4.2. The wording of Article 4 (3) is not, in the Committee's view, in keeping with the object of this provision. It considers that a 'substantial change' in working conditions is not an adequate criterion. This could mean that even if there was a considerable improvement in his terms of employment, an employee would be able to terminate the employment relationship with the employer being held responsible.

2.4.3. Such a legal consequence could, however, only be intended where the change in the terms of employment is to the employee's detriment. The Committee considers that this ought to be reflected in the text. It stresses, however, that changes detrimental to the employee need not necessarily take the form of a deterioration in material conditions.

They could also include cases where the employee is allocated new, better-paid work but is unable to do it for reasons of old age or ill health or is not prepared to accept the change in residence which the new post entails.

2.4.4. The Committee therefore proposes that Article 4 (3) be amended to read:

3. Where a labour contract is terminated by the worker because a merger of companies or a transfer of undertakings has brought about a substantial *adverse* change in his working conditions, such a termination shall be deemed to be due to the action of the employer.

#### 2.5. Article 5

2.5.1. The Committee thinks that it should be brought out in the wording of the second sentence of Article 5 that an employee who, at the time of signing his contract of employment, agreed to a possible transfer but under completely different conditions is only obliged to keep his commitment in so far as the said conditions obtain.

2.5.2. Accordingly, the Committee proposes that Article 5 should read:

Article 4 shall apply analogously to transfers of workers from one undertaking to another which are the consequences of mergers or takeovers. It shall not apply, however, if the worker, as a result of his employment contract, is bound to accept transfer to another undertaking and the conditions of the proposed transfer are compatible with those which obtained at the time of the signing of the employment contract.

#### 2.6. Article 6

No changes are proposed by the Committee to this Article.

#### 2.7. Article 7

2.7.1. Article 7 (2) needs to be amended, in the Committee's view. It considers that it is not necessary expressly to mention 'Community law', since at the moment there is no Community law regulating the election of workers' representatives. Should Community law on the election of workers'

representatives be introduced subsequently through the Statute for the European Company or in connection with any other regulations, the proposed Directive could still be supplemented accordingly.

2.7.2. On the other hand, the Committee would like to see a reference to collective agreements in this provision. It points out that bodies representing workers can be founded not only on laws but also on the provisions of collective agreements. Therefore, application of Article 7 (1) must also be precluded where a collective agreement prescribes the holding of a new election of workers' representatives when the conditions referred to in Article 7 (1) obtain. The Committee considers that these objectives would be met if the present wording 'resulting from the laws, regulations and administrative provisions in the Member States or Community law' were replaced by 'under national law and collective agreements'.

2.7.3. The Committee also points out that application of Article 7 (1) must not be completely precluded where the national law prescribes new elections for merely some of the existing bodies representing workers. It therefore proposes that 'where' be replaced by 'in so far as'.

2.7.4. Finally, the Committee points out that a new election of the workers' representatives can be necessary for reasons other than 'changes in the composition of the body of workers'. For example, a new election may be necessary because only part of a business is taken over and afterwards run as an independent unit.

2.7.5. For these reasons, the Committee proposes that Article 7 (2) be amended to read:

2. Paragraph 1 of this Article shall not apply *in so far as under national law and collective agreements* the conditions for holding new elections for workers' representatives obtain.

#### 2.8. Article 8

2.8.1. The Committee notes first of all that the introductory sentence in Article 8 places mergers between public limited companies at national level outside the scope of this Article. Rules on the information and consultation of the workers' representatives in the case of mergers of that type are laid down in Article 6 of the revised draft third Directive on mergers. These rules on the information of workers and their representatives are more detailed than those contained in Article 8 of the present directive and include, moreover, a time limit

for informing and consulting the workers. The Committee realizes that in the present Directive, with its wide scope, such more detailed provisions are not very practicable. However, to preclude unwarranted differences it thinks it desirable that more detailed legal safeguards should be devised for other specific forms of mergers and amalgamations as they have been for mergers of public limited companies at national level. Here the Committee has particularly in mind international mergers of public limited companies, mergers of private companies and amalgamations through share transfers. Such detailed rules should be regarded as implementing provisions of the general provisions of Article 8 of the present proposed Directive.

2.8.2. The Committee has doubts about the wording of Article 8 (1), which states that workers' representatives are to be informed simply 'before' the projected operation is carried out. This would enable an employer to delay giving information until directly before the operation takes place. The Committee considered whether there should be a fixed time limit to ensure that information was supplied in good time. However, it does not consider this to be advisable, since the observance of such a time limit could entail considerable practical difficulties due to the fact that at the time of conducting negotiations on operations covered by the proposed Directive it is often impossible to predict when these negotiations will be completed. On the other hand, the Committee does think it necessary to make it clear in the wording that the information has to be supplied to the workers' representatives 'sufficiently in advance of' the final decision to undertake the merger or takeover.

2.8.3. The Committee therefore proposes that Article 8 (1) be amended to read:

1. The transferor and the transferee shall be obliged to inform their respective workers' representatives, within the meaning of Article 7, sufficiently *in advance* of the final decision to undertake the merger or takeover, of the reasons that led them to consider such an operation and also of the legal, economic and social consequences it entails for the workers; they shall, moreover, indicate what measures are to be taken in relation to the workers. If the workers' representatives so request, a discussion shall take place immediately on the content of this information.

The Committee also proposes that the following be added to Article 8 (1):

The workers' representatives must be supplied with all the documents they need in order to have the fullest possible information about the projected operations. In addition, the workers' representatives may call in one or more experts of their choice to assist them.

2.8.4. No account has been taken in the provisions on information of the fact that mergers between the parent companies of groups will have repercussions on their subsidiaries. The Committee considers that the question of the notification of workers' representatives in dependent undertakings affected by such operations also needs to be resolved.

2.8.5. The binding arbitration procedure for the settlement of disputes between workers and employers in connection with changes in corporate structure, which is provided for in Article 8 (2), already exists in some Member States and has worked satisfactorily there. The Committee would point out, however, that this arbitration procedure is alien to the legal system in other Member States. These countries have other procedures for dealing with disputes, and they should be allowed to retain them, since these procedures too have worked satisfactorily in the countries concerned. In particular, it is not usual in many cases for the decision on possible claims by employees against the employer to be left to an uninvolved third party or for an arbitration award to be accorded binding force if the two sides have not agreed to abide by it from the start. In the Committee's view it should therefore be left to the two sides to decide whether to use a procedure provided for under national law or conforming to national practice or to apply the arbitration procedure provided for in Article 8 (2), and in the latter case the arbitration award should only be binding if the two sides have agreed to abide by it from the start. For these reasons, the Committee proposes that Article 8 (2) be amended to read:

*If the discussion provided for in paragraph 1 does not produce a result which is to the satisfaction of both parties, they may initiate a procedure provided for under national law or conforming to national practice. Instead of using such a procedure, the parties may refer the matter to an arbitration board. This arbitration board shall consist of a number of assessors, of whom half shall be appointed by the employer concerned and the other half by the representatives of the workers, and a chairman appointed by common consent by the two parties in question or, failing*



*that, by the competent court. The arbitration board shall give a binding decision as to what measures shall be taken for the benefit of the workers, if both parties have agreed in advance that such decision shall be binding.*

2.8.6. It follows from Article 8 (3) that disregard of the obligations arising from paragraphs (1) and (2) will not make the undertakings' operation invalid. The Committee trusts, however, that other penalties are envisaged for such cases; the Directive should instruct the Member States to provide for such sanctions. At all events, without penalties of some kind the procedures laid down in paragraphs (1) and (2) would lose their importance.

2.8.7. The wording of Article 8 (3) should be aligned with the changes proposed to paragraph (2):

3. The obligation to hold immediate discussions in paragraph (1) and the procedures contained in paragraph (2) are not to prejudice the operation.

## 2.9. Article 9

2.9.1. Article 9 (1) stipulates that claims under supplemental occupational pensions and related benefit schemes by workers who, at the time of the change of employer, have already withdrawn from the employment relationship can only be made against the transferee where a special body of assets out of which such claims are to be met is also transferred to the transferee. The Committee considers, however, that the transferee must be liable also for benefits promised by the transferor which were to be covered from current operating receipts and not a special body of assets.

2.9.2. Therefore, the Committee proposes that Article 9 (1) be amended to read:

1. Claims under supplemental occupational pensions and related benefit schemes by workers who, at the time of the merger or takeover had already withdrawn from the employment relationship, may, in so far as the laws, regulations and administrative provisions in the Member States do not lay down at least equivalent rules, be made against the transferee, *unless there is a special body of assets out of which such claims can be met which is not transferred to the transferee.*

2.9.3. No changes are proposed by the Committee to Article 9 (2).

2.9.4. The Committee fears that the wording of Article 9 (3) could lead to a plurality of claims by employees. It is right that a transferred employee should retain the claims and entitlements he has already acquired, but the present text makes it possible for him to make additional claims under arrangements in force in the transferee's business. The Committee considers that the possibility of such double claims being made should be precluded by making the text clearer.

2.9.5. Preferential treatment of transferred workers which does not seem justifiable could also occur if the transferor's business has been in existence longer than the transferee's and a pensions scheme geared to the number of years of service is operated by the transferee but was not by the transferor. If, for example, the transferee has a scheme under which employees are to receive supplementary benefits after 20 year's service, and his business has been in existence for only five years; whereas the business which has been taken over had been operating for 20 years, the transferred employees could immediately make claims against the transferee which they did not have, *vis-à-vis* the transferor, and would not have had, *vis-à-vis* the transferee, if they had been working in his business from the start.

2.9.6. For these reasons, the Committee proposes that Article 9 (3) be amended to read:

3. Entitlement to benefits from supplemental occupational pensions and related benefit schemes for workers whose employment relationship had not ended at the time of the merger or takeover *shall be maintained and shall apply also, vis-à-vis the transferee. The length of service with the transferee after the merger or take over shall be taken into account in the entitlement.*

*The transferee and the competent body representing the workers may agree that transferred workers' claims to benefits from supplemental occupational pensions and related benefit schemes shall be determined in accordance with the arrangements in force in the transferee's business instead of with those applicable in the relationship with the transferor prior to the merger or takeover. In such a case the entitlement to the said benefits shall be governed by the provisions of Article 6.*

*The entitlement of transferred workers to benefits from supplemental occupational pensions and related benefit schemes under arrangements in force in the transferee's business shall not be governed by the provisions of Article 6 if, at the time of the merger or takeover, there were no arrangements in the transferor's business for the granting of claims under supplemental occupational pensions and related benefit schemes.*

## 2.10. Article 10

2.10.1. The Committee considered whether this provision should be left in the proposed Directive now that the Commission intends to settle in a Council Regulation the whole question of the conflict rules to be applied in the Community in respect of employment relationships. Since the final content of the planned Regulation is not yet known, the retention of Article 10 as it stands, particularly its second paragraph, might lead to inconsistencies between the proposed Directive and the planned Regulation on conflict rules on the question of which labour laws are applicable.

2.10.2. In spite of this, the Committee is against total deletion of Article 10. It feels that since the Directive is meant to settle all the questions which might arise in connection with a change of employer, it should, if only for the sake of completeness, be made clear that in principle mergers and takeovers do not mean that other labour laws become applicable.

2.10.3. The Committee would also draw attention to the need to ensure that the present Directive and the planned Regulation on conflict rules do not contain provisions which are contradictory. It points out in this connection that under Article 10 (2) of the proposed Directive, the transfer of the place of work to another Member State is sufficient by itself to entail non-application of Article 10 (1); whereas in the regulation on conflict rules the posting of the employee to another country in the Community does not always automatically entail a change of the labour laws applicable to his employment relationship. Finally, the Committee draws express attention to its Opinion of November 1972 on the Commission proposal for a Council Regulation on the conflict rules to be applied in the Community in respect of employment relationships. In that Opinion the Committee took the line that even in the case of a transfer and a consequent change of the labour laws applicable, the protection of the employment

relationship enjoyed under the labour legislation previously applicable had to be maintained. In the Committee's view this should also apply in the cases mentioned in Article 10 (2).

2.10.4. For these reasons the Committee, proceeding on the assumption that the Regulation on international conflict rules will enter into force before this Directive, recommends that Article 10 (2) be amended to read:

*2. Paragraph 1 of this Article shall be without prejudice to Regulation No... of the Council of... on the conflict rules to be applied in the Community in respect of employment relationships.*

## 2.11. Article 11

2.11.1. The Committee considered whether concentrations between undertakings should also fall within the scope of the Directive. The purpose of the Directive is to protect employees against any loss of acquired rights and entitlements when a new employer takes over from the existing one, as in the case of mergers and takeovers. Concentrations between undertakings, however, do not involve a change of employer or have direct effects on the individual employment relationships.

2.11.2. On the other hand, the Committee considers that a concentration between undertakings can bring about a situation in which a previously independent undertaking is so dominated by another undertaking that the employer no longer has any control over decisions affecting his employees and is forced to change his personnel policy. The need to protect workers against the loss of rights and entitlements in such cases is, in the Committee's view, just as great as in the case of mergers and takeovers. The Committee is, therefore, in favour of the provisions of the Directive being applicable in principle to concentrations between undertakings.

2.11.3. The Committee observes, however, that the wording of the Articles referred to in Article 11 precludes their being directly applied to concentrations between undertakings, since they talk of the parties of 'transferor' and 'transferee', which do not exist in concentrations. Therefore, the Committee thinks it would be better to state that the directive as a whole is applicable, *mutatis mutandis*, to such structural measures.

2.11.4 The Committee also considered the question whether the reference in Article 11 to the Council Regulation on the control of concentrations served a useful purpose. It observes, however, that omission of this reference would mean that the Directive would have to give its own definition of 'concentrations between undertakings', because if it did not, there would be considerable legal uncertainty, even at national level. The Committee is therefore in favour of the reference being retained. It points out, however, that the definition of concentrations between undertakings now given in Article 2 of the Council Regulation on the control of concentrations will have to be included in the Directive if the latter enters into force before the Regulation.

2.11.5 For these reasons the Committee suggests that Article 11 be amended to read:

The *provisions* of this Directive shall apply, *mutatis mutandis*, to concentrations between undertakings, as defined in Article 2 of the Regulation No ... of the Council of ... on the control of concentrations, *in all cases where the consequences of the concentrations are the same as those of the operations covered by the present Directive* and irrespective of whether the concentration involves undertakings in the territory of one or more Member States or in the territories of one or more Member States and one or more third countries.

2.12. No changes are proposed by the Committee to Articles 12 to 14.

Done at Brussels, 24 April 1975.

*The Chairman  
of the Economic and Social Committee*

Henri CANONGE

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#### ANNEX

#### to the Opinion of the Economic and Social Committee

The following amendments were rejected during the discussion:

##### Alternative A — Item 1.8

The Committee cannot accept this view, for a large number of insolvencies and bankruptcies occur outside the context of mergers, and a large number of mergers and takeovers occur without there being any danger of an insolvency or bankruptcy. It has reached the conclusion that the present Directive should provide for joint liability of the transferee and the transferor in respect of all workers' claims arising against the transferor before the takeover. This joint liability already exists under the civil law of at least one Member State. The Committee wishes to stress that if the joint liability principle were not applied, it would be possible for managements to sell ailing establishments or firms simply as a means of avoiding their obligations *vis-à-vis* the workers.

##### Voting:

For: 53

Against: 55

Abstentions: 2.

##### Item 2.8. — Article 8

Replace text from 'However, to preclude unwarranted differences... present proposed Directive' onwards by:

However, it considers that unwarranted fundamental differences resulting from the adoption of two distinct directives should be avoided, and so if the Council adopts the third directive in the form proposed by the Commission, the present proposed Directive will have to be revised.

*Reasons*

We do not think it in order to prejudge the decision to be taken by the Council on the revised draft of the third Directive, especially as various provisions of the said Directive are very controversial.

**Voting**

For: 35

Against: 45

Abstentions: 10.

**Item 2.8.3**

Delete from the proposed amended version of Article 8 (1) 'and before the final decision to undertake it is made'.

*Reasons*

Decisions to carry out mergers and takeovers are usually taken in several stages. It is hence difficult to specify the time of the final decision without giving rise to continual conflicts of interpretation. Moreover, in the firm's interest it is necessary that such decisions do not become known to the general public and hence to competitors too soon. For the employees' interests, which have to be protected, the exact time of the decision to undertake the merger or takeover is of only secondary importance. For them the most important thing is the protection they are to receive and the nature and extent of this protection can only really be talked about after the taking of the decision.

**Voting:**

For: 33

Against: 49

Abstentions: 9.

**Item 2.8.3.**

Amend the second paragraph of this item to read:

The workers' representatives must be supplied with all the documents they need in order to have the fullest possible information about the projected operations. *By agreement with the transferee and the transferor, the workers' representatives may call in one or more experts of their choice to assist them, in so far as this is necessary for the discussion of the situation.*

*Reason*

The negotiations will be about important interests of the employees and important interests of the firm. Since many of the subjects discussed must be kept secret to protect the firm's competitiveness, outsiders who are not representatives of the workers should be admitted only with the consent of the transferee and transferor.

**Voting:**

For: 22

Against: 45

Abstentions: 12.

**Item 2.8.3**

Proposed addition to Article 8 (1).

After '... projected operations', add the following sentence:

Any information contained in such documents shall be treated as confidential if, and to the extent that workers' representatives are requested to do so either by the transferor or by the transferee.

**Reason**

Information about mergers and amalgamations may need to be kept confidential from competitors. Premature release of such information could prejudice the whole operation and the future position of employees themselves.

It is understood that a similar provision is included in the laws governing the establishment and operation of Works Councils in West Germany and the Netherlands and it would appear to be equally important in this context.

**Voting:**

For: 40

Against: 48

Abstentions: 0.

**Item 2.8.5**

Delete the passage beginning with 'In the Committee's view it should therefore be left ...' up to the end of item 2.8.5 '... have agreed in advance that such decision shall be binding', and replace by the following:

Therefore the Committee considers that it would be preferable to let the two sides initiate the procedure provided for under their national law or conforming to national practice.

For these reasons the Committee proposes that Article 8 be amended by replacing the second subparagraph of Article 8 (2) with:

If the discussions and negotiations provided for above do not produce a result which is to the satisfaction of both parties, they may initiate whichever procedure is provided for under national law or accords with national practice.

**Voting:**

For: 20

Against: 41

Abstentions: 14.

**Items 2.11.2., 2.11.3., 2.11.4 and 2.11.5**

Replace (Specific comments) by:

2.11.2. In the Committee's view, the need to protect workers against changes in their rights can be just as great in concentrations between undertakings as in the case of mergers and takeovers.

2.11.3. However, the present Directive cannot be directly applied to concentrations between undertakings, since its operation is based on the transfer of the employment relationship from the 'transferor' to the 'transferee'.

In concentrations between undertakings there are no such parties.

2.11.4. Furthermore, concentrations between undertakings has not yet been defined in a Community instrument. The legal uncertainty surrounding this concept will not be resolved until the draft Council Regulation on the control of concentrations between undertakings is adopted.

2.11.5. The Section would therefore like to see workers' rights protected on the lines proposed in the present draft Directive also in the case of concentrations between undertakings, but it considers that this protection should be provided in another instrument, not in the Directive.

The Section therefore calls for deletion of Article 11.

**Reason**

The proposer recognizes the need to protect the employees of firms carrying out concentrations in so far as the concentration affects the workers' rights.

This protection cannot, however, be afforded in the existing uncertainty by an instrument whose basic conception is geared to a transfer of ownership between a transferor and a transferee.

**Voting:**

For: 41

Against: 51

Abstentions: 4.

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**PUBLIC WORKS CONTRACTS**

*(Publication of notices of public works contracts and licences in conformity with Council Directive 71/305/EEC of 26 July 1971 supplemented by Council Directive 72/277/EEC of 26 July 1972)*

**MODEL NOTICES OF CONTRACTS****A. Open procedures**

1. Name and address of the authority awarding the contract (Article 16e)<sup>(1)</sup>:
2. The award procedure chosen (Article 16b):
3. a) The site (Article 16c):  
b) The nature and extent of the services to be provided and the general nature of the work (Article 16c):  
c) If the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several, or for all of the lots (Article 16c):  
d) Information relating to the purpose of the contract if the contract entails the drawing up of projects (Article 16c):
4. Any time limit for the completion of the works (Article 16d):
5. a) Name and address of the service from which the contract documents and additional documents may be requested (Article 16f):  
b) The final date for making such request (Article 16f):  
c) Where applicable, the amount and terms of payment of any sum payable for such documents (Article 16 f):
6. a) The final date for receipt of tenders (Article 16g):  
b) The address to which they must be sent (Article 16g):  
c) The language or languages in which they must be drawn up (Article 16g):
7. a) The persons authorized to be present at the opening of tenders (Article 16h):  
b) The date, time and place of this opening (Article 16h):
8. Any deposits and guarantees required (Article 16i):
9. The main procedure for financing and payment and/or references to the instruments regulating these (Article 16j):
10. Where applicable, the specific legal form which must be assumed by the group of contractors to whom the contract is awarded (Article 16k):
11. The minimum economic and technical standards required of the contractors (Article 16l):
12. Period during which the tenderer is bound to keep open his tender (Article 16m):
13. Criteria for the award of the contract. Criteria other than that of the lowest price shall be mentioned if they do not appear in the contract documents (Article 29):
14. Other information:
15. The date of dispatch of the notice (Article 16a):

<sup>(1)</sup> The Articles in brackets refer to Council Directive 71/305/EEC of 26 July 1971 (OJ No L 185, 16. 8. 1971, p. 5).

**B. Restricted procedures**

1. Name and address of the authority awarding the contract (Article 17a)<sup>(1)</sup>:
2. The award procedure chosen (Article 17a):
3. a) The site (Article 17a):
  - b) The nature and extent of the services to be provided and the general nature of the work (Article 17a):
  - c) If the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several or for all of the lots (Article 17a):
  - d) Information relating to the purpose of the contract if the contract entails the drawing up of projects (Article 17a):
4. Any time limit for the completion of the works (Article 17a):
5. Where applicable, the specific legal form which must be assumed by the group of contractors to whom the contract is awarded (Article 17a):
6. a) The final date for the receipt of requests to participate (Article 17b):
  - b) The address to which they must be sent (Article 17 b):
  - c) The language or languages in which they must be drawn up (Article 17b):
7. The final date for the dispatch of invitations to tender (Article 17c):
8. Information concerning the contractor's personal position, and the minimum economic and technical standards required of him (Article 17d):
9. The criteria for the award of the contract if these are not stated in the invitation to tender (Article 18d):
10. Other information:
11. The date of dispatch of the notice (Article 17a):

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<sup>(1)</sup> The Articles in brackets refer to Council Directive 71/305/EEC of 26 July 1971 (OJ No L 185, 16. 8. 1971, p. 5).



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**Open procedure**

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|--|--|
| 1. Fonds des bâtiments scolaires de l'Etat, administration régionale de Namur, 5000 Namur, rue Godefroid 54, Belgium. Tel. (081) 22 91 07.   | 6. a)<br>b)<br>c)  |
| 2. Public invitation to tender.  | 7. a)  |
| 3. a) Dinant I.E.T.E. Domaine de Herbuchenne.<br>b) Construction of workshops and classrooms.<br>c)<br>d)  | b) At 10.30 a.m. on 3 December 1975, in the presence of Monsieur l'Inspecteur Général du Fonds des Bâtiments Scolaires de l'Etat, Service provincial de Namur, rue Godefroid, 54, Namur. |
| 4.   | 8.   |
| 5. a) As in 1.<br>b)<br>c) Specification No N/75.212: Bfrs 1 020.<br>Plans: N/1950/75/1 56 pages: Bfrs 4 140.<br>The documents may be consulted at the above address from 9 a.m. to 12 noon each working day except Saturday. Specifications and plans may only be obtained by paying the requisite sum into the postal cheque account (CCP) 000.200.4734.35 of the Comptable des engagements, rue Godefroid 54, 5000 Namur. | 9.<br>10.<br>11. Classification: category D class 7.<br>12.<br>13.<br>14.<br>15. 30 October 1975.  |

**Restricted procedure**

1. Ville de Limoges (Haute-Vienne), France.
2. Restricted invitation to tender with public preselection.  
The selected method is the combined 'general undertaking — specialized lot' procedure, with invitation of general contractors. This procedure leads to the award of a contract to the general contractor with previously agreed subcontractors (the builder of the hydromechanical equipment and the injection and drainage works contractor).
3. a) The construction of the Mazeau dam, on the Couze, to provide drinking water for the town of Limoges. 'Le Mazeau' about 30 km north of Limoges.  
b) The main multiple-arch concrete dam, about 40 m above the foundation, with perpendicular retaining wings; 35 000 m<sup>3</sup> of concrete.  
The homogeneous earth col dam with a waterproof grout curtain upstream in hydraulic concrete, 13 m above natural ground level; 30 000 m<sup>3</sup> of compacted fill and 5 000 m<sup>3</sup> of concrete.  
c)  
d)
4. 24 months.
5. General contractors or consortia with joint and several liability, with agreed subcontractors.
6. a) At 12 noon on 4 December 1975.  
b) M. le Maire de la Ville de Limoges (Service de la Comptabilité), Hôtel de Ville, F-87031 Limoges Cedex.  
c) French.
7. January 1976.
8. Information to be included with applications:  
Standing:  
banking references; turnover of firm (or firms) during the past 10 years with special reference to work on dams; certificates or sworn declarations proving that the firm has fulfilled the conditions of the administrative authorities of its country of origin, and fulfils those of the French administration with regard to legal, fiscal and social security matters;  
Technical conditions:  
reference list of work on dams carried out during the past 10 years; certificate of professional qualification or certificate of entry on the list of approved contractors in the country of origin.
9. Most acceptable offer.  
Taking account of price, running costs, technical merits, professional and financial guarantees, completion time and methods proposed.
10. Further information may be obtained from:  
Principal:  
Ville de Limoges — Division des Eaux et Assainissement, Hôtel de Ville de Limoges, 87000 Limoges, France. Tel. (55) 33 70 10 (Messrs J. P. Moreau and L. Peyraud).  
Designers:  
Coyne et Bellier, Bureau d'Ingénieurs Conseils, 5 rue d'Héliopolis, 75017 Paris. Tel. 380 79 79 (Messrs P. Huynh and B. Tardieu).
11. 29 October 1975.

**Restricted procedure**

1. Norfolk County Council, County Hall, Norwich, Norfolk, NR1 2DH, England, United Kingdom.
2. Restricted invitation to tender.
3. a) Caister bypass approximately 30 km east of Norwich in the County of Norfolk, England.  
b) Construction of 3.3 km single two-lane carriageway and 2.0 km dual two-lane carriageway in flexible pavement with one footbridge.  
The estimated cost of the whole works is £1 000 000.  
c)  
d)
4. 18 months from the date of commencement of the works as notified by the engineer to the contract.
5. In the event of a group of contractors submitting an acceptable offer it will be necessary for each member of the group to sign an undertaking that each company or firm in the group will be jointly and severally responsible for the due performance of the contract.
6. a) 2 December 1975.  
b) County Surveyor, address as in 1.  
c) English.
7. Approximately mid-June 1976.
8. Article 25 (a) and Article 26 (a) and (b) of Council Directive 71/305/EEC.
9. Lowest acceptable offer in competition among selected tenderers.
10. The contract will be based on the Institution of Civil Engineers conditions of contract (fifth edition), as modified by the Department of the Environment for use in highway works contracts, the specification for road and bridge works drawings and bill of quantities. Price fluctuations on labour and materials will be permitted. Interim payments will be made monthly on the basis of the valuation of work executed and materials delivered to the site.
11. 28 October 1975.

**Restricted procedure**

1. Lancashire County Council, PO Box No 78, County Hall, Preston, England, United Kingdom.
2. Restricted invitation to tender.
3. a) Town centre adjacent to Magistrates Courts.  
b) Fleetwood Divisional Police Headquarters.  
The complex comprises a two-storey administrative block, a single-storey cell block; probation office, garages, stores, etc. totalling 2 100 m<sup>2</sup>.  
The construction is in load-bearing brickwork with suspended floors and roof, complete with all engineering services, external works and drainage etc. appropriate to this type of building. Costs: £415 000 to £700 000.  
c) Principal nominated subcontractors: electrical installation £28 000; heating installation £42 000.  
d)
4. The work is expected to commence in early April, 1976 and to be completed in 104 weeks.
5. In the event of a group of contractors submitting an acceptable offer, it will be necessary for each member of the group to sign an undertaking that each company or firm in the group will be jointly and severally responsible for the due performance of the contract.
6. a) 28 November 1975.  
b) Roger Booth, County Architect, County Hall, Preston (PO Box No 26), England.
- c) English.
7. 17 December 1975.
8. Proof of inscription of the company on a professional register or the companies' register in the United Kingdom or Ireland.  
Balance sheets/accounts for the past three years including statement of turnover on construction work and proportion of the turnover on building work.  
A statement of the technical qualifications of the managerial and supervisory staff who would be responsible for executing the work and any previous experience of UK construction practice.  
A list of jobs over 1 000 000 units of account carried out during the past five years, the value and site of each job and the authority for whom executed.  
Details of plant and machinery available for executing the work.  
Whether the contractor proposes to use his own labour force or to rely on locally recruited labour.
9. Lowest acceptable offer in competition among selected tenderers.
10. The contract will be governed by the RIBA conditions of contract as modified by the Lancashire County Council. Interim payments will be made monthly on the basis of the valuation of work executed and materials delivered to site.
11. 28 October 1975.

### Restricted procedure

1. The Mayor, Aldermen and Councillors of the London Borough of Lambeth, 55 Leigham Court Road, London SW16, England, United Kingdom.
  - b) The Architect (Ref. AR/F/C), Room 218, The County Hall, London SE1 7PB, England.
  - c) English.
2. Lowest acceptable offer in competition among selected contractors.
3. a) Wedgwood House Stage (2) and adjoining courtyard: China Walk Estate, Kennington Road, Lambeth.  
Map reference Ordnance Survey Sheet No 3178 SW.  
b) Modernization of part of existing block of flats to obtain 55 dwellings with full central heating from central boiler house and served by single lift. Adjoining courtyards to be improved and landscaped.  
Estimated cost £620 000 which includes:  
Nominated sub-contracts for:  
heating;  
electrical;  
lift;  
estimated value £90 000.  
Conditions of contract to be based on Royal Institute of British Architects (1963 edition as revised) local government edition as amended by the London Borough of Lambeth with full fluctuations clause for both labour and materials. Bills of quantities will be supplied to be fully priced and returned by tenderers.
  - c)
  - d)
4. Contractor to stipulate contract period. The architect's order to commence work expected to be in May 1976.
5. Should a group of contractors in temporary association be successful each firm to become jointly and severally responsible for the contract before acceptance.
6. a) 24 November 1975.
  7. 21 January 1976.
  8. Name and address of the contractor's bankers from whom the Borough's bankers can enquire as to the contractor's financial standing.  
Balance sheets for the past three years.  
Overall turnover on construction works for the past three years.  
List of works completed over the past five years.  
Details of resources of labour and plant.  
Details of proposed organization and management techniques for handling the contract.
  9. Lowest acceptable offer in competition subject to relationship of the price to the comparable estimate prepared by the architect, to approval by the Department of the Environment, and establishment of the contractor's financial stability.
  10. Eight weeks will be allowed for tendering.  
The work will be supervised by the Greater London Council's architect. Directions on site may be given by a full time clerk of works.  
The preparation of the final account will be by the Greater London Council's quantity surveyor.  
A copy of the conditions of contract will be supplied to each tenderer together with two unbound copies of the bill of quantities. Additional unbound copies of the bill, not exceeding two, will be supplied free of charge if requested.  
The tender and bill of quantities must be completed in sterling and payment will be made only in sterling.  
No right exists to participate in the competition, nor can information be given as to the progress of the tenderer's application.
  11. 28 October 1975.

### Restricted procedure

1. Bath City Council, Guildhall, Bath, Avon, United Kingdom.
2. Lowest acceptable offer in competition among selected tenderers.
3. a) Along the A36 trunk road in the city of Bath, Avon, England.  
 b) Restoration of Main Interceptor Sewer. The construction by pipe jacking of 1 500 m of foul sewer from 900 mm up to 1 650 mm diameter at depths between 6.5 m and 14 m and tunnelling 190 m using 1 650 mm diameter precast reinforced concrete bolted segments and placing *in situ* concrete lining. Manholes are to be built in thrust and reception pits and the contract also includes the construction of two storm overflow chambers and sewer connections to the new main sewer. The estimated cost of the whole works is between £415 000 and £1 000 000.  
 c) The works are to be carried out as a single contract.  
 d) A design for the concrete pipes to be used for pipe jacking is to be submitted by the contractor for approval by the engineer. The pipes are to be designed to withstand the maximum total effective external design loads due to the ground above, water and traffic loads as specified, plus the thrusting loads that will be imposed on the pipes by the contractor during construction of the various pipeline lengths.  
 The required proof load as specified in B.S.556 for reinforced concrete pipes is to be determined as given in National Building Studies Special Report 37 for the total effective external design load plus the jacking force. A bedding factor of 1.5 and a factor of safety not less than 1.0 or greater than 1.2 as given in Table 7 of National Building Studies Special Report 37 are to be used in the design calculations.
4. Tenders will be invited for completion of the whole of the works in 24 months from the commencement of the works as notified by the engineer to the contractor, which date shall be within a reasonable time after the date of acceptance of the tender.
5. In the event of a group of contractors submitting an acceptable offer it will be necessary for each member of the group to sign an undertaking that each company or firm in the group will be jointly and severally responsible for the due performance of the contract.
6. a) 26 November 1975.  
 b) City Engineer's Department, address as in 1.  
 c) English.
7. Approximately January 1976 subject to the completion of statutory processes.
8. Proof of inscription of the company on a professional register or the companies' register in the United Kingdom or Ireland.  
 Balance sheets/accounts for the past three years including a statement of turnover on construction work and proportion of turnover on civil engineering work.  
 A statement of the technical qualifications of the managerial and supervisory staff who would be responsible for executing the work, and any previous experience of UK construction practice. Full details of pipe jacking work carried out in the past five years must also be provided.  
 A list of jobs over 1 000 000 units of account carried out during the past five years, the value and site of each job, and the authority for whom executed.  
 Details of plant and machinery available for executing the work.  
 Whether the contractor proposes to use his own labour force or to rely on locally recruited labour.  
 Companies from Belgium or Italy may submit a 'certificate of inscription' in lieu of evidence in support of the first, second and fourth paragraphs above.
9. Details of the award criteria will be shown in the tender invitation.
10. The contract will be based on the Institution of Civil Engineers conditions of contract for use in connection with works of civil engineering construction (fifth edition) as modified by the Bath City Council for use in main drainage contracts, the city council's specification for sewerage works, drawings and bill of quantities. Price fluctuations on labour and materials will be permitted. Interim payments will be made monthly on the basis of the valuation of work executed and materials delivered to the site.
11. 28 October 1975.

### Restricted procedure

1. Contracts (Navy) Directorate of Defence Services II, Property Services Agency, Department of the Environment, Room 220, Block B, Whitgift Centre, Wellesley Road, Croydon CR9 3LY, England, United Kingdom.
2. Restricted invitation to tender.
3. a) Dockyard Extension Area, HM Naval Base, Portsmouth, Hampshire, England.  
 b) The 4.5 hectares dockyard extension area is on a flat site located to the south of Portsmouth Naval Dockyard. The development will consist of two-storey buildings for:  
 apprentice training centre;  
 motor transport depot;  
 recorders and clocking station;  
 and a single-storey building for motor transport refuelling facilities.  
 The total floor area is approximately 15 000 m<sup>2</sup>.  
 The buildings are mainly constructed on pad foundations with reinforced concrete ground floor slab, reinforced concrete frame with trough floor and roof slabs.  
 The cladding will be of facing bricks at the lower level and glazed wallings at the upper level.  
 The buildings are heated and mechanically ventilated.  
 The external works consist primarily of the construction of the Unicorn Road, lorry and car parks and vehicle hardstanding, and a perimeter security wall together with associated landscaping and paving.  
 The development will be carried out in three stages so that the users already occupying a part of the site can be relocated into the finished buildings. The overall contract period will be 26 months.  
 c) Subcontractors will be nominated by the authority for mechanical services, electrical services and overhead travelling cranes. The authority will provide light fittings and floor coverings.  
 The estimated cost of the whole works is approximately £3 000 000.  
 d)
4. 26 months from the date of possession of site.
5. In the event of a group of contractors submitting an acceptable offer it will be necessary for each member of the group to sign an undertaking that each company or firm in the group will be jointly and severally responsible for the contract.
6. a) 19 November 1975.  
 b) See 1.  
 c) English.
7. Approximately end of November 1975.
8. Proof of inscription of the company on a professional register or the companies register in the United Kingdom or Ireland.  
 Balance Sheets for the past three years including statement of turnover on construction works.  
 A statement of the technical qualifications of the managerial and supervisory staff who would be responsible for executing the work and any previous experience of UK construction practice.  
 A list of jobs over 1 000 000 units of account carried out during the past five years, the value and site of each job and the authority for whom executed.  
 Details of plant and machinery available for executing the work.  
 Whether the contractor proposes to use his own labour force or rely on locally recruited labour.  
 Companies from Belgium and Italy submitting requests to participate may submit a 'certificate of inscription' which will be accepted in lieu of evidence in support of the first, second and fourth paragraphs above.
9. Lowest acceptable offer in competition among selected tenderers.
10. Tenders and all supporting documents must be priced in sterling.  
 The contract will be based on the general conditions of government contracts for building and civil engineering works, technical specifications, drawings and bill of quantities. Price fluctuations by a formula method will apply. Progress payments will be made monthly in sterling on the basis of a valuation of certified work done and materials delivered to site.
11. 29 October 1975.

**Restricted procedure <sup>(1)</sup>**

1. République française, ministère de l'équipement, service des voies navigables du Nord et du Pas-de-Calais.
2. Appel d'offres restreint.
3. a) — Valenciennes (département du Nord),
  - bief de Trith — Notre-Dame,
  - aval du pont du Vert Gazon — amont de l'écluse Notre-Dame
  - aménagement à grand gabarit de l'Escaut.
- b) Aménagement d'une traversée, décapage des terrains (7 600 m<sup>2</sup> sur 0,30 m d'épaisseur), démolition de 2 300 m de perrés de flottaison, démolition de béton et maçonneries (650 m<sup>3</sup>), destruction de souches d'arbre, arrachage de palplanches (50 ml), création d'un fossé d'assainissement (100 m), fourniture et mise en œuvre de remblais d'emprunt. Pour l'exécution des digues du canal: déblais à sec et en eau (350 000 m<sup>3</sup>).
- c) Le marché comprend un lot unique.
- d)
4. Dix mois.
5. Groupement d'entreprises solidaires.
6. a) Exceptionnellement du fait de l'urgence des travaux, le 21 novembre 1975;
- b) Monsieur l'Ingénieur des ponts et chaussées, chargé de l'arrondissement technique du service des voies navigables du Nord et du Pas-de-Calais, 51, quai d'Alsace, F - 59500 Douai;
- c) Langue française.
7. Avant le 1<sup>er</sup> décembre 1975.
8. En vue du jugement des candidatures, l'entrepreneur fera parvenir en même temps que sa demande tous les renseignements généraux et techniques conformément au modèle annexé (annexe III) au Journal officiel de la République française n° 85 des lundi 9 et mardi 10 avril 1973.
- 9.
- 10.
11. Le 3 novembre 1975.

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(1917)

<sup>(1)</sup> See Council Directive 71/305/EEC, Article 12 (3), and Article 15 (OJ No L 185, 16. 8. 1971, p. 8).



**Restricted procedure (1)**

1. République française, ministère de l'équipement, service des voies navigables du Nord et du Pas-de-Calais.
2. Appel d'offres restreint.
3. a) — Valenciennes (département du Nord), barrage Folien,  
— Bruay (département du Nord), barrage de la Folie,  
— aménagement à grand gabarit de l'Escaut.
- b) Le marché aura pour objet la construction regroupée des barrages de Folien et de La Folie devant évacuer un débit de 100 m<sup>3</sup>/s. Il comprend 2 lots séparés:  
Lot principal:
  - construction des défenses de berges en palplanches métalliques,
  - exécution des rideaux en palplanches métalliques constituant les enceintes d'étanchéité,
  - terrassements à l'intérieur des enceintes,
  - mise en œuvre de 4 ducs d'Albe de protection au barrage de La Folie,
  - travaux de maçonnerie proprement dits,
  - remblaiement nécessaire à l'accès des barrages,
  - mise en œuvre d'enrochements,
  - démolitions diverses en faible quantités.Lot spécialisé:
  - fourniture et mise en œuvre de 4 vannes segments et 2 vannes clapets,
  - fourniture et mise en œuvre des dispositifs d'étanchéité,
  - fourniture et mise en place de l'équipement électromécanique,
  - fourniture des aiguilles des bouchures de secours,
  - réglage et fixation des pièces à sceller et scellement définitif;
- c) L'entrepreneur qui soumissionnera pour le lot principal devra proposer une entreprise spécialisée pour le lot spécialisé, qui sera considérée comme sous-traitant agréé soumis au paiement direct;
- d) L'entrepreneur pourra présenter une variante sur la totalité des deux lots et devra, en ce cas, fournir toutes les notes de calculs et plans nécessaires à la bonne compréhension du projet.
4. Seize mois.
5. Groupement d'entreprises solidaires.
6. a) Le 21 novembre 1975;  
b) Monsieur l'Ingénieur des ponts et chaussées chargé de l'arrondissement technique du service des voies navigables du Nord et du Pas-de-Calais, 51, quai d'Alsace, F - 59500 Douai;  
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(1) See Council Directive 71/305/EEC, Article 12 (3), and Article 15 (OJ No L 185, 16. 8. 1971, p. 8).

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