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II

(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion on the protection of human rights

The opinion of the Committee is not based on any text.

A. LEGAL BASIS FOR THE OPINION

At its 178th plenary session held on 29 April 1980 the Committee, acting on a proposal from the 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 prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to the fourth paragraph of Article 20 of the Rules of Procedure,

Having regard to the decision taken by the Committee at its plenary session on 29 April 1980, in response to a proposal from its Bureau, to draw up an opinion on the memorandum on the accession of the European Communities to the Convention for the Protection of Human Rights and Fundamental Freedoms (adopted by the Commission on 4 April 1979) ⁽¹⁾,

Having regard to the abovementioned memorandum,

Having regard to the sub-committee's information report of 5 August 1980,

Having regard to the draft report submitted by the rapporteur, Mr Williams,

Having regard to its discussions on 10 December 1980, during its 184th plenary session (10 and 11 December 1980),

HAS ADOPTED THE FOLLOWING OPINION

by 86 votes for, one against and 21 abstentions:

1. The Economic and Social Committee endorses the declaration issued jointly by the Council, the Parliament and the Commission on 5 April 1977 and recognizes the prime importance to be attached to 'the protection of fundamental rights, as derived in particular from the constitutions of Member States and the European Convention for the Protection of Human Rights and Fundamental Freedoms' (ECHR).

2. Although the Treaties establishing the Communities contained no express provisions specifically protecting human rights (probably on the ground that the Treaties were primarily concerned with economic integration between Member States), the Economic and Social Committee notes that over the years the European Court of Justice has had to deal with a number of cases in which individuals claimed

⁽¹⁾ Doc. Com (79) 210 fin.

that some Community act had violated some basic right previously guaranteed by the constitution of their Member State. The Economic and Social Committee considers that, however careful the Community may try to be in drafting its legislation such cases are bound to arise from time to time. This will not be because the Community would wish as a matter of deliberate policy to infringe individual rights, but because no legislative body can foresee all the consequences of its decrees, nor ensure in advance that they do not infringe individual rights. Indeed, the Economic and Social Committee believes that the increased involvement of the Community in such matters as for example the transnational mobility of labour and goods, or the social problems related to migrant workers, is bound to cause Community legislation to have an increasing direct impact on individuals and their rights. Similar problems may increasingly arise over individual cases in the field of the Community's anti-trust policy. It is in the interest of individuals and organizations throughout the whole Community that when cases of possible infringement do arise common standards of legal protection should be available to all. This would also help to strengthen the Community as such. It would also reinforce the Community itself if, where allegations were made before the Strasbourg instances that its acts had infringed human rights, it could defend itself before the same machinery.

3. The Economic and Social Committee has noted with satisfaction that in a series of decisions since 1969, the European Court of Justice has built up an impressive body of case-law in relation to Community acts in the course of which it has made reference, not only to the human rights provisions of individual Member State constitutions, but also to the ECHR, to which all Member States of the Community have acceded. The Economic and Social Committee hopes that the Court will continue to act effectively in this manner.

4. Nevertheless the Economic and Social Committee has also learned with concern that in some Member States the national courts have held that in the absence of a proper Community code of human rights, the fundamental rights prescribed in their national constitutions should prevail over secondary Community law. This poses a threat to the uniform application of Community law; and increases the importance of applying a common code of basic rights (such as that provided by the ECHR) to Community acts.

5. The Economic and Social Committee has studied with care the Commission's proposals for

strengthening the protection afforded to individuals in respect of Community legislation, contained in their 'Memorandum on the accession of the European Communities to the Convention for the Protection of Human Rights and Fundamental Freedoms'. These proposals would involve the Community adhering to the European Convention on Human Rights and Fundamental Freedoms, as a separate contracting party. The Economic and Social Committee has also studied the report of an earlier sub-committee designed to show how the interests represented on the Economic and Social Committee could be affected by the Commission's proposals. This report is attached hereto as an Annex and the Economic and Social Committee commends it as a useful exposition of some aspects of the Commission's proposals of special interest to the Economic and Social Committee and to the socio-economic groups from which its members are drawn.

6. The Economic and Social Committee welcomes the Commission's initiative and endorses its principle objective, i.e. to establish as quickly as possible a common code uniform throughout the Community which will lay down common standards of protection for the rights of individuals whose interests may be affected by Community legislation. The Economic and Social Committee agrees with the conclusion of the earlier sub-committee (Annex § 41 (i)) that 'such protection should not be left entirely to national Courts or to the European Court of Justice without reference to a common code'. This becomes increasingly important in view of the growing extent to which Community legislation is affecting individuals. Even though as the sub-committee stated (in Annex § 41 (iii)) 'individual citizens and non-governmental organizations throughout the Community are not yet sufficiently aware of the extent to which Community legislation can affect their fundamental rights', the fact remains that 'the protection of such rights through the legal institutions of the Community will assume increasing importance'.

7. As regards the Commission's suggestion in its memorandum to safeguard human rights by Community accession to ECHR, the Economic and Social Committee considers:

- (a) Accession to the ECHR appears at present to be the most expeditious way to provide additional protection of the fundamental rights of citizens affected by Community acts. The socio-economic groups represented on the Economic and Social Committee are all likely to benefit from such protection over time and none are likely to be adversely affected.

The Committee believes that the Community's accession to the ECHR would enhance the legal protection of individuals against the legal acts of the Community institutions, particularly if they were accorded individual right of petition.

- (b) Nevertheless, given the specific fundamental objectives of the Community, whose actions basically impinge on the economic and social activities of individuals, the ECHR will, of necessity, afford only limited protection for individuals, in so far as it is mainly concerned with civil and political liberties and does not embody adequate safeguards for social rights. The Committee believes moreover, that regardless of accession to the ECHR, the Community should take immediate steps to draw up an inventory of its own incorporating the basic economic and social rights recognized by the Member States. These would be safeguarded by allowing individuals the right to take a case to the European Court of Justice after domestic remedies had been exhausted.
- (c) Whether the Commission's proposals are implemented or a separate code is drafted or both, great importance will continue to attach to the further development of the body of case-law protecting individual rights affected by

Community legislation and to increasing its effectiveness; and the steps which the European Court of Justice has already taken to this end are greatly to be welcomed.

- (d) Negotiation of the Community's accession to the ECHR will encounter a number of legal, political and constitutional difficulties. This is not surprising in view of the novel character of the proposals. None of them (in the Economic and Social Committee's view), should constitute an insuperable obstacle to the proposed arrangement, which if successfully concluded would greatly enhance the international standing of the Community.
- (e) Among such difficulties would be the fact that for those countries with 'dualist' constitutions (e.g. United Kingdom, Ireland and Denmark), the ECHR does not automatically form part of domestic law. This difficulty is not greater than many already encountered in negotiating Community arrangements and should not prove insurmountable. Another difficulty is that not all countries have accepted the right of individual petition under the ECHR. The Commission's suggestion will be more effective in protecting individual rights if the right of individual petition is accepted.

Done at Brussels, 10 December 1980.

The Chairman
of the Economic and Social Committee
Tomás ROSEINGRAVE

**Opinion on European society faced with the challenge of new information technologies:
a Community response**

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

A. LEGAL BASIS FOR THE OPINION

On 20 May 1980 the Commission referred the abovementioned document to the Economic and Social Committee in accordance with Article 198 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to Article 198 of the EEC Treaty,

Having regard to the request made by the Commission of the European Communities on 20 May 1980 for an opinion on European society faced with the challenge of new information technologies: a Community response,

Having regard to the decision taken by its Bureau on 27 May 1980, instructing the Section for Industry, Commerce, Crafts and Services to prepare an opinion and a report on the matter,

Having regard to the opinion issued by the Section for Industry, Commerce, Crafts and Services at its meeting on 5 November 1980,

Having regard to the report submitted by the rapporteur, Mr Nierhaus,

Having regard to the discussions at its 184th plenary session held on 10 and 11 December 1980 (meeting of 11 December 1980),

HAS ADOPTED THE FOLLOWING OPINION

unanimously:

The Economic and Social Committee takes notice of the Commission document and has the following comments to make.

1. General comments

1.1. Products and processes based on new information processing technologies are spreading

rapidly and competition between the Community and other industrialized countries in this sector is on the increase. Consequently, the Committee agrees with the Commission's analysis of the problems posed by these new technologies and its proposals for solutions.

1.2. The Committee agrees with the Commission that support will have to be given to the manufacture and application of the new information technologies' components and systems in the Member States if they are to improve their international competitiveness.

The exploitation of this huge innovatory potential is a matter of great urgency and is of key importance to the Community. The new technologies will form the basis for trend-setting manufacturing processes, products and services and as such offer tremendous scope for growth, but they will also pose dangers for society which are already recognizable today.

1.3. The new information processing technologies fall into three major categories:

- electronic data processing (including automatic word processing),
- microelectronics, and
- telecommunications.

Each of these categories will have a different impact and each category's development potential and scope for support must be assessed separately.

1.4. Apart from direct Community measures, the main emphasis will be on the Commission's coordinating role and efforts in the field of harmonization.

In this connection, the Commission could draw on individual Member States' experiences. However, the success of the direct Community measures will probably depend heavily on the Member States' political will to abolish barriers. This political will might be reinforced by an appraisal of the competition which the Member States are having to face from the USA and Japan with regard to these new technologies.

In the Committee's opinion, the new information processing technologies' importance for economic progress makes it necessary for more to be said about the extent to which individual Member States could have their own aid programmes and how these programmes are to be coordinated, especially as the funds available for the Commission's programme are quite limited.

1.5. The Committee insists that action in this field is urgent and calls on the Council to give priority to decisions on a Community strategy in line with the final communiqué of the European Council held in Dublin in November 1979.

2. Implications for industry

2.1. The new technologies' importance for industry lies in the support to be given to the development, production and application of microelectronic components, electronic data processing installations and telematic equipment. This includes small firms being given and assured a chance to play a part as users, manufacturers or sub-contractors. The effects of this will have to be analyzed in greater detail and more far-reaching forecasts of requirements will also be necessary.

The Committee also considers that consumers are a vital target group for the new technologies; this target group is not mentioned by the Commission.

2.2. Great importance is attached by the Committee to (a) a detailed publicity campaign about the possible applications of the new technologies, (b) aid for selected research projects and (c) the development of a network of harmonized data banks.

The Community should also endeavour to ensure that the new technologies can be used to conserve scarce raw materials and energy, and to satisfy the qualitative needs of consumers with a view to enhancing the quality of life (e.g. in medicine, housing and environmental protection).

2.3. It will be important to ensure that support is given to firms which invest in the Community. In this connection it will be vital to define more exactly what is meant by 'European company'.

2.4. The Committee would urge the Commission to consider how support measures can be prevented from distorting competition as far as possible.

2.5. The introduction of harmonized telecommunications services and development of common procurements standards for telematic equipment in an attempt to create one single Community market for public contracts should not lead to the Community cutting itself off from the international market. European industry needs to expand in non-EEC markets. But an albeit desirable level of intra-Community competition must not weaken the sector. On the other hand, the decentralizing effect of new communications and information equipment is particularly important for regional development. According to the Commission, the new information processing technologies have received their greatest boost in the USA from defence and space programmes, and the Committee would therefore call for more participation in such programmes by Community manufacturers.

2.6. The Committee calls on the Commission to be more explicit about possible activities in connection with the Community's internal and external trade.

2.7. The Committee also thinks that private consumers' interests must be borne in mind. Hence the need for:

- product standardization,
- an assessment of new data media's impact, and
- more extensive consumer information.

3. Social policy implications

3.1. The negative side-effects of the sweeping social changes brought about by the rapid development of new information processing technologies (e.g. impact on employment, changes in working conditions) will have to be countered if grave social conflicts are to be avoided.

3.2. In particular, it is predictable that the use of MC technology in the manufacturing sector and offices will lead to a large number of jobs being lost in the short and medium-term. The creation of jobs in, for example, the telematic and electronic component industries will not be capable by a long shot of offsetting these losses. The problem could be compounded by a recession. The Committee would therefore ask the Commission to work out more detailed forecasts of the effects of MC technology and propose a list of measures for solving the employment problems that are likely to arise.

3.3. The new information technologies are making it necessary for initial and advanced job training to

be re-oriented and intensified. The aim must be to meet the growing demand for highly qualified staff and to enable jobholders to cope with the changing requirements of their work. At the same time, however, it is necessary to avoid turning out too many data processing specialists, who will not be able to find employment if further technological changes take place and they are not provided with sufficient opportunities to undergo further training or train for a new job.

3.4. The new information processing technologies will not be able to be put to proper use unless the persons affected by their application are kept completely in the picture and are allowed to air their views. The Committee therefore feels that, as soon as the introduction of new technologies is envisaged, consultations and negotiations should begin between trade unions and employers' associations at the various national company levels.

Such negotiations should pave the way for agreements laying down (i) what information is to be provided on the new technologies and how this is to be conveyed, (ii) the steps to be taken to cushion these technologies' impact on employment, working conditions and hours and industrial safety, and (iii) training programmes to ensure the necessary acquis-

ition of new skills and re-employment of the workers concerned.

4. Implications for society as a whole

4.1. Not only industry and employment are being influenced by the increased application of new information technologies. The private lives of almost everybody are also affected to a greatly increasing extent. Hence the enormous significance of these technologies for society as a whole.

4.2. In particular, there is the problem of political interference in people's private affairs being made easier by the increased application of new information processing technologies. In order to stop this, steps must be taken to counter the growth of bureaucratic structures with widely ramified decision-making machinery and data banks.

4.3. The Committee would urge the Commission to work out measures for (a) preventing the abuse of personal data by public and private institutions, (b) making it possible for these data's application to be effectively monitored and (c) ensuring that people have access to the data about themselves.

Done at Brussels, 11 December 1980.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

*ANNEX***to the opinion of the Economic and Social Committee**

The following text from the Section opinion was replaced by a amendment in the course of the plenary session discussions:

Page 6, point 3.4:

For this reason the Section thinks that as soon as firms make plans to introduce the new technologies, provision should be made for consultations and negotiations at the various levels between employers, workers and their unions and, if necessary, governments. The parties to these consultations and negotiations should discuss the extent of the technological changes, the guarantee of adequate social protection for those hit by these changes and measures for ensuring an adequate flow of information, for cushioning the foreseeable repercussions on employment, working conditions and safety and for enabling employees to acquire new skills.

Voting

For: 27; against: 25; abstentions: 2.

Opinion on the European Regional Development Fund (draft fifth annual report (1979))

The opinion of the Committee is not based on any text.

A. LEGAL BASIS FOR THE OPINION

At its 180th plenary session held on 1 July 1980 the Committee, acting on a proposal from the 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 prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to the fourth paragraph of Article 20 of its Rules of Procedure,

Having regard to its decision of 1 July 1980 instructing the Section for Regional Development to draw up a draft opinion on the fifth annual ERDF report (1979),

Having regard to Article 22 of its Rules of Procedure,

Having regard to the decision taken by that Section on 11 July to set up a study group,

Having regard to the oral report made by the rapporteur, Mr Curlis,

Having regard to the discussions at its 184th session on 10 December 1980,

HAS ADOPTED THE FOLLOWING OPINION

unanimously:

The Committee notes and commends the fifth annual report of the ERDF, subject to the following comments:

1. Introductory comments

1.1. A significant improvement in this report is the consolidation in a single Chapter (II) of the comments on regional policy in 1979. This reflects the increasing emphasis on the linking of the ERDF to the wider issues of regional policy and especially those other aspects of Community policies which impinge on the less prosperous regions.

1.2. The Committee reiterates the opinion, shared by the Commission, that the effectiveness of the ERDF cannot be adequately assessed in isolation from these wider issues.

1.3. As this is the fifth report, there is a growing interest in analysing the ways in which the Fund, and related regional policies, have developed since the first year of operation. The report has facilitated such comparisons by maintaining some chapters in a similar form from year to year. The Committee welcomes this feature of the report and suggests that wherever possible, the main statistical features should present not only information for the year under review, but also for earlier years, so as to make it easier to understand the changing position.

1.4. In particular the Committee welcomes the inclusion in the report of summary year-by-year figures related to:

- (a) regional aids and jobs in each of the Member States (Table 1);
- (b) the breakdown of applications by type of investment (Table 2);
- (c) the percentage of national quotas covered by national applications (Table 4);
- (d) the breakdown of assistance by category (Table 5);
- (e) the use of commitment appropriations (Table 6);
- (f) ERDF grants approved (Table 7);
- (g) payments as a percentage of commitments (Table 8).

2. Fund activity

2.1. Council Regulation (EEC) No 214/79 published in February 1979, made provision for the introduction of special schemes under the quota-free section of the ERDF. Proposals for a set of such measures were forwarded to the Council in October 1979. However the Committee notes that, in the year under review, these proposals had not been adopted and that the quota-free section of the Fund was not in operation. Although the resources have been carried forward into the 1980 budget year, the Committee regrets this delay. The limited size of the quota-free section, which the Committee regards as an important fundamental extension of the activities of the Fund and which it has already ⁽¹⁾ said is too small, is exacerbated by the limited scale of resources available for each of the first five special measures proposed in 1979 and adopted in 1980.

2.2. The total commitment appropriations of the Fund in 1979 amounted to 962 million EUA. This was a significant increase on the amount committed in 1978 (556 million EUA) and in 1977 (502 million EUA). In 1979 these commitments represented a high proportion (over 99.5 %) of the funds available and reflected the more than adequate flow of project applications to the Fund. In 1979 the Commission examined 3 771 projects (80 % more than in 1978); this represents a considerable achievement but nevertheless the Committee would hope that the time needed to examine projects could

be further reduced. The Committee notes that the resources available in commitment appropriations were inadequate to finance 257 project applications, representing possible commitments of 166 million EUA. It regards this as further evidence of the benefits to be gained by the less prosperous regions from further increases in the size of the Fund. The Fund represents only a small part of the budget of the Community and is still very small when compared to the spending by the Member States on regional aids. The Committee would hope that the budget provision for the Fund will continue to be further increased.

3. Grant decisions

3.1. Applications to the Fund which relate to regional development programmes contain a balance of infrastructure projects and proposals relating to investments in industrial or certain service activities. The Committee is aware that it is difficult to establish a fixed relationship which limits the amount of Fund assistance allocated to each category, particularly in the absence of detailed consideration of the programmes for each region. Infrastructure spending is, for example, often a necessary prerequisite of industrial development, particularly for the creation of conditions which encourage the development of smaller enterprises. However, the creation and maintenance of permanent jobs will mean significant restructuring and expansion in industrial, agricultural and service activities. The Committee notes with some concern that the proportion of Fund assistance to the industrial and services sectors decreased in 1979. Assistance to industry and services represented 28 % of the total in 1979, 33 % in 1978 and 41 % in 1977. Conversely, assistance for infrastructure projects has increased: 59 % in 1977, 67 % in 1978 and 72 % in 1979. The report does not provide sufficient information on the reasons for this change, nor does it identify which Member States have changed the balance of their project applications in this direction.

3.2. Since the proportion of Fund assistance directed towards industrial and service activities seems to have decreased, the Committee would like to be assured that the present Regulation is being used as extensively as possible to attract projects of this type. This consideration should also be borne in mind in the forthcoming revision of the Fund Regulation. Article 4 (2) provides that, subject to certain cost per job limits, Fund assistance may be up to 50 % of national regional aids and 20 % of total investment cost. The report indicates that in 1979 for projects costing more than 10 million EUA grants reached on average 45 % of national aids and

⁽¹⁾ See opinion of November 1979, paragraph 1.

7 % of total cost. For projects costing less than 10 million EUA, the comparable figures were 47 % and 11 %. The Committee appreciates that the proportion of the total investment cost financed by ERDF and national regional aids is constrained by Commission decisions in competition policy fixing the maximum levels of State aids in different categories of regions. However, it is not clear from the report whether the scale of ERDF matching grants is constrained because the level of national regional aids is itself in fact lower than the maximum permitted by the rules of competition policy.

4. **Additionality**

4.1. If the Fund is to be seen as an additional resource to meet the problems of the less prosperous regions, then it must be operated so that the complementarity of its operations is not in doubt. However, once again the annual report refers to inadequate information from Member States and lack of response to requests for this information. The Committee regards this as an unacceptable response and supports the Commission in its endeavours to obtain a more helpful response in both qualitative and quantitative terms. However, the Committee also appreciates that additionality is not always easy to demonstrate, particularly on infrastructure projects.

The problem raised by such co-financing will be reviewed in depth in the context of the Committee's work on the revision of the ERDF Regulation, since they are partly a consequence of the text of the existing Regulation.

5. **Cost per job created or maintained**

Whilst it is not easy to relate spending on infrastructure projects to any direct estimate of the number of jobs created or maintained, such estimates can be more easily compiled for industrial and service projects; this is also an operational constraint imposed as part of Article 4, paragraph 2 (a) of the Fund Regulation. However, the report does not tabulate information which reveals *either* the average cost per job created in projects approved for Fund support *or* the average cost per job of the aid provided for projects including any national regional aids. The Committee hopes that in future reports this information can be presented and include a table showing this information for each of the assisted regions. The analysis in Table 7 is a welcome step in this direction but is inadequate since it does not contain regional or annual data;

nor does it include any figures on the spending on national regional aids.

6. **Checks and cooperation**

The Committee notes the continuing difficulty between the Commission and France in pursuing adequate checks on the use of the Fund in France. The Committee would hope that circumstances will not make it necessary to ask for the intervention of the Court of Justice.

7. **The wider perspective**

7.1. The operation of the ERDF cannot be judged in isolation. It must be assessed against the background both of the changing economic climate throughout the Community and of other Community measures having consequences on regional imbalance. This is explicitly recognized by the report (paragraph 4) and the Committee welcomes the inclusion of this wider framework as an integral part of the report. The Committee is concerned, however, that the Commission is unable to report a greater range of positive developments indicating a bigger impact in practice of this general attitude.

7.2. In a report on the means of reducing regional imbalance within the Community, the Committee is surprised that no basic material illustrating recent changes in the economic background of the regions is included. It notes that the Commission will shortly publish its first periodical report on the economic and social situation of the regions, and looks forward to examining this report, but would not accept that this should preclude the inclusion of some summary evidence in the annual report of the ERDF as has been the practice in previous years. Without such evidence the report gives no indication of how the situation in various regions is changing, although this is an important factor in assessing the relevance of the activities of the Fund.

7.3. In some Member States the less prosperous regions have been adversely affected by restrictive budgetary policies in 1979. The Committee without making any comment on national economic policies, would however draw specific attention to the need for Member States to give particular consideration to the efforts of national policies on the degree of regional imbalance.

7.4. The annual report, as has become the normal practice, contains (in general terms) a regional analysis of the activities of the Fund in selected regions. This is an informative and useful section of the report which gives greater detail on the impact of the Fund in certain regions. The Committee feels that this analysis could be further improved by the inclusion of qualitative comments on the evolution of particularly serious problems in certain regions or, indeed, by referring to regions in which the interventions of the Community have been particularly beneficial.

8. Regional programmes

For several years the annual reports of the Fund have emphasized the importance of coordinating national regional policies. The latest confirmation of this was endorsed in the Council Resolution of 6 February 1979. The Committee welcomes the reiteration of this basic principle. However, although the Regional Policy Committee has studied the programmes already submitted to the Committee, the report reflects a continuing criticism of the details submitted by Member States. The Committee has stated its views on the regional programmes ⁽¹⁾ and hopes that the programmes can provide both a frame of reference for project assessment and a basis of comparison on the methods used to reduce regional imbalance in Member States. To demonstrate the usefulness of this exercise the Committee regrets that the Commission did not include some, even tentative, conclusions on the evidence available, in this report.

9. Integrated operations

In its opinion on the 1978 Fund report and in its study on Lorraine ⁽²⁾, the Committee welcomed the new concept of 'integrated operations'. In 1979, the Committee learnt with interest of the proposals to apply this approach in Naples and Belfast, as pilot projects. The Committee is currently preparing a study on this concept. Meanwhile it hopes that these projects will be pursued with a sense of urgency and that fuller details will be available for the next ERDF annual report.

10. Interest rebate on EIB loans

In previous opinions the Committee recorded its disappointment that no Member State had used the

interest rate subsidy available to loans from the European Investment Bank. It is, therefore, a significant change that one such project was approved in 1979. The Committee hopes that this provision will now be used more frequently and used in a manner which emphasized the complementarity of this type of assistance.

11. Other Community measures

11.1. Many aspects of Community policy have implications which affect the less prosperous regions. The Committee welcomes the acknowledgement of this facet of Community operations in the report. However, this aspect of the problem of convergence means that a fuller appreciation of the regional implications of, for example, shipbuilding, textiles, transport and energy policies is necessary. The Committee regrets that these areas are not briefly analyzed in the report.

11.2. The emerging difficulties, structural and budgetary, in the agricultural policy of the Community have major significance for the operation of regional policy. The Committee recognizes that a start has been made with more *regionalized* measures under the common agricultural policy but would welcome still stronger differentiation to take account of the problem of regional imbalance.

12. Publicity

If the value of the regional policies of the Community is to be better understood, then it is essential that the impact of the ERDF should be more widely understood. The Committee welcomes the increased publicity afforded to Fund operations. Nevertheless, in this publicity, national governments should be encouraged to give adequate information on the extent of Fund assistance (both in absolute and percentage terms). Similar detail should be published in the Official Journal. This would draw more attention to the scope and scale of Fund assistance and also serve to encourage applications for a wider range of projects and encourage the interest of local and regional authorities.

13. Conclusions

13.1. The Commission acknowledges the need to assess the ERDF as a part of the whole spectrum of regional policy. The Committee welcomes this

⁽¹⁾ Opinion of 30 April 1980 (OJ No C 205, 11. 8. 1980).

⁽²⁾ Study of 30 April 1980.

approach. However, although some distinct progress has been made, the Section recognizes that the Fund and the wider policy issues are still in a state of evolution, and that the problems of regional imbalance are still very large. The Committee urges that regional issues should receive continuing priority in terms of policies, resources and Community interest.

13.2. Because of the importance of the work of the Regional Policy Committee, the Committee reiter-

ates its recommendation ⁽¹⁾ that this body should be enlarged to include representatives of the local and regional authorities and of the economic and social interests in the Community.

13.3. Since the regulations relating to the Fund are due to be reviewed shortly, the Committee hopes that it will have an opportunity to comment on a wide ranging review of the operations of the Fund in the near future.

Done at Brussels, 10 December 1980.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

⁽¹⁾ 'Role and influence of local and regional authorities and social-economic organizations in the field of the common regional policy' adopted on 25 October 1979 (OJ No C 53, 3. 3. 1980).

Opinion on the proposal for a Council Regulation amending, for the benefit of unemployed workers, Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community

The text referred to the Committee has been published in *Official Journal of the European Communities* No C 169 of 9 July 1980, page 22.

A. LEGAL BASIS FOR THE OPINION

On 4 July 1980 the Council referred the abovementioned proposal to the Economic and Social Committee in accordance with Article 198 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

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

Having regard to the request made by the Council of the European Communities on 4 July 1980 for an opinion on the proposal for a Council Regulation amending, for the benefit of unemployed workers, Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community,

Having regard to the Bureau's decision of 2 July 1980, instructing the Section for Social Questions, in anticipation of referral, to draw up an opinion and a report on the matter,

Having regard to the opinion adopted by that Section on 4 December 1980,

Having regard to the report submitted by the rapporteur, Mr Davies,

Having regard to its discussions on 10 December 1980 during its 184th plenary session held on 10 and 11 December 1980,

HAS ADOPTED THE FOLLOWING OPINION

unanimously:

1. The two primary objects of the proposed Regulation are contained in Article 69 (a) which retains the unemployed worker's entitlement to unemployment benefit after he transfers his place of residence from one Member State to another, and in Article 71 (a) which provides for the export of 'preretirement benefits' for workers transferring their permanent residence after having become entitled to such benefits. Both proposals only apply to nationals of the Community working in other member countries. Almost all of the other proposed amendments are either consequential or contain improvement to the wording of Regulation (EEC) No 1408/71 which experience or case law has shown to be necessary.

2. The purpose of Article 69 (a) is to ensure that unemployed workers moving to a different country of residence within the Community should enjoy the unemployment benefits accorded to the unemployed citizens of the new country of residence provided that the conditions set out in the Article are satisfied.

3. The Committee approves the principle embodied in Article 69 (a).

4. However, the Committee considers that the Commission should look again at the conditions which qualify the scope of the Article and at their

wording which in its opinion is not sufficiently precise and complete.

Thus, it is for consideration:

- (a) whether the words 'or resided' should be deleted in paragraph 1 (ii);
- (b) whether in certain circumstances paragraph 1 (ii) could be unfair to a spouse who is estranged from the other party to the marriage and who finds herself/himself a job in another Member State;
- (c) whether in paragraph 1 (iii) the words 'parent or parents' should be substituted for 'direct ascendants' and whether the length of residence should be longer than one year.

It has been noted that there is nothing in the Article to indicate whether the periods of 15 years, six months and one year referred to in subparagraphs (i) (ii) (iii) respectively are to be continuous and uninterrupted periods; or again whether the periods of six months and one year are to be periods immediately preceding the date when the unemployed worker transfers his place of residence and places himself at the disposal of the employment service of the other Member State. These matters require clarification.

In the light of the above observations the Committee recommends that the qualifying conditions should be given further consideration by the Commission and should be re-drafted where appropriate to remove any ambiguities and to ensure that the Article will be fair in its implication and avoid as far as possible all ambiguities and possibilities of abuse.

5. The purpose of Article 71 (a) is to provide for the export of what it describes as 'pre-retirement

benefits' for unemployed workers transferring their place of residence to another Member State after they have become entitled to such benefits.

6. The Committee was in considerable difficulty with the concept of 'pre-retirement benefit' as defined in Article 1 (b) of the proposed Regulation because the concept is defined by a reference to 'early retirement benefit' which is undefined in the definition and also because of the apparent discrepancy between the explanatory memorandum and the definition.

It seemed to the Committee that the Commission should look again at the definition of 'pre-retirement benefit' contained in Article 1 (b) in the light of the considerable difficulties the Committee has experienced and attempt a more complete definition which would bring out more clearly the characteristics of 'pre-retirement benefit'.

7. The Committee supports the proposal embodied in Article 71 (a).

8. It is noted that by virtue of Article 71 (a) (3) and at the request of the competent institution, the institution at the place of residence shall carry out the appropriate enquiries to establish whether recipient continues to satisfy the conditions governing the retention of the right to benefits provided by the legislation of the competent state, but it recommends that the words 'any checks' in line 2 should be replaced by the less offensive words 'all appropriate enquiries'.

9. The Committee offers no comments on the other amendments which are mainly of a consequential nature, but it noted in particular the proposed amendments to Annex V.

Done at Brussels, 10 December 1980.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

Opinion on the proposal for a Council Decision adopting a sectoral research and development programme in the field of environment (environmental protection and climatology) (indirect and concerted actions — 1981 to 1985)

The text referred to the Committee has been published in *Official Journal of the European Communities* No C 228 of 8 September 1980, page 1.

A. LEGAL BASIS FOR THE OPINION

On 11 July 1980 the Council referred the abovementioned proposal to the Economic and Social Committee in accordance with Article 198 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

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

Having regard to the request made by the Council of the European Communities on 11 July 1980 for an opinion on the proposal for a Council Decision adopting a sectoral research and development programme in the field of environment (environmental protection and climatology) (indirect and concerted actions — 1981 to 1985),

Having regard to the decision taken by the Chairman of the Economic and Social Committee on 10 September 1980, instructing the Section for Protection of the Environment, Public Health and Consumer Affairs to prepare an opinion on the matter,

Having regard to the oral report made by the rapporteur, Mr De Grave,

Having regard to the discussions held by the Section for Protection of the Environment, Public Health and Consumer Affairs at its 60th meeting on 25 November 1980,

Having regard to its discussions at its 184th plenary session, held on 10 and 11 December 1980 (meeting of 10 December 1980)

HAS ADOPTED THE FOLLOWING OPINION

unanimously:

1. The Committee approves the research programme. It is gratified that for some years now

the Community has been devoting a larger budget to research projects dealing with improving the quality of life.

2. It considers that, at this time when technological and social change is speeding up, this budget should be increased still further. This would, moreover, provide useful work for a number of scientists.

3. However, it urges the Commission to take care that the Community's budget results in a genuine increase in research and that it does not merely replace national spending.

4. The Committee draws attention to the following comments which the Committee made in its opinion of 27 November 1975 (1):

4.1. In addition to work in the field of natural sciences (biology, biochemistry, toxicology, etc.), major emphasis should be placed on socio-cultural research into: (i) obstacles to improvement of the environment; (ii) factors which make it possible or easier to act on the findings of scientific research.

4.2. People are often disenchanted with urban life because of factors such as air pollution, noise, commuting problems, redevelopment of urban areas without regard for the wishes of the public, haphazard urban development, the shortage of recreational areas, and the neglect of public transport. Some of these problems are also of relevance to the rural environment. Specific analyses should be undertaken with a view to better identification of: (i) the causes of deterioration of the urban environment; (ii) the repercussions of such deterioration on health and living conditions.

(1) OJ No C 35, 16. 2. 1976.

4.3. In its opinion on waste disposal, the Committee has already emphasized the need for preventive rather than curative action ⁽¹⁾. This opinion urged the Member States to promote the use of non-polluting materials and materials which can be re-used or recycled. The Committee welcomes the research into the durability of consumer goods, and would like the Commission to look into ways of stimulating the markets in recycled paper and other recycled products.'

5. Scientific and public opinion have been alerted several times over the last few years by scientific findings as to the potential hazards of certain products and technologies (vinyl chloride monomer, freon used as an aerosol propellant, asbestos, erucic acid in colza oil, red sludge, etc.).

On each occasion, protracted, expensive scientific investigations are necessary in order to verify the initial findings. Albeit the Commission and the Council have paid lip-service to the principle that a product may not be marketed unless it is proved to be harmless, the principle may be difficult to put into effect owing to the sheer size of the interests at stake and a degree of uncertainty surrounding scientific findings. In this way, there may be a risk to the environment which subsists until supplementary research has come up with a position which is based on scientific certainty.

In some cases, the burden of proving harmlessness rests on the industry (pharmaceuticals, food additives) but this is not generally the case.

The Committee therefore considers that appropriations should be earmarked for urgent situations.

6. Furthermore, the Committee asks whether the research programme which deals both with the

environment and climatology might not also expressly cover certain disciplines which come under both heads, such as hydrology — important as regards agriculture, hydro-electric power and drinking-water supplies.

7. The Committee reiterates its interest in the investigation of the economic and social costs of nuisances and the potential economic repercussions of protective measures (location of investments, competitiveness, etc.), and methods of cost/benefit analysis (including social costs). The Committee would appreciate it if, when priorities are being set for the investigation, projects were to be selected which could help to improve the assessment of the environmental impact. The Commission has put forward proposals to this end.

8. Community investment in research will not be fully effective unless sufficient effort is devoted to an information campaign directed at scientific circles, the press, the general public and organizations affected by environmental legislation.

9. The Committee notes with satisfaction that the Commission is beginning to establish contacts with conservationists, employers' and trade associations, trade unions, consumer organizations and other bodies concerned with environmental protection. It hopes that the Commission will maintain and develop these contacts.

10. On a general note, the Committee stresses its oft-repeated view that, as far as nuisances are concerned, prevention is better than cure. It is pleased that the Commission stresses prevention in its programme.

Done at Brussels, 10 December 1980.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

⁽¹⁾ See ESC opinion on the proposal for a Directive on waste disposal (OJ No C 16, 23. 1. 1975).

Opinion on the proposal — for a Council Regulation amending Regulation (EEC) No 1655/76 extending the transitional arrangements for the import of New Zealand butter into the United Kingdom and — the proposal for a Council Regulation relating to the importation of New Zealand butter into the Community on special terms

The text referred to the Committee has been published in *Official Journal of the European Communities* No C 193 of 31 July 1980, pages 3 and 5.

A. LEGAL BASIS FOR THE OPINION

On 22 July 1980 the Council referred the abovementioned proposals to the Economic and Social Committee in accordance with Article 43 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

HAS ADOPTED THE FOLLOWING OPINION

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

by 52 votes to 20, with 14 abstentions:

Having regard to the decision taken by the Council on 22 July 1980 to consult it on the proposal for a Council Regulation amending Regulation (EEC) No 1655/76 extending the transitional arrangements for the import of New Zealand butter into the United Kingdom, and the proposal for a Council Regulation relating to the importation of New Zealand butter into the Community on special terms,

1. Since 1978 the special arrangements introduced by Protocol 18 to the Act of Accession, have enabled New Zealand not only to market its set quota of butter but to exceed sometimes by a considerable margin, the percentage of total UK butter sales laid down for New Zealand butter (25 %).

Having regard to the decision taken by its Bureau on 23 September 1980 instructing the Section for Agriculture to prepare the Committee's work on the matter,

2. Planning defects connected with the New Zealand butter imported under these 'transitional arrangements' have led periodically to disturbances on a Community market already beset by extremely serious problems.

Having regard to the opinion and report issued by the Section for Agriculture on 9 October 1980,

3. Mindful of these difficulties, the Commission has proposed a 20 000 tonne cut in the New Zealand butter quota for the United Kingdom (*viz* 95 000 tonnes) before the end of 1980, accompanied by a reduction in the special levy on those amounts not yet put on the market when the Council's decision was taken.

Having regard to its discussions on 30 October 1980 during its 182nd plenary session,

Having regard to its decision to appoint Mr Berns as rapporteur-general and its discussions on 11 December 1980 during its 184th plenary session,

4. The Commission proposal was approved by the Council on 30 September 1980. The Committee

notes that this reduction will alleviate the difficulties of the Community dairy products market and will put an end to arrangements which have proved unsatisfactory from several angles.

5. The Commission also proposes new arrangements for imports of New Zealand butter from 1 January 1981.

In the Commission's view these new arrangements should remove the present planning difficulties associated with the amounts imported.

6. The Committee cannot endorse the proposed arrangements because they would guarantee the sole New Zealand marketing organization full access to

the Community market, irrespective of the situation and difficulties on that market, for a considerable quantity of butter; an agreement of this kind would for the foreseeable future, create a situation which would be difficult to reconcile with some CAP requirements.

7. However, the Committee shares the Commission's desire to preserve the traditional links and good economic and political relations with New Zealand.

The Committee would therefore ask the Commission to consider what steps could be taken under Community foreign trade policy to enable New Zealand to sell part of its dairy products surplus.

Done at Brussels, 11 December 1980.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

ANNEX

to the opinion of the Economic and Social Committee

Amendment rejected

The following amendment, tabled in accordance with the Rules of Procedure, was rejected during the discussions.

Page 2:

Delete Article 6 and replace it with:

'The Section considers that the Commission proposals in allowing continued access by New Zealand to the Community market for dairy products are broadly acceptable.'

Voting

For: 34; against: 47; abstentions: 13.

Opinion on the draft Council recommendation concerning the registration of recombinant DNA (deoxyribonucleic acid) work

The text referred to the Committee has been published in *Official Journal of the European Communities* No C 214 of 21 August 1980, page 7.

A. LEGAL BASIS FOR THE OPINION

On 25 September 1980 the Council referred the abovementioned proposal to the Economic and Social Committee in accordance with Article 198 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

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

Having regard to the request of the Council of the European Communities on 25 September 1980 for an opinion on the draft Council recommendation concerning the registration of recombinant DNA (deoxyribonucleic acid) work,

Having regard to the decision of its Bureau on 23 September 1980 instructing the Section for Protection of the Environment, Public Health and Consumer Affairs to prepare an opinion on the matter,

Having regard to the opinion adopted by that Section at its meeting on 25 November 1980,

Having regard to the oral report of the rapporteur, Mrs Heuser, and the study submitted by her,

Having regard to the discussions at its meeting on 10 December 1980 (184th plenary session of 10 and 11 December 1980),

Having regard to the ESC opinion of 17 July 1979 on the proposal for a Council Directive establishing safety measures against the conjectural risks associated with recombinant DNA work ⁽¹⁾,

Having regard to the ESC opinion of 3 July 1980 on the proposal for a multiannual Community programme of research and development in biomolecular engineering (indirect action 1981 to 1985) ⁽²⁾,

HAS ADOPTED THE FOLLOWING OPINION

by 67 votes to 12, with five abstentions:

1. The Committee approves the contents of the Commission's proposals. It is particularly glad that in contrast to the draft Directive of 1978, which proposed that all recombinant DNA work should be specifically authorized, the Commission now feels it is sufficient merely to give notice of experiments to the relevant national or regional authorities.

2. However, the Committee feels that even the compulsory notification of all work will involve a big increase in administrative work and result in an incalculable deluge of paper. It thinks it would be more sensible to lay down specific criteria stating that generally experiments would only have to be reported to the authorities and particularly hazardous work would have to be authorized. The Committee is fully aware of the difficulty of laying down such criteria in the present state of scientific knowledge and would refer in this context to its study on safety measures against the conjectural risks associated with recombinant DNA research.

⁽¹⁾ OJ No C 247, 1. 10. 1979.

⁽²⁾ OJ No C 230, 8. 9. 1980.

3. The Committee has considered what type of legal instrument should be used, a recommendation or a Directive. In view of the present state of scientific knowledge it prefers a Directive, but it would like to await the outcome of the hearing which has been planned before adopting a final position.

4. The Section prefers a Directive because:

- a recommendation is not an effective enough legal instrument for bringing about a genuine harmonization of national laws;
- although no short-time dangers have been detected in recombinant DNA work, serious consequences may still be discovered in the longer term;
- as scientific knowledge stands at present, the conjectural risks associated with recombinant DNA work are low, but dangers may still occur, especially when using pathogens as a vector or host;
- to ensure fair competition, it is necessary to harmonize both Member States' laws in this field and the voluntary supervisory and safety measures which are based on national recommendations.

5. To adapt the provisions of such a Directive to the constantly changing state of scientific research, a management committee should be set up. Such a committee would decide on any changes to the lists of experiments which (a) did not have to be registered, (b) had to be registered, or (c) had to be authorized after consulting an advisory committee

made up of representatives of the world of science and of economic and social interest groups.

6. The Committee particularly regrets the non-inclusion of the additional conditions concerning the registration procedure, which were held to be essential in its opinion of 17 July 1979. These were as follows:

'The appropriate authorities should have the right to veto experiments that have to be notified, i.e. they should be able within a specified period to issue an injunction or impose a ban. Such action should be properly justified in each case.

Only experiments within a closely defined area of research should have to seek prior authorization, such as those involving more than probable risks for the environment and staff conducting tests. Examples of this are work with highly pathogenic micro-organisms, such as the smallpox virus, or work involving the transfer of genetic information on highly dangerous toxins, such as snake venom.'

7. The Committee would point out that it has prepared a study on safety measures against the conjectural risks associated with recombinant DNA research, in which the problems of work involving recombinant DNA have been investigated. This study is also a prelude to a series of hearings of experts from the world of science, the public health authorities, agriculture, industry, the trade unions and the public authorities.

Done at Brussels, 10 December 1980.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

*ANNEX***to the opinion of the Economic and Social Committee**

The following proposals for amendments were rejected:

1. **Page 19, paragraph 2:**

Delete second and third sentences, i.e.:

'It thinks recombinant DNA research'

Voting

For: 9; against: 68; abstentions: 6.

2. **Page 20, paragraphs 3 to 7 inclusive:**

Replace the existing text by the following:

'3. The Section considers that a recommendation is suitable for bringing about a genuine harmonization of national laws for three reasons:

- no short-term dangers have been detected in recombinant DNA work;
- almost all scientists now agree that remaining conjectural risks surround only those experiments involving known pathogens; protective measures for such pathogens are already applied and are controlled in Member States by existing bodies. Further discrimination between categories of risk is therefore unnecessary;
- a recommendation would permit Member States jointly to modify their controls in the light of rapidly advancing scientific knowledge.

4. The Section has prepared a study in which the problem of work involving recombinant DNA have been investigated thoroughly. In view of the general agreement by almost all scientists that no short-term dangers have been detected and that remaining risks surround only those experiments involving known pathogens, and particularly in view of the outcome of the meetings of experts organized by the Commission in the summer of 1980, any further hearings by the Economic and Social Committee are now unnecessary.'

Reasons

It is considered that a Directive is not an appropriate instrument because adapting its provisions to the constantly and rapidly changing state of scientific research by any form of management committee at Community level or by 'technical progress committee' would be so slow that the Community would soon fall very far behind other industrial nations, such as the United States and Japan, in a technology vital for future economic growth, prosperity and well-being.

Voting

For: 19; against: 65; abstentions: 1.

Opinion on the proposal for a Council Decision on acceptance by the Community of a draft resolution of the European conference of transport ministers on the introduction of an ECMT licence for international removals

The text referred to the Committee has been published in *Official Journal of the European Communities* No C 299 of 18 November 1980, page 8.

A. LEGAL BASIS FOR THE OPINION

On 26 September 1980 the Council referred the abovementioned proposal to the Economic and Social Committee in accordance with Article 75 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

HAS ADOPTED THE FOLLOWING OPINION

Having regard to the Treaty establishing the European Economic Community, and in particular Article 75 thereof,

unanimously:

Having regard to the request for an opinion made by the Council on 26 September 1980 ⁽¹⁾,

Subject to the following general and specific comments, the Committee approves in principle the Commission's draft Decision on international removals.

Having regard to the decision taken by its chairman on 3 October 1980, instructing the Section for Transport and Communications to draw up a report and opinion on the matter (Article 22 of the Rules of Procedure),

International removals are at present regulated by the first Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road between Member States.

Having regard to the opinion issued by the above Section at its 134th meeting on 12 November 1980,

Annex II of this first Directive lists types of carriage not subject to any quota system but which may be subject to licences. These licences must conform with a standard model introduced by Community Directive 65/269/EEC of 13 May 1965 and amended by Directive 73/169/EEC of 25 June 1973. The aim of the 1962 Directive was to simplify the rules governing a number of often highly specialized transport operations — operations which in any case hardly made any impression on the market.

Having regard to the oral report presented by the rapporteur, Mr Renaud (Article 29 of the Rules of Procedure),

Having regard to the discussions at its 184th plenary session held on 10 and 11 December 1980 (meeting of 10 December 1980),

Whereas international removal formalities should be simplified by introducing a standard document applicable to all countries belonging to the ECMT,

The European conference of ministers of transport (ECMT), an inter-governmental body with more members than the EEC (19 countries in all), has on many occasions taken up Community provisions, putting them to its own members in the form of resolutions.

⁽¹⁾ OJ No C 299, 18. 11. 1980, p. 8.

ECMT resolutions are in no way binding since member countries are free to express reservations about specific points or even entire resolutions.

The ECMT's text on removals is a verbatim restatement of the Community Directive which basically aims to free this type of carriage from the quota system. Bilateral agreements have been brought in line with international regulations and quota-free licences have been provided for in accordance with these same regulations. These provisions are obviously implemented by countries operating a quota system for all their international transport operations. The ECMT likewise exempts transit traffic from licencing requirements and opens the way for multilateral transport operations, although two Member States of the EEC (France and the Federal Republic of Germany) have misgivings about these two attempts at liberalization. Spain, a country applying for membership of the EEC, and Yugoslavia are other countries with misgivings.

The object of the ECMT's work is to introduce a removals licence, thus obviating the need to obtain specific authorization for each transport operation carried out during the period of validity of the licence. The period of validity of the licence is fixed by the issuing country.

The text of the resolution states that the body which has been calling for improvements in international removals is the Federation of International Furniture Removers (FIDI).

The EEC Commission takes note of the work currently being done by the ECMT and considers that there are likely to be areas of conflict between the resolution's proposal to introduce an ECMT licence for international removals and present Community regulations on the matter.

The Commission therefore considers that the EEC's present regulations on international removals by road between Member States need to be brought into line with the ECMT's new proposal. The Commission likewise considers that the task of taking a stand on this matter should be vested in the Community rather than individual Member States. Hence the Commission proposal that the Council adopt a decision accepting the ECMT resolution. The resolution could then come into force on 1 January 1982.

The text of the ECMT's resolution and the model for an international removals licence are appended to the EEC's draft Decision and form an integral part thereof. It is clear from the explanatory memorandum, the resolution and the model that the

ECMT licence enables contractors to carry out multilateral operations even though some countries have their doubts about multilateralism.

General comments

1. EEC approval of the draft ECMT resolution on the introduction of an ECMT licence for international removals is to be recommended since the new licence should make it possible to get rid of a number of international removal formalities currently required.

2. However, the draft ECMT resolution also provides for 'multilateralism' in international removals — even though such removals are covered by the first Council Directive of 25 July 1962 setting up a liberalized system of quota-free bilateral authorizations, a system adopted by EEC Member States in their bilateral agreements.

Secondly, the ECMT system on which the Commission wishes to 'align' the EEC's regulations is not binding as are the EEC Council's decisions. What is more, the documents attached to the proposal, *viz* the draft resolution and the standard model for a licence, explicitly refer to the misgivings of various countries.

3. As a consequence, EEC approval of the ECMT resolution as it stands is unlikely to lead to a uniform solution in the Europe of 19 since the reservations expressed by countries belonging to the ECMT (some of which are also Member States of the EEC) are an integral part of the texts submitted to the ESC for an opinion. Indeed, if the ECMT resolution were implemented in the EEC as it stands at present, there would probably be confusion due to the fact that the resolution would be applicable to different countries in varying degrees. There would also be the problem of equal terms of competition between EEC carriers on the one hand and third-country carriers subject to more flexible rules on driving and rest periods in the country where their vehicles are registered, on the other. Competition would be distorted even more since the ECMT resolution stipulates that vehicles of third countries will be able to operate in the EEC without limits on the duration of their operations and without having to return to base.

The multilateral scope of the ECMT licence, and the possibility each of the 19 member countries has of freely determining the period of validity of the licence for its own nationals, is likely to cast a shadow over the EEC's own international removal regulations and may even cause dislocations therein.

4. Nevertheless, to accommodate the proposals on methods of relaxing international removal regulations — which is what the ECMT's work is all about — consideration should be given to drawing up a standard document applicable to ECMT member countries including the Member States of the EEC. Such a document would:

- ensure the simplification of formalities by virtue of being a uniform document applicable to all member countries of the ECMT;
- ensure the proper use of vehicles used in removal operations (including energy savings) by authorizing such vehicles to take on loads for a country situated on the return journey when this includes transit through one or more countries belonging to the ECMT.

To this end the Committee proposes amendments to the draft resolution and to Annex I thereof (Rule 1 and Rule 4), both of which documents are attached to the draft Decision. These amendments are set out in the specific comments below.

5. The Committee considers that the aim of the ECMT and EEC, namely to ease regulations, will be achieved without dislocations as long as controls ensure that the type of goods transported and the routes taken by vehicles with the ECMT licence conform with the provisions of the amended resolution.

Done at Brussels, 10 December 1980.

Specific comments

DRAFT RESOLUTION

Page 3:

Delete the word 'multilateral' in the first and second lines of the first 'considering' on page 3.

ANNEX I:

Rule 1 (1)

Delete the words 'on a multilateral basis'.

Rule 4 (1)

Add a second paragraph reading as follows:

'Such licences are intended to cover removals between the country where the vehicle has been registered and another country belonging to the ECMT, and vice-versa. Back-loads are permitted on the normal return journey and in transit through member countries'.

Rule 4 (4)

Replace 'shall be determined' in the second line of Rule 4 (4) by 'shall be one year' and delete the rest of the sentence.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

Opinion on the proposal for a Council Directive on aid to shipbuilding

The text referred to the Committee has been published in *Official Journal of the European Communities* No C 261 of 8 October 1980, page 3.

A. LEGAL BASIS FOR THE OPINION

On 6 October 1980 the Council referred the abovementioned proposal to the Economic and Social Committee in accordance with Article 198 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to Article 198 of the EEC Treaty,

Having regard to the request made by the Council of the European Communities on 6 October 1980 for an opinion on the proposal for a Council Directive on aid to shipbuilding,

Having regard to the decision taken by its chairman on 22 October 1980, instructing the Section for Industry, Commerce, Crafts and Services to prepare an opinion and a report on the matter,

Having regard to the opinion issued by the Section for Industry, Commerce, Crafts and Services at its meeting on 26 November 1980,

Having regard to the oral report made by the rapporteur, Mr Laval,

Having regard to the discussions at its 184th plenary session held on 10 and 11 December 1980 (meeting of 11 December 1980),

HAS ADOPTED THE FOLLOWING OPINION

with no dissenting votes and three abstentions:

The Committee endorses the draft Directive and has the following comments to make thereon:

General comments

1.1. The shipbuilding industry has been in a state of crisis for several years. The most recent statistics confirm this trend and economic and social progress in the Community is bound to suffer as a result.

1.2. The latest Commission Report on the state of the shipbuilding industry stresses that Community order books are far from full. The slump in production is hitting employment, and a total of 22 000 jobs were lost in civilian shipbuilding in 1979. In the first half of 1980, an additional 10 000 jobs were lost throughout the Community.

1.3. On the other hand, non-Community countries are strengthening their position on the world market. In the first half of this year Japan tendered successfully for 50 % of all new orders and took 82 % of world exports. Orders for Community shipyards slumped by 70 % over the same period.

It is not enough merely to note that few shipbuilding areas have escaped the downturn. A more sophisticated analysis is required.

For example, shipbuilding fell by approximately 40 % in Japan between 1975 and 1979. Nevertheless, although the Japanese Government had, in line with the March 1976 OECD consensus, subsequently recommended a ceiling of 3.8 million cgrt, output rose to 4.5 million tonnes in 1979 and will probably reach the 5 million mark in 1980.

1.4. Although some Member States have gone further than others as regards restructuring and streamlining, shipyard production capacities and manpower have been cut to the bone and a further rundown might jeopardize their viability.

Given the prospect of very low economic growth and the differences in competitiveness on the world market, new orders for Community yards will, at least in 1980/81, be extremely low (approximately 2.0 to 2.5 million cgrt). In the most pessimistic scenario this put 30 000 jobs in civilian shipbuilding at risk.

2. In line with the Council resolution of 19 September 1978 on the reorganization of Community shipbuilding, the Committee therefore emphasizes the need (i) to maintain a healthy, competitive, shipbuilding industry on a scale commensurate with the Community's maritime trade, (ii) to safeguard the industry's economic, social and strategic importance.

3. The draft Directive, like the draft Regulation on ESF aid for income support for shipyard workers, on which the Committee recently issued an opinion, is a vital component of the Community strategy particularly at a time when the industry's very survival is at risk. It is, however, extremely limited in comparison to the scale of the problems facing the industry. It is therefore surprising that the proposal proper does not spell out, particularly in Article 6, the need to interpret restructuring as modernization and streamlining rather than capacity-shedding as in the past (though this point is made in the explanatory memorandum).

3.1. The Committee feels that other concrete measures are essential to help shipbuilding to adjust to current market trends. It urges the Community authorities to waste no time in giving their views on the Commission discussion paper on 'scrapping-rebuilding'. There is also a pressing need for tangible support for R & D work on standardization; these support measures would also help the industry to survive and expand.

3.2. Japan has consistently exceeded the annual production ceiling of 3.8 million cgrt agreed under the OECD consensus of March 1976. The Committee, having noted the technical data already compiled by the Community, therefore urges the Commission to take all appropriate steps at the

highest level in order to ensure that the ceiling is adhered to.

4. In line with the fourth and earlier Directives, the fifth Directive seeks to align national aids and phase some of them out.

The Committee's previous comments, particularly those on the fourth Directive (OJ No C 84, 8. 4. 1978), are therefore still valid.

Nevertheless, the fifth Directive shifts the emphasis and breaks new ground in some respects. Given the differences in national arrangements, these changes will make for a broader more realistic approach. Despite these improvements, however, there is a lack of explicit recognition in Article 6, particularly, of the abnormality of the market situation determined by outside forces.

The Committee shares the Commission's concern about the lack of transparency of some national aids for shipbuilding.

Finally, the Committee thinks that more attention will have to be paid to social and regional problems (Articles 4 and 5).

Specific comments

Article 4

Rescue aid may not normally take the form of production aid. Nevertheless, given the differences in aid arrangements in the Member States, it is up to them to find the appropriate legal instruments.

Article 5

The Committee trusts that the Commission will soon put forward specific proposals for joint Community and national action to cope with the regional and social consequences of restructuring. Moreover, while stressing the highly positive aspects of Article 5, the Committee calls for clarification of the term 'normal costs', in particular in relation to social costs.

Article 6

In the light of the general comments above, Article 6 should state categorically that, in the present

circumstances, restructuring must be understood as modernization and streamlining rather than capacity-shedding as in the past. This must also apply to the ship repair industry which has also been hit hard by the recession.

Confusion may arise from the stipulation that aid must be linked to measures to restore competitiveness and enable the industry to stand on its own feet. The Committee therefore stresses that the deadline for restructuring programmes must not be too tight and that the scale of aid must take account not only of the restructuring objectives but also of market trends and international competition.

Article 8

Article 8 provides for aid to assist shipowners to buy ships. In line with its opinion on the fourth Direc-

tive, the Committee reiterates that Community yards should be informed of all plans to order ships. This would enable them to tender.

Article 9

Financing measures taken by Member States in respect of enterprises which they own cannot be held to constitute State aid if they are comparable with measures taken by a private undertaking or group in corresponding circumstances.

Article 11, second paragraph

This paragraph should specify a deadline for Commission approval in order to ensure that negotiations on tenders are not held up unduly.

Done at Brussels, 11 December 1980.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

*ANNEX***to the opinion of the Economic and Social Committee**

The following text from the Section opinion was deleted as a result of an amendment approved during the plenary session discussions:

Page 5, point 1:

'... such as loss underwriting, capital grants and subventions'.

Voting

For: 29; against: 19; abstentions: 15.

Opinion on the proposal for a Council Decision adopting a third plan of action (1981 to 1983) in the field of scientific and technical information and documentation

The text referred to the Committee has been published in *Official Journal of the European Communities* No C 278 of 28 October 1980, page 4.

A. LEGAL BASIS FOR THE OPINION

On 15 October 1980 the Council referred the abovementioned proposal to the Economic and Social Committee in accordance with Article 198 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

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

Having regard to the request made by the Council of the European Communities on 15 October 1980 for an opinion on the proposal for a Council Decision adopting a third plan of action (1981 to 1983) in the field of scientific and technical information and documentation ⁽¹⁾,

Having regard to the decision taken by the Committee's Bureau on 28 October 1980, instructing the Section for Energy and Nuclear Questions to prepare the opinion,

Having regard to the opinion adopted by that Section (rapporteur: Mr Zunkler) at its 60th meeting held on 28 November 1980,

Having regard to the discussions at its meeting of 10 December 1980 (184th plenary session of 10 and 11 December 1980),

Whereas the most up-to-date technical and organizational aids are required to make effective use of

the rapidly growing body of scientific knowledge; whereas scientific innovation, which more than ever is crucial for the maintenance and consolidation of the European Community's position in the world, depends largely on the practical means available for exploiting information;

Whereas the network linking data banks in the member countries of the Community greatly enhances the use that can be made of these banks; whereas it also ensures the parallel development of scientific knowledge throughout the Community; and whereas joint data management is one of the basic prerequisites for the Community's smooth expansion,

Whereas the efforts made so far by the Commission on the basis of its first two three-year plans of action have borne fruit: whereas the standardized information network Euronet has been brought into service; whereas numerous sectoral information services have been connected up to Euronet to form the directly accessible high-capacity scientific documentation service Diane; whereas this is only a modest start when compared, for example, with information services in the USA; and whereas other sectoral information services should be connected up, small businesses' access should be improved, new member countries of the Community should be brought into the network and the links with other advanced documentation networks elsewhere in the world should be strengthened.

⁽¹⁾ OJ No C 278, 28. 10. 1980, p. 4.

HAS ADOPTED THE FOLLOWING OPINION

unanimously:

1. The Committee agrees with the Commission that there must be a third plan of action for 1981 to 1983 in the field of scientific and technical information and documentation and that the work carried out so far must be able to be followed up properly with the funds provided. The Commission's proposal therefore meets with the Committee's approval.

2. The Committee thinks that as far as the delegation of tasks is concerned it would make sense for the Commission to continue to be responsible for (a) promoting the further extension of the Community's documentation network, (b) supporting related measures and developments in Member States and coordinating these with its own activities in the field of information dissemination and (c) looking for link-ups with advanced documentation networks outside the Community. Transmission capacity should be the responsibility of the telecommunications authorities, but the provision of the on-line information and documentation services should be reserved for regionally-based bodies such as universities, research institutes, associations and, more especially, private independent information services.

The Commission should, however, encourage mergers between data banks in order that these services might operate on an independent footing, though competition between services must also be maintained.

3. The Committee welcomes the course to be pursued by the Commission and, in so doing, considers that priority should be given to the following:

- the further standardization of broker and data bank services, the preservation of hardware compatibility and the continued development of uniform command languages, in order to make the exchange of information as easy as possible;
- the furtherance of machine translation services in order to break down language barriers in the

long term and make it easier for small businessmen in particular to use foreign documents;

- the organization of promotional activities in order to publicize the information and documentation services and increase the use made thereof, together with the creation of additional, suitably equipped broker services which liaise between data banks and users. Priority should also be given here to the promotion of post-university training for information brokers;
- the pursuing of efforts to set up a cost-oriented and user-friendly policy with regard to prices and charges, which will permit the widespread use of facilities on favourable terms;
- the taking into consideration of EEC applicant countries' interests and the promotion of links with highly-developed information and documentation services in non-EEC countries as part of an outward-looking policy with regard to the dissemination of information.

4. The Committee therefore gives its full approval to the budget proposed by the Commission for Euronet, user support and market development and new technologies and methodologies (Chapters 1, 3 and 4). With regard to the development of high quality services in Europe, however (Chapter 2), the Committee thinks that a critical and selective review should be made of the funds earmarked for the 'call for proposals' mechanism and the follow-up thereto. As indicated by the priorities listed in paragraph 3, the Committee thinks it is important at present to promote existing means for the conveyance of information and make them a better economic proposition, though the network should also be opened up to new groups of users and, in particular, socio-economic interests. In this connection satisfactory selection criteria ought to be established first of all.

5. Progress made in techniques for the storage, management and utilization of information makes it all the more necessary for precautions to be taken to protect stored information in so far as it relates to persons or companies or, for any other reason, should be kept confidential.

The Committee is emphatic that provisions must be introduced to prevent data from being abused.

Done at Brussels, 10 December 1980.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

Opinion on the proposal for a Council Directive amending for the sixth time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (benzene)

The text referred to the Committee has been published in *Official Journal of the European Communities* No C 285 of 4 November 1980, page 2.

A. LEGAL BASIS FOR THE OPINION

On 23 October 1980 the Council referred the abovementioned proposal to the Economic and Social Committee in accordance with Article 100 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

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

Having regard to the request from the Council of the European Communities on 24 October 1980 for an opinion on the proposal for a Council Directive amending for the sixth time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (benzene),

Having regard to the decisions of the ESC Bureau instructing the Section for Protection of the Environment, Public Health and Consumer Affairs to prepare an opinion on the matter,

Having regard to the oral report of the rapporteur, Mr Beretta,

Having regard to the discussions of the above Section's 60th meeting, held on 25 November 1980,

Having regard to its own discussions on 10 December 1980 during its 184th plenary session (10 and 11 December 1980),

Whereas Directive 73/173/EEC of 4 June 1973 classifies benzene as a substance with a high intrinsic toxicity (class Ia) ⁽¹⁾;

Whereas Directive 76/769/EEC of 27 July 1976 lays down restrictions on the marketing and use of such dangerous substances and preparations ⁽²⁾;

Whereas Recommendation No 144 and Convention No 136 of the ILO of 2 June 1971 concerning protection against the risks of poisoning by benzene calls upon the Member States, among other things, to replace benzene whenever other, less harmful substances are available;

Whereas in certain Member States there are laws limiting the use of benzene in various occupational activities ⁽³⁾;

Whereas the Commission considers that the proposed Directive should be enacted as a matter of urgency in order to provide greater health protection for children,

HAS ADOPTED THE FOLLOWING OPINION

unanimously:

1. The Committee approves the Commission's initiative, as it constitutes a concrete step towards

⁽¹⁾ OJ No L 189, 11. 7. 1973.

⁽²⁾ OJ No L 262, 27. 9. 1976.

⁽³⁾ Italian Law of 5 March 1963 No 245 (Official Gazette of 21 March 1963).

eliminating any possible risk from benzene through using toys.

The urgency of taking such an initiative is justified, in the Committee's view, because children are particularly sensitive to the harmful effects of benzene and because it is possible to replace toys containing benzene with other, harmless products.

2. In addition, Community action is necessary to rectify the differences between national laws on the marketing and use of goods, since such differences not only constitute a barrier to trade but above all have a negative effect on measures to protect the health of children and shield them from danger.

3. The Committee would emphasize, however, that at international level (e.g. the ILO Recommendation and Convention referred to above) and in certain Member States the problem of hazards posed by benzene has been tackled in a more comprehensive manner, either by limiting the use of benzene in a large number of products or by laying down preventive safety standards for factories, the environment

and people in situations where the use of benzene is permitted.

4. What is more, the Committee cannot help but notice that for benzene, a highly toxic and carcinogenic substance, the Commission has merely proposed a ban on the use of the chemical in toys; instead, it should ban the use of benzene generally and just provide for exceptions to the ban where necessary, as is done in the case of polychlorinated biphenyls (PCBs) and triphenyls (PCTs).

5. Obviously, any exception to such a ban would have to be based on objective criteria of technological and scientific necessity and be dependent on the enactment of specific prevention and safety standards laying down, for each case, limit values, assessment methods and what standardized instruments should be used for monitoring.

6. The Committee therefore calls upon the Commission to review as soon as possible the whole benzene issue — in relation to the proposal concerning all dangerous substances — bearing in mind what it has already done as regards vinyl chloride monomer and asbestos, for example.

Done at Brussels, 10 December 1980.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

Opinion on the Commission's proposal for a Council Directive amending Directive 72/464/EEC on taxes, other than turnover taxes which affect the consumption of manufactured tobacco (Eighth Directive)

The text referred to the Committee has been published in *Official Journal of the European Communities* No C 311 of 29 November 1980, page 5.

A. LEGAL BASIS FOR THE OPINION

On 24 November 1980 the Council referred the abovementioned proposal to the Economic and Social Committee in accordance with Articles 99, 100 and 198 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99, 100 and 198 thereof,

Having regard to the request from the Council of the European Communities on 24 November 1980 for an opinion on the proposal for a Council Directive amending Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco, prolonging the period of applicability of the second stage of harmonization,

Having regard to the Rules of Procedure of the Economic and Social Committee, and in particular Articles 22, 46 and 47 thereof,

Having regard to the decision taken by the chairman on 2 December 1980 and subsequently confirmed by the Bureau on 9 December 1980 instructing the Section for Economic and Financial Questions to prepare an opinion on the matter,

Having regard to earlier opinions of the Economic and Social Committee on the harmonization stages for indirect taxes on manufactured tobaccos⁽¹⁾,

Having regard to the request dated 25 July 1980 from the Council of the European Communities for an opinion on the proposal for a Council Directive amending Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco, by detailing provisions applicable to the third stage of harmonization,

Having regard to the oral report given by the rapporteur, Mr Miller,

Having regard to the opinion issued by the Section for Economic and Financial Questions at its meeting on 2 December 1980,

Having regard to the discussions on 10 December 1980 during the 184th plenary session held on 10 and 11 December 1980,

HAS ADOPTED THE FOLLOWING OPINION

unanimously:

The Committee understands the reasons for the Commission's proposal that the second stage of harmonization be extended by six months to 30 June 1981, and approves the proposal.

Done at Brussels, 10 December 1980.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

⁽¹⁾ OJ No C 203, 30. 8. 1976, p. 1.

Opinion on the proposal for a Council Regulation regarding interest subsidies on certain loans granted in the context of special Community aid towards reconstruction of the areas devastated by the earthquake in Italy in November 1980

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

A. LEGAL BASIS FOR THE OPINION

On 8 December 1980 the Council referred the abovementioned proposal to the Economic and Social Committee in accordance with Article 198 of the Treaty establishing the European Economic Community.

B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

The Economic and Social Committee prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

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

Having regard to the request made by the Council of the European Communities on 8 December 1980 for an opinion on the proposal for a Council Regulation regarding interest subsidies on certain loans granted in the context of special Community aid towards reconstruction of the areas devastated by the earthquake in Italy in November 1980,

Having regard to the draft opinion submitted by the rapporteur-general, Mrs Strobel,

Having regard to the discussions at its 184th plenary session, held on 10 and 11 December 1980 (meeting of 10 December 1980),

Having regard to the resolution adopted at that plenary session,

Whereas after the first emergency aid, the problem of reconstruction and redevelopment must now be tackled as a matter of urgency to ensure the survival and recovery of the devastated areas as soon as possible,

HAS ADOPTED THE FOLLOWING OPINION

unanimously:

The Economic and Social Committee welcomes the Commission's proposal for exceptional Community aid for the Italian disaster areas, and gives its unqualified approval to the draft Council Regulation.

The Committee hopes that this special aid will be rapid and effective and requests that, besides the Council and the European Parliament, it, too, be kept informed of the measures taken.

Done at Brussels, 10 December 1980.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

Opinion on the protection of investment in less-developed countries

The opinion of the Committee is not based on any text.

A. LEGAL BASIS FOR THE OPINION

At its 167th plenary session held on 4 and 5 April 1979 the Committee, acting on a proposal from the 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 prepared its opinion on the above matter at its 184th plenary session held in Brussels on 10 and 11 December 1980.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to the Treaty establishing the European Economic Community,

Having regard to its Rules of Procedure, and in particular Article 20 (4) thereof,

Having regard to the Commission communication to the Council, dated 30 January 1978, on the need for Community action to encourage European investment in developing countries and guidelines for such action,

Having regard to the Commission communication to the Council, dated 14 March 1979, on the instruments of mining and energy cooperation with the ACP countries,

Having regard to the Decision of its Bureau on 3 April 1980, instructing the Section for External Relations to prepare an opinion,

Having regard to its opinion of 28 February 1974 on the proposal for a Council Regulation setting up a system of Community guarantees for private investments in third countries,

Having regard to its opinion of 12 July 1978 on the implementation of the Lomé Convention — The road towards a new Convention ⁽¹⁾,

Having regard to the report from the Commission to the Council on investment promotion and protection clauses in agreements between the Community

and various categories of developing countries: achievements to date and guidelines for joint action,

Having regard to its opinion of 3 July 1980 on development cooperation policy and the economic and social consequences of applying certain international standards governing working conditions ⁽²⁾,

Having regard to the opinion issued by its Section for External Relations at its meeting on 11 November 1980,

Having regard to the report of the rapporteur, Mr Breitenstein,

Having regard to the discussions at its meeting, on 11 December 1980 (184th plenary session of 10 and 11 December 1980),

HAS ADOPTED THE FOLLOWING OPINION

by 78 votes to 27, with 8 abstentions:

1. Introduction

1.1. Provided that the investments are desired by the host countries and are carried out in accordance with their laws, the Committee believes that it is in the interest of both parties to secure and expand Community investment in the LDCs. The LDCs are urging the industrialized nations to encourage investment, to which they attribute a key role in building up their economies and raising their living

⁽¹⁾ OJ No C 114, 7. 5. 1979.

⁽²⁾ OJ No C 230, 8. 9. 1980.

standards, and previous committee opinions on development cooperation have repeatedly pointed out that such investment serves the trading, economic and political interests of the Community ⁽¹⁾.

1.2. A Commission communication to the Council of 26 January 1978 notes a decline in the flow of Community investment to the LDCs, including those enjoying special relations with the Community (such as the ACP countries under the Lomé Convention).

1.3. This opinion is concerned with one of the reasons for this decline, and possible remedies. It is centred on two issues:

- (a) Is it necessary to provide a special back-up for investment which furthers the development of the LDCs?
- (b) If so, what measures should be taken? Should they be Community measures?

2. Special problems of investment in the LDCs

2.1. Anybody investing in either an industrialized country or an LDC has to be prepared to run commercial risks and expects an adequate return on invested capital in due course.

Commercial risks may be greater in LDCs than in industrialized countries because of their special material and financial handicaps, and lack of the necessary trained staff (inadequate local infrastructure and industrial environment, difficulty or impossibility of raising venture capital locally, need to import specialists and supervisory staff, etc.).

Investors can foresee and allow for such commercial risks. It would be not only unnecessary but positively harmful to underwrite such risks (unnecessary or rash investments, sloppy management, etc.).

2.2. The Committee is of course aware that the LDCs are being hit often harder than the industrialized countries by the economic crisis (soaring prices for energy and other imports, dearer loans, impact of keener international competition on export earnings, etc.).

This aspect could be dealt with in a broader Committee opinion on the common policy with respect to development aid.

2.3. Investment in most LDCs is also fraught with non-commercial risks not generally found in industrialized countries.

Irrespective of the political regime, commitments on both sides are more vulnerable to upheavals precipitated notably by the economic plight of the LDCs, the minimal living standards of large sections of their populations and their recent emergence as independent nations. Such risks can neither be foreseen nor calculated in advance.

2.4. This potential instability works to the disadvantage of the LDCs in one of two ways:

- (a) Investors are unwilling to invest in those LDCs, often the poorest, where the risk is greatest.
- (b) The risk of political upheavals in medium and higher income LDCs may in other cases lead to investments which the investors can withdraw on short notice to limit their risk.

2.5. The Committee points out that bigger companies with investments in a large number of countries do not feel desperately threatened by setbacks in a single host country. But potential instability is generally a strong deterrent to small and medium-sized businesses which cannot diversify their investments.

Nevertheless, the promotion of investment in LDCs is to a large extent dependent on the existence of a welcoming attitude in the host country.

2.6. The Commission is trying to find remedies which would give better investment security particularly to small and medium-sized businesses, since the 'spin off' effect from these investments is likely to be very useful to LDCs.

⁽¹⁾ Including the opinion of 12 July 1978, OJ No C 114, 7. 5. 1979.

3. Back up

The Committee agrees with the Commission that two types of measures can help to offset instability:

- Investment protection agreements;
- Insurance against non-commercial risks.

3.1. *Investment protection agreements*

3.1.1. The size of some multinationals gives them considerable economic viability. But small and medium-sized businesses are less able to cope with non-commercial risks. International organizations are working on the formulation of rules of conduct concerning international investments and transnational corporations, but the complexity of the task and the great variation in national legal systems makes it unlikely that a global code of conduct can be adopted within a reasonable span of time. Some international organizations have established non-obligatory guidelines or declarations of principles.

Through exerting moral pressure on the parties involved, such guidelines are steps in the direction of establishing international rules for investors and host countries which encourage a better investment climate.

3.1.2. The foreign investment climate can be improved by specific investment protection agreements (or investment protection clauses in overall agreements) with individual LDCs or groups of LDCs.

3.1.3. Such agreements lay down codes of conduct for parties involved in investments undertaken in accordance with local law or, where this may be insufficient, under conditions agreed by host country and investor. They may contain stipulations concerning renegotiation after a certain number of years. Experience has proved that such agreements have greatly improved investors' confidence in areas where they exist.

3.1.4. Protection agreements do not infringe the sovereignty of the host country — just as the sovereignty of industrialized countries is not infringed by the inducements they offer foreign investors in order to influence the location of investments.

3.1.5. Since the early sixties, and above all in recent years, the majority of the EEC Member States have concluded particular agreements on mutual investment promotion and protection with various LDCs. The provisions are designed to protect — and thus stimulate — investment. They lay down non-discriminatory legal and governmental treatment, protection against arbitrary expropriation, adequate, prompt and freely transferable compensation in the event of nationalization, impartial arbitration on disputes, etc. Some Member States have few agreements yet.

3.1.6. The underlying principles of investment protection agreements are broadly similar, but the practical details sometimes differ substantially. A number of LDCs have laid down investment codes incorporating similar rules. Such codes simplify the negotiation of protection agreements and remove all ambiguity about infringement of sovereignty.

3.1.7. Agreements normally stipulate that:

- Dispossession measures against foreign investments can be taken only for public purposes;
- Expropriation measures must involve a legal procedure in conformity with international law. Member States seek to have the other measures of deprivation or investment restriction included in the definition of the term 'expropriation'. Involved here is what is known as 'disguised expropriation'.
- Compensation must be adequate and effective and the amount due at the time of expropriation must be transferable freely and without delay.

3.1.8. Most agreements say nothing about the applicability of agreement provisions to investments made before the agreement came into effect. Either they specify that only future investments will be eligible to benefit from the agreement or they define a right of recourse limited by a deadline.

The intensification of agreement networks could contribute to the elaboration of certain rules of international law, especially since these agreements provide for the settlement, by arbitration authorities, between host states and investors or between signatories. The tendency is to submit litigation to the CIRDI ⁽¹⁾ especially established for such cases and signed by about 100 States of which more than half are LDCs.

3.1.9. In order to secure a legal basis for intervention in the event of disputes, the Member States in principle only underwrite non-commercial risks in countries which have signed investment protection agreements. This practice, which reveals the value of protection agreements, is not however excessively rigid since there are relatively few bilateral agreements and most protection arrangements allow waivers, notably for countries which treat foreign investment satisfactorily, even though they have not signed a protection agreement. A few Member States have investment insurance facilities available to national investors in any country, where risks are judged to be acceptable, even if no investment protection agreement has been signed.

3.2. *Investment guarantees against non-commercial risks*

3.2.1. Experience has shown that protection agreements and investment codes may be nullified by unexpected upheavals.

3.2.2. Belgium, Denmark, France, Italy, the Federal Republic of Germany, the Netherlands and the United Kingdom have accordingly like the United States and Japan set up machinery for insuring investments against non-commercial risks. The geographical spread and terms of such insurance varies. Ireland and Luxembourg have no such insurance system.

3.2.3. Current arrangements cover risks of expropriation, war and controls on profit transfers. 85 % to 95 % of losses are refunded, depending on the case. Investments are normally covered for up to 15 years. The premiums paid by firms vary between 0.5 % and 1 % of the sum insured.

3.2.4. All these systems are based on normal insurance practice but, owing to the political nature of

the risks covered, the state guarantees to indemnify the investor for any losses above and beyond the financial resources of the insurer. Given an equal risk, the extent of the guarantee is of course inversely proportional to the premium rate.

This guarantee may involve a contribution from the public purse of the guarantor state.

4. **Role of the Community**

The Committee is convinced that the Community has a useful role to play as regards both investment protection agreements and investment guarantees against non-commercial risks.

The Committee is well aware that these two measures are not enough in themselves to regulate all the problems relating to investments in the developing countries. A key factor is the view held not only by investors but also by executives and specialists on the spot about the 'climate' in which they will be received.

It should be pointed out that the Committee is adamant that investors must respect the principles contained in the Tripartite declaration of the ILO of 16 December 1977 ⁽²⁾ and in the earlier opinions issued by the Economic and Social Committee ⁽³⁾, in particular as regards non-discrimination between workers, trade union freedom and the right of employers and workers to negotiate and conclude joint agreements, safety at the workplace, vocational training, etc.

⁽²⁾ Tripartite declaration of principle on multinationals and social policy, adopted by the ILO governing body at its 204th session on 16 November 1977.

⁽³⁾ Opinion of the Economic and Social Committee on the proposal for a Council Regulation setting up a system of Community guarantees for private investments in third countries (28 February 1974).

Opinion of the Economic and Social Committee on the implementation of the Lomé Convention — The road towards a new Convention (OJ No C 114, 7. 5. 1979).

Opinion of the Economic and Social Committee on development cooperation policy and the economic and social consequences of applying certain international standards governing working conditions (OJ No C 230, 8. 9. 1980).

⁽¹⁾ Centre International pour le Règlement des Différents Relatifs aux Investissements.

The Committee considers it absolutely essential that investment projects be subjected to a thorough examination and that social conditions be laid down for foreign investments, where public funds are involved, so as to avoid any aid or subsidy being given in connection with industrial and technological cooperation to firms which do not undertake to respect the social conditions essential to sound development.

The Committee would further point out that private investment will be beneficial to developing countries if it contributes to useful and appropriate transfers of technology, creates local employment in a high proportion to capital invested, provides technical and managerial in-service training and conforms with the general development objectives of the country concerned, with a prospect of full integration into the national economy.

The Committee also holds the view that representatives of workers in firms making investments must have the right to be informed and consulted, under the conditions stipulated in the laws of the country providing the investment, with regard to proposed investment in a third country.

4.1. *Investment protection agreements*

4.1.1. Insofar as the Community pursues a development cooperation and aid policy additional to those of the individual Member States it should incorporate investment protection clauses in its cooperation agreements with LDCs. *Inter alia*, these clauses should specify that any disputes are to be resolved through international legal channels, and should recognize an international arbitration body such as the ICSID (International Centre for the Settlement of Investment Disputes). The Committee regrets that it has not been possible to do this in the various agreements concluded, or in the process of being negotiated, with the LDCs.

The development of the network of bilateral agreements contributes to the establishment of a form of international law in respect of foreign investments, but the adoption of a common approach here would make clear that the Community has a single policy and would be a useful and logical counterpart to Community action in related fields.

The coexistence for a certain period, at least, of bilateral and Community agreements on investments should pose no problems, provided each agreement stipulated that the most favourable clause was to take precedence in every case.

4.1.2. The Community should work for the alignment of protection agreements and their application to all Community subjects, so that nationals of the various countries can invest in LDCs on the same terms.

4.1.3. Finally, the Committee considers that when drawing up protection measures and a Community guarantee system, account should also be taken of the principles laid down in its opinion of 3 July 1980 on development cooperation policy and the economic and social consequences of applying certain international standards governing working conditions.

4.2. *Insurance of investments against non-commercial risks*

The Community should take initiatives in the same spirit as regards insurance against non-commercial risks to investments in the LDCs.

4.2.1. After noting that investments in the mining sector have dwindled practically to zero, to the detriment both of the LDCs and the Member States, the Commission has proposed the introduction of a Community insurance system for mining investments.

However, the Committee thinks that the Community should not confine itself to this particular sector but should also extend its action to other fields, notably those where small and medium-sized firms have a specific role to play. Nor should investments that pave the way for on-the-spot processing of local resources be forgotten.

A Community insurance system should be introduced, as a matter of urgency for those investments in which nationals of several Member States are participating jointly, in order to alleviate the difficulties and complications arising from the differences between the national systems.

4.2.2. The Community should also use its influence to promote the alignment of national insurance systems at least as regards the scope of the guarantee and its cost.

Here, too, the drawbacks arising out of the existing disparities and indeed the absence of any guarantee in certain Member States are clearly greater (and generally insurmountable) for small and medium-sized firms than for the multinational groups, which are able to benefit from the most favourable system because they have establishments in many countries.

4.3. In short, the Committee thinks that in the sphere of investment protection and guarantees the Community should align, supplement and extend the measures taken by the individual Member States. Such action is an essential element of the Community's development cooperation policy.

Done at Brussels, 11 December 1980.

*The Chairman
of the Economic and Social Committee*

Tomás ROSEINGRAVE

*ANNEX***to the opinion of the Economic and Social Committee****Result of the voting on the complete text of the opinion**

The following members, present or represented, voted for the opinion:

Mr Arena, Mr Basnett, Mr Benigni, Mr Beretta, Mr Berns, Mr Bonety, Mr Bornard, Mr Buckton, Mr Butler, Mr van Campen, Mr Carroll, Mr Cavazutti, Mr Chapple, Mrs Clark, Mr Cremer, Mr Curlis, Mr Christensen, Mr Debunne, Mr Delourme, Mr von der Decken, Mr Doble, Mr Drago, Mr Drain, Mrs Engelen-Kefer, Mr ETTY, Mr Fredersdorf, Mr Friedrichs, Mr Glesener, Mrs Gredal, Mr van Greunsvan, Mrs Heuser, Mr Jakobsen, Mr Kenna, Mr Kirschen, Mr Lane, Mr Laval, Mr Leddy, Mr Leo, Mr Loughrey, Mr Margot, Mr Marvier, Mr Masucci, Mr Meraviglia, Mr Militello, Mr Milne, Mr Muhr, Mr Murphy, Mr Neumann, Mrs Nielsen, Mr Nielsen, Mr Nierhaus, Mr Ognibene, Mrs Patterson, Mr Pfeiffer, Mr Piga, Mr de Precigout, Mr Pronk, Mr van Rens, Miss Roberts, Mr Rollinger, Mr Roseingrave, Mr Rouzier, Mr Scalia, Mr Scharrenbroich, Mr Schneider, Mr Seydaack, Mr Sørensen, Mr Soulat, Mrs Strobel, Mr Theisen, Mr Vanni, Mr Wagenmans, Mr Walsh, Mrs Weber, Mr Williams, Mr Wylie, Mr Zinkin, Mr Zoli.

The following members, present or represented, voted against the opinion:

Mr Ammundsen, Mr Bagliano, Mr Bernaert, Mr Blasig, Mr Breitenstein, Mr Clavel, Mr du Closel, Mr Couture, Mr De Bievre, Mr Emo Capodilista, Mr Evain, Mr Gallacher, Mr Hall, Mr Hatry, Mr Hemmer, Mr Hicks-Beach, Mr Masprone, Mr Miller, Mr Mills, Mr Pearson, Mr Renaud, Mr Savini, Mr Schnieders, Mr Staratzke, Mr Storm-Hansen, Mr Wagner, Mr Wick.

The following members, present or represented, abstained:

Mr de Caffarelli, Mr Chabrol, Mr De Bruyn, Mr De Tavernier, Mr Jonker, Mr Lauga, Mr Laur, Mr Romoli.

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Following the vote by roll call, a statement was issued by members of the Employers Group who had voted against or abstained. It read as follows:

'The members of Group I who have not approved the opinion would have voted for the text approved by the Section for External Relations. But they feel that the amendments to point 1.1. on page 2 and to point 4 on page 10 tabled by Mr van Rens and others have nothing to do with the subject of the opinion and in addition are impractical and contrary to the aim which it is hoped to achieve.'

Mr Ammundsen, Mr Bagliano, Mr Bernaert, Mr Blasig, Mr Breitenstein, Mr du Closel, Mr Couture, Mr De Bievre, Mr Evain, Mr Gallacher, Mr Hall, Mr Hatry, Mr Hemmer, Mr Hicks-Beach, Mr Jonker, Mr Masprone, Mr Miller, Mr Mills, Mr Pearson, Mr Renaud, Mr Romoli, Mr Savini, Mr Schnieders, Mr Staratzke, Mr Storm-Hansen, Mr Wagner, Mr Wick.
