

# Official Journal

of the European Communities

ISSN 0378-6986

C 175

Volume 31

4 July 1988

English edition

## Information and Notices

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## II

*(Preparatory Acts)*

## ECONOMIC AND SOCIAL COMMITTEE

## Opinion on the creation of a European Financial Area

(88/C 175/01)

On 22 December 1987 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the creation of a European Financial Area.

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 12 April 1988. The rapporteur was Mr Delhomenie.

At its 255th plenary session (meeting of 27 April 1988), the Economic and Social Committee adopted the following Opinion with no dissenting votes but with one abstention.

## 1. Introduction

1.1. We welcome the fact that the Commission has decided to ask us for an Opinion on its Communication of 4 November 1987 on the creation of a European Financial Area, particularly as this is an essential step towards the establishment of the single internal market.

1.2. The liberalization of capital movements, the principle of which was established by the Treaty of Rome (Art. 67 et seq.) but which was not put into effect at the time, has already been the subject of several Directives, most recently that of November 1986 (86/566/EEC) amending the Directive of 11 May 1960. This 1986 Directive requires the Member States to refrain from introducing new authorization procedures more stringent than those prevailing on the date of entry into force of the Directive, to simplify as far as possible the authorization and supervisory formalities applicable to the conclusion and execution of transactions and transfers, and, if necessary, to discuss among themselves the process of simplification.

1.3. The new Commission proposals comprise two Directives and a Regulation.

1.3.1. The first proposal is for a Directive implementing Article 67 of the Treaty. It requires the Member States to eliminate all remaining restrictions on capital movements, lays down the conditions under which

national monetary regulatory measures will be permitted, provides a safeguard clause in case of monetary disturbances and establishes a timetable for implementation.

1.3.2. In the Commission's view, the liberalization of capital markets is an essential precondition, though not sufficient in itself, for completing the internal market. Prudential rules to counteract any risks and disequilibria, and the harmonization of tax regimes, are essential accompaniments to, although not preconditions for, this process. Liberalization will require the maintenance, or strengthening of exchange rate discipline and thus the participation of all the currencies in the mechanism of the European Monetary System (EMS). The Commission also points out the need for increased cooperation on monetary policy, and economic policy convergence. Finally, it stresses the need for real freedom to provide services in the banking and insurance sectors.

1.3.3. The second proposal for a Directive amends Directive 72/156/EEC, which is about regulating international capital flows and neutralizing their undesirable effects on domestic liquidity.

1.3.4. The proposals include measures limiting liberalized capital movements; these may be invoked after consultation with all the Member States in the event of external monetary shocks. The Commission argues that

these amendments are made necessary by the change in circumstances since 1972, a period which saw a large influx of capital into the Community, and the current liberalization of the markets.

1.3.5. The proposal for a Regulation provides for the establishment of a single medium-term financial support mechanism for the Member States' balance of payments. Its aim is threefold:

- to establish a single financial support mechanism by combining the medium-term financial assistance systems and the Community loan,
- to offer the possibility of temporary assistance to countries with balance-of-payments difficulties,
- to provide a back-up for the liberalization of capital movements by a Member State.

1.4. For the sake of completeness the Commission would like these three documents to be adopted together; it has fixed on 1 January 1989 as the target date for liberalization. A transitional period is provided for some Member States.

1.5. The Study Group of the Section for Economic, Financial and Monetary Questions heard the views on various aspects of the theme put into discussion expressed by the chairman of the committee of the governors of the Member States' central banks and of the representatives' committee of the central banks of Member States where the process of liberalization is most advanced, i.e. Germany, the United Kingdom and the countries of the Belgo-Luxembourg Economic Union.

The contributions showed that there is a consensus on the objective of liberalization. Reservations were expressed, however, about the prudential rules and safeguard clauses. As for the Commission proposals, there was agreement on the need for greater convergence of economic policy, strengthening of the EMS and very extensive use of the ECU. As regards the creation of a European central bank, which forms a longer-term objective, the central bank representatives intend to study in detail the plans put forward by several Member States.

## 2. General comments

2.1. We endorse the Commission's decision to introduce the legal instruments for a complete liberalization of capital movements. This, just as much as the free movement of goods and persons, is essential to the

completion of the internal market and also necessary for the improved economic competitiveness of the Community.

The very short deadline and the questions raised by the Commission itself do indeed make caution advisable but must not call the objective into question.

2.2. With these three texts the Commission proposes to bring about the complete liberalization of capital movements, without any preliminaries. While supporting the Commission's aims, we feel that liberalization ought to be accompanied by efforts in such important fields as harmonizing the operating rules for financial services and stock markets, the rules governing the solvency and stability of financial institutions, and tax harmonization. Liberalization cannot be achieved without stabilization of exchange rates. Efforts have already been made in this direction via the decisions taken at Basle and Nyborg.

2.2.1. But liberalization presupposes even more radical action. Unstable exchange rates and sudden fluctuations pose a considerable danger for the economies of the various Member States. The resulting unpredictability of costs and threat to competitiveness cause firms, especially SMEs, to abandon domestic and international investment plans.

2.2.2. It is becoming more and more difficult to conduct a coordinated Community policy with floating exchange rate and fixed parity currencies co-existing side by side. The EMS, after all, is founded on the twin principles of stabilization of exchange rates (inflation, balance of payments, public sector finances and productivity) on the one hand, and on the other convergence of economic and monetary policy, the two naturally complementing each other.

2.2.3. The EMS, then, needs to be completed and strengthened. It is, after all, logical that economies of a comparable degree of development should be subjected to the same disciplines. We feel that at the same time as capital flows are liberalized the remaining non-EMS currencies should be brought into the system, subject to the commonly agreed margins of fluctuation. Entry into the system would, of course, only take place at the end of the transitional period in the case of those Member States covered by the provisions of Article 6

of the first proposal for a Directive (1990 for Ireland and Spain and 1992 for Greece and Portugal).

As proposed in Article 3 of the same document, provision should also be made for any necessary adjustments or adaptations.

2.2.4. Liberalization also presupposes greater economic cohesion at the earliest possible stage through greater coordination of the Member States' economic policies. Economic policy autonomy would be completely at odds with coordinated exchange rate discipline. In this way the country practising the most 'sound' policy would not be obliged to serve as a model for the economic and monetary policy of all twelve Member States. The concerted interest rate movements which have occurred since the Nyborg agreement are the first step towards this necessary coordination.

2.2.5. It will also be necessary to develop the role of the ECU. The Community needs a common reference and reserve currency and a common means of payment. If the ECU is to fit the bill, its role needs to be strengthened in two areas:

- as a unit of account and medium of exchange which will help bring about greater stability in international trade;
- the ECU would probably also be more suitable than other currencies for intervening in external foreign exchange markets without accentuating the strains within the EMS.

2.2.6. Finally, there is the question of a Community institution to manage this policy. The role of this institution and its relations with national and Community bodies, and with the central banks of the Member States, need to be defined. The need to resolve these and other questions will probably mean that the setting-up of a European Central Bank is a long-term project. But steps in this direction can be envisaged in the shorter term, e.g. a different system for issuing ECUs and the setting-up of a European Monetary Fund.

2.3. We have also been consulted on the draft second Directive on the coordination of banking and the freedom to provide services. This proposal is closely linked with the texts currently under consideration. This aspect should be underlined in welcoming this further stage in the progress towards a European financial area.

### 3. Specific comments

Whilst expressing our general approval, we feel it appropriate, as indeed the Commission has done, to

look at certain aspects in more detail and make a few suggestions.

#### 3.1. *Coordination with other institutions*

The proposal for a Directive should include a complete nomenclature of liberalized capital movements; this would make it possible to define each category, gain a clear overview of the transitional regimes and safeguard clauses, and facilitate liaison with other bodies which are considering similar inventories, mainly the Organisation for Economic Co-operation and Development (OECD).

#### 3.2. *Prudential rules*

3.2.1. The Commission has not failed to tackle the issue of prudential rules, which are a necessary accompaniment to liberalization. But the coordination of prudential rules, which should if possible be achieved simultaneously, is largely a matter for the second Directive coordinating the supervisory arrangements for the credit sector, and in particular the list of banking activities in respect of which credit institutions are to have freedom to provide transnational financial services.

#### 3.3. *Taxation*

3.3.1. In parallel with the process of liberalization which is essential to the creation of the internal market, it must be ensured that liberalization does not provoke a flight of certain types of business to more flexible tax systems or tax havens outside the Community.

3.3.2. The Commission has not neglected this problem. Furthermore, this draining away of savings to third countries would have a detrimental effect in terms of the cost of financing the Community's policies, as the Community would have to borrow on external markets at high interest rates.

3.3.3. Measures are under consideration by the Commission to prevent the migration of capital within the Community. The first is the taxation of interest income through a withholding tax levied at a uniform rate by all the Member States. The second, more stringent, solution would be for credit institutions to be required to disclose to their tax authorities information on interest earned by Community residents. This would mean the abandonment of banking secrecy by the Member States.

3.3.4. We feel that tax harmonization should not be tackled piecemeal but should be seen in a broader perspective, bringing in the question of savings. Harmonization must also take into account the economic,

social and budgetary variables influencing tax legislation and the redistributive function of tax.

3.3.5. Pending the eventual completion of the process of overall tax harmonization, the Section feels that the introduction of a generalized withholding tax on all types of investment income accruing to residents and non-residents alike, levied at a uniform rate in all the Member States, could be a way of allaying the concerns of the country with the most stringent tax rules, about the liberalization of capital movements.

3.3.6. And finally, there is agreement with the Commission's view that the discriminatory provisions of certain countries' taxation systems, encouraging individuals to invest in domestic securities, and restrictions imposed on investments by pension funds, should disappear. The same applies to the tax concessions and discriminatory provisions applied to the various forms of investment fund existing in some Member States. But the beneficiaries of these provisions are usually persons with average or low incomes, and so measures should be discussed with the Member States which, whilst not impeding the liberalization of capital movements, will safeguard such investments.

3.3.7. Convergence on tax matters should at all events be sought with the European Free Trade Association (EFTA) and the OECD-countries.

#### 3.4. *Safeguard clauses*

3.4.1. The Commission has made provision for a safeguard clause enabling the Member States to reintroduce controls on short-term capital movements if these threaten seriously to undermine the Member State's monetary and exchange rate policy. Such measures may be imposed only by means of an agreed Community procedure and for a period not exceeding six months.

3.4.2. This safeguard clause should be used only to counter speculation and at all events for as short a period as possible.

3.4.3. We are aware that there are major disparities between the Member States determined by structural factors and variables such as the role of the two sides

of industry, the skills of the workforce, productivity, the role of the central banks and even climate and geography, etc. Reducing these inequalities is largely a matter for other policies and procedures already applied or to be applied by the Community bodies.

#### 3.5. *Protection of savers and consumers*

3.5.1. Complete liberalization of capital movements will for the first time offer small savers the opportunity to invest their savings in other Member-States, including those with strong currencies. Savers should not be misled by this new-found freedom into thinking that such investments carry minimal risk and that the same provisions for the protection of savers exist in all the Member States.

3.5.2. There is no reason why the increased availability of financial services arising from the liberalization of capital movements and the freedom to provide banking services should give the consumer any cause for concern, provided that any disputes are dealt with, as stipulated by international civil law, by the courts of the consumer's country of residence, and in accordance with that country's laws.

3.5.3. The creation of a European financial area should neither override these rules nor restrict their application. The laws of the individual Member States should continue to apply and be administered by the country's own courts, or by other courts in accordance with the Brussels Convention on jurisdiction or the rules of international civil law protecting contracting parties.

3.5.4. In the longer term the Commission should consider harmonizing legal protection, which would considerably reduce risks and simplify the consumer's task in the event of litigation. Tripartite discussions with providers of services and consumers' representatives would be appropriate.

#### 3.6. *Economic and social consequences*

3.6.1. As has already been pointed out in the general comments, liberalization of capital movements requires close coordination of the Member States' economic policies, but also coordination of economic and monetary policy. The aim of this economic coordination and liberalization should be to promote job-creating growth. This purpose can be served by helping to facilitate business investment, particularly by prevent-

ing, as far as possible, any draining away of financial resources. This will require international monetary and fiscal policy initiatives.

3.6.2. But will employment really benefit from the proposed measures and the reduction in financial costs which will probably result? This does not follow automatically, and experience shows that it depends on the way decisions are made—on a purely financial basis or also taking into account economic and social factors. The latter course would require involvement and consultation of the two sides of industry enabling them to have their say in determining the solutions adopted.

3.6.3. Liberalization of capital movements should also help put small businesses, craft industries and the cooperative sector, which are the main sources of new jobs, on a more equal footing with big business as regards access to capital. Improved provision of information is vital. This can be achieved via Community information centres, but also via information networks set up by the various professional organizations. It would also be a good idea to harmonize the rules of the co-operative, mutual and non-profit sector. (Economic aid must at all events be the subject of negotiation

with a view to radically improving the situation of the countries concerned.)

3.7. *Comments on the amendment of the 1972 Directive and the Regulation*

3.7.1. One cannot but agree with the Commission's statement in the explanatory memorandum of the proposal amending the 1972 Directive that the Member States must have available a set of protective instruments for the purpose of discouraging untimely capital flows. Here the Commission is responding to certain problems affecting relations with third countries. This justifies the Commission's decision to publish this amendment at the same time as the Directive on the liberalization of capital movements.

3.7.2. The draft Regulation establishing a single support facility contains a new feature, compared with previous systems, viz. a support mechanism to deal with difficulties arising from liberalization.

3.7.2.1. Only one country ever had recourse to the previous system. Is it therefore really necessary to set up a new system which, for the same reasons, may be little used? There ought in any case to be guarantees attached to the decision-making procedure. More specifically, balance-of-payments assistance should be the subject of negotiation to permit a radical improvement in the situation of the countries concerned.

Done at Brussels, 27 April 1988.

*The Chairman*  
*of the Economic and Social Committee*  
Alfons MARGOT

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**Opinion on the proposal for a Council Decision on the System of the Communities' own resources (.../EEC, EURATOM, ECSC)**

(88/C 175/02)

On 25 March 1988 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 12 April 1988. The rapporteur was Mr Pardon.

At its 255th plenary session (meeting of 27 April 1988), the Economic and Social Committee adopted the following Opinion unanimously.

1. The Economic and Social Committee recently drew up an Opinion on the financing of the Community, with reference to the Commission's Communication 'Making a Success of the Single Act' and its report on the financing of the Community Budget.

If forcefully expressed the view that 'the Community urgently needs more resources. Otherwise, it will be a chimera without the budgetary security which is crucial to its development' (point 2.5).

2. At its meeting of 27 January 1988, the Committee adopted an Opinion on the draft Own resources Decision.

In this Opinion the Committee pointed out that it was 'urgent for the Community to have the means needed for its policies. ... Financing should therefore be sufficient, but it should also be as equitable as possible, taking account of each Member State's ability to pay' (point 2.1).

It considered that the 'proposed system has been devised with a view to fairness and solidarity, the aim being to accommodate the less favoured Member States by reducing their contributions and enabling them to benefit from common policies through the structural funds' (point 2.5).

3. Accordingly the Committee expressed regret at the failure of the Copenhagen Summit which was meant to discuss these measures, and expressed satisfaction at the compromise solution reached by the European Council held in Brussels on 11, 12 and 13 February 1988. The aim of the present draft Decision is to implement that agreement.

4. The total amount of own resources assigned to the Communities may not exceed 1,20% of the total gross national product (GNP) of the Community, in payment appropriations [Art. 3(1)]; the commitment

appropriations entered in the general budget of the Communities may not exceed 1,30% of the total GNP of the Community [Art. 3(2)].

4.1. This amount is less than the initial figure of 1,40% of GNP which the Committee approved in principle, although remarking that 'the figure in question is not binding' (Opinion of 19 November 1987, point 3.6).

4.2. Furthermore, two factors should be borne in mind:

— the budgetary compensation paid to the United Kingdom should have no effect on the amount of own resources available for Community policies; this represents about 0,03% of GNP;

— the budget of the European Development Fund for African, Caribbean and Pacific States (ACP) remains outside the general budget of the Communities; this represents about 0,08% of GNP.

4.3. While the method used may give rise to reservations of a technical nature, it nevertheless does, more or less, provide the Commission with the amounts which the latter regarded as essential for wiping out the debt of the past and implementing common policies [see doc. COM(87) 100 and 101 final].

5. The own resources are somewhat changed when compared with the original proposals [doc. COM(87) 100, 101 and 102 final].

5.1. No change is made in the own resource made up of the levies, premiums, additional or compensatory amounts and other duties established within the framework of the common agricultural policy [see Art. 2 (1)a) of doc. COM(88) 137 final].

5.2. No change is made in the own resource constituted by the CCT duties, to which must be added



customs duties on products coming under the ECSC Treaty Art. 2 (1)b) of doc. COM(88) 137 final, this is in line with the initial proposals approved by the ESC in its Opinions of 19 November 1987 and 27 January 1988.

5.3. The Member States will continue to retain, by way of collection costs, 10% of the abovementioned amounts; this is contrary to the original proposals [Art. 2 (3)].

5.4. The maximum rate to be applied to each Member State's uniform base for Value Added Tax (VAT) is fixed at 1,4% (instead of 1% in the original proposals), but, to take into account Member States' ability to pay, which was a concern voiced by the ESC in its previous Opinions, this assessment base will be limited to 55% of GNP for each Member State; this reduces accordingly the contribution of those whose percentage of GNP accounted for by the VAT base exceeds this limit.

5.5. The difference between the maximum amount of own resources, corresponding to 1,2% of the total of the Member States' GNP for the year at market prices, and the other own resources listed above will be established by the application of a rate—to be determined—to the sum of all the Member States' GNP [Art. 2 (1)(d)]; this rate applies to the GNP of each Member State [Art. 2 (4)].

In this respect we welcome the fact that the Commission announces in the preamble that it will introduce a Directive on the application of the rules governing the establishment of GNP.

Done at Brussels, 27 April 1988.

6. The correction of budgetary imbalances will be adjusted to take into account the capping of the VAT base and the introduction of the additional resource based on GNP.

The Committee approves the proposal to submit, by the end of 1991, a report including a re-examination of the correction of budgetary imbalances granted to the United Kingdom.

7. The proposed Decision represents a compromise insofar as:

- the Community's own resources are apparently less than originally envisaged, even though the end result may in practice be almost the same,
- the VAT-based own resource is set at 1,4% instead of 1%, although this assessment base is limited to 55% of the GNP of each Member State to take into account their ability to pay.

8. The Committee can only regret the changes made to the original drafts. It would at the very least have been desirable for the Commission to give reasons for the new choice of bases for the rates and of distribution of resources among the various components, and for it to explain more fully the effects of this choice.

9. Nevertheless, this compromise, insofar as it prevents a standstill in Community policy and enables the internal market to be completed, with all that this implies, must be approved in the Community's current situation. The momentum which it provides should enable the legitimate aspirations of all Community citizens to be fulfilled in due course.

*The Chairman  
of the Economic and Social Committee*

Alfons MARGOT

**Opinion on the proposal for a Council Directive amending Directive 78/1015/EEC on the approximation of the laws of the Member States relating to the permissible sound level and exhaust system of motorcycles**

(88/C 175/03)

On 10 February 1988 the Council decided to consult the Economic and Social Committee, under Article 100 A of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 6 April 1988. The rapporteur was Mr Flum.

At its 255th plenary session (meeting of 27 April 1988), the Economic and Social Committee adopted unanimously the following Opinion.

1. The Committee welcomes the Commission's efforts to achieve a further reduction in traffic noise. The Committee has already pointed out the need for such initiatives in previous Opinions. It therefore endorses the proposal, subject to the following comments.

2. The proposed Directive would supplement the technical requirements applicable to all silencers and establishes an EEC type-approval procedure for replacement silencers based on technical rules and tests, as well as a list of component specifications.

3. Alterations to the original exhaust systems of motorcycles are a major cause of excessive noise. Such changes are often carried out by young people wishing to manipulate the performance of silencers. Exhaust systems are removed or replaced. Freely available replacement silencers can increase a motorcycle's noise level to three times that obtained with the original system, i.e. well above 90 dB (A).

4. It is relatively easy for transport police to detect the removal of the silencing components of the exhaust system and take the motorcycle in question out of circulation. A complete replacement silencer without a list of component specifications is on the other hand much harder to judge.

5. Having carefully monitored and gradually reduced the maximum permitted noise levels of new motorcycles, it is essential that replacement silencers be

brought into line with the rules and that their components be made readily identifiable. This will remove the current uncertainties involved in monitoring the use of replacement silencers.

#### 6. Fibrous material

The Committee would draw attention to the efforts to ensure that only asbestos-free products are used in exhaust systems, including replacement systems.

#### 7. Deadlines

The Committee considers that the 1 October 1988 deadline (Art. 2 and 3) for application of the rules on the granting of national type approvals cannot be met.

The Council is urged to take a decision at the earliest opportunity to enable the Directive to be implemented without a long delay.

The deadline should be set six months after the Council decision.

On that basis, the following timetable could be established:

- one year after the new rules are introduced Member States would be required to issue approvals in accordance with the new law,
- two years after introduction the Member States would be able to prevent motorcycles with exhaust systems failing to conform with the new Directive being put on the road for the first time.

Done at Brussels, 27 April 1988.

*The Chairman*  
*of the Economic and Social Committee*  
Alfons MARGOT

**Opinion on the proposal for a Council Directive amending Directive 65/269/EEC concerning the standardization of certain rules relating to authorizations for the carriage of goods by road between Member States<sup>(1)</sup>**

(88/C 175/04)

On 26 February 1988 the Council decided to consult the Economic and Social Committee, under Article 75 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 13 April 1988. The rapporteur was Mr Eulen.

At its 255th plenary session (meeting of 27 April 1988), the Economic and Social Committee adopted the following Opinion unanimously.

1. The Committee approves the Commission proposal for extending Community rules on removals and on vehicle combinations to all countries of the European Conference of Ministers of Transport (ECMT) (with the exception of Yugoslavia and Turkey in the case of vehicle combinations). The proposal involves Directive 65/269/EEC<sup>(2)</sup>, as amended by Directives 83/572/EEC<sup>(3)</sup> and 85/505/EEC<sup>(4)</sup>.

2. There is no need to repeat here what the Committee has already said about these Directives<sup>(5)</sup>. It is nevertheless regrettable that no action has been taken in response to the Committee's proposal that multilateral authorizations for removals be introduced under a separate Directive rather than by amending the initial Directive 65/269/EEC. At the time the Committee had rightly drawn attention to the danger that amending

the initial Directive for the purpose of introducing multilateral provisions covering only removals might have an adverse effect on the introduction of multilateral provisions for other transport operations covered by the same Directive.

3. The present proposal may cause a certain amount of confusion since, in accordance with ECMT resolutions aligning on EC rules, multilateral authorizations for removals are to be valid in all ECMT countries whereas authorizations for the carriage of goods by means of vehicle combinations (tractor and trailer) are to be valid in all ECMT countries with the exceptions of Yugoslavia and Turkey.

4. Subject to these reservations, the Committee welcomes the Commission proposal. In doing so, however, it assumes that there are no loopholes for misusing the quota-free authorizations for removals. The Committee expects the extension of EC rules to lead to a further easing of restrictions on the carriage of goods. As far as the exceptions are concerned (Yugoslavia and Turkey), the Committee calls upon the Commission and the Council to do all in their power to ensure that the objections of these two countries are dropped.

<sup>(1)</sup> OJ No C 59, 3. 3. 1988, p. 5.

<sup>(2)</sup> OJ No 88 of 24. 5. 1965, p. 1469/65.

<sup>(3)</sup> OJ No L 332 of 28. 11. 1983, p. 33.

<sup>(4)</sup> OJ No L 309 of 21. 11. 1985, p. 27.

<sup>(5)</sup> Opinion of 28 November 1963 in OJ No 168, 27. 10. 1964, p. 2631/64; Opinion of 23 February 1983 in OJ No C 90, 5. 4. 1983, p. 1; Opinion of 26 February 1981 in OJ No C 138, 9. 6. 1981, p. 54.

Done at Brussels, 27 April 1988.

*The Chairman  
of the Economic and Social Committee*

Alfons MARGOT

**Opinion on the proposal for a Council Directive amending for the eighth time Directive 76/769/EEC on the approximation of laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations<sup>(1)</sup>**

(88/C 175/05)

On 23 February 1988 the Council of the European Communities asked the Economic and Social Committee, in pursuance of Article 100 A of the Treaty establishing the European Economic Community, for an Opinion on the abovementioned proposal.

The Committee instructed its Section for Protection of the Environment, Public Health and Consumer Affairs to prepare the work on this matter. The Section adopted its Opinion on 5 April 1988 (rapporteur: Mr Proumens, co-rapporteurs: Mr Saïu and Mr Storie-Pugh).

At its 255th plenary session (meeting of 27 April 1988), the Committee adopted the following Opinion by a unanimous vote.

## 1. General comments

1.1. The present draft Directive, which constitutes the eighth amendment of the 1976 Directive, has been prompted by the need to align a number of the national laws governing the products concerned. The draft Directive also takes account of concerns about cancer and the environment.

Some of the amendments which have been proposed derive from Directive 83/189/EEC which provides for the exchange of information between the Member States. A particular case in point is Article 1, point 22.

1.2. The Commission's philosophy on this subject is, of course, based on securing a systematic ban on all substances and preparations which are known and proven carcinogens, or strictly regulating their use.

This stance does, however, make it necessary to find substitutes for the products in question.

It is possible that, subject to a number of precise and binding restrictions, these same substances and preparations may also be used by persons working in a professional capacity. Professional users are, moreover, afforded special protection in a number of Directives imposing restrictions at places of work. By the very nature of their qualifications these users are also able to take special precautions in using the substances in question.

1.3. In this context the Committee asks the Commission to encourage the Member States to ensure (a) that both suppliers and trade associations have actually set up information procedures, in particular through the intermediary of training establishments and (b) that the precautions to be adopted in the use of these dangerous substances and preparations are well defined and well known.

1.4. The Committee thus registers its satisfaction with this eighth amendment whose aims are eminently praiseworthy, even though a number of details may need to be rectified by the Commission. These rectifications do, however, relate to procedural matters and not to matters of substance.

## 2. Specific comments

2.1. The text of Article 1 (3) is ambiguous. The Committee proposes that the second part of this point be amended to read as follows:

'However, this provision shall not apply in the case of the marketing of:

- a) motor fuels,
- b) substances and preparations for use in industrial processes,
- c) waste covered by ...'

2.2. Points 17 and 18 provide for the implementation at EC level of a pre-1940 agreement of the International Labour Organisation (ILO) to which only the US and the UK have failed to give their assent. At EC level this amendment would involve aligning the UK with the other Member States.

In this context — and the same consideration applies to many other fields — attention should be drawn to the need for the Commission to insist that the Member States check that their national laws in all areas are in accordance with the specific Directives. This would not appear to be the case, for example, with regard to the present lead carbonates and sulphates in question, as listed in the specifications laid down by a number of administrations.

<sup>(1)</sup> OJ No C 43, 16. 2. 1988, p. 9.

2.3. As regard points 19, 20 and 21, which concern mercury compounds, arsenic compounds and organostannic compounds, the major matter of concern is clearly the protection of the environment.

Nonetheless, the use of these substances in industrial processes, for example vacuum or pressure processes, is to remain authorized, as is their use on boats of over 25 metres in length. Smaller boats are generally of the pleasure boat type which are kept moored to jetties for very long periods and which may therefore cause localized pollution.

Selling only in packagings containing at least 20 l is one possible way of ensuring that private users do not break these rules, given that these large packagings cost some 1 000 ECU.

2.4. With regard to these same points, the Committee considers that the very general wording may cause problems as regards the 'export notification' procedure, since the relevant Regulation stipulates that reference

be made to the headings used in Directive 76/769/EEC and its subsequent amendments.

One can understand that if the Commission was to use more specific terms, this would give rise to considerable complications, given the multitude of derived products.

With regard to these export notification procedures, the Commission should therefore systematically take into account the restrictions set out in the right-hand column of the points in question.

2.5. Point 22 concerns a new substance which has been recently notified to the EC authorities and which originates in a non-EC country.

Provision has been made for an exemption, however, since a particular process is involved in which the user does not come into contact with the substance, of which there are only very slight traces in the finished product.

Done at Brussels, 27 April 1988.

*The Chairman*  
*of the Economic and Social Committee*  
Alfons MARGOT

**Opinion on the proposal for a Council Decision amending Decision 84/133/EEC introducing a Community system for the rapid exchange of information on dangers arising from the use of consumer products**

(88/C 175/06)

On 6 April 1988, the Council decided, in accordance with Article 235 of the Treaty establishing the European Economic Community, to ask the Economic and Social Committee for an Opinion on the abovementioned proposal.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for the preparatory work, adopted its Opinion on 5 April 1988, in anticipation of the referral by the Council. The rapporteur was Mrs Williams.

At its 255th plenary session (meeting of 27 April 1988), the Economic and Social Committee adopted unanimously the following Opinion.

The Committee notes with interest the report from the Commission on the operation of the rapid information exchange system during the 4-year period 1984-1988, submitted in accordance with Article 8.2 of the Council Decision of 2 March 1984 (84/133/EEC); the Committee

also recalls that it issued an Opinion on this subject on 26 March 1980<sup>(1)</sup>.

<sup>(1)</sup> OJ No C 182, 21. 7. 1980.

The Committee approves the Commission proposal to extend the period of validity of the aforementioned rapid exchange system by a further 6 years.

Nevertheless, it recommends the expansion and extension of the present system during the forthcoming period.

Done at Brussels, 27 April 1988.

*The Chairman  
of the Economic and Social Committee*

Alfons MARGOT

### Opinion on the general safety requirement for products

(88/C 175/07)

On 16/17 December 1987 the Economic and Social Committee, acting under the fourth paragraph of Article 20 of its rules of procedure, decided to draw up an own-initiative Opinion on product safety.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 5 April 1988 in the light of the report by Mrs Williams.

At its 255th plenary session (meeting of 27 April 1988), the Economic and Social Committee adopted unanimously the following Opinion.

#### 1. Introduction

##### 1.1. *The objective*

The objective of this own-initiative Opinion, the authorization for which was unanimously approved by the Committee in December 1987, is to urge the Commission to propose legislation on consumer product safety. The legislation should make it obligatory for all those involved in the manufacture, supply and sale of consumer goods to comply with a general safety requirement.

1.1.1. The objective mentioned above is reinforced by the two following considerations:

- the implications for consumers of the completion of the internal market in 1992 and the consequences for them of the free movement of goods,
- the implication of Article 100 A, paragraph 3, of the Single Act which states that the Commission in its proposals 'concerning health, safety, environmental protection and consumer protection will take as a base a high level of protection'. In this Opinion the Committee interprets this Article to refer to both the on-going protection of consumers and the need for emergency action, including product recall.

1.2. In addition, the Committee also takes into account the following points.

1.2.1. There is a need for a move towards harmonization in face of the growing amount of national legislation which differs in scope and content from one Member State to another and also a need to remove technical barriers to trade, and to dissuade Member States from using spurious health and safety standards to hinder free trade.

1.2.2. In this context it is important to note that Article 36 of the EC Treaty states that, though barriers may be justified to protect the health and safety of citizens, they must not 'constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States'.

1.2.3. Specific legislation on particular subjects (i.e. 'vertical' directives) already exists in the Community. These vertical Directives are limited in number, and though they include safeguard clauses which allow Member States to intervene in cases of danger, these protective measures apply only to the specific products which these Directives cover.

1.2.4. This still leaves a wide variety of products uncovered, and as it is virtually impossible to adopt vertical directives for every product, there is a need for a broadly based horizontal framework directive to deal with those products for which vertical directives do not at present exist, and also cover loopholes and inadequacies in existing legislation.

1.2.5. In the enlarged market, sound modern safety standards (or norms) will be essential for consumer products on sale and in use throughout the Community. Such standards will need to be equivalent in all Member States and methods of enforcement consistent (See also chapter 3).

1.3. This initiative then is the means of urging the Commission into action and into producing a draft Directive as a matter of the utmost urgency. It is not, however, the task of the Committee to produce the text for Community legislation whether in the form of a Directive or Regulation or in a combination of both. The Committee's role is to draw the attention of the Commission to a number of differing perspectives, on the procedures necessary to the achieving of a much greater degree of consumer product safety.

1.4. The enormous complexity of the subject of product safety is recognized, but the following information documents in particular have been taken into consideration:

- consumer goods safety/consumer safety,
- communication from the Commission on safety of consumers in relation to consumer products. This document indicates that there is increasing evidence of the impact of domestic accidents at both social and economic levels. These accidents now involve at least 45 million people a year and are frequently due as much to human behaviour and ignorance as they are to dangerous products and inadequate instructions for use,
- the Directive on product liability dealing with the special responsibility of manufacturers to which this present own-initiative is complementary <sup>(1)</sup>,
- the new approach to the technical harmonization of standards (Resolution 7 May 1985) <sup>(2)</sup> which is also an indispensable complement.

## 2. Definitions

The Committee considers it essential to adopt specific definitions and makes the following suggestions.

2.1. The term 'consumer products', for the purposes of this Opinion, means any category of goods, whether durable or non-durable, legally bought and normally used by domestic consumers. The Committee nevertheless recognises that there may be grey areas which result from the sometimes narrow divisions between equipment which can be used for both domestic and professional purposes.

The term 'consumer products' also includes raw materials, if sold as finished products, component parts, spare parts and accessories. The Committee is not concerned with products sold second hand by private individuals, though those sold commercially are included. Moreover, products which might affect animals are at present excluded.

2.1.1. The Committee recognises that services are often closely tied in with products (particularly in the renting or hiring of appliances). Nevertheless, it limits its present initiative to products only.

2.2. The Committee points out that safety is inevitably relative and not absolute, and depends on a number of varying social, economic and cultural factors. Nevertheless, it interprets 'safe' as meaning that there is no risk, apart from a very minimal risk, that any of the following examples will injure or cause the death of anyone:

- the product itself,
- the keeping, use or consumption of the product,
- the assembly of any product which is supplied unassembled,
- any emission or leakage from the goods or, as a result of their use, keeping or consumption,
- reliance on the accuracy of any measurement, calculation or other reading made by or by means of the goods.

2.3. The term 'general safety requirement' needs to be clearly interpreted. The suggested meaning of the term is that goods put into circulation in the Community must provide the safety consumers are entitled to expect, taking into account the normal use to which such goods could reasonably be expected to be put.

2.3.1. Consumers depend on safe design and construction. The Committee notes here the contribution of designers in that products will be significantly safer if potential hazards are taken into account at the very earliest development stage.

<sup>(1)</sup> Directive 85/374/EEC (OJ No L 210, 7. 8. 1985).

<sup>(2)</sup> OJ C 316, 4. 6. 1985.

2.3.2. Products could be considered to fail to comply with this general safety requirement if they are not reasonably safe having regard to all the circumstances including:

- the marking of the goods, their presentation, any mark used in relation to them and any instructions or warnings issued regarding use, storage or consumption,
- any published and approved European safety standard,
- any reasonable means of making the goods safe, bearing in mind implications of possible cost.

### 3. Standards (i.e. norms) and Regulations

3.1. The Committee is aware of the growing significance of the legal requirement under the new approach for the technical harmonization of standards, which obliges products to be safe in order to benefit from mutual recognition of standards and tests. The Committee is also aware of the role of both CEN and Cenelec and of national standards bodies in creating agreed voluntary standards while at the same time recognising that it is a function of government to determine basic mandatory regulations.

3.2. The following points should be noted:

3.2.1. Special standards and special features normally expressed as 'essential safety requirements' will be needed for particular products where there are special risks to health and safety.

3.2.2. Legislation on a general safety requirement for consumer products will help in guaranteeing a basic safety level for the large number of domestic products where there are no standards or specific regulations.

3.2.3. The Committee notes the problem of cases where existing norms or regulatory requirements for health and safety are not high enough, and the need for clarification as to whether conformity can be considered as an adequate defence (See also paragraph 6.3).

3.2.4. The need for adequate harmonized regulatory requirements on health and safety in line with Article 100 A (3), i.e. 'taking as a base a high level of protection'. These requirements must be written into standards, and quality assurance must be maintained for the whole production process.

3.2.5. Recognition that it is not only standards organizations which have a contribution to make in

setting criteria for safer products, but also other recognized institutes and associations.

3.2.6. In this connection the Committee notes the Commission's declared intention of extending the involvement and representation of consumers from recognized organizations on standards bodies. It urges the Commission to implement its long-awaited decision to extend representation and to create the necessary financial conditions.

### 4. Product safety in the production chain

In the implementation of product safety along the production chain, from manufacturer through to retailer, the following factors must be taken into consideration:

4.1. The role of the manufacturer in applying controls both during the production process and after the product is in general circulation.

4.2. The responsibility of producers to supply information and instructions for use in a clear, simple, and complete manner, taking into account also the problem of language when a product made in one Member State is used in another.

4.3. The possible contribution of self-regulation by industry through voluntary codes of conduct capable of swift adaptation and the problems relating to effective meaningful enforcement of such codes. In this connection, the Committee would refer to its own-initiative Opinion on the producer-consumer dialogue issued in 1984, and which put forward the suggestion of a framework Directive making provisions with which voluntary codes would have to comply.

4.4. The contribution of independent codes of conduct relating to safety from outside organizations such as the agencies of the United Nations.

4.5. Communication of warnings and implementation of recalls by manufacturers, including references to replacement, repair or destruction.

4.6. Systematic monitoring after goods have been sold into the market, and checking up on consumer use and abuse wherever feasible.

4.7. The special problems of importers and suppliers of goods from outside the Community.

4.8. The problems of retailers, who with their direct contact with consumers, bear the burden of responsibility for a dangerous or defective product made by someone else.



## 5. Inspection and controls

5.1. In the implementation of product safety and controls, the following points, many of which have been commented upon in previous ESC Opinions, must be considered:

- the points in the production chain at which inspection by public authorities should be carried out,
- the difficulties in ensuring consistency of approach and testing throughout the EC,
- the costs to Member States of extending public authority services,
- the extent and practicality of governments delegating to public authorities orders to carry out product recall, bans on sales, and of implementing conformity with standards,
- possible difficulties in dealing with unlicensed street and market traders with no fixed address.

5.2. The Committee recognizes the key importance of public authorities in inspection and control. It stresses the need for public bodies in all Member States to lay down:

- a normal procedure to deal with dangerous goods, which would include general measures concerning a range of products and specific measures concerning a particular brand or product,
- an immediate emergency procedure to be put into operation without delay,
- guidelines for cooperation and co-ordination at both national and European levels.

5.3. In the case of imported goods, special controls should be introduced and maintained at the first point of entry. The Committee points to the need for co-operation between competent authorities and customs, and excise officers.

5.3.1. The need to adapt manufacture of products to different, or even stricter, standards must be borne in mind in the case of export to third countries. In the case of products intended for third world countries where there is often much ignorance and little protective legislation, the Committee recognizes a Community obligation not to market unsafe goods.

## 6. Safeguards

6.1.1. The development of European rapid recall systems are recognized, and the Commission is urged to expand its service among the Member States. At present this is an information system only, and the Committee

draws attention to the fact that information, perhaps not always as transparent as it should be, is not enough on its own.

6.1.2. There are, however, problems to be taken into account relating to warnings and suspensions as well as to product recalls. The Committee suggests that, provided there are no unreasonable delays, manufacturers should have the opportunity to comment on products with which they are involved. In the case of recalls, the Committee calls for the Commission to give clear indications of required data, such as brand or trade name, identification number, batch number, date and place of supply, name and address of manufacturer or supplier.

6.1.3. A good network of communication at all appropriate levels is essential if a positive reaction is to be achieved from people who need to be advised or warned. They must be enabled to respond by clear, simple, multi-media approaches. The Committee recognizes the problems which result when people do not react to a warning: unsafe goods can continue to be used, passed on from person to person, for many years.

6.1.4. Information and education continue to be accepted as running in parallel with consumer safety legislation. In education, where consumer organizations have a particular role to play, the development of personal responsibility is recognized as a prime ingredient.

Education also includes an awareness that there is a price to be paid for safety.

## 6.2. Consumer remedies

6.2.1. Consumer remedies and access to justice should be considered in the light of the Communication from the Commission on consumer redress [doc. COM(87) 210 final] which deals with remedies for unsatisfactory and faulty goods. Unsafe goods, which have caused an injury, form a special category. It may happen that a large number of people suffer from the effects of the same product. In that case, consideration could also be given to the possibility of victims themselves undertaking class action to obtain compensation. This would in no way take away from consumers their right to act as individuals. In addition, the Committee suggests that the Commission should consider setting up a Community fund to compensate people who for a variety of reasons, (such as the bankruptcy of a firm they are dealing with) have no other effective remedy.

## 6.3. The position of producers/distributors - Sanctions and defences

6.3.1. With regard to sanctions against producers who produce and market unsafe goods, it could be

considered whether economic sanctions alone are enough. Current Community law does not allow the imposition by the Commission of criminal proceedings. Moreover, the Committee notes that sanctions vary in Member States, and therefore suggests that the Commission should explore the possibility of imposing administrative sanctions at Community level.

In the case of goods knowingly and deliberately produced or sold by 'business delinquents', the Committee urges Member States to take the most severe appropriate action at national level.

6.3.2. For example, legislation could be framed along the lines of declaring it a criminal offence to supply, offer or agree to supply, or expose or possess for supply, any goods which fail to comply with a 'general safety requirement', as defined in paragraph 2.3 above.

6.3.3. The Committee points out that while all those involved in manufacturing or selling will acquire new obligations, they should also be entitled to defences as mentioned in chapter 3 (standards). It accordingly urges the Commission to itemize defences which could be used in the case of alleged breaches.

6.3.4. Possible defences could include the following:

- a) the supplier was in conformity with an existing standard (but see paragraph 3.2.3);
- b) the supplier reasonably believed the goods would not be used or consumed in a Member State;
- c) the supplier took all reasonable steps and exercised all possible care in avoiding committing the offence;
- d) if the goods were sold by a retailer who, at the time of supply, did not know and had no reasonable grounds for knowing that they failed to comply with the general safety requirement;
- e) the manufacturer, supplier or retailer collaborated in the swift withdrawal of a dangerous product from the market.

## 7. The role of the Commission

The Committee suggests that the Commission undertake the following tasks:

7.1. A thorough analysis of existing product safety legislation and its implementation in Member States, and in other industrialized countries.

7.2. An examination of the work done by international organizations such as the Organization for Economic Co-operation and Development (OECD) and

socio-professional groups such as the European Bureau of Consumers' Unions (Bureau européen des unions des consommateurs, BEUC), the Committee of Family Organizations in the European Communities (Comité des organisations familiales auprès des Communautés européennes, COFACE) and reputable manufacturing and trading organizations.

7.3. A reappraisal of existing Community legislation and proposals in the pipeline from the various directorates-general in order to ensure that safety legislation is integrated and co-ordinated with other legislation.

For example, the proposed Directive for the approximation of the laws of the Member States relating to machinery which deals with the use of machines in industry, might be examined to see if it is relevant to similar machines used by private consumers.

7.4. The Commission should continue to be responsible a) for the collection and coordination of accident statistics (EHLASS)<sup>(1)</sup> supplied by Member States. It is these facts which can provide the basis for determining priorities for action and b) for the operation of the system for the rapid exchange of information.

The Committee would, however, like to see these systems more ambitious, more transparent and more effective.

7.5. The Committee also suggests that the Commission could consider other related issues such as:

- the development of risk assessment models,
- the comparability and compatibility of statistics in Member States, and indeed in other countries which are trading partners,
- the more detailed examination of death statistics which, though smaller in number than injuries, could point to much more serious dangers,
- the scrutiny of serious injuries for a period of at least three years after an accident.

7.6. The Committee emphasizes that it is the collection and analysis of facts which lead increasingly, *inter alia*, to the identification of unsafe products. It recognizes that a product can be dangerous because it is badly designed or made, or because instructions are inadequate or incomplete; but it also points out that human behaviour, often unpredictable, is a frequent contributor to accidents.

<sup>(1)</sup> EHLASS = European Home and Leisure Accident Surveillance System.

7.7. The Committee stresses the need for a simple and acceptable procedure by which those concerned, notably the competent authorities designated by Member States, and the Commission, can find quick solutions in emergency situations.

7.8. Accordingly, the Commission should act as the central recipient of information on dangerous products urgently notified to it by both national and local authorities who have concluded that swift action is necessary. These authorities would also inform the Commission about voluntary withdrawals carried out by producers. Under appropriate circumstances, the Commission would also take into account information relayed to it by other reputable sources in view of the need to have access to a wide range of respondents.

7.9. If the original action turns out to be justified,

the Commission should have the task of requiring all Member States to take equivalent action.

7.10. In a sudden emergency involving the health and safety of a substantial number of people, immediate action is needed. Member States can themselves decide to respond instantly, but in addition the Commission should be in a position to ensure that binding emergency measures are adopted in the Member States in accordance with uniform criteria. There is therefore a need for an effective Community legal instrument (see paragraph 1.3) with a clear set of rules, to make intervention in emergency cases possible. This intervention would involve the immediate suspension, seizure or even destruction of dangerous goods.

Done at Brussels, 27 April 1988.

*The Chairman*  
*of the Economic and Social Committee*  
Alfons MARGOT

### Opinion on the twelfth report of the European Regional Development Fund

(88/C 175/08)

On 21 December 1987, the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the twelfth report of the European Regional Development Fund (ERDF).

The Section for Regional Development, and Town and Country Planning, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 19 April 1988, in the light of the report by Mr Black.

At its 255th plenary session (meeting of 27 April 1988), the Economic and Social Committee adopted the following Opinion unanimously with one abstention.

#### 1. Introduction

1.1. The twelfth annual report of the European Regional Development Fund, for 1986, was published by the Commission on 1 December 1987. The Committee welcomes the report which indicates that in the

year under review the range and scale of the Fund's activities continued to increase. The Committee also notes with approval the progressive development of the analytical procedures which the Fund is bringing to bear on the identification of priority issues and the examination of proposals for the alleviation of regional problems.

1.2. The report is under review at the same time as the European Community is facing the stimulating challenges of the creation of a large barrier-free internal market by 1992. This should bring economic and social benefits to the Community as a whole and it is a vital common concern that the process should be accompanied by a reduction in regional economic disparities and the encouragement of growth in less developed areas. The lessons learnt from recent developments of Community regional policy and from the evolution of the ERDF offer important pointers for future policy and for the procedures and priorities of the enlarged ERDF.

1.3. In 1986 the latest enlargement of the Community affected the ERDF as the first commitments were made in favour of regions in Spain and Portugal. Reflecting this enlargement, the funds available through the ERDF increased significantly in 1986. Commitments accepted amounted to 3 186 million ECU, an increase of 28 % on the preceding year. This increase, amounting to 691 million ECU, was more than offset by the level of commitments for applications from Spain and Portugal which amounted to 1 021 million ECU. Because of the combined effects of an inadequate increase in the Fund's resources and reallocation to meet the needs of Spain and Portugal, commitments for the other ten Member States fell by over 12 %.

1.4. Payments made from the ERDF also increased; payments of 2 394 million ECU were over 50 % higher than in 1985 but, excluding the effect of the first payments to Spain and Portugal, payments to the Member States rose by 19 %. As is now customary, commitments accepted continued to exceed payments because of the time lag between the different stages and also because some applications, after approval, lapse when schemes do not proceed as anticipated. At the end of 1986 outstanding commitments reached 5 724 million ECU. This is nearly 2,4 times the annual spending in 1986, but, for comparison, this ratio was significantly higher a year earlier, at 3,2.

1.5. The ERDF is, of course, not the only Community instrument which provides assistance to the regions. The Social Fund and the European Agricultural Guidance and Guarantee Fund (EAGGF), Guidance Section, are administered in coordination with the ERDF and these are reinforced by lending from the European Investment Bank (EIB) and under the New Community Instrument (NCI). The contribution of these instruments to regional development is mentioned briefly in section 5.4 of the report. Some more detailed information on the combined disbursements from these sources and a summary of the incidence of the expenditure and its impact on problem regions would have been valuable.

## 2. The socio-economic background

2.1. Information on the evolution of regional disparities was improved by the publication of the third periodic report in May 1987. The evidence that disparities in unemployment rates have widened and disparities in gross domestic product (GDP) have not narrowed reinforces the Committee's often expressed view that regional policy must be strengthened. In the slow economic growth of the 1980s a deterioration in the relative position of some regions was almost inevitable. For the future, the suggestion (section 1.2) that disparities may widen further in the next ten years is an unwelcome (even if realistic) forecast.

2.2. In an assessment of the dimensions of regional disparities the relative importance of differences between Member States and within Member States is important. Given that one half of regional disparities can be attributed to the former, it follows that convergence between Member States could be, *inter alia*, a major contribution to regional convergence. To achieve this convergence will require a vigorous and coordinated use of all the instruments of economic policy. Improved regional policies, per se, can contribute to improved outcomes but cannot, in themselves, do more than make a partial contribution to the process of reducing regional disparities. Regional development is not a result of specific regional policies only. In this context the EC should act as a model for Member States and could then urge, with greater force, that Member States should also develop this approach in the national context.

2.3. The report presents some worrying indications of how demographic and economic changes may adversely affect the less prosperous regions. The Committee welcomes the frank acknowledgement of these adverse trends, which include:

- demographic changes which would mean that the growth of GDP in the less prosperous countries would need to be two percentage points higher than in the other countries to maintain any progress towards convergence,
- a forecast that benefits arising from the completion of the internal market in the Community, by 1992, will probably be spread unevenly among the regions.

2.4. There are, of course, larger and wider gains in prospect from the completion of the internal market linked to the increased strength of the whole Community; but any potentially adverse trends provide a compelling reason for giving a very high priority to regional policy during the next five years and emphasize the need for a close monitoring of the developing situation to ensure that the increased funds which will be available for regional policy are used effectively.

2.5. The principle of coordination, linking industrial and agricultural policies to a consideration of their regional impact, is now accepted. The Committee notes the work which has been undertaken to make further assessments of the regional impact of Community policies and urges that this work should be given a high priority. The Committee welcomes the evidence of an increased concern for the regional implications of policies relating to agriculture but it is not satisfied that the Commission has adequately developed this analysis. For many of the poorest regions the reform of the common agricultural policy (CAP) has major implications.

2.6. The report (section 1.2.7) makes an analytical comment on the relationship of salary costs to productivity and their influence on regional convergence. The Committee notes the report's view that unit wage costs are thought to be relatively high in a number of problem regions. The Committee has already drawn attention to the complexity of this issue in its Opinion on the third periodic report (doc. CES No 1164/87) and reiterates its opinion that much further work is needed before any reliable conclusions can be drawn on this subject.

### 3. The impact of Regulation (EEC) No 1787/84

3.1. The report confirms that, in its second full year of operation, Regulation (EEC) No 1787/84 for the ERDF is now functioning in a generally satisfactory way. The change from relatively fixed national quotas for the main disbursements to a system based on upper and lower percentage limits and the increasing emphasis on programmes of Community interest, as opposed to individual projects, has increased the ability of the Commission to identify priorities and channel funds appropriately.

3.2. Reference is made to the capacity of the Commission to use discretion on budgetary resources available after the minimum, or lower, limits of allocations have been reached (section 2.2.12). The Committee would have been interested to have further analysis on how this 'margin' was allocated between Member States.

3.3. The new Regulation does not change one of what should be the most important characteristics of the ERDF. If the Fund is to have impact, it must be additional to the existing national and regional resources. The Commission already has the support of the Economic and Social Committee in its endeavours to demonstrate 'additionality' and the Committee welcomes the clear outline of the forms which, in practical terms, it may take. However, whilst the Committee has noted with great interest the procedures used by Member States, this information serves to confirm its view that for industrial projects Member States tend to add the ERDF allocations to their total funds but not

to individual projects. In other words, ERDF funds are used to offset part of the national commitment to individual projects. However, the principles of additionality are now widely acknowledged and applied less controversially in support of approved programmes and infrastructure projects. These principles will become more significant in the functioning of the reformed, and enlarged, Fund when resources are allocated in a selective manner to priority regions within approved programmes. The Committee hopes that the importance of the concept of 'additionality' will be further clarified in the regulations relating to the reformed funds.

### 4. ERDF-operations

4.1. Whilst in 1986 the ERDF was used mainly to fund projects submitted as applications by Member States, the emphasis on programme financing was the most important development with long term implications. In the Opinion expressed by the Economic and Social Committee on the eleventh report of the ERDF the shift to programme financing was welcomed and it is now clear that we have moved from a past era of 'projects' to a more modern era of 'programmes'. The hope was expressed that this change would reinforce the concept of additionality and help to provide a better directed and coordinated use of the ERDF <sup>(1)</sup>.

4.2. The twelfth report suggests that the target for 20% of the Fund to be allocated to co-financing of programmes should be reached in 1987. The Committee would congratulate the Commission on the achievements in 1986 and welcomes this undertaking concerning the 1987 operations.

#### a) Community programmes

4.3. In 1986 two Community programmes with specific regional emphasis were finally approved. The STAR programme provides funds to improve advanced telecommunications services. The VALOREN programme relates to measures to exploit endogenous energy potential. Both programmes have already been subjected to detailed scrutiny. In the context of the ERDF activities the Committee regards these programmes as a significant development and hopes that Member States will cooperate in ensuring their effective exploitation. In the ERDF report on 1987 the Committee would hope to be given some information on the application of these Community programmes to the qualifying regions.

4.4. The Committee also notes that preparatory studies on two further possible Community programmes for technological research and environmental policy have been undertaken and hopes that these studies will be followed, expeditiously, by appropriate draft Regulations.

<sup>(1)</sup> OJ No C 180, 8. 7. 1987, p. 48.

b) *National programmes of Community interest*

4.5. During 1986, 47 applications seeking assistance of 682 million ECU were submitted from all the Member States except Germany, Spain and Portugal. After vetting these, and some applications from 1985, 14 applications were approved for commitments of 416 million ECU in the period to 1992. This compares with three such approvals in 1986 with commitments of 260 million ECU.

4.6. This evidence confirms that the concept of national programmes of Community interest has attracted interest and the details of the successful applications indicate the way in which these programmes can reflect particular regional needs. Of particular relevance are the three trans-frontier development schemes coordinated with respect to adjoining areas in France, Luxembourg and Belgium. These will provide an interesting testing ground for the development of regional policy in the context of the single market.

4.7. Two further features of this section of the report are identified so that there can be a clearer understanding of the scope expected, and acceptable, in national programmes. First, the number of applications not accepted is high as a proportion of the total, but no analysis of the reasons for this is offered. Second, the fact that Spain and Portugal were not in a position to submit applications is understandable, but it may be more significant that no applications were received from Germany, and, further, no applications from Italy and Ireland have yet been successful. The Commission is asked to provide as much help as possible to those Member States who may have difficulty in the preparation of programmes.

c) *Projects*

4.8. A very high proportion of ERDF assistance goes to infrastructure projects. In 1986 these were allocated 87% of the assistance available; this compares with 82% in 1985, 85% in 1984. These figures are well above the informal target accepted by the Commission to limit these applications to a desirable maximum of 70% of the available resources. The Committee notes with regret that applications submitted for industry services and craft projects were substantially below the levels recorded in 1985. This occurred in spite of the fact that cost per job criteria were eased and the threshold of a minimum of 10 jobs was removed in order to encourage micro-projects.

4.9. The problems of attracting industry, service and craft applications seem to be Community wide. However, the Committee recognizes that different Member States have produced differing responses and that Germany has managed to exceed the 30% target, reaching

65%; the next highest figures are as low as 23% from Italy and 19% from Belgium.

4.10. The number of jobs, created or maintained, in industry, services and crafts is estimated to have been 68 062. This is nearly 20% higher than the comparable 1985 result and is a reflection of the large increase in the number of projects defined as small: an investment of less than 15 million ECU. This is a development which is welcomed. The Committee is aware that estimates of the number of jobs created or maintained are necessarily tentative and urges that there should be retrospective investigations on the reliability of the estimates.

4.11. The service sector in most economies is an expanding one. The Committee is therefore interested in the role of the ERDF in the development of appropriate services. Specific 'projects' in the service sector received a slightly smaller share of aid from the ERDF in 1986. In part this is compensated by unreported contributions to this sector within the wider programmes which have been approved. Some analysis of the assistance to service sector employment which has been aided in both projects and programmes would be welcome.

d) *Development of regions' endogenous potential*

4.12. The search for self-help is a major motivating force in many less prosperous regions. The Commission recognized the importance of these internally generated processes when it identified the need for measures to develop endogenous potential. However, whilst the Committee welcomes the modest proposals to link businesses with information on technology and help with access to capital markets, these have not, as the report confirms, made a significant impact.

4.13. The Committee proposes that the Commission should seek further methods of providing resources directly through existing local enterprise agencies who function at a viable level and who provide matching funds from their own resources. In this way the Commission and the ERDF could have a higher profile in many of the larger regional centres.

e) *Studies*

4.14. Special studies form, in many cases, an essential early component of the evolution of appropriate regional measures. For Community programmes, cross-national studies are likely to be needed. The Committee is disappointed that the Commission has not maintained the practice, as in the eleventh report, of providing a brief statement on studies launched and completed. It is also surprising that so few of the Member States have submitted proposals for studies which gained Commission support.

## 5. Integrated development operations

5.1. As the Commission has refined its ideas on how it can contribute to the dynamic of economic development in less prosperous areas, a continuing aim has been to integrate, or coordinate, the various funds and Community policies to create a consistent approach which maximizes the potential benefits.

5.2. Integrated operations proposals (IOs) have evolved and been approved for Naples and Belfast. Integrated development programmes (IDPs) were the instrument devised with reference to three areas where agricultural and non-agricultural activities were under review in what are mainly agricultural regions. In southern Europe the mechanism is the integrated mediterranean programme (IMP) and thirty-one programmes have been submitted from France, Greece and Italy. More recently, a special development programme for Portuguese industry has been submitted for approval.

5.3. The significance of these several 'integrated' mechanisms is that they provide a rationale for recourse both to the ERDF, as appropriate, and to the other funds, such as the European Social Fund and the European Investment Bank, and can claim priority treatment.

5.4. The Committee acknowledges the various reasons for differences in emphasis in these differing programmes. Nevertheless, as an aid to greater understanding of the benefits of these operations, it would be helpful to the Committee if it is given information on the level of payments made under each scheme in the year under review together with a simplified analysis of those payments which qualified under the ERDF. It is not clear from the report how active each of the projects has been in 1986.

## 6. Location of ERDF assistance

6.1. In 1986, the most obvious change in the allocation of ERDF assistance was the inclusion of the regions of Spain and Portugal. The entry of these two new Member States increased the relevance of the Community's regional policies and supports the claim for an increase in the size of the structural funds, including the ERDF. Including the regions of Spain and Portugal within the group of priority regions means that 73% of the Fund's payments were made on behalf of these regions. In 1985, without Spain and Portugal, this proportion was 60%.

6.2. The report identifies the ten regions which received most assistance from the Fund. This ranking is in absolute terms and is not the same as that in assistance per capita. Of the regions which received most assistance per capita four were in Portugal, two in Greece, two in Italy and one in Spain. The remaining region was Guyane, France.

6.3. As in previous years, the expanded report on the way in which assistance was used in the regions of each Member State is an essential element in understanding the wide ranging significance of the Fund.

## 7. Conclusions

7.1. This report is of particular interest because it provides an account of the operations and experience of the ERDF which will serve as a pointer to the development of the new regional policy in the run-up to the single internal market in 1992. The report emphasizes the fact that the single market can add to the problems of the poorer regions; disparities will increase if the rates of growth in the peripheral regions are not reinforced. There is a need for close monitoring of the regional impact of the move to a single market in 1992.

7.2. The Economic and Social Committee has a major role to play in this continuous monitoring process. If it is to play that role effectively, then the flow of information from the structural funds will have to be improved by being more up to date and complete.

7.3. The Fund faces the challenge of radical changes in its working methods as its increased resources are brought to bear on the developing problems of the regions. It is essential that its activities are continuously tested against the target of reducing regional disparities. In this context there is a continuing need for the evaluation of the regional incidence of all expenditures made by Community instruments. The EC can, in this respect, play a major role in providing a model for the Member States. Such procedures would further facilitate a deepening partnership between Community, national, regional and local authorities in which each contributes to the development of regional policy.

Done at Brussels, 27 April 1988.

*The Chairman  
of the Economic and Social Committee*

Alfons MARGOT

**Opinion on the proposal for a Council Directive on the introduction of measures to encourage improvements in the safety and health of workers at the workplace**

(88/C 175/09)

On 23 March 1988 the Council decided to consult the Economic and Social Committee, under Article 118 A of the EEC Treaty, on the abovementioned proposal.

The Economic and Social Committee decided to appoint Mr Flum as rapporteur with the task of preparing its work on the subject.

At its 255th plenary session (meeting of 28 April 1988), the Committee adopted the following Opinion by 93 votes to 49 with 18 abstentions (vote recorded).

## 1. General comments

1.1. The Committee welcomes the Commission's proposal: it is important for the protection of worker's safety and health and the harmonization and improvement of working conditions in the Member States in accordance with Article 118 A of the EEC Treaty.

1.2. The Framework Directive on measures to improve the safety and health of workers at the workplace is considered by the Committee to be an important instrument, in connection with the completion of the internal market, for putting the humanization of the working environment—a vital aspect of social policy—on a par with economic harmonization. It will also help to reduce social security costs in the Community in the medium and long term. Moreover, a decent working environment is a *sine qua non* for effective environmental protection in general.

1.3. The Committee agrees that the aim should be to provide the same level of health protection for workers in all undertakings, including the small business sector. However, in achieving this aim Member States will have to be flexible in order to allow for the differing structures of undertakings. They will also have to provide assistance to small and medium-sized enterprises in particular to help them protect the health of their workers. This will include advice to employers and workers or their representatives. Furthermore, Member States should encourage cooperation between undertakings in the field of occupational safety and health. The Committee therefore considers that Member States' obligations in this area must be specified in the Directive. Employers should be kept informed by Member States of the health risks arising in particular from advances in scientific research.

1.4. Apart from marking the first beginnings of occupational safety and health legislation at Community level, the Directive is also to act as a Framework Directive on which all the individual occupational safety and health directives will be based. Only a self-contained package of this kind can prevent legislation from becoming fragmented within the Community and can create clear-cut and practical Community safety and health provisions. This is a *sine qua non* for the gradual replacement of national legislation by Community legislation in the field of occupational safety and health.

1.5. However, the proposal will not only help to improve the quality of the working environment: it is also important as a measure for reducing distortions of competition by preventing different health and safety rules applying in the Member States also in respect of exempting any particular undertaking and/or establishment.

1.6. The Framework Directive lays down the minimum requirements for occupational safety and health. The Committee would urge the Member States not only to retain any more far-reaching provisions already on their statute books, but also to extend the protection of workers' health.

1.7. The Committee notes that the description of Member States' safety and health regulations in the Explanatory Memorandum is not complete or up to date in some cases.

## 2. Comments on the Directive's provisions

### 2.1. Article 1 (Object of the Directive)

The participation of workers should be included in the second sentence, which should thus read:

'The Directive contains general principles concerning in particular the prevention of occupational risks, the protection of safety and health and the informing, consultation, participation and training of workers and their representatives, as well as general principles concerning the implementation of such measures.'



## 2.2. Article 2 (Definitions)

The Committee considers that wherever possible the same definitions must be used in all the Community Directives on occupational safety and health. The definition of 'worker' in the Framework Directive, for example, differs from the one given in the Workplace Directive [doc. COM(88) 74] at least in terms of language.

The term 'workplace' should be defined as follows:

'All places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer.'

This definition has been taken from the convention of the International Labour Organization (ILO) concerning occupational safety and health and the working environment.

The ILO definition of 'worker' should also be used by analogy, viz.:

'All employed persons, including public employees, students undergoing training and apprentices.'

## 2.3. Article 3

Since it is such a complicated and difficult matter to assess, in particular the key technological, analytical and toxicological factors and the aspects of occupational medicine and work organization which are of decisive importance for protecting workers' health, the tasks to be performed by the Member States in this area are inadequately defined in Article 3. The following wording, which also embraces the assistance to be given to small and medium-sized enterprises in particular, is therefore proposed:

1. Member States shall adopt the requisite measures to ensure that employers, workers and workers' representatives comply with those provisions of this Directive which apply to them.
2. In particular, Member States shall:
  - specify employers' obligations under this Directive in legally binding provisions,
  - monitor observance of the safety and health provisions and advise both employers and workers or their representatives,
  - establish the institutional machinery for implementing the safety and health provisions, e.g. set up centres for performing measurements and analyses and assessing processes which are harmful to health,
  - encourage cooperation between undertakings in matters relating to occupational safety and health.'

## 2.4. Article 5 (Obligations of the employer)

2.4.1. Since Article 5 is central to the Directive's safety and health provisions, the following paragraph should be inserted after the first paragraph of Article 5 (3)(a):

'In so doing, the employer shall assess the following risks in particular:

- danger of accidents,
- substances for use at work with properties which present a health hazard,
- radiation,
- noise and vibration hazards,
- stress due to heat, cold, movement of air, humidity and lighting,
- risks related to biotechnological processes (including genetic engineering),
- excessive physical nervous and mental strain caused by heavy work, shift work, night work, fixed posture, monotonous and unvaried work processes, pressure of deadlines, high-speed work, working time and work organization;
- multiple stress resulting from a number or combination of these risk factors.'

These details are necessary in order to give a general picture of the main health risks associated with the specific obligations on employers and thus provide a basis for a 'coherent overall prevention policy' within the meaning of Article 5 (2).

2.4.2. Article 5 (3)(f) calls for 'close cooperation' between employers and workers in planning and introducing new technologies. Though this provision is to be welcomed, it would seem to imply that 'old technologies' do not require close cooperation. It is therefore proposed for the sake of legal methodology that the provision obliging employers to cooperate closely with workers or their representatives be laid down as a general principle in Article 10. Similarly, the suitable training which workers are to be given in connection with the planning and introduction of new technologies should be covered by Article 11.

Article 5 (3)(f) should therefore read as follows:

'When new technologies are planned and introduced, detailed consideration shall be given to aspects of workers' safety and health, particularly in respect of the choice of equipment and the working conditions, and the physical and psycho-social effects of the working environment on the individual.'

## 2.5. Article 6 (Preventive services)

2.5.1. The following sentence should be added to paragraph 1:

'The employer shall entrust these workers with the powers required to perform their duties.'

This addition ensures that there is no contradiction between the duties to be performed and the powers of the staff entrusted with these duties. It also makes it clear that the staff entrusted with these duties are fulfilling an obligation imposed on the employer.

2.5.2. Article 6 (5) should read as follows:

'Member States shall determine in the light of undertakings' size and risk levels the cases in which the employer may himself take responsibility for the measures referred to in paragraph 1 provided he is competent and this is compatible with the protection of workers' health.'

The new text makes risk assessment the key criterion for this provision and also ensures an expert appraisal of special hazards. The latter is necessary, for example, when complicated measurements have to be performed and when toxicological questions have to be considered. Here Member States will be obliged to provide undertakings with institutional backing-up (*cf.* comments on Art. 3).

## 2.6. Article 7

The following should be added to paragraph 3 in keeping with Article 13 of the ILO convention concerning occupational safety and health and the working environment:

'A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.'

## 2.7. Article 8 (Information to be held)

Article 8 should be entitled 'Undertakings' occupational safety and health programmes' as this reflects the content of the Article.

2.7.1. Paragraph 1 should read as follows:

'1. The employer shall be obliged to draw up for his undertaking an occupational safety and health programme which embraces the following:

- a) Registration of illness-inducing factors and accident hazards, including the measurement and assessment of risks;

- b) Production of a list of accidents and occupational diseases which have damaged workers' health;

- c) Production of a report indicating the causes and the measures taken or to be taken in connection with accidents and occupational diseases which result in or may result in a reduction in earning capacity;

- d) Laying down of short, medium and long-term protective measures.'

2.7.2. Paragraph 2 should read as follows:

'2. Member States shall determine in the light of undertakings' size and risk levels the obligations incumbent on undertakings to draw up the document specified in paragraph 1.'

This will enable Member States to cater in particular for the special features of small and medium-sized enterprises.

## 2.8. Article 9 (Information of workers)

2.8.1. Workers or workers' representatives with specific responsibility for the protection of the safety and health of workers should be granted the right to be supplied with full information in paragraph 2, which should therefore be replaced by the following text:

'Workers or workers' representatives with specific responsibility for the protection of the safety and health of workers shall have access to all the information related to this task, including information from inspection agencies and bodies responsible for safety and health.'

## 2.9. Article 10 (Consultation of workers)

2.9.1. Article 10 should be entitled: 'Worker consultation and participation'.

2.9.2. The following principle should be laid down at the start of Article 10:

'1. Employers must cooperate closely with workers or workers' representatives with specific responsibility for safety and health.'

This generalizes the idea of close cooperation which is to be found in Article 5 (3)(f).

2.9.3. Paragraph 1 should become paragraph 2, etc. It should also be stated in the new paragraph 2 that workers have a right to be consulted on all the pro-

visions which oblige employers to take preventive action (i.e. Art. 5 to 10, 11 and 12).

2.9.4. The Committee proposes that Article 10 (4) of the Commission's proposal be amended to read:

'4. The employer shall ensure that workers' representatives with specific responsibility for the protection of the safety and health of workers are allowed the necessary time off work without loss of pay ...'

#### 2.10. *Article 11 (Training of workers)*

The last sentence in the non-English versions of paragraph 1 should be brought into line with the English version, i.e.:

'The training shall be adapted to take account of new or changed risks.'

This ensures that up-to-date training will be given to workers who, for example, have been unable to work for a long period and thus have gaps in their knowledge.

##### 2.10.1. Article 11 should read:

'The employer shall ensure that each worker receives adequate safety and health instruction and necessary training specific to his workstation of job.'

#### 2.11. *Article 12 (Obligations on workers)*

2.11.1. The following clarification should be added to paragraph 1:

'1. In accordance with his employers' instructions the worker shall be obliged during his working hours to take care of his own safety and health and that of all other persons affected by his actions or omissions at work.'

2.11.2. The latter part of the last indent in paragraph 2 ('and monitor the effectiveness of the safety and health measures taken') should be deleted, as this is clearly the duty of the employer.

#### 2.12. *Article 14*

It should be specified that the Advisory Committee on safety, hygiene and health protection at work should be included in these consultations, thereby ensuring that the two sides of industry are involved, as they must be. Both the Committee and the European Parliament should be consulted on any amendments to the Directive.

#### 2.13. *Article 15 (Final provisions)*

The Economic and Social Committee and the European Parliament should be included in the institutions to be informed in paragraph 3.

#### 2.14. *Annex I*

2.14.1. The main risk areas should be added to the list given in Annex I. In particular, building sites and means of transport should be included, since they are both excluded from the field of application of the Workplace Directive.

2.14.2. Since this Directive is to be a Framework Directive for all of the Community's occupational safety and health legislation, all Community Directives already in force in this field should be adapted to the Framework Directive via Annex I. This applies in particular to the Directive on exposure to chemical, physical and biological agents at work (80/1107/EEC of 27 November 1980).

2.14.3. Finally, the Committee proposes that a Directive on the handling of heavy loads should cover not only the risk of back injury, but also all other health risks, e.g. diseases of the joints. It is necessary for the sake of occupational medicine and general prevention to widen the scope of this Directive.

Done at Brussels, 28 April 1988.

*The Chairman  
of the Economic and Social Committee*

Alfons MARGOT

## APPENDIX 1

## to the Opinion of the Economic and Social Committee

The following amendments, which received at least one quarter of the votes cast, were rejected in the course of the discussions:

**Point 1.1.**

Modify the first sentence as follows:

'The Committee regards the Commission's proposal as important for the protection of workers' safety...'

*Reason*

Self-explanatory.

*Voting*

For: 36, against: 87, abstentions: 7.

**Point 2.4.1.**

Delete the last part of the 7th indent, i.e. 'monotonous (...) work organization'.

*Reason*

Self-evident.

*Voting*

For: 44, against: 72, abstentions: 9.

**Point 2.4.3.**

Delete the whole paragraph and replace by:

'The Committee does not agree with the Commission's text in Article 5 (3)(d) and 3 (e),'

*Reason*

Paragraphs 3 (d) and 3 (e) concern general working conditions and have nothing specifically to do with safety and health.

*Voting*

For: 50, against: 70, abstentions: 10.

**Point 2.5.1.**

The first part of this point to read as follows:

'The first paragraph of Article 6 should be reworded as follows: 'The employer shall designate from the supervisory staff one or more workers to be responsible for the implementational aspects of measures for the prevention of occupational risks in the undertaking and/or establishment.'

*Reasons*

The same as for the previous amendment, backed by increased coherence with the rest of the Opinion, which would thus become more soundly argued and free of contradictions.

*Voting*

For: 42, against: 76, abstentions: 10.

**Paragraph 2.7.1.**

In paragraph 1 c), delete 'or may result in'.

*Reason*

The obligation to report should be restricted to the facts.

*Voting*

For: 39, against: 71, abstentions: 11.

**Point 2.8.1.**

Delete.

*Reasons*

The text of the draft Directive is more appropriate, more realistic and more consistent with the text as a whole.

*Voting*

For: 35, against: 68, abstentions: 13.

**Point 2.14.1.**

Delete.

*Reasons*

Given the nature of the Framework Directive, the general annex proposed by the Commission seems more appropriate.

*Voting*

For: 52, against: 75, abstentions: 8.

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## APPENDIX 2

## to the Opinion of the Economic and Social Committee

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

Mr/Miss/Mrs Alexopoulos, Ataide, Beretta, Black, Bleser, Boddy, Boisserée, Breyiannis, Brigani, Burnel, Lobo-Brandão R. Cal, Calvet-Chambon, Carroll, Cavazzuti, Ceballo-Herrero, Christie, Alves-Condé, Cortois, Curlis, van Dam, Dassis, von der Decken, Delhomenie, Della Croce, Dos Santos, Drilleaud, van Eekert, Elstner, Etty, Eulen, Flum, Forgas, Frandi, Gayetot, Geuenich, Glesener, Gomez-Martinez, Goris, Gredal, Haas, Hagen, Hammond, Hilken, Houthuys, Hörsken, Jenkins, Kitsios, Laka-Martin, Landaburu, Larsen, Laur, Lojewski, Luchetti, Maddocks, Mantovani, Margalef-Masia, Meyer-Horn, Morselli, Mourgues, Muhr, Muñoz-Guardado, Murphy, Nielsen P., Nierhaus, Nieuwenhuize, Orsi, Proença, Pronk, Quevedo-Rojo, Raftopoulos, Rangoni-Machiavelli, Roseingrave, Rouzier, Säiu, Salomone, Santillan-Cabeza, Schmitz, Schöpges, Serra-Carracciolo, Silva, Smith A., Smith L., Spiers, Spijkers, Städelin, Tiemann, Vanden Broucke, Vassilaras, Velasco-Mancebo, Vercellino, Vidal, Yverneau, Zufiaur-Narvaiza.

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

Mr/Miss/Mrs Aparicio-Bravo, Arets, Bernasconi, Berns, Bredima-Savopoulou, Broicher, Ceyrac, Clavel, Colle, Coyle, Donck, Dunet, Giacomelli, Green, Hancock, Kaaris, Kazazis, Kelly, Kenna, Lancastre, Löw, Machado von Tschusi, Martin-Almendro, Marvier, Masprone, Moreland, Neto Da Silva, Noordwal, de Normann, Pardon, Pearson, Pelletier, Perrin-Pelletier, Petersen, Poeton, Proumens, Rea, Ribière, Rolão-Gonçalves, Romoli, Schade-Poulsen, Storie-Pugh, Strauss, Termes-Carrero, Tixier, Tukker, Wagner, Wick, Withworth.

The following members, present or represented, abstained:

Mr/Miss/Mrs Arena, Aspinall, Bagliano, Campbell, De Tavernier, Dodd, Drago, Droulin, Fresi, Gardner, Hovgaard-Jakobsen, Jaschick, Mainetti, Nugeyre, Robinson, Solari, Tamlin, Williams.

**Opinion on the proposal for a Council Directive concerning the minimum safety and health requirements for the workplace (First individual Directive within the meaning of Article 13 of Directive COM(88) 73 final)**

(88/C 175/10)

On 23 March 1988 the Council decided to consult the Economic and Social Committee, under Article 118 A of the EEC Treaty, on the abovementioned proposal.

The Economic and Social Committee decided to appoint Mr Flum as rapporteur-general with the task of preparing its work on the subject.

At its 255th plenary session (meeting of 28 April 1988), the Economic and Social Committee adopted the following Opinion by 58 votes to 11 with 13 abstentions.

**1. General comments**

The Committee welcomes the Commission's proposed Directive on minimum safety and health requirements for the workplace (Workplace Directive) which is necessary to give practical effect to the Framework Directive on the introduction of measures to encourage improvements in the safety and health of workers at the workplace.

**2. Comments on the individual provisions**

**2.1. Article 1 (Subject)**

The Committee expresses the expectation that means of transport and temporary or mobile work sites, as two significant risk areas for the safety and health of workers, will be the subject of individual Directives within the meaning of Annex I of the Framework Directive. The Commission is urged to submit drafts.

2.2. *Article 2 (Definitions)*

Identical definitions must be used in all directives on worker protection.

2.3. *Article 6*

The Committee is of the view that, irrespective of the transitional period of five years laid down in Article 6, the Member States should implement the protective measures referred to in Annex I in respect of existing and used workplaces too, insofar as this is necessary to protect the health of workers.

It must be ensured that the safeguards afforded by the Directive are also applied to existing workplaces where there is a serious risk for the safety and health of workers.

2.4. *Article 7*

Replace the words 'where this is reasonably practicable' by 'where this is necessary to protect the health of workers'.

2.5. *Article 9*

Delete the words 'if necessary' in paragraph 1. In view of the importance of the technical reports, the Advisory

Committee for safety, hygiene and health protection at work should be consulted automatically.

2.6. *Article 10 (Changes to the Annexes)*

Article 10 must include a stipulation to the effect that the Advisory Committee for safety, hygiene and health protection at work is to be consulted.

2.7. *Article 11 (Final provisions)*

In paragraph 3 the Economic and Social Committee and the European Parliament are to be included among those institutions which the Commission has to inform.

2.8. *Annex I (Minimum requirements for the workplaces referred to in Article 4)*

These provisions require revision from both the content and the linguistic angles. Point 2.2.3 for instance, should also state that emergency exits must not be obstructed.

2.15.1.1 should not insist on 'separate' changing rooms, but specify that men and women can change separately.

Done at Brussels, 28 April 1988.

*The Chairman*  
*of the Economic and Social Committee*  
Alfons MARGOT

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APPENDIX

to the Opinion of the Economic and Social Committee

The following amendment having received at least one quarter of the votes cast, was defeated during the discussion:

**First paragraph**

Add at the end of the paragraph:

'The Committee however had insufficient time to go into the necessary depth to produce a valuable assessment of the many detailed safety and health requirements set out in the Commission documents; it therefore has taken note of the proposed Directive.'

Delete all following paragraphs.

*Voting*

For: 22, against: 43, abstentions: 7.

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**Additional Opinion on the draft Commission Regulation (EEC) on the application of Article 85 (3) of the Treaty to categories of franchising agreements**

(88/C 175/11)

On 20 October 1987 the bureau of the Economic and Social Committee, acting under the third paragraph of Article 20 of the rules of procedure, decided, in conjunction with the Committee Opinion on the Commission's sixteenth report on competition policy, to prepare an Opinion on the abovementioned document.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 6 April 1988. The rapporteur was Mr Hilkens.

At its 255th plenary session (meeting of 27 April 1988), the Economic and Social Committee adopted the following Opinion by 74 votes to 34 with 6 abstentions.

## 1. Introduction

1.1. Since the beginning of the sixties franchising, as a modern form of marketing, has been expanding rapidly throughout the European Community, though its advance has been more marked in some Member States than in others. In 1987 the EC Commission published a study outlining the situation in each Member State<sup>(1)</sup>. Statistics show that close to two thousand franchisors are now operating in the Community. These franchisors have concluded contracts with approximately 100 000 franchisees. According to the European Franchise Federation, the turnover of these franchise chains was already more than 35 000 million ECU by the end of 1985<sup>(2)</sup>. With the completion of the internal market a further expansion of franchising in the Community can be expected.

1.2. Now that this important form of commercial cooperation between entrepreneurs has grown to such proportions in the EC, clear guidelines are needed indicating to what extent the EC competition rules apply to franchise agreements and networks.

1.3. Under Council Regulation No 19/65 of 2 March 1965, the Commission is empowered to apply Article 85 (3) to certain categories of bilateral exclusive agreements falling within the scope of Article 85 (1) (general prohibition) which either have as their object the exclusive distribution or exclusive purchase of goods, or include restrictions imposed in relation to the assignment or use of industrial property rights.

1.4. The aim of the draft Regulation is to define a new group of agreements eligible for a block exemption.

The Treaty has, in fact, laid down that certain agreements which are prohibited in principle by Article 84 (1) can be exempted from prohibition under certain conditions. It is therefore quite in order for the Commission to list in a block exemption Regulation those cases where it recognizes that the provisions of Article 85 (1) are not applicable.

## 2. General comments

2.1. Subject to the comments set out below, we approve the Commission's proposal to issue a block exemption Regulation for certain categories of franchise agreements which fall under Article 85 (1) but satisfy the conditions laid down in Article 85 (3).

2.2. It cannot be denied that franchising as a form of marketing has its positive side: for one thing, the combination of recognizability and uniformity in the goods and services on offer has a number of advantages. Compared with the branch manager of a multiple store, a franchisee, as an independent entrepreneur, may be more directly involved in his business. From the competition angle, franchising makes it possible to set up chains of small enterprises which can compete with the branches of large companies. In addition, because the start-up costs can be relatively low and because of the transfer of know-how, franchising can facilitate the entry of new competitors into a market.

2.3. These positive aspects do not alter the fact that in practice franchising may also have some not insignificant negative aspects:

— Franchising can affect competition between retailers. The know-how and commercial assistance provided to a franchisee may place a competing independent retailer at a disadvantage. It is impor-

<sup>(1)</sup> *Franchising in ausgewählten Bereichen des Handels in der Gemeinschaft, eine wettbewerbspolitische Analyse*, published by the EC Commission, Luxembourg, 1987 (exists in German only).

<sup>(2)</sup> Not including the turnover of franchised hotel chains.



tant to ensure that this competition be fair and in the interest of the consumer.

- While we realize that block exemption is primarily an instrument of EC competition policy, the Commission should also bear in mind that by granting block exemption it is recognizing franchising. Hence it is encouraging a form of cooperation with implications beyond the realm of competition law. We would urge the Commission to take into account above all, the social aspects, especially the problems which may arise from the hierarchical and contractual relationship between franchisor and franchisee. In many cases the franchisee is in a weak position *vis-à-vis* the franchisor. Another factor is the position of the franchisee's employee(s). In practice employees have no influence over the contractual relationship between the franchisor and the franchisee, although they are directly affected by the repercussions of this relationship. Appropriate steps should therefore be taken to safeguard both the contractual position of the franchisee and the social and contractual position of the employees. Concern must also be expressed about certain franchises which provide little or nothing in the way of benefit to the franchisee in comparison to the cost. These are often sold to groups such as redundant workers who have little or no experience of business. The promoters of such schemes normally do not belong to reputable franchisor associations and this means need to be devised for dealing with such abuses.

2.4. We note with satisfaction that the Commission's draft Regulation makes a distinction between various types of agreement, namely those in the manufacturing, distribution and service sectors (the first-mentioned not being covered by the Regulation). But even within the group of franchise agreements which are covered by the exemption, there are in practice great differences. There is no standard franchise contract. Some franchise agreements reveal strong similarities in parts with selective distribution agreements and/or exclusive sales agreements. In view of this great diversity, consideration should be given to whether there is a sound case for block exemption in this instance. At all events, such demarcation problems highlight the need for great consistency with the provisions governing block exemptions for other forms of cooperation.

2.5. Examination of the draft Regulation has revealed a highly unsatisfactory lack of consistency between the different language versions. It is also vague and confusing in places. Especially as this is a legal instrument in the area of competition policy, the Commission

must ensure that the text is consistent and that the different language versions correspond.

This will be dealt with in greater detail in the specific comments on the individual Articles.

### 3. Specific comments on the Commission draft

#### 3.1. Article 1 (3)

Article 1 (2)(b) second indent: in the definition of franchise the Dutch version refers to *belangrijke know-how*, the German version to *wesentlichen Know-how* and the French version to *savoir-faire substantiel*.

The word *belangrijke* is too vague and should, in the Dutch version at least, be replaced by *wezenlijke* which better expresses the indispensable nature of the know-how in question.

#### Article 1 (3)

The meaning of this paragraph is not very clear in several of the language versions. This paragraph is particularly important for a proper understanding of the draft Regulation as it is referred to in other Articles [Article 2 (a), (c), (d); Article 5 (b), (c)]. Clarification is needed, using the (easily comprehensible) French version as a basis.

#### 3.2. Article 2

Article 2 (a): is not readily comprehensible in the Dutch version and should be amended as follows. The word *niet* (after *contractsgebied*) should be incorporated in the indents.

Article 2 (b): does not offer the franchisee sufficient scope to exploit the franchise from mobile shop or office premises. The paragraph should be expanded so that such methods of operation are covered by the Regulation too.

Article 2 (c): differs in the English version: the second indent is missing and the first indent is incorporated in the paragraph.

#### 3.3. Article 3

##### Article 3 (1)

This paragraph states that the exemption shall apply notwithstanding the presence of a number of specified obligations on the franchisee.

The Dutch version refers to *een van de volgende verplichtingen* (one of the following obligations), imposing a restriction which is not contained in the other versions.

As the text stands it is not clear whether the obligations listed under (a) to (n) can be included cumulatively in a franchise agreement.

It would be preferable to use the phrase *een of meer van de volgende verplichtingen* (one or more of the following obligations) by analogy with Article 1 (1) and Article 2.

*Article 3 (1)(b) in conjunction with Article 4 (a) in conjunction with Article 5 (c)*

These paragraphs lay down to what extent exclusive purchasing obligations imposed on the franchisee are permitted.

The Commission has adopted an even-handed approach, taking into account the interests of both franchisor and franchisee. Article 5 (c), however, raises the question on whom does the onus of proof fall when a refusal is based on protection of the franchisor's reputation.

In our view the text should make it clearer that in this instance the onus rests on the franchisor.

*Article 3 (1)(c) and (d)*

Both these paragraphs deal with the competition clauses contained in many franchise agreements. In the interests of legal certainty both paragraphs should clearly state the maximum period of validity of such clauses.

In its present form paragraph (c) means a change—not supported by any arguments—in the Commission's present policy which has been consistently based on a maximum period of one year after expiry of the franchise agreement. In our view such a period is sufficient to provide the franchisor with the necessary protection.

The maximum period stipulated in paragraph (d) is '... as long as the know-how confers a competitive advantage'. This vague wording should be replaced by

'... as long as the know-how is not directly accessible to the public'.

#### 3.4. Article 4

The various language versions of paragraph (b) raise questions. The German and French versions refer respectively to *diese Waren* and *aux dits produits* (English version: 'such products'), i.e. those products bearing the franchisor's trademark as mentioned earlier in (b). The Dutch version refers only to *produkten*, so that a broader interpretation is possible.

We consider that the text should be amended to the effect that all products supplied under the franchise are covered by the guarantee obligation: in other words, even products not bearing the franchisor's trademark should be covered by the guarantee obligation.

*Article 4 (c)*

Again the necessary consistency between the different language versions is lacking. The German and to a lesser extent the French versions are more vaguely worded than the English and Dutch versions. All versions should make it clear that financial investments are prohibited only where the franchisee is personally involved in carrying on competing activities.

Article 4 (d) states that the exemption shall apply only on condition that 'the know-how and other rights which are the subject of the franchise' are 'described in as much detail as possible'. In our view this vague wording could lead to considerable legal uncertainty. The Commission should lay down further criteria for this detailed description.

The following new paragraph (e) should be added to Article 4 to protect the social position of the franchisee's employee(s):

'... the agreement does not contain any provisions which could result in the social regulations covering the franchisee's employees, including collective agreements, being undermined.'

Done at Brussels, 27 April 1988.

*The Chairman*  
*of the Economic and Social Committee*  
Alfons MARGOT

**Opinion on the Commission proposals on the prices for agricultural products and on related measures, 1988/1989**

(88/C 175/12)

On 6 April 1988 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the abovementioned Commission proposals.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 13 April 1988. The rapporteur was Mr Schnieders.

At its 255th plenary session held on 27 and 28 April 1988, the Economic and Social Committee adopted the following Opinion by a large majority with no votes against and 3 abstentions.

### 1. Preliminary comments

1.1. The Committee's Opinions of 19 November 1987 and 27 January 1988<sup>(1)</sup> supported the adoption of effective and appropriate measures for controlling and curbing surplus production and agricultural spending. The principles underlying 'stabilizers' were approved at the 11/12 February 1988 Summit and Farm Ministers have since adopted the relevant Regulations.

1.2. The funding arrangements for agricultural market and structural policy measures have thus been fixed for a five-year period. In order to maintain budgetary discipline and restore balance to the market, the prices for market regime products will fall sharply if the thresholds now applicable to all products are exceeded. These price cuts will affect all producers equally, regardless of whether they have increased or reduced production.

1.3. The Council has given producers the chance to participate in set-aside programmes on a modest scale to help ensure that the thresholds for cereals, rape and leguminous vegetables are not reached. The implementing provisions are to be adopted by the Commission by 30 April 1988. The Committee delivered an Opinion on the Commission proposal on 24 February 1988<sup>(2)</sup>.

### 2. General comments

2.1. This is the background to the Commission's proposals for the 1988/1989 farm prices and the related measures. The Committee accepts in principle the efforts of the Commission and the Council to maintain budgetary discipline and restore balance to the market. Hence it approves in principle the freezing of intervention prices. It has, however, considerable reservations about the proposed related measures. These are set out in detail below. The Committee would also

reiterate its previous demand that any loss of income caused by the restrictive price policy be cushioned by structural, regional and income measures.

2.2. The Committee notes that the Commission proposes to reduce intervention prices in the case of durum wheat only. This gives the impression that the Commission has not proposed any changes in farm prices. In reality, however, many of the related measures proposed by the Commission will result in a further fall in market prices.

2.3. The following cuts have already been fixed on the basis of the current forecasts for the 1988/1989 harvest: cereals approximately 3%, rape, soya and protein plants 5-8%, sunflowers about 10%. Moreover the related measures that have been proposed will exacerbate the price cuts which are likely to result from the 'stabilizers decision'.

2.3.1. Since the tillage and planting for the 1988 harvest has already taken place and the implementing regulations for the set-aside programme are still only at the preparatory stage, it is now too late for farmers to be able to act. The Committee has already pointed this out in its Opinion of 27 January 1988<sup>(3)</sup>.

2.4. Several Committee Opinions in the past have already drawn attention to the fact that efforts to stabilize agricultural markets can be frustrated by imports from non-Community countries which have not taken similar measures to curb production. This is particularly true of imports of cereal substitutes, which increased from 15 to 17 million tonnes last year. This increases the expenditure on the storage and export of EC cereals. The Committee would therefore urge the Commission to heed the European Council's request 'to ensure, in the context of the Uruguay Round and having regard to the provisions of the General Agreement on Tariffs and Trade (GATT), that the Community's measures with respect to prices and quantities are given due consideration, and to press for an appro-

<sup>(1)</sup> OJ No C 356, 31. 12. 1987 and OJ No C 80, 28. 3. 1988.

<sup>(2)</sup> OJ No C 95, 11. 4. 1988.

<sup>(3)</sup> January 1988: OJ No C 80, 23. 3. 1988.

appropriate solution to the problems arising in connection with imports of cereal substitutes, oilseeds and protein plants into the Community.<sup>(1)</sup>

2.5. A number of Committee Opinions have already called for effective and appropriate measures to curb overproduction and agricultural spending—up by 106 % since 1980. The Council has heeded this request, laying down a 28 600 million ECU guideline for spending by the European Agricultural Guidance and Guarantee Fund (EAGGF). The Committee approves this guideline.

2.6. This guideline and the implementation of the stabilizers instrument mark the beginning of a policy which requires big sacrifices from farmers and particularly family farms and all those who farm in the disadvantaged regions where the exodus from the land is more pronounced. EC statistics show that since the beginning of the seventies the net incomes of farmers have fallen in all the Member States, although EAGGF spending has risen sharply and farm incomes rose in some years. Incomes fell by 5 % in 1987. In its Opinion of 19 November 1987<sup>(2)</sup> the Committee has already noted that 'the social situation of the majority of those gainfully employed in agriculture has deteriorated'.

2.7. Discussing the prerequisites for reform in its Opinion of 19 November 1987<sup>(2)</sup>, the Committee said that 'the process of adjustment must be carried out in a socially acceptable manner'. The Committee therefore calls upon the Council to do everything in its power, when fixing the farm prices for 1988/1989, to ensure that the related measures—especially those which according to Part II of doc. COM(88) 120 final (financial implications) will have no impact on the budget—do not result in a loss of income for farmers. Instead, all avenues should be explored which are compatible with the principles laid down by the Committee (Opinion of 19 November 1987)<sup>(2)</sup> but remain within the budget guideline.

2.8. The Committee therefore calls for the promotion of all measures that will help to improve the quality of foodstuffs, as already recommended by the Committee in its Opinion of 19 November 1987<sup>(2)</sup>. This means first of all making sure that quality standards for agricultural products, e.g. fruit and vegetables, wine, livestock and meat are maintained and improved in all EC countries. It also means maintaining and where possible improving the high nutritional value of basic foodstuffs during processing.

2.9. The Committee would point out to the Council that the stabilizers instrument lacks flexibility. Farmers are able—insofar as alternative solutions exist—to have some influence over acreage and the size of cattle herds. Harvests, on the other hand, also depend on what the weather has been like—something which lies outside the control of human beings. The Committee therefore asks the Commission to come forward with proposals on ways of balancing out surplus and shortfall production over a number of years to take into account the biological cycles of certain crops (e.g. olives), without exceeding the budget guideline. Such measures are already in force, albeit in rudimentary form, in the sugar beet and wine sectors.

2.10. The Committee believes that regulations on small producers should all be tailored in practice to the particular structures and production patterns of the farms themselves. By carefully combining acreage with output it should be possible to exempt small producers from the restrictions placed on the quantities of agricultural products offered for sale.

2.11. The Committee would re-emphasize the great importance it attaches to structural policy. Greater efforts should therefore be made to improve marketing and processing structures, transportation and infrastructure, agricultural credit, support for projects by individual farms, job opportunities outside agriculture, the purposeful utilization for other ends (e.g. fibre plants, ornamental plants, wood, etc.) of agricultural resources no longer needed for food production.

2.12. The Committee is strongly in favour of the adoption of appropriate measures (in particular closer cooperation on economic and monetary policy) whereby Member States' currencies are so closely tied together by 1992 that upward or downward realignments of exchange rates will no longer undermine common farm prices. All Member States should therefore commit themselves to operating within a common band of permissible currency fluctuations. This should ensure that the monetary compensatory amounts (MCA) can be abolished by 1992. Therefore the Committee proposes that visible action be taken to remove existing MCA, taking into account the Council's decisions when adopting the farm prices and related measures for 1987/1988.

### 3. The Economic and Social Committee has the following comments to make on individual products

#### 3.1. Cereals

The halving of the monthly increases means a further indirect price cut of 2 % on average and will further destabilize the markets at harvest time. The Committee calls for the increases to remain as they are. The only

<sup>(1)</sup> Declarations of the European Council concerning agricultural policy, Annex II to the overall compromise of the European Council of 11 and 12 February 1988.

<sup>(2)</sup> OJ No C 356, 31. 12. 1987.

changes which should be made are those necessitated by the changes in interest costs.

The sharp fall in the intervention price for durum wheat should be further cushioned by an increase in aid. The use of certified seed should be encouraged in the traditional durum wheat areas.

The Committee believes that the Community should return to the 16% moisture content level required for processing.

The Committee considers that suitable administrative means should be found to avoid the advance payment of the supplementary levy.

The Committee welcomes the Commission's plan to introduce aid to boost the use of cereals for animal feed. This measure should be tailored to practical realities. Regions and farms where up until now there has been a high percentage of cereals in compound feedingstuffs must not find themselves at a disadvantage. Not only funds from co-responsibility levies but also savings from export refunds should be made available under the aid schemes.

### 3.2. *Peas and field beans*

The Committee thinks that when the aid is calculated, allowance should be made for other raw materials which compete with grain legumes in compound feedingstuffs.

### 3.3. *Dried fodder*

The Committee is opposed to the increase in the minimum protein content from 14 to 16%. This will not save any money. All it will achieve is to exclude from the aid schemes plants which in the past have been eligible, e.g. grasses. The effect on existing infrastructure will be considerable.

### 3.4. *Tobacco*

The Committee welcomes the Commission's intention to divide up the guaranteed quantity not only according to groups of varieties but also according to varieties. Consideration should be given to the possibility of exempting group I varieties from the restriction. The Committee reiterates its proposal of 27 January 1988<sup>(1)</sup> that socio-structural measures be adopted in the less-developed regions to help eliminate gradually the imbalance on the tobacco market.

### 3.5. *Fruit and vegetables*

#### 3.5.1. *Fresh fruit and vegetables*

The Committee would point out that prices have fallen by more than 40% in real terms as a result of the

conversion factors applied by the Commission to buying-in prices.

The Committee cannot understand why the Commission has still not submitted a report on the situation in the citrus fruit sector, yet puts forward proposals for the coming marketing year. A system of processing aid to increase the value of Community production would be more rational and economical for the Community.

The difficulties of the fruit and vegetables sector could best be solved by reinforcing the principle of Community preference.

The Committee is of the view that encouragement should be given to the initiatives already undertaken in the southern European countries to expand the production of semi-tropical and exotic fruits (avocados, kiwis, pineapples, bananas, etc.). Some of these crops—which are still imported in large quantities from third countries—are traditionally grown in certain island regions of the Community (bananas in the Canaries, Martinique, Guadeloupe, Madeira, pineapples from the Azores, etc.). The Commission should look into these problems more closely to ensure that preference is given to Community produce and that fresh and processed products compete on equal terms.

#### 3.5.2. *Processed fruit and vegetables*

The Committee cannot approve such a restriction on peaches in syrup at a time when imports from third countries are rising sharply and the Commission is not proposing any stabilizing mechanism.

### 3.6. *Cotton*

In view of the deficit in cotton and the alternative which this offers to other products in surplus, the Committee regard the guarantee threshold of 752 000 t as too low.

### 3.7. *Soya, sunflowers and oilseeds*

The Committee considers that the guarantee thresholds for these crops are too low in view of the fact that there is a considerable production shortfall. The Committee calls on the Commission to submit proposals on how the opportunities for disposal can be better exploited without breaching the budget guidelines.

### 3.8. *Beef*

The Committee thinks that the proposed changes in the intervention system go too far. Since the Commission has announced that it will be proposing changes to the beef market regime in autumn, and since it is expecting an easing of the situation on the beef market and does not expect the proposed measures to lead to EC budget savings, the Committee would recommend that no changes be made in this sector.

<sup>(1)</sup> January 1988: OJ No C 80, 28. 3. 1988.

The Committee is also opposed to the tendering system which has been announced for beef. Differences in the quality of beef make this measure unsuitable. Small and medium-sized processing plants would also be discriminated against. In the Committee's view the quotas for beef imports from third countries far exceed domestic demand. The Committee would like to see the Commission draw up proposals on how the supply of live calves for fattening could be improved in certain deficit regions (e.g. Greece).

Done at Brussels, 28 April 1988.

### 3.9. Milk

In view of the situation on the Community and world milk market, the Committee suggests that the Commission draw up a proposal cancelling the temporary 1,5% quota suspension due for the 1988/1989 marketing year.

*The Chairman  
of the Economic and Social Committee*

Alfons MARGOT

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**Opinion on the Communication from the Commission: 'Towards a competitive community-wide telecommunications market in 1992 - Implementing the Green Paper on the development of the Common Market for telecommunications services and equipment - State of discussions and proposals by the Commission.'**

(88/C 175/13)

Acting in accordance with the provisions of Article 198 of the Treaty, the EC Commission asked the Committee, on 26 February 1988, for an Opinion on the abovementioned communication.

The Committee's Section for Transport and Communications, which was instructed to prepare the work on the matter, issued its Opinion on 13 April 1988 (rapporteur: Mr Rouzier).

At its 255th plenary session on 27 and 28 April 1988 (meeting of 27 April 1988), the Economic and Social Committee adopted the following Opinion by 85 votes to 8, with 25 abstentions.

1. The Committee records its satisfaction at having been asked for an Opinion by the Commission on this communication, which is designed to facilitate consideration of the Green Paper and future EC telecommunications policy. The communication sets out a programme of action both as regards measures to be undertaken by the Commission under Community competition rules and its general mandate, and as regards future proposals to the Council, in order to achieve progressive opening of the telecommunications market in the Community to competition.

1.1. The communication is therefore a follow-up to the Green Paper. It draws attention to the wide-ranging debate prompted by the Green Paper and does not diverge from it in any substantial way. The communication does, however, provide a number of important clarifications in respect of the Commission's priorities for action. The communication comprises three parts, namely:

- a) areas where the development of concrete policy actions is possible now;
- b) areas where comprehensive policy consensus still has to be worked out;

c) areas where existing policies must be confirmed/strengthened.

1.2. The Committee confirms the views it put forward in its earlier Opinion<sup>(1)</sup> in which it endorsed the basic aim of the Commission's proposal i.e. 'to develop the conditions for the market to provide European users with a greater variety of telecommunications services, of better quality and at lower cost, affording Europe the full internal and external benefits of a strong telecommunications sector'. In its earlier Opinion the Committee expressed reservations on certain points and on the way in which the proposed objectives were to be achieved.

The Committee reiterates its request to be consulted on subsequent concrete proposals from the Commission on the implementation to the objectives set out in the Green Paper. The Committee does, however, regret that the Commission has not taken sufficient into account the abovementioned Opinion in a number of aspects of the communication which are dealt with in the comments set out below.

2. The Commission states that broad consensus has been reached in a number of fields. In this context attention should be drawn, *inter alia*, to the following points, which were also raised in the Opinion of November 1987 on the Green Paper.

#### First telephone set

2.1. The Committee had underlined the need for the full opening of the terminal market to competition, including the market for first telephone sets (conventional sets), to be carried out on a phased basis. Given the long type-approval procedures which appear to be necessary if this market is to be fully opened, the proposed transitional period (up to 31 December 1990 at the latest) would appear to be inadequate as it still will not give the less-favoured regions (those having a lower telephone density) the time they need to carry out the indispensable strengthening of their network infrastructures.

<sup>(1)</sup> OJ No C 356, 31. 12. 1987, p. 46.

Done at Brussels, 27 April 1988.

#### Telecommunications services

2.2. The Committee regrets the decision to confine the exclusive or special rights of telecommunications administrations to voice telephony. This may jeopardize the original role of the public service.

Furthermore, the proposed deadline for opening the market for all the other services to competition (31 December 1989) seems too short. A longer transitional period should have been set so as to permit the establishment of regimes which would guarantee the future supply of telex services and public data transmission services.

#### Identical rules of competition

2.3. The reaffirmation that the same rules of competition will apply, on a strictly equal basis, to both the telecommunications administrations and the private suppliers is greeted with satisfaction.

3. Attention is drawn to the following points in respect of those fields in which consensus has yet to be reached:

#### Telecommunications network infrastructure

3.1. The Committee hopes that the final decision will reflect the point of view expressed in its abovementioned Opinion, to the effect that all two-way communications systems should be regarded as forming an integral part of the network and should therefore be covered by the exclusive or special rights of the telecommunications administrations.

#### Social dialogue

3.2. In the Committee's view it is of vital importance to achieve consensus on the 'social dialogue' and even more energy should therefore have been devoted to this objective, especially at a time when decisions taken on technical problems may have significant social consequences. The Committee urges that the social dialogue be broadened yet further. This is essential if the many social problems are to be taken into consideration.

*The Chairman  
of the Economic and Social Committee*

Alfons MARGOT

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*APPENDIX***to the Committee Opinion**

The following amendments to the Section Opinion, tabled in accordance with the rules of procedure, were rejected during the debate:

**Point 1.2.***Amend to read:*

'The Committee is therefore pleased that, in accordance with paragraph 5.12 of its Opinion on the Green Paper (18 November 1987) the Commission has submitted a detailed schedule for action to achieve a genuine Community market in telecommunications services and equipment by 1992.'

*Voting*

For: 33, against: 64, abstentions: 15.

**Point 2.2.***Amend to read:*

'The Committee welcomes the fact that the Commission has defined basic services more clearly than in the Green Paper. In the light of this and the fact that the Commission has provided information on the discussion prompted by the Green Paper, the Committee approves the decision to confine the exclusive or special rights of telecommunications administrations to voice telephony, subject to a periodic review of this decision.

The Committee also approves the proposed deadline and procedures for opening up the market for all the other services to competition. This will make it possible to halt current infringements of the Treaty.'

*Voting*

For: 29, against: 62, abstentions: 17.

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## Opinion on relations between the European Community and European State-trading countries

(88/C 175/14)

On 24 February 1987, the Economic and Social Committee decided, in accordance with Article 20, paragraph 4, of its rules of procedure, to draw up an Opinion on relations between the European Community and the European State-trading countries.

The Section for External Relations, which was responsible for preparing the Committee's work on the question, adopted its Opinion on 11 March 1988. The rapporteur was Mr. Briganti.

At its 255th plenary session (meeting of 27 April 1988), the Economic and Social Committee adopted the following Opinion by 74 votes to 11, with 15 abstentions.

1. This Opinion confines itself to dealing briefly with the main economic and trade problems in relations between the European Community and the European countries which are members of COMECON. These problems, together with others not covered in this Opinion, are dealt with in greater detail in the attached report.

It must be said that trade relations between the Community and the abovementioned countries are far from satisfactory. In recent years there has not been sufficient development in the volume of imports and exports, the quality of trade, nor even in economic cooperation, which remains limited. Application of reasonable prices (quite apart from dumping), systematic recourse to compensation transactions, delivery dates, compliance with industrial property provisions and difficulties connected with the sale of advanced technology are among the problems. Trade relations between the Community and the (European) COMECON member countries should therefore be improved and extended, particularly at the time of change in the countries concerned and of development in international economic relations, with efforts being concentrated on finding solutions to the above problems.

2. It is very important that the Community and COMECON should soon sign the 'joint declaration' which has been under discussion since September 1986. This declaration should contain clauses to take into account the respective institutional powers of the two organizations. Up to now the adoption of this declaration—which could cover technical and environmental aspects—has been delayed by the 'Berlin clause'. Under the Treaty of Rome, the territory of West Berlin is an integral part of the Community, and it is essential for this situation to be acknowledged in relations between the (European) COMECON member countries and the Community.

3. The Community must also negotiate trade and cooperation agreements with each of the (European) COMECON member countries, which would make it possible, *inter alia*, to increase opportunities for Com-

munity firms on those countries' markets. The rules on joint enterprises recently adopted in the Soviet Union are a good example of the Soviet economy opening up to third countries (with free-market economies). These rules should, however, evolve towards greater participation by foreign firms and better guarantees for COMECON countries obtaining supplies on external markets (especially with regard to the use of profits in foreign currency resulting from trade transactions with third countries). In this connection, the legislation adopted in Hungary in recent years is a positive example.

4. So far, the great majority of sizeable transactions with State-trading countries have taken place under bilateral cooperation agreements between those countries and a number of Community Member States.

5. Cooperation agreements should be based on the complementary aspects of the economies of Community countries and those of the third countries concerned. As far as possible, the Community should ensure ever wider markets for its economic operators, especially with a view to increasing employment prospects. The Community should therefore work to remove the obstacles to access to markets, while accepting that this may require it to open its own market more and sell more technology to the State-trading countries. In particular, the list of restricted high-technology products should be revised, with a view to greater liberalization on both sides.

However, the Community cannot consider opening its market further to the State-trading countries without adequate reciprocal arrangements. In particular, it would be very hazardous to seek to eliminate all quantitative restrictions in relation to a given State-trading country, given the risks of deflection of trade and of inevitable extension to other countries.

6. The cooperation agreements should also provide for liberalization of trade in the services sector. In the transport field, for example, the special interests of Community carriers should be stressed: liberalization

of access to Community transport for carriers in third countries should be seen in relation to the advisability and feasibility of equivalent concessions to Community carriers. Other sectors, such as tourism, offer encouraging prospects in the shorter term.

7. The Economic and Social Committee has always held the view that trade agreements concluded by the Community should include a social clause on the application of fair labour standards, in accordance with conventions of the International Labour Organization (ILO).

8. Finally, while it is satisfying to note the Soviet commitment to participate more in world trade and diversify its export markets towards the capitalist countries, in present circumstances it is to be feared that Soviet accession to the General Agreement on

Tariffs and Trade (GATT), the World Bank and the International Monetary Fund—however desirable—may still be problematic for a number of technical, procedural and perhaps even political reasons. A special study should be made of this question by the ESC at the appropriate time.

9. Finally, noting that trade relations and economic cooperation between the Community and the European members of COMECON can and must improve considerably, the Committee hopes for an early conclusion of negotiations on the 'joint declaration', and of those with individual COMECON countries, on the basis of mutual interest and of fair conditions for both sides. The Committee may follow up this Opinion with others relating to the text of the 'joint declaration', the bilateral treaties with the countries concerned, or problems connected with Soviet accession to the GATT.

Done at Brussels, 27 April 1988.

*The Chairman  
of the Economic and Social Committee*

Alfons MARGOT

### **Opinion on the Communication from the Commission on a fresh boost for culture in the European Community**

(88/C 175/15)

On 1 February 1988, the Commission decided to consult the Economic and Social Committee, in accordance with Article 198 of the Treaty establishing the European Economic Community, on the abovementioned Communication.

The Section for Social, Family, Educational and Cultural Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 14 April 1988. The rapporteur was Mr Burnel and the co-rapporteur was Mr Noordwal.

At its 255th plenary session (meeting of 28 April 1988), the Economic and Social Committee adopted the following Opinion by a majority, with two votes against.

#### **1. Introduction**

1.1. In late 1987, the Ministers of Culture announced that they intended to give a fresh boost to culture in the Community.

Any half-heartedness or slowness to act on the part of the political authorities could jeopardize basic values such as liberty and democracy, quite apart from having

potentially serious economic and social implications. The Economic and Social Committee therefore supports the Ministers' decision and hopes that progress in creating a European cultural area will be swift and tangible.

1.2. The Committee has consistently demonstrated its interest in cultural policy and activities.

1.2.1. It has delivered a number of Opinions<sup>(1)</sup> on cultural topics.

1.2.2. The Committee has introduced cultural considerations into Opinions and studies on other issues (including social developments, youth employment, protection of the environment and poverty).

1.2.2.1. To cite one example, the Opinion on the Single Act<sup>(2)</sup> contains the following statement: "Making a success of the Single Act poses a dual challenge (...) for the peoples of Europe, the challenge of affirming the value of a common heritage in terms of civilization and culture, by demonstrating their ability to establish a Community based on progress, solidarity and freedom, open to the world."

1.2.3. The Committee has extended the remit of its Social Section to include family, educational and cultural affairs.

1.3. The Commission Communication is based on the three key components identified by the Ministers: the audiovisual sector, publishing and training. The Committee would make the following comments:

## 2. General comments

2.1. The Committee deeply regrets that it has had so little time to study the Commission document. A subject of such breadth and complexity cannot be dismissed with a few perfunctory generalizations.

2.1.1. The Committee therefore reserves the right to make later additions to its Opinion as necessary. In particular the Committee may wish to include in its survey of the "cultural area" a closer look at the media and the promotion of the European audiovisual industry.

2.1.2. The economic, social and cultural areas are inextricably linked. For the "European citizen" they constitute an abstract and material unity.

2.2. It would be difficult to establish an all-embracing and irrefutable definition of "culture". The Committee would refer to the UNESCO definition which, being a kind of lowest common denominator, enjoys

broad international consensus, and recognizes that culture is both diverse and universal.

For present purposes, culture may be defined as the combined spiritual, material, intellectual and emotional characteristics of a society or social group. In addition to literature and the arts, it encompasses life-style, fundamental human rights, values, traditions and beliefs<sup>(3)</sup>.

2.3. Culture helps shape patterns of life, and structure the thought and behaviour of the individual and of society. Culture consists of a complex network of inter-personal and group relations, expressed in collective thought and memory and in the common signs and legacies which link one generation to the next, building up a sense of solidarity.

Civilization, culture and society are therefore interlocking.

2.3.1. The Committee would strongly argue that the debate on culture and the management of cultural resources should not be restricted to "insiders" (those whose qualifications, background and knowledge have conferred on them the status of cultural and intellectual authorities), to the "professionals" and to the financial sponsors. Consumers should always have a say in the production of goods and services; all the more so in the case of culture, where so much is at stake in terms of social issues and values.

2.3.2. Culture is a right. This implies that there must be scope for choice (pace of development and forms of expression).

2.3.2.1. If progress in the field of new technologies/communications is to benefit society (by encouraging more responsible behaviour, autonomy, liberty etc.), it is necessary to protect the rights—and most importantly the right to be represented—of all those concerned, particularly users.

2.3.3. The cultivation of an "élite" is not at odds with the over-riding duty to make culture in all its forms really accessible to all citizens, provided the élite gives a lead and uses its knowledge and talents to benefit

<sup>(1)</sup> See in particular the Committee's Opinions on broadcasting (July 1987/*cf.* OJ No C 232, 31. 8. 1987); television without frontiers (September 1985/*cf.* OJ No C 303, 25. 11. 1985); tax measures in the cultural sector (OJ No C 344, 31. 12. 1985) and Community action in the cultural sector (OJ No C 128, 21. 5. 1979).

<sup>(2)</sup> May 1987/*cf.* OJ No C 180, 8. 7. 1987, p. 1 to 6, § 7.5, paragraph 2.

<sup>(3)</sup> Mexico Conference.

the community as a whole, without infringing the freedom of the individual.

2.4. The new, single-frontier Europe will see an increase in population mobility and steps will have to be taken to preserve cultural identity (in education, for example).

2.5. Budget constraints have forced culture ministers and the Commission to curb the pace and scope of their political plans. Whilst acknowledging that this pragmatic approach is in the interests of efficiency, the Committee would make three comments:

2.5.1. The proposed measures form an overall package with implications for the future of "European citizens" and, of course, for culture.

2.5.2. As the Committee pointed out in its recent Opinion on making a success of the Single Act<sup>(1)</sup>, in the interests of efficiency, an overall scheme should be established first. Once this has been done, the time schedule and budgetary requirements of individual programmes can be decided on. The cultural programme must be given priority.

2.5.3. Socio-cultural projects have been under way for some time in a number of Member States, and should be supported as they have a proven track record. As their work is directly in line with the Commission's ultimate objective, Community decisions and recommendations (e.g. on sponsorship) should not have the effect of reducing the funding of the organizations running these projects.

2.6. The Committee applauds the Commission's preliminary statement which is imbued with concern for the ideals of liberty, solidarity, dialogue and tolerance.

2.6.1. The Committee welcomes the Commission's announcement that "it will be at particular pains to integrate the cultural dimension into the formulation and management of the various Community policies. This will mean improved interdepartmental coordination".

2.6.2. The Committee has issued frequent calls for greater integration and coordination.

2.6.3. Such integration and coordination will serve the interests of efficiency and bring a sense of unity to

discussions and activities. They will also go a long way towards creating a unified geographical, economic, social and cultural environment for tomorrow's European citizen.

### 3. Specific comments

3.1. The framework programme proposed by the Commission for the period 1988 to 1992 comprises:

— five projects,

— sixteen activities for implementing the projects.

3.1.1. The chart appended to this Opinion<sup>(2)</sup> shows how the programme is structured. Three comments immediately spring to mind:

1. The Commission's programme is both practical and logical.

2. These activities, however useful, vary considerably in nature and scope. This will affect the amount of political and public support they get, as well as the details of their implementation (financing, structures, training, information, time limits etc.).

3. As the five projects are of perennial value, most of the associated activities will have to be continued, and possibly stepped up, even after the framework programme expires.

3.1.2. To make cross-referencing easier, the Committee Opinion will follow the same lay-out as the Commission document. As a number of projects and activities are linked in terms of cause and effect, it might have been better to base our discussions on the yardsticks of "knowledge" and "sensitivity" used by UNESCO in its definition of culture. We shall at least allow ourselves to be guided by these terms.

### 3.2. *Creation of a European cultural area*

#### 3.2.1. *Creation of an internal market for culture*

3.2.1.1. The prime objective of the framework programme as a whole, and not just the four activities covered by this project, is to create a European cultural area, with the dual aim of achieving a market without frontiers and promoting the image of the European citizen. The opportunities opened up by the creation of the internal market should be exploited to the full so that Europe's culture "industry" can compete internationally.

<sup>(1)</sup> May 1987/*cf.* OJ No C 180, 8. 7. 1987, p. 1 to 6.

<sup>(2)</sup> See Appendix.

3.2.1.2. Politicians and economic and social interest groups should adopt a consistent approach at all levels (national, Community, Council of Europe and UNESCO).

3.2.1.3. In order to improve cultural workers' living and working conditions, the Committee (which has already expressed its views on the subject) would ask that the survey of legislation affecting cultural work be expedited.

3.2.1.4. In the interests of fairness, justice and solidarity it is time that cultural workers be given the social rights and tax status demanded by the nature of their work.

3.2.1.5. The Committee obviously agrees that opportunities for attending and participating in cultural events should be developed, especially in rural areas.

3.2.1.6. The spectacular rise of competitive culture "industry" is a key point which will be discussed further on.

3.2.1.7. The Commission and Member States should combat the negative effects of economic practices which may restrict access to cultural activities (for example, cinema film distribution networks, discriminatory entrance fees for monuments and museums, etc.).

### 3.2.2. Information on cultural Europe

The Committee supports the proposed measures, but would stress that in the cultural sphere as elsewhere, uniform terminology is a prerequisite for unimpeded communication and for the use of statistics and survey results. Furthermore, information is only effective if up-to-date and easily accessible.

### 3.2.3. Business sponsorship

3.2.3.1. In addition to the point made in 2.5.3, the Committee would make four comments:

- If appeals to the public's generosity are to succeed, it is not enough for the cause to be a good one. Bureaucracy must be kept to a minimum and bodies responsible for collecting and managing funds must be tightly managed.
- Small and medium-sized firms and industries, which are a driving force in the economy and society, should be encouraged to take part in sponsorship, as this will enhance their image.
- Sponsorship should not be limited to the plastic arts, but should benefit all forms of cultural expression (e.g. literature).

— Attention should be paid to the possibly harmful effects of some kinds of sponsorship (loss of independence, distortions of the truth, publicity taking priority at the expense of culture, etc.). Joint sponsorship schemes could provide support for major Community-level cultural projects.

### 3.2.4. A policy for publishing

3.2.4.1. This complex issue will require special attention, in view of the changes brought about by new technologies. Although the cost and sales prices of books, records and other materials, and distribution conditions are all important considerations here, they are not the only ones.

3.2.4.2. The Committee approves the Commission's intention to take action to protect authors' and publishers' copyrights.

3.2.4.3. Publishing should be the subject of a broad study covering not only specific problems (VAT, reproduction etc.) but also the relations between publishing and other means of expression and dissemination (e.g. the press, cinema, television, telematics).

3.2.4.4. The Committee welcomes the Commission's interest in the future of libraries and in particular calls for a study of programmes designed to protect the book stocks of European libraries and to promote the creation of a network of transnational libraries in the European Community.

3.2.4.5. Ways of promoting the publishing of European anthologies should be studied.

### 3.3. Promotion of the European audiovisual industry

The spread of television has made cultural events the focus of economic—and often also political—interests and activities. This tendency will intensify as the technological potential of television—and hence its effect on people's thinking and behaviour—is further developed and refined. Television has an unshakeable hold on every aspect of our private lives.

This is undoubtedly the greatest challenge facing us today. Any failure or reluctance to act on the part of Europe could have a variety of untoward consequences.

The Committee has already issued Opinions on some aspects of the audiovisual industry. It should undertake a study of the industry as a whole as soon as possible. For the time being, the Committee would reiterate the following recommendations:

- The development and competitiveness of the European audiovisual industry should be given priority, so that the character and independence of European culture can be preserved and the necessary balance

between economic, social, technological and cultural aspects maintained.

- Scientific and technological research should be conducted at Community level into broadcasting, transmission and reception.
- European programmes, particularly those produced by young people, should be given every encouragement.
- Young people in particular should be 'taught' how to use television. After all, this medium provides a new way of reading and writing, and offers enormous creative potential as it is varied yet not too demanding. One way of meeting the challenge would be to ensure that programmes are of high quality and encourage producers and viewers to approach their respective freedoms with a sense of responsibility.
- A minimum quota system must be introduced for European productions. Already, the prevalence of undemanding US-made series, films and shows is not only endangering the cultural identity of people in Europe, but also, and above all, destroying the employment possibilities and jobs of creative media people in Europe (producers, actors, directors, etc.). And this pattern is liable to be even more marked in the future.

### 3.3.1. A cinema and audiovisual arts academy

The Committee welcomes this proposal but feels that other, more immediate activities should also be undertaken, in connection with the European Year of cinema and television. The finances of the proposed academy should be subject to stringent controls. The involvement of user representatives would offer a guarantee of effectiveness.

### 3.3.2. An 'audiovisual charter'

3.3.2.1. The Committee supports the proposal but would call for tight checks on financial resources.

3.3.2.2. The meetings to be held during European Cinema and Television Year will of course be attended by a number of prominent figures from the world of cinema and television. The Committee would recommend that representatives of consumers, teachers and other interest groups also be invited to take part.

### 3.3.3. High-definition television programmes (European standards)

3.3.3.1. The Committee agrees that this would constitute an important step forward in terms of the quality of sound and image. It therefore welcomes the Commission's support for technological research into an alternative system which would safeguard the interests of Community consumers, industry and manufacturing, and uphold European cultural values.

### 3.4. Access to cultural resources

The Committee agrees with the Commission's four objectives. Top priority should be given to improving knowledge of languages as a means of promoting access to the Community's cultural resources. On the subject of language, the Committee would ask that consideration also be given to other vehicles of communication, starting with music. Music is enjoying widespread popularity owing to a revival of interest in learning to play an instrument and to technical developments in equipment for recording and listening to music. Dance and mime, as the physical expression of ideas, should also be taken into account. Music, dance and mime are all universal languages. The Committee hopes that cultural exchanges will be promoted in these fields.

#### 3.4.1. Improving knowledge of languages

3.4.1.1. Multilingualism is vital as a means of communication and a way of understanding how other people think. It should be promoted with all speed. The Committee would refer here to its Opinion on 'Making a success of the Single Act: A new frontier for Europe': 'In the cultural and educational sphere it is necessary to:

- Act in the spirit of the ERASMUS and YES programmes and develop Community-level cultural and educational projects for the acquisition of a second Community language before the age of 10 and a third Community language after that age. This will equip young people to achieve their full potential in the new common area of communications, education and culture opened up by the rapprochement of the peoples of Europe and by the development of the new technologies.
- Encourage the further development of European-mindedness by promoting new history programmes so that young people can become more conscious of their European identity.<sup>(1)</sup>

3.4.1.2. No Member State's culture should be neglected on the pretext that its vehicle is a minority language.

<sup>(1)</sup> May 1987/*cf.* OJ No C 180, 8. 7. 1987, p. 1 to 6, point 6.

3.4.1.3. The Committee endorses the Commission's support for youth organizations which organize cultural excursions.

### 3.4.2. Promoting culture in the regions

As the Committee has an ongoing interest in regional policy, the Commission's project naturally meets with its approval.

The idea of 'European culture' should be fostered as a means of strengthening interpersonal and inter-group bonds.

To this end, individual identities and cultures must be accepted and protected. They should be able to exist by side, free of rivalry, opposition and any desire to dominate minority cultures.

### 3.4.3. Preserving Europe's cultural heritage

The Committee welcomes the Commission's intention of making its activities in this area more effective and reiterates the need for systematic, coherent action to protect books threatened by deterioration.

### 3.4.4. Young people's pass

This proposal takes up a suggestion already made by the Committee and is in response to requests by youth organizations.

## 3.5. *Training for the cultural sector*

As the Commission aptly says, access to cultural training is a right. The Committee puts particular stress on the measures envisaged for training those in cultural and media professions. Such training could give considerable encouragement to the development of a European cultural area, ensure employment opportunities in creative cultural fields, and make new jobs available in all fields of cultural activity.

Children should be taught to be discriminating in their use of the means of communication: in addition to oral communication and reading (including newspapers), the cinema and the radio and television broadcasts should find a place on the school curriculum.

### 3.5.1. Training for cultural administrators

The Committee agrees that there is a need for proficient administrators to implement policies on cultural heritage, exchanges and development.

### 3.5.2. Training for sound and vision specialists

The Committee agrees with the Commission that 'the quality of the initial and continuous training given to those working in the audiovisual industry is essential to the development of European cinema and television'.

### 3.5.3. Training for journalists and programme planners

The Committee would point out that the training received by journalists decisively influences the quality of the press. Training should include ethics, so that the rights of readers, as well as of journalists, may be respected.

### 3.5.4. Training for translators and interpreters

3.5.4.1. The Committee would issue an urgent appeal for the training of more translators and interpreters. The Committee itself is constantly aware of the shortage of trained specialists (particularly interpreters), which impairs the speed and efficiency of its work in some areas. It attaches great importance to the different types of training proposed for translators and interpreters. Concentration of training at the EC institutions is therefore not enough in itself.

3.5.4.2. However useful, machine translation will never be able to replace human intelligence or the skill of interpreters and translators.

### 3.5.5. Training for restoration specialists

3.5.5.1. The Commission is encouraged to pursue its activities in this area, bearing in mind that prevention is better than cure.

3.5.5.2. More scientific education is needed on methods of prolonging the life of works of art and, if need be, 'resuscitating' them. The Committee believes that these activities may help create jobs, especially for young people and in small firms.

3.5.6. It must be borne in mind that the various training measures foreseen by the Commission must be mutually compatible. This is necessary in order to:

- secure optimum training of those in the various cultural and media professions,
- avoid any overlapping or duplication and thus make possible optimum use of financial resources.

### 3.6. *Dialogue with the rest of the world*

3.6.1. This is a welcome inclusion in the Commission programme, though unfortunately the means for promoting dialogue are dealt with only superficially.

3.6.2. The prime duty of culture should be to unite the human race. No-one can reasonably argue that 'his' or 'her' culture is superior to all others. The Committee would recommend that the Community pursue its activities in tandem with the UNESCO decade of world-wide cultural development.

Done at Brussels, 28 April 1988.

*The Chairman*  
*of the Economic and Social Committee*  
Alfons MARGOT

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#### APPENDIX

##### Content of the Commission programme

|  |   |
|--|---|
| 5 Projects                                     | 16 Activities   |
| Creation of a European cultural area           | Creation of an internal market for culture<br>Information on cultural Europe<br>Business sponsorship<br>A policy for publishing   |
| Promotion of the European audiovisual industry | A cinema and audiovisual arts academy<br>An 'audiovisual' charter<br>High-definition television programmes (European standards)   |
| Access to cultural resources                   | Improving knowledge of languages<br>Promoting culture in the regions<br>Preserving Europe's cultural heritage<br>'Young people's pass'  |
| Training for the cultural sector               | Training for cultural administrators<br>Training for sound and vision specialists<br>Training for journalists and programme planners<br>Training for translators and interpreters<br>Training for restoration specialists |
| Cultural dialogue with the rest of the world   |   |

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## Own-initiative Opinion on 'A policy for upland areas'

(88/C 175/16)

On 23 February 1988, the ESC Bureau authorized the Section for Regional Development and Town and Country Planning to draw up an own-initiative Opinion based on the information report on a policy for upland areas approved by the Section on 16 February 1988.

The Section adopted its Opinion on 19 April 1988. The rapporteur was Mr Amato.

At its 255th plenary session (meeting of 28 April 1988), the Economic and Social Committee adopted the following Opinion by 35 votes to 1, with 1 abstention.

### 1. Foreword

1.1. The Community has no standard definition of an 'upland area'. The present Opinion takes an upland area to be a physical, environmental, socio-economic and cultural region in which the disadvantages deriving from altitude and other natural factors must be considered in conjunction with socio-economic constraints, spatial imbalance and environmental decay.

1.2. Upland areas cover a large part of the Community's territory (around 28%), and the proportion of the Community's population still living in these areas is far from negligible (around 8,5%).

### 2. Upland areas today

2.1. In the last few decades upland areas have suffered a growing ecological decline which in some respects is irreversible. The balance has been disturbed by depopulation, irrational exploitation of forests and meadows, uncontrolled development of tourism, general atmospheric pollution, the building of communications infrastructure and the intensification of open-cast mining.

2.2. The uplands are disadvantaged areas because of their permanent natural handicaps and associated socio-economic disadvantages. The most characteristic feature of upland areas today is the imbalance in development which began with the disappearance of lowland-upland integration and the steady concentration of agricultural and industrial growth in lowland areas.

2.3. The causes of this imbalance are to be found in the general mechanisms of the economy and their impact on upland areas. These mechanisms lie behind the different types of upland area within the Community:

- a) all upland areas are to some degree disadvantaged by their physical geography. In other words, they suffer permanent natural disadvantages, and socio-economic handicaps which are the direct consequence of these disadvantages. However, this is not the main cause of the difficulties faced by the uplands, or of the need for a special uplands policy;
- b) most of the Community's upland areas are underdeveloped. The marginalization of development processes reinforces the negative effects of the natural disadvantages;
- c) in all cases, the uplands are out of kilter. Even when there is growth or apparent equilibrium, the prevailing economic and social processes have an unbalanced impact.

### 3. What type of policy do upland areas need?

3.1. The special nature of uplands means that incentives and compensation are not enough; they need a policy which will change their overall relations with the economy and with society. There are some signs that national and Community policies on this are beginning to change. These policies will be analyzed below, with a view to defining positive prospects and proposals for action. A policy for tackling the problems facing uplands today will also have to tackle the structural causes of the imbalance while protecting and enhancing the environment.

### 4. Upland policies in the Community to date

4.1. The analysis contained in the information report shows clearly that, for various reasons, no national or Community policy has tackled overall development, conservation and enhancement of the upland environment.

4.2. Chapter V of the information report pinpoints and analyzes four main types of upland policy: residual, exploitation/colonization, hand-outs, and protection/constraint.

## 5. Guidelines for an uplands policy

5.1. The question arises as to whether it would be feasible to have a single uplands policy for the whole Community. In fact, it would be completely pointless, damaging and over-ambitious to base all upland policies and measures on a single set of regulations or to introduce a package of measures applicable to all upland areas. As we have seen, the interaction between economic development processes and natural handicaps has led to varying degrees and types of imbalance in the different countries and regions. The need is thus not for a centralized uplands policy, but one which is tailored to the differing situations.

The various national policies examined in the information report bear out the need for a Community policy which unifies without itself being uniform. Such a policy should be based on:

a) The establishment of common general goals for the uplands policies carried out at various levels in the Community—goals which give uplands policy a full, coherent role in overall Community policy. They are:

- to save the uplands' natural, human and cultural heritage,
- to end the depopulation of upland areas,
- to follow a development strategy which tackles the structural causes of imbalance and not just the effects,
- to achieve 'competitive' living conditions in upland areas,
- to increase employment;

b) The pinpointing of key guidelines to achieve these goals efficiently. These guidelines would underpin the joint efforts to be deployed at the various levels: Community, Member States, regional and local authorities. They are:

- an integrated global approach to development, covering various aspects: economic, social, cultural, ecological, technological, institutional

- action on production structures and creation of a new enterprising spirit, in which local entrepreneurs work together with other outside managers,
- full use of all local resources, both natural and human,
- appropriate fully-fledged technologies; these might be devised by research bodies to be sited in upland areas,
- synergic interaction, not just balance, between development and protection of the environment; the environment should be seen not as a constraint, but as a resource to be used in the development process,
- integrated programmes and projects (covering both measures and expenditure), instead of sectoral measures and the granting of incentives on demand,
- self-management of development: this means involving upland residents in development decisions and activities,
- practical contribution from the community: as an instrument to provide concrete backing-up for self-development.

## 6. Proposals for a Community uplands policy

### 6.1. Role of a Community uplands policy

6.1.1. The Community must take on the task of standardizing, extending and developing upland policies by defining and implementing a specific Community policy.

6.1.2. The Community should draw up a common framework of general goals, key guidelines and specific contents (see Chapters VI and VII of the information report). This should form a benchmark to guide the policies of the Member States and the Community's own direct measures.

### 6.2. Definition and delimitation of upland areas

6.2.1. The legal classification criteria used by the Member States and the Community to define upland areas need to be standardized, partly to eliminate any distortions in competition between the enterprises of different Member States. This standardization requires the establishment at Community level of criteria covering various natural and socio-economic handicaps as suggested in the definition given in point 1.1.

## 6.2.2. The classification criteria should be:

- a) natural disadvantages. This should not be limited to the factors used by Directive 75/268/EEC (altitude, slope, combination of these two), but:
- with regard to climate, should consider not only altitude but also latitude and geographical situation,
  - with regard to the physical aspects, should consider not only slope but also relief, type of soil, etc.
- b) socio-economic disadvantages:
- low population density,
  - isolation caused by remoteness from cities and economic/political centres,
  - population excessively dependent on agriculture,
  - insufficient outlets downslope in areas bordering with third countries with which communications are difficult;
- c) degree of environmental decay.

6.2.3. It is the combination of these factors which defines an area as 'upland'. The minimum altitude at which an area qualifies as 'upland' varies accordingly. Hence the choice and combination of these factors, and their use as yardsticks, cannot be uniform throughout the Community, but must be adapted to the various circumstances. The Member States should see to this, and submit the results to the Community together with the corresponding demarcation of upland areas.

6.2.4. Directive 75/268/EEC and most national laws use local authority areas (or parts of them) as the basic territorial unit for demarcating upland areas. In many cases, this practice has made the official upland areas rather irregular in size. Instead, measures should cover compact 'blocks' of territory, i.e. units comprising uplands plus the immediately adjoining areas which are linked to them geographically, economically and socially. This would also ease the problem of integration between upland areas and the neighbouring lowlands. It may rightly be objected that inclusion of areas which are not strictly 'upland' would mean that public aid is spread more thinly, instead of being concentrated in the areas where the handicaps are greatest. This can be prevented by granting aid on a sliding scale based on the levels of handicap within the area.

6.3. *The Community's role in Member State policies*

The Community's role is to coordinate, standardize and encourage. It should focus on:

- a) better knowledge of upland problems. The lack of intercomparable statistics on the uplands—which created problems in the preparation of the information report—is the tangible reflection of an unacceptable lack of political attention. Standardized statistics on all the Community's uplands are needed. Member States must be instructed to start producing statistics, add to them, or standardize them as necessary;
- b) adaptation of national legislations, to gear them to the development and protection of the uplands by aligning them to the framework of goals, guidelines and contents defined at Community level. A directive would seem to be the best instrument for this. Harmonization of national laws is particularly necessary in frontier upland areas, where mountain ranges belonging to different Member States require standard planning and intervention criteria;
- c) adoption of an effective planning tool by the public authorities, who must take an active role in upland development. This is a fundamental task which the Community alone can take on, by providing an active and well-organized sorting-house for ideas and experiences, by encouraging national and local authorities (sometimes by laying down norms) and involving them in jointly financed programmes which will be innovative in both content and methodology.

6.4. *The uplands in Community policies*

## 6.4.1. Take full account of the uplands

Account must be taken of the uplands in policies which have hitherto ignored them. Policies which have taken them into some consideration will also need adjusting. The information report details the ways in which the various sectoral policies should support upland development. Here we will recall the main adjustments which would be required in Community policies.

## 6.4.2. Adjustments to the common agricultural policy (CAP)

To change the CAP from a source of hand-outs to a force for the development and re-equilibrium of upland

agriculture is to raise the general question of its reform. The goals pursued by market policy hitherto, and the imbalance between this and structural policy, favour the agriculture of the stronger areas and widen the gap between them and the weaker regions. They are thus incompatible with the goals of developing and restoring balance to upland agriculture and the upland economy. Even so, some adjustments could be introduced straight away, for example by:

- a) defining guidelines and actions for a Community land policy, with particular regard for upland areas. This is a subject which has been left to the Member States and has never been seriously tackled by the CAP. The analysis contained in the information report (Chapter VII, 2) shows that solution of the land problem is a precondition for any primary sector policy, Community or otherwise. The Community cannot defer any longer from adopting a fully-fledged land policy;
- b) promoting high-quality traditional upland products, and encouraging local markets and sectors;
- c) introducing a structural policy in tandem with the land policy outlined above. This would support integrated investment by cooperative and other non-profit bodies, particularly in forestry and farming or agri-tourism (see Chapter VII, 2, of the report). For smaller holdings, aid should only be granted via plans covering groups of farms;
- d) adopting Community provisions to exclude the uplands (as defined by the criteria given in point 6.2 above) from any present or future administrative measures aimed at curbing production (milk quotas, co-responsibility levies, etc.), and from any similar constraints found in the structural measures [Regulation (EEC) No 797/85];
- e) excluding upland areas from the measures on extensification of production [Regulation (EEC) No 1760/87] and land set-aside;
- f) conducting a radical review of the compensatory allowance (CA). The report provides ample justifications for this. Some concrete proposals:
  - compensation for natural disadvantages should be assessed separately from compensation for structural disadvantages,
  - compensation for natural disadvantages should take the form of a minimum CA which will be supplemented according to certain variables. A minimum threshold, such as that used in Germany, should be adopted to prevent waste,
  - the additional compensation for structural disadvantages should be for a fixed period, and should be tied to structural improvement plans. Small farms should be encouraged to join forces,
  - the method of defining the CA by livestock unit or acreage should be changed. A CA linked to the amount of work (self-employed or employed) carried out on the farm seems (a) more likely to help stem the rural exodus, (b) to give a fairer distribution between small and large farms, and (c) to provide a greater incentive to employment. For example, larger farms which might be excluded by the thresholds could receive the CA simply for the extra jobs provided,
  - the CA should not be used for purposes which are the province of other socio-structural measures (e.g. income supplements for farms hit by the changes in the CAP). We should therefore oppose the tendency to over-extend the geographical areas of the disadvantaged regions in some Member States as a way of offsetting the effects of milk quotas and market policy,
  - the eligibility criteria for upland and other disadvantaged areas adopted by the national and regional authorities should first be approved by the Commission, which should check that they conform with the Community's own criteria (as is already done in other areas of Community policy, such as measures of the European Regional Development Fund, ERDF);
- g) conducting an in-depth analysis of the interaction between market policy and individual structural measures; in some cases they may be completely incompatible. For example, we should find out whether and to what extent some price support policies (e.g. durum wheat) are thwarting the overall development of certain upland areas.

#### 6.4.3. Adjustments to forestry policy

In its Opinion of 2 July 1986<sup>(1)</sup> on the Commission Communication and Memorandum on Community

<sup>(1)</sup> OJ No C 263, 20. 10. 1986.

action in the forestry sector, the Committee welcomed the Commission proposals, although it regretted the fact that no common forestry policy had yet been implemented. Its reservations included the following:

'1.5. The Committee also thinks that insufficient consideration has been given in the Commission Communication to the specific problems of forests in upland areas. These problems will have to be studied in detail at a later date.'

The Commission approach hinges largely on monoculture and on vertical integration (wood products). This approach appears unsuited to the uplands, where forestry has to tie in with other economic activities for reasons of income, employment and environment protection. Moreover, inadequate stress is laid on the damage which intensive monocultural forestry of inappropriate species can do to the upland water system and environment. The Committee therefore asked the Commission to conduct a general review of forestry in the uplands. The problem of forest fires and how to prevent them also deserves greater attention.

The Committee is disappointed to note that more than two years later the Commission has still not followed up these documents with concrete legislative proposals.

#### 6.4.4. Adjustments to regional policy

Upland areas must be given a more clearly defined niche in Community regional policy.

- a) the ERDF and the Community credit instruments should give special attention (if not priority) to measures which affect upland areas;
- b) the ERDF Regulation should be amended to cover—in upland areas only—certain measures which are currently excluded (e.g. in the building sector) but which are essential for the restoration and refurbishing of historic town centres and rural settlements, and for protection against earthquakes. As these are closely linked to the development of tourism, they cannot be included in the strictly "well-fare" category;
- c) a Community programme for upland areas should be introduced under the ERDF. This type of programme should not be limited to specific sectors, but should also cover cases of inter-sectoral imbalance.

The uplands are one example of such imbalance.

The keystones of the programme should be:

- Small firms: Particular encouragements should be given to the development of business and innovation centres (BIC) in upland areas, along the lines indicated in the information report (Chapter VII, 4). The programme should also promote instruments to support R&D and technological innovation for the uplands, working from the abovementioned centres. This would not involve setting up complicated agencies or super-structures, nor should it rely solely on the existing network of BICs. At national level, a coordination and promotion agency should be set up, comprising companies, public bodies, research institutes, and specialists, perhaps with further delegates at regional level. At Community level, a task force for technological innovation in the uplands could be set up, to stimulate and transmit knowledge between the national agencies and to carry out pilot projects.
- Tourism: In addition to the support measures outlined in the report (Chapter VII, 3), the programme's main task, with the help of the national and regional authorities, should be to map tourist numbers, movements and potential (including agri-tourism) in upland areas. These maps would be of assistance when drawing up Community measures to restore balance between over-used and under-used areas.
- Energy: As proposed in Chapter VII, 5, of the report, the VALOREN programme could form part of the basis of action to promote greater use of alternative energy sources in the uplands.
- Land use and infrastructures: The uplands should be seen as a fully-fledged production and development factor, as outlined in Chapter VII, 6, of the report. The programme should re-plan the use of land in the uplands with a view to restoring balance, in some cases within a single upland area. The programme should also adopt specific measures, tailored to the differing circumstances, covering: water systems; infrastructure and public works; renovation of buildings in upland towns and villages, where necessary with the use of antiseismic building techniques; res-

toration of monuments and areas of historical or artistic interest; public services, particularly transport and telecommunications (starting with the STAR programme).

- Information on planning methods and on local and regional experiences of development in upland areas: This information should be targeted on local and regional authorities and the relevant socio-economic groupings. As well as written and audiovisual information, support should be given for meetings, seminars, and study visits at which participants can compare notes;

- d) the Community programmes which the Commission is drawing up (environment, R&D) should give special attention to the specific problems of upland areas.

#### 6.4.5. Adjustments to tourism policy

It is of course incorrect to speak of adjustments to a policy which does not yet exist as such. In December 1986 the Council adopted a Decision establishing a consultation and coordination procedure in the field of tourism, and a Resolution on a better seasonal and geographical distribution of tourism. Although these are a step in the right direction, and are in keeping with the recommendations made in Chapter VII, 3, of the information report, they are still only general guidelines and preliminaries to the introduction of a full-scale policy.

The Commission is drawing up a multiyear programme of action in the tourist sector. The Committee hopes that the Commission will pinpoint the special problems of upland tourism and draw up concrete proposals for action along the lines suggested in Chapter VII, 3, of the report.

#### 6.4.6. Adjustments to energy policy

The Community demonstration projects have so far affected the uplands only tangentially. The special energy problems of the uplands have never been tackled. This failure should be remedied by giving greater priority to projects carried out in upland areas, and by drawing up a full-scale upland energy policy as proposed in Chapter VII, 5, of the report.

#### 6.4.7. Adjustments to environmental and regional planning policies

Community environment policy has to date only affected particular aspects of the uplands. Specific measures for the uplands as such have never been proposed.

The Community's fourth environmental action programme (1987-1992) refers to uplands, but the only concrete action mentioned is the Community's measures to support upland agriculture. The Committee stresses the limitations of this approach, given that environmental decay in the uplands is caused not only by the abandonment of agriculture, but also by overgrazing, tourism, and other factors.

Although not specifically designed for upland areas, some of the actions scheduled in the fourth programme will affect uplands quite considerably. Among these, the Committee is pleased to note the increased emphasis on measures for the conservation of nature and natural resources, and the insertion of a chapter on "soil protection", which covers the serious upland problems of erosion and run-off. The Committee trusts that the Commission will take appropriate action on this when it presents its specific proposals for tackling physical degradation, erosion, natural hazards, misuse and waste caused by space-consuming activities.

The implementation of Directive 85/337/EEC on environmental impact assessment (EIA) raises considerable expectations. With only a few weeks to go to the implementing deadline, the Commission should pressurize those Member States who have not yet made implementing arrangements.

However, this is not enough to fulfil the Community's task of saving its upland heritage. We must also:

- a) promote Community action to harmonize national legislative protection, partly to safeguard the principle of competition. This harmonization should include certain minimum standards for the protection of lakes and rivers, a ban on building above a certain altitude, and a code of conduct for the protection of woodlands;
- b) step up Community support for, and pressure on, regional and national authorities. At the very least, aid from the structural funds should only be granted to regions which apply the Community Directives on environmental protection;
- c) define Community rules to oblige local and regional bodies to take into account environmental resources and constraints in their economic and regional planning. This involves two main points:

- environmental impact assessment should be obligatory not just for individual projects, but also when drawing up economic or land-use plans at either regional or sub-regional level;
- economic and regional planning should take fundamental account of the balance of environmental resources, and should be underpinned by guidelines on the use of resources and proper environmental planning methods. Planning should be based on natural regional units; in the case of uplands, these would correspond with river catchment areas.

These should be the basic criteria for the Community regional planning policy which is to be drawn up. This policy should include Community rules harmonizing town-planning legislation, with some key points covering upland areas: regulation of building in rural areas and sales of private building plots, discouragement of second homes, and restoration of balance between over-used and under-used upland areas. Rules on land use (balance between the value of farmland and building land, compulsory purchase rules, tax systems, etc.) should be harmonized, partly to ensure fair competition in the single internal market.

The information report (Chapter VII, 6) lays great stress on the concept of "productive ecology". This must form the guiding principle of every aspect of the environment policy which the Community should carry out via the structural funds, starting with the ERDF Community programme for the environment which is currently being drawn up.

#### 6.4.8. Adjustments to transport policy

Community transport policy must take account of two basic requirements of upland areas. Firstly, communications and access must be adequate both for the needs of upland residents and for development purposes. Secondly, damage to the environment must be kept to a minimum. The main problems here are caused by passing motor traffic, which has undoubted adverse effects on the environment (pollution, marring the landscape, etc.) and generally does little to boost the upland economy.

Community transport policy should therefore seek to reduce heavy goods traffic and switch extra traffic to the railways. Railway and inter-modal traffic needs to be made more competitive. Schemes to build or widen motorways across upland or mountain areas should

be reviewed, and only implemented when all other alternatives have been ruled out.

The branch railway network should be extended to improve access to upland areas.

At a more general level, further efforts are needed to reduce the pollution caused by motor traffic to existing Community measures (lead-free petrol, catalytic converters, efficiency of combustion systems etc.), speed limits should be introduced on routes through uplands.

These general criteria should first be adopted in the multiyear transport infrastructure programme, particularly for the Community's main passes through the Alps, Pyrenees, Greek mountains, Apennines, etc.

#### 6.4.9. Adjustments to research and technological innovation policy

This policy seems to have failed to take account of the uplands. Given the key role which research plays in upland development (especially for the tapping of potential resources—see the report), this is a short-coming which must be remedied, particularly in:

- the framework Community scientific research programme,
- the common programmes for agricultural research,
- the non-nuclear research programmes of the Joint Research Centre;
- the BRITE (basic research in industrial technologies), FAST (forecasting and assessment in science and technology), COST (cooperation in scientific and technical research), SPRINT (innovation and technology transfer), ECLAIR (agro-industrial technologies), FLAIR (foodstuffs), non-nuclear energy, and environment programmes.

#### 6.4.10. Adjustments to employment policies

- a) The following measures, laying particular emphasis on upland areas, should be stepped up:
  - support for local employment initiatives (LEI),
  - job-creating environmental measures,
  - support for socially useful non-market jobs;
- b) European Social Fund measures for the uplands should be stepped up, especially:
  - training for development agents and financial support for their employment (programme to cover at least three years),

- integrated training programmes targeted on the needs of upland residents,
  - training for new jobs (including sandwich courses, day release schemes and the like),
  - programmes to bring together and galvanize the various socio-economic forces, as indicated in Chapter VII, 7, of the report;
- c) some of the pilot job-creation schemes of the European Social Fund (ESF) (such as the one carried out in the Pyrenees) should be introduced in other upland areas.

#### 6.5. *Integrated upland development programmes (IUDP)*

6.5.1. The IUDPs should combine the various sectoral Community measures which affect the uplands, and should be implemented by the national and regional authorities. The programmes should complement national and regional policies (see Chapter VII of the report), and should be carried out at sub-regional level.

6.5.2. Community financing would be a great help to these programmes. It need not be generalized, but should seek to stimulate national and regional measures, and help spread and standardize appropriate planning methods.

6.5.3. For each IUDP financed by the Community, a programme contract should be drawn up between the Community, the Member State, the regional authority and the other parties involved.

6.5.4. Financial support should only be granted to IUDPs which involve the various social partners right from the planning stage.

6.5.5. The Commission should be involved in the planning of the programmes and provide the necessary instruments and know-how. This will also help to avoid the difficulties which the regions face when trying to plan integrated development (as has occurred in the integrated mediterranean programmes).

#### 6.6. *Upland areas and the reform of the structural funds*

6.6.1. If upland policy is not granted a special additional budget line and gets most of its financing from the structural funds, importance will obviously attach to the general pattern of structural fund reform which has materialized since the Brussels Summit.

6.6.2. Upland areas should feature strongly in the measures to help the less developed regions covered by objective No 1. It will be up to the Commission, under its new regional planning procedure, to make regional authorities aware of the need to ensure that the new regional development plans cater adequately for upland areas.

6.6.3. The Committee notes with regret that the Council has not adopted its proposal (Opinion CES 1067/87) to extend objective No 1 to islands and uplands in regions where the per capita gross domestic product (GDP) is below the Community average.

6.6.4. The measures for upland areas in regions not covered by objective No 1 should therefore be included in the "measures to develop rural areas" (objective No 5). Aid would be severely fragmented if ESF grants under objectives No 3 and 4 were applied in upland areas independently of other structural fund support.

6.6.5. The Committee also stated in the above Opinion that "as far as objective No 5 is concerned, the ERDF and the ESF should confine their operations to island and upland areas".

6.6.6. It should be noted that a rural development policy is not the same as an uplands policy. As the latter is more wide-ranging, it cannot be considered a subgroup of the former. The reverse is the case: rural development policy should form part of uplands policy.

6.6.7. Nevertheless, the Committee considers that the Commission's new version of the framework Regulation should give uplands priority within the second section of objective No 5 (development of rural areas). The measures to be taken should adopt a multidisciplinary and inter-sectoral approach, using the integrated method and drawing on all the structural funds. Such an approach will be very close to the global approach to upland development favoured in this Opinion and in the information report.

6.6.8. For both objectives, No 1 and 5, the integrated approach and the financing of IUDPs should be the main (though not exclusive) vehicle of structural fund intervention in the uplands.

6.6.9. An early start should therefore be made (i.e. using existing instruments and provisions) on arranging Community financing of:

- a few pilot IUDPs, to try out the proposals made in the present Opinion,



— IUDP studies and plans, to encourage national and regional authorities to offer financial assistance.

6.7. *Assistance for upland areas from the Community's credit instruments and financial engineering*

6.7.1. When IUDPs are planned, careful attention must be devoted to the Community credit instruments, as these can be used to complement the assistance from the structural funds.

6.7.2. Community activity in the financial engineering sector should be stepped up and geared to the needs of upland areas.

6.7.3. A stock of loans earmarked for upland areas should be set up as soon as possible. These could come from the own resources of the European Investment Bank (EIB) or via the New Community Instrument (NGI). These loans should also be extended to farming and forestry.

6.7.4. These loans should be granted at concessionary rates of interest.

6.8. *The coordination of Community measures*

6.8.1. The Commission should set up an administrative unit for upland areas.

6.8.2. This unit would:

- assess the impact on upland areas of the Community's different policies,
- provide a benchmark for Community and national policies by drawing up a Community framework of goals, guidelines and instruments for the development of upland areas,
- draw up proposals for harmonizing national policies and legislation, starting with the definition and delimitation of upland areas,
- draw up proposals on ways of ensuring that Community policies accommodate the development needs of the uplands,
- coordinate and develop the implementation of Community policies in upland areas,
- promote and coordinate Community financing of the IUDPs.

Done at Brussels, 28 April 1988.

*The Chairman  
of the Economic and Social Committee*

Alfons MARGOT

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**Opinion on the amended proposal for a Council Regulation (EEC) on the tasks of the structural funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank (EIB) and the other existing financial instruments**

(88/C 175/17)

On 18 April 1988 the Council of the European Communities decided to consult the Economic and Social Committee on the abovementioned amended proposal.

Substantial amendments have been made to the original Commission proposal [doc. COM(87) 376 final], on which the Committee issued an Opinion in November 1987<sup>(1)</sup>.

In view of the urgency of the matter the Committee chairman decided to invoke Article 46 of the rules of procedure and asked Mr Dassis to submit a draft Opinion as rapporteur-general.

At its 255th plenary session (meeting of 28 April 1988), the Economic and Social Committee adopted unanimously the following Opinion.

1. The Committee welcomes the amended proposal for a Council Regulation on the tasks of the structural funds. The new proposal clarifies and confirms major points in the light of the agreements reached at the European Council in Brussels on 11 to 13 February 1988.

2.1. The Committee notes with approval that the Commission has taken account of a number of suggestions contained in the Committee's Opinion of 19 November 1987 (rapporteur: Mr Serra Caracciolo), in particular:

- the references in the recitals to action designed to strengthen cohesion, including the coordination of economic and social policies,
- the reference to the 'decisive importance' of the European Social Fund (ESF) for the 'promotion of consistent employment policies',
- the precise delimitation in Annex I of the regions concerned by objective No 1; this is to be welcomed,
- the use of NUTS level III territorial units for objective No 2, as advocated by the Committee, and the definition of criteria for determining the areas eligible,
- the division of objective No 5 into two sub-objectives (adaptation of agricultural structures and rural development respectively),
- the inclusion of a new Article dealing with transitional provisions.

2.2. The Committee would, however, reiterate that at least 80% of resources of the European Regional Development Fund (ERDF) must be made available for objective No 1, instead of taking this percentage as a ceiling.

2.3. As regards both objective No 1 and objective No 2, the Committee again stresses the need:

- to concentrate the Funds' resources,
- to work out more specific criteria for this purpose,
- to extend and strengthen the integrated approach by turning to good account the commitment of regional and local authorities and economic and social operators,
- to promote new forms of share holding capable of stimulating development in less favoured regions.

2.4. The Committee is concerned about the restrictive criteria laid down for assistance to the regions covered by objective No 2. It fears that the regions in industrial decline will be further disadvantaged.

2.5. The Committee also points out that there should be precise criteria for the regions covered by objective No 5 concerning the adaptation of agricultural structures and rural development (taking particular account of the specific problems of upland areas and less-favoured island regions which are excluded from objective No 1).

3.1. The draft Regulation confirms the doubling in real terms of the resources of the structural funds as regards objective No 1 by 1992, and of the resources of the funds as a whole by 1993. The Committee welcomes this necessary step forward although it considers it to be the bare minimum for the attainment of an internal market with a minimum degree of economic and social cohesion. Indeed the Committee fears that the resources may still be inadequate, particularly if they are not sufficiently concentrated.

3.2. The Committee would therefore reiterate its earlier comments on the need to reinforce the machinery for assessing the regional impact of the other Community policies, and to continue and step up studies on

<sup>(1)</sup> OJ No C 356, 31. 12. 1987.

the impact of the internal market on regional disparities.

3.3. With regard to the degree of economic and social cohesion that will be achieved by 1992, the Committee calls on the Commission to submit a specific supplementary report before the end of 1991 and if necessary to make provision for appropriate additional measures for achieving the objectives of the Single European Act.

3.4. The Committee urges that the increase in the Funds' resources be phased evenly over the period up to 1992 and that regions eligible to benefit under Objective No 1 receive additional funding at least proportional to this increase.

4. The Committee notes the role assigned in Article 4 to partnership between the Commission, the Member States and the competent regional and local authorities, which it considers to be particularly essen-

tial if structural operations are to be successful in practice. The Committee would, however, lay great stress on the vital role of economic operators as participants in this process.

5. The Committee reiterates its recommendation for the setting-up of a single advisory committee for all five objectives along the lines of the current ESF committee.

6. The Committee draws the Council's attention to the urgent need for the Framework Regulation to be adopted within the deadlines fixed by the Summit to ensure that the Single Act mandate is successfully carried out. The Committee awaits with interest the proposals for Regulations on the technical coordination of the structural funds and other financial instruments and the three vertical implementing Regulations, which should amplify and clarify many aspects of the reform of the structural funds which are still unclear and which cannot be tackled until the Framework Regulation has been adopted.

Done at Brussels, 28 April 1988.

*The Chairman  
of the Economic and Social Committee*

Alfons MARGOT

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