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## Information and Notices

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## II

*(Preparatory Acts)*

## ECONOMIC AND SOCIAL COMMITTEE

**Opinion on the proposal for a Council Decision on the introduction of a standard Europe-wide emergency call number <sup>(1)</sup>**

(90/C 62/01)

On 18 October 1989 the Council decided to consult the Economic and Social Committee, under Article 100 A of the Treaty establishing the European Economic Community, on the proposal for a Council Decision on the introduction of a standard Europe-wide emergency call number.

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 28 November 1989. The Rapporteur was Mr Green, the Co-Rapporteur Mr Mantovani.

At its 272nd Plenary Session (meeting of 19 December 1989) the Economic and Social Committee unanimously adopted the following Opinion:

**1. General comments**

1.1. The proposal seeks to introduce 112 as the standard EC-wide emergency call number.

1.2. It is also proposed gradually to improve the language skills of staff who take calls on the EC emergency number.

1.3. The ESC supports the proposals, particularly because of the significant rise in both private and business travel within the EC in recent years.

1.4. Inevitably, more and more EC citizens will therefore encounter an emergency situation in another EC Member State.

1.5. The ESC attaches considerable importance to the EC emergency number being introduced alongside existing national emergency numbers.

1.6. This is because the national emergency numbers in many EC states have become entrenched as a result of many years' use.

1.7. It is also important that the schedule for introducing the EC emergency number should be reasonably

flexible for those Member States who have not yet planned technical modifications or have to speed up changes in their number planning. At all events the deadline laid down in Article 2 of 31 December 1992 must not be exceeded by more than 12 months, which would mean that the three-year delay period up to 31 December 1995 provided for in Article 3 should be reduced.

1.8. New technology is currently being introduced in telecommunications, and the time is therefore ripe for introducing a European-wide emergency number.

**2. Specific comments**

2.1. We must point out that there is a mistake in Table No 1. Denmark has not in fact introduced 112 as a national emergency number yet, but has merely set it aside for emergency use.

Table No 1 also states incorrectly that in Italy 112 is used by the military police. It is in fact used by the 'carabinieri' (national police).

2.2. As it appears that the information regarding two Member States — Denmark and Italy — is incorrect, the Commission should check the information regarding the other ten Member States.

<sup>(1)</sup> OJ No C 269, 21. 10. 1989, p. 8.

Done at Brussels, 19 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

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**Opinion on the proposal for a Council Directive on the approximation of the laws of the Member States relating to the spray-suppression devices of certain categories of motor vehicles and their trailers <sup>(1)</sup>**

(90/C 62/02)

On 6 September 1989, the Council decided to consult the Economic and Social Committee, under Article 100A of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Industry, Commerce, Crafts and Services, which was responsible for the Committee's work on the subject, adopted its Opinion on 29 November 1989. The Rapporteur was Mr Perrin-Pelletier.

At its 272nd Plenary Session (meeting of 19 December 1989) the Economic and Social Committee adopted the following Opinion by a majority with one vote against and four abstentions:

## 1. Introduction

1.1. The draft Directives under review follow up the commitment which the Commission made in the 1986 Road Safety Year to have specific measures adopted in the areas in question.

Any Commission initiative which seeks to introduce measures to reduce further the number and seriousness of accidents, and hence to improve safety for all road users, is to be welcomed.

1.2. An initial draft Directive was presented in August 1987; its main aim was to improve road safety by using spray-suppression devices intended to limit the amount of water, mud and pebbles thrown up by the wheels of moving vehicles. The technical content of this draft Directive was based on current requirements in various Member States and on recommendations by experts.

1.3. This initial draft Directive gave rise to discussions in the Economic and Social Committee <sup>(2)</sup> and in the European Parliament; given the importance of the amendments requested, the draft was replaced by a new proposal, now the subject of this Opinion. However, the

Committee deplores the fact that there has not been sufficient advance consultation with industry on the subject, a point already raised in its last Opinion.

## 2. General comments

2.1. The problems addressed by the Commission in this draft Directive are most certainly a source of concern for the driving public and the authorities.

2.2. The clouds of spray thrown up by the tyres of heavy commercial vehicles travelling at relatively high speeds on wet road surfaces create potentially dangerous driving conditions for other motorists, particularly when overtaking.

2.3. The formation of spray depends mainly on 1) the type of road surface, particularly its design, 2) the tyre tread configuration, 3) the aerodynamics and speed of the vehicle.

Rough road surfaces and wide-grooved tyre treads tend to produce less spray than smooth surfaces and finely grooved tyres. The spray itself is generated by the water forced out of the area of contact between the road surface and the tyre; the problem tends to be further aggravated by the combined aerodynamic effects of 1) vehicle movement,

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<sup>(1)</sup> OJ No C 263, 16. 10. 1989, p. 19.

<sup>(2)</sup> OJ No C 80, 28. 3. 1988, p. 17.

2) wind and 3) the flow of water from the vehicle roof down along its sides.

2.4. Design changes have meant that heavy vehicles are now being fitted with more axles. As a result, the level of nuisance caused by spray has also risen.

2.5. Beyond the scope of the Commission proposal, recent research (which must be continued) has shown that it is possible to mitigate this problem considerably by using certain materials in road construction which combine excellent traction with optimal water drainage; this is achieved by means of a high number of cavities in the road surface texture (pervious coated macadam). Coating the road surface in this way means not only that the amount of spray generated can be reduced considerably, but there is also potential for cutting down on rolling noise.

2.6. Spray thrown up by tyres is forced out sideways, especially when wheel rotation in an almost completely enclosed area open only to the vehicle's outer side causes a 'swirl effect'. The installation of spray-suppression devices (SSDs) such as lateral 'valances' and 'carpet sweepers' will only provide a temporary solution to the problem. Indeed, once the SSD has reached a certain saturation level, conditions for water evacuation from the wheel housing are likely to deteriorate, particularly with available space already more restricted. Moreover, SSDs can contribute to the build up of ice and mud, which might subsequently fall on to the road in solid chunks.

2.7. The aerodynamic characteristics of the vehicle as a whole (lorry plus trailer) will, to a great extent, determine how much spray is produced; the nuisance caused by spray will therefore vary considerably according to vehicle design.

2.8. To deal with the effects caused by the above-mentioned phenomena, the Commission advocates the use of fittings such as rain flaps, in accordance with the requirements set out in the Directive.

It is nevertheless necessary to keep in mind that no spray-suppression device, however sophisticated, can simply make this water 'disappear'; it can do no more than channel the water to areas where less spray is produced.

Moreover, the Committee welcomes the fact that the Commission is proposing a second type of test for 'air/water separator' devices, not envisaged in the previous draft Directive.

2.9. This demonstrates that the subject is in fact much more complex than it might first appear. The United States provides another case in point; despite extensive research into this matter, the American authorities (NHTSA — National Highway Traffic Safety Administration) concluded in May 1988 that, in the absence of conclusive test results, no legislation on spray-suppression devices would be introduced.

Likewise only two EC Member States have brought in legislation on this subject. The Commission is strongly advised to go beyond the scope of the present proposals and improve the requirements set out therein by taking into account results which the many Community and non-Community research programmes will be producing.

By following this approach, it should be possible to work out methods to assess the spray reduction performance of the whole vehicle. It is essential to lay down requirements based on objective performance evaluation criteria rather than design evaluation criteria; such requirements would be applicable not only to components but to the vehicles covered by the proposed regulations.

2.10. The Directive should also include an article which stipulates that a device may be awarded an EEC component type-approval, if that device can be proved to be at least as effective as the devices specified in Annexes II and III.

2.11. With regard to the effectiveness of SSDs, no statistics have been made available on the number of accidents caused by spray, but such statistics do not appear to be essential in view of the fact that spray-suppression devices cost relatively little.

2.12. Under the requirements of the proposed Directive, not only should the amount of water spray be reduced, but the quantity of small stones thrown up and backwards by the tyres of a vehicle should also be reduced; these, too, are often potentially dangerous for other road users.

2.13. The amount of spray generated depends on the various individual vehicle specifications and its speed; it will also depend a great deal, however, on the type of tyres fitted. The Commission should therefore launch a study into ways to reduce spray produced by tyres.

2.14. The Commission should also establish a mechanism, to work in tandem with the proposed Directive, designed to encourage Member States to make maximum use of pervious coated macadam on the surface of 1) fast roads and 2) lanes most often used by heavy vehicles.

2.15. The Committee notes that the Commission has reverted to the optional method for granting EEC component type-approval, and would agree with the Commission that to change from the optional to the global method would only be workable if the method were to embrace the whole EEC type-approval procedure covered by the parent Directive 70/156/EEC.

2.16. Notwithstanding the above comments, and in as much as it will in many cases help prevent accidents, the Commission proposal represents a positive step towards improved road safety.

However, the Commission should devise a vehicle testing method which takes into account all known factors and is designed to assess the effectiveness of complete and mounted spray-suppression devices — the main purpose of the Directive under review. This method should replace design specifications as well as the currently incomplete laboratory tests. The Directive should, moreover, include an article stating in greater detail that performance tests will eventually be introduced for complete vehicles; these should replace the arrangements covering devices and components, particularly those set out in Articles 2, 3 and 5 and Annexes II and III.

2.17. Subject to the abovementioned reservations and in view of the practical difficulties which will have to be overcome before the final objective is achieved, the Committee's opinion of the Commission's proposal is generally positive in so far as it seeks a practical, short-term solution to mitigate the spray problem.

### 3. Specific comments

#### 3.1. Article 1

This Article should also make it possible to grant EEC component type-approval for types of devices other than those mentioned in Annex II, as long as they can be proved to be at least as effective.

#### 3.2. Article 3

Line 2: the word 'operation' should be replaced by 'performance'.

#### 3.3. Articles 9 and 10

The Committee generally welcomes moves to speed up the procedure for adapting Directives to take account of technical progress. It has, however, repeatedly announced that it would not approve the introduction of a new procedure which would confine the role of the Committee on Adaptation to Technical Progress to a purely advisory one.

#### 3.4. Article 11

The wording should be changed. The present wording of the draft Directive means that Member States can make the installation of spray suppression devices mandatory

immediately after publication of the Directive; vehicles not complying with the Directive's requirements could accordingly be refused entry to those States.

For this reason it is necessary to revert to the wording traditional when laying down deadlines for compliance with Directives.

(a) Member States shall bring into force the provisions necessary in order to comply with this Directive by 1 October 1991.

(b) As of 1 October 1991, Member States can

— decide not to grant EEC component type-approval for a spray-suppression device, in accordance with Article 2;

— refuse to approve a vehicle for any type of vehicle not conforming to the Directive.

(c) As of 1 October 1992, Member States can refuse to allow vehicles not conforming to the Directive to be brought into service.

### 3.5. Annex II

Every type of spray-suppression device should be subject to the same requirements in objective tests; these requirements should under all circumstances cover performance.

Consequently there is a case for getting rid of the distinction between the 'spray-suppression devices' in category I and those in category II, as soon as it is technically possible to do so.

3.5.1. The spray-suppression device testing procedures set out in Annex II only partly reproduce traffic conditions in which the devices would operate. The direction and force of spray generated by tyres is of course fairly random, but these factors are also affected by 1) air displacement, which depends on the vehicle's speed, and 2) air movement around the wheel; neither of the above conditions are reproduced in these tests.

3.5.2. The Directive does not provide for any EEC type-approval testing of materials used in the manufacture of spray-suppression devices. Of particular relevance would be a test of resistance to 1) abrasion by sand and pebbles and 2) general wear and tear with time. It would be unfortunate if these devices were granted EEC component type-approval without any guarantee that they would remain effective when used.

3.5.3. So as to absorb the energy generated with the spray, the devices covered by the Directive are made of porous materials or have cavities, uneven surfaces or 'carpet-sweeper' configurations; these tend to become clogged by solid materials in the water thrown up from the road surface. No EEC type approval test has been provided for to look into the propensity of these materials to become clogged up with solids, a phenomenon which could vary considerably from one material to another when the device is in use.

3.6. *Annex III*

3.6.1. This Annex should be amended in line with the comments made earlier.

3.6.2. *Scope*

The Committee proposes that category N2 vehicles of less than 7,5 tons, which are mainly used for trade deliveries in urban areas, be excluded from the scope of the Directive.

3.6.3. *Paragraph 6.1.*

This should be amended to read as follows:

'... rain flaps of non-steered or self-steering wheels that are covered by the bodywork floor ...'.

Done at Brussels, 19 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

**Opinion on the proposal for a Council Directive amending Directive of 24 July 1979 on the harmonization of procedures for the release of goods for free circulation (79/695) <sup>(1)</sup>**

(90/C 62/03)

On 6 September 1989, the Council decided to consult the Economic and Social Committee under Article 100A 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 29 November 1989; the Rapporteur was Mr Mourgues.

At its 272nd Plenary Session (meeting of 19 December 1989), the Economic and Social Committee unanimously adopted the following Opinion:

**1. General comments**

The Committee endorses the proposed Directive whose aim, in view of current inconsistencies in the application of simplified procedures, is to place all imports into the Community on an equal footing.

The Committee emphasizes the fact that domiciliation and simplified declaration procedures, which apply solely to imports, may be authorized either simultaneously or separately by the competent national authorities. However, between applicant firms and the relevant customs authorities there must in any case be an agreement covering these procedures. This agreement is bilateral and establishes the basic principles of the procedures, their application conditions and the guarantees necessary 1) to authorize release and 2) to complete the formalities for release of goods for free circulation.

In view of the economic importance of these procedures, the Committee recommends that they be extended accordingly to cover export arrangements.

**2. Specific comments**

Without wanting to detract from the positive nature of the Opinion, the Committee would point out that although the simplified declaration does a great deal to improve firms' productivity, it does sometimes entail adverse effects for the customs authorities responsible for monitoring summary declarations.

Monitoring these declarations sometimes involves considerable extra compilation work, particularly where inward and outward processing customs procedures are concerned.

<sup>(1)</sup> OJ No C 235, 13. 9. 1989, p. 16.

Against this background, the Committee highlights the extra workload which the monitoring of simplified declarations, and summary declarations in particular, might create for customs authorities. This would be offset

by the fact that application of these simplified procedures would save an equivalent amount of work in import clearance operations.

Done at Brussels, 19 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

**Opinion on the proposal for a Council Decision concerning the conclusion of an agreement between the European Economic Community and the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation on trade electronic data interchange using the communications networks (TEDIS) <sup>(1)</sup>**

(90/C 62/04)

On 30 November 1989 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 Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 29 November 1989. The Rapporteur was Mr Nierhaus.

At its 272nd Plenary Session (meeting of 19 December 1989) the Economic and Social Committee adopted the following Opinion by a unanimous vote:

## 1. General comments

1.1. The proposal for a Council Regulation introducing the preparatory phase of a Community programme on trade electronic data interchange systems (TEDIS) was welcomed by the Committee in its Opinion of 26 February 1987 <sup>(2)</sup>. In so doing the Committee also endorsed the general objective of TEDIS.

1.2. In addition, the Committee Opinion of 15 December 1988 <sup>(3)</sup> supported the proposal for a Council Decision amending Decision 87/499/EEC introducing a communications network Community programme on trade electronic data interchange systems (TEDIS) <sup>(4)</sup>, the purpose of which was to give EFTA countries the chance to take part in the TEDIS programme. The Committee also noted that the TEDIS activities already carried out had a positive effect.

1.3. The results of the TEDIS conference held in Brussels on 12-13 July 1989 confirmed these points. At the

same time it was shown that TEDIS's general aim of making trade and administrative electronic data interchange networks compatible had been successful.

## 2. Specific comments

2.1. The Committee firmly supports the new proposal, because the relevant countries' involvement in TEDIS could strengthen existing cooperation effectively and prevent the possible creation of new trade barriers.

2.2. Since the objectives of the TEDIS programme listed in Annex A to the Commission document are an integral part of the agreement, the Committee thinks that the further development of TEDIS would benefit greatly from the planned cooperation with non-Community countries.

2.3. The positive impact of cooperation on

— the development of telecommunications for trade purposes,

<sup>(1)</sup> OJ No C 285, 11. 11. 1989, p. 6.

<sup>(2)</sup> OJ No C 105, 21. 4. 1987.

<sup>(3)</sup> Doc. COM(88) 523 final.

<sup>(4)</sup> OJ No C 56, 6. 3. 1989.



- the prevention of new technical trade barriers, and
- the encouragement of small and medium-sized enterprises' participation in the TEDIS programme

justifies in every way the Commission's plan to let the countries listed take part in TEDIS.

Done at Brussels, 19 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

**Opinion on nuclear industries in the Community  
The nuclear power station design and construction industry and completion  
of the European Single Market (update of the Illustrative Nuclear Programme  
for the Community (PINC) — Article 40 of the Euratom Treaty**

(90/C 62/05)

On 18 September 1989 the Commission decided to consult the Economic and Social Committee, under Article 40 of the Treaty establishing the European Atomic Energy Community, on the nuclear industries in the Community.

The Section for Energy, Nuclear Questions and Research, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 30 November 1989. The Rapporteur was Mr Campbell.

At its 272nd Plenary Session (meeting of 19 December 1989) the Economic and Social Committee unanimously adopted the following comments:

While endorsing in general the update of the 1985 Illustrative Nuclear Programme, the Committee has doubts about the timeliness of this document and would make a number of comments which are detailed below.

#### 1. Preliminary comments

1.1. Under Article 40 of the Euratom Treaty, the Commission is obliged to publish periodically 'illustrative programme indicating in particular nuclear energy production targets and all types of investment required for their attainment'. Therefore the objective of the PINC is only to set the framework for future nuclear power.

1.2. Three programmes have been published to date, the latest in 1985 <sup>(1)</sup>. The present document is a partial update of the objectives and recommendations contained in the 1985 programme, namely those concerning nuclear power station design and construction.

1.3. The approach to nuclear power has changed considerably since the 1984 illustrative programme, following the Chernobyl accident. One of the Committee's conclusions on the 1984 programme was to 'highlight the major importance of greater Community political will in the implementation of programmes concerning the various aspects of nuclear energy' <sup>(2)</sup>.

1.4. Since then, public concern, in particular, has had, as stated by the Commission in its document, 'the effect of deterring the development of nuclear programmes in several Member States'. Some of them have deferred the continuation of their nuclear power programmes, others have slowed down or stopped nuclear station construction.

1.5. Nevertheless, it has to be recalled, that in 1988, nuclear energy accounted for 34 % of electricity production in the Community (compared to about 22 % in 1983), even though only six Member States produced electricity of nuclear origin. <sup>(3)</sup>

<sup>(1)</sup> Doc COM(85) 401 final of 23 July 1985

<sup>(2)</sup> Doc. CES 472/85 of 30 May 1985, point 4

<sup>(3)</sup> See Annex 1 and 2 to doc COM(89) 347

1.6. The Commission's present document is intended neither to deal with nuclear power production — this will be the subject of a comprehensive update in 1992 — nor to open a political debate in favour or against the nuclear option, in relation to environmental concerns, in particular.

1.7. Secondly, it is not intended to deal with nuclear safety, either of power station operation or of workers in the stations or of the general public. The matter of safety was the subject of a separate Commission Communication on 'Assurance of safety of nuclear power plants' [doc. COM(88) 788 final of February 1988].

1.8. In that context, the Committee would underline the clear difference between design standards and the safety principles and criteria which preside over the licensing of nuclear power stations by national authorities. Nevertheless, it should also be stressed, as the Commission does in its document, that there is an interface between common standards and the safety aspects, since manufacturing specifications and standards have to be approved by national safety authorities. Design standards are dependant on previously determined safety standards.

1.9. The objective of the present PINC is to review the short and long term requirements for nuclear power stations and suggest ways in which, in relation to the completion of the internal market by 1992, the specifications for design and construction can be harmonized in the Community in order to improve the economics of production, to standardize safety requirements for design, to improve the conditions for competition in a limit Community market and to afford opportunity for a strong Community industry to compete in world markets.

1.10 The Commission suggests that the present low level of nuclear power station requirements will continue for another 15 to 20 years or so. Thereafter, unless new forms of energy production are developed, all the existing sources of energy, including nuclear power, will be required to meet demand. As existing stations become life-expired after some 40 years of operation, the replacement of existing installations will therefore be required. A firm plan for replacement will, however, be required 10 to 15 years before existing plants can be effectively replaced.

1.11. Nuclear power generations will probably be available in the form of advanced pressurized water reactors (PWR) or as Fast Breeder Reactors (FBR), which are likely to be available in the time scale.

## 2. General comments

2.1. The Committee reviewed the existence of codes and standards available in the Community (France, the United Kingdom, the Federal Republic of Germany), in the United States and in the International Atomic Energy Agency. Diverse standards exist and there is no doubt that if it can be achieved, a European standard for Advanced PWRs and for FBRs would be beneficial.

2.2. The production of codes and standards is a lengthy and costly process. The Commission document appears to set a target of harmonization in a timescale of the 1992 single market. The Committee believes that comprehensive common standards, acceptable to all Community States, will take longer to produce and should be directed towards the increasing requirements after the year 2000.

2.3. These requirements are likely to be identified more specifically once the 1995 Energy objectives have been reviewed. This review, which will take place in 1990, is likely to give a more positive impetus to the need for harmonization in the decade 1990 to 2000. This is the reason why the Committee expresses some doubts as to the need for the present partial update of the PINC prior to a complete and in-depth review planned for 1992.

2.4. Despite these doubts about timing the Committee does broadly agree with the analysis set out in the Programme and the conclusions as applied specifically to safety and common standards of design and construction. This does not pre-empt its Opinion on the present situation and future development of investments in the nuclear field and of nuclear power programmes, or on the Safety of Operation of Nuclear Power Stations.

2.5. On the assumption that there is going to be a need for a replacement of life-expired power stations, it is prudent for the Community to combine its total technical and production resources to enable more effective competition among European nuclear contractors in a limited market and thus to obtain maximum economic benefit, through the harmonization of the various elements of design and construction, both for Advanced PWRs and FBRs and the completion of a Single European Market for supply and construction.

2.6. In addition to the general endorsement of the principles of PINC, the Committee has a number of specific comments which it believes are relevant.

### 3. Specific comments

3.1. It seems that the PINC concentrates on the largest installations of Advanced PWRs and FBRs. The future development of new reactor concepts especially of smaller next generation plants, which could have a market beyond Community boundaries, should not be neglected.

3.2. At a time of low demand, consideration should be given to how best to use limited resources on the very large amount of work required to achieve harmonization. Concentration of effort should be directed towards the requirements of the next century and should not necessarily be geared to the timetable of the Single European Market of 1993.

3.3. Whilst accepting that PINC is in effect a conceptual document and not an executive plan it would have been helpful if the actions and results which had emanated from previous programmes had been discussed and used as a firm foundation on which to base the 1989 PINC.

3.4. It is assumed that harmonization can be achieved by extensive discussion. There is no central authority which will impose standards. It is therefore essential that all competent authorities should be represented in the CEN/CENELEC discussions and that standards should not be dictated unilaterally by powerful commercial interests in industry.

3.5. It is a general problem that whilst seeking harmonization within the Community, innovation based on research and testing by responsible authorities worldwide should not be inhibited by rigid standardization. There must be the capability of amending standards to take advantage of scientific advance.

3.6. The PINC does not envisage the use of the Joint Research Centre, despite its major role in nuclear safety and prenormative research. Whilst it is accepted that the task is mainly to harmonize a multitude of existing standards, full use should be made of the JRC, as an impartial and independent technical expert. In this respect, attention is drawn to the comments the Committee has made in its Opinion on the proposal for a Council Decision

concerning the framework programme for Community activities in the field of research and technology development (1990 to 1994) (1).

3.7. One of the conclusions of the Committee's Opinion on the 1984 PINC related to the decommissioning of power stations and storage, reprocessing and disposal of nuclear waste. There is no mention in the present document of these important matters. Whilst it is recognized that there are specific research programmes in these areas the Committee believes that harmonization of design in all these operations should be part of any comprehensive PINC.

3.8. In a number of its Opinions and Reports over recent years the Committee has urged the preparation of a widespread public information service on all aspects of nuclear power. There is unfortunately no significant mention of this in the 1989 PINC. Whether or not future use of nuclear power is essential or is politically acceptable, there is no doubt that the present generation of power stations will be in operation for many years, that some construction will continue both within the Community and elsewhere in the world. It is essential that the public should be informed by responsible authorities as to the present and future state of the industry and should not have to rely on less well informed and possibly biased sources. Whatever may be the future of nuclear power it will depend on the support of a well informed public.

### 4. Conclusion

4.1. The Committee has expressed doubts about the need for this document, at this time. Subject to this reservation, it endorses in general the content of this partial update of the 1985 Illustrative Nuclear Programme for the Community — PINC — as an interim statement of intent.

4.2. The Committee looks forward to the revision, in 1990, of the 1995 energy objectives for the Community and a further in depth revision of the PINC in 1992.

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(1) Doc. CES 1250/89 of 15 November 1989.

Done at Brussels, 19 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

**Opinion on the Commission's proposal for a Council Regulation (EEC) amending Regulation (EEC) No 2727/75 on the common organization of the market in cereals**

(90/C 62/06)

On 6 October 1989 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 Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 30 November 1989. The Rapporteur was Mr Strauss.

At its 272nd Plenary Session (meeting of 19 December 1989), the Economic and Social Committee adopted the following Opinion unanimously.

1. In the Committee's view the Commission's Report on the co-responsibility levy arrangements in the cereal sector is an accurate account of the historical development for co-responsibility in this sector.
2. The Report sets out the administrative and control difficulties resulting from the current co-responsibility levy arrangements encountered by Member States. In particular the Committee notes that it is difficult to control sales of cereals between farmers and believes that this and other problems may lead to market distortions. However, the current co-responsibility levies, together with the stabilizer arrangements, will come up for review after the 1991/1992 harvest. Problems arising from these distortions will have to be considered fully at this review.
3. It is far from clear whether the current stabilizer mechanisms, and particularly the co-responsibility levies, help to control production which is at the root of the budgetary problems. The curtailment of the upward trend in output in 1988 and 1989 was due to adverse weather conditions. Meanwhile, the levy and stabilizer arrangements add significantly to FEOGA resources. At the same time they exert cumulative downward pressure on support levels.
4. The Commission's Report states that from a technical and administrative point of view the current levy arrangements operate satisfactorily. The Committee must, however, add that they impose a considerable administrative burden on first-hand buyers and producers, for example, the collection, invoicing and payment to the authorities of levy must add to traders' costs and is likely to be reflected in the price paid to producers. Again, growers in many member countries have experienced difficulties in obtaining reimbursement of additional levy when this was initially fixed at too high a level.
5. The latter difficulty stems from the current method of estimating the harvest.
6. In the Committee's view penalties for over-production should not be triggered by harvest estimates which are inevitably imperfect. Cereals have a large number of outlets and uses and production can therefore not be gauged with precision as, for example, for oil seeds which have to be processed. However, it is recognized that fundamental changes to the stabilizer mechanism will have to await the 1991/1992 review.
7. Under the present arrangements the production estimate determines the size of the additional levy as well as the possible 3 % intervention price cut in the following year. The Committee believes that it is impossible to obtain a definitive harvest estimate for total cereal production for the whole of the EC before the end of the calendar year or the early months of the following year. There is a danger that the objectivity of early harvest estimates may be impaired if the amount of additional levy and any price cut in the future years depends on such estimates.
8. The Committee therefore agrees with the basic approach underlying the Commission's proposal under which a definitive harvest estimate made before 1 March in the year following the harvest will determine whether a price cut will be applied and whether any correction to the additional co-responsibility levy already paid will be required.
9. Under the mechanisms proposed by the Commission any over or under payment of additional co-responsibility levy would be made good through adjustment of the basic levy in the following year. This would in effect tie the basic levy to the stabilizers.
10. In the Committee's view it should be possible to devise a mechanism which would dispense with the need for a preliminary harvest estimate which would not tie the basic levy to the stabilizers.
11. It is for this reason that the Committee welcomes the decision of the Council on 20 November under which the additional co-responsibility levy will, from the 1990 harvest onwards, be charged initially at 1,5 %, any under or overpayments in the light of definitive crop estimates being made good in the subsequent harvest year.
12. In endorsing the basic approach of the Commission the Committee must emphasize that when the current stabilizer and levy arrangements come up for review each constituent part will have to be reviewed separately and on

its own merits. Even if the stabilizer mechanism continues in one form or another, it does not necessarily follow that the co-responsibility levy arrangements should be continued. The arrangements, for example, lower the returns to growers without encouraging consumers to use more grain.

13. The Committee wishes to emphasize that since cereal substitutes are exempt from levy the arrangements

act as a further incentive to switch from EC cereals to imported substitutes.

14. We may now be witnessing fundamental changes in the world supply and demand situation for food which may make the stabilizer arrangements redundant. However, should structural surpluses continue to be a threat, a balance is unlikely to be achieved through the stabilizer arrangements as they stand. More direct action on supply and demand would then become essential.

Done at Brussels, 19 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

### Opinion on the 18th Report on competition policy

(90/C 62/07)

On 1 December 1989 the Commission decided, under Article 198 of the Treaty setting up the European Economic Community, to consult the Economic and Social Committee on the 18th Report on competition policy.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the matter, adopted its Opinion on 29 November 1989. The Rapporteur was Mr Mourgues.

At its 272nd Plenary Session (sitting of 19 December 1989) the Economic and Social Committee adopted the following Opinion unanimously (apart from one abstention):

#### 1. Introduction

1.1. The introduction to the 18th Report on competition policy states that Community competition policy is at a crossroads. The favourable short-term economic situation has led economic operators to incorporate increasingly in their planning the need to adapt to the new market conditions expected for 1993. The strategic planning implemented by firms leads them to overcome the Community's internal economic barriers by conducting a variety of transnational operations.

1.2. On these general grounds, the Committee has thought it best to divide the Opinion into two specific parts.

1.2.1. Part I will be a critical review — both positive and negative — of the 18th Report.

1.2.2. Part II will formulate suggestions for certain guidelines for Community competition policy in the run-up to the Single Market.

1.3. These suggestions will take account not only of competition conditions within the EEC but also of those associated with commercial transactions with third countries.

#### 2. Opinion on the 18th Report proper

##### 2.1. General Comments

2.1.1. The long wait for a Regulation on the control of mergers, acquisitions and joint ventures

2.1.1.1. Chapter I of the fourth part of the 18th Report makes an instructive assessment of the progress in links between firms. These data are not exhaustive, and are not based on official, systematic statistics, but on general information.

2.1.1.2. However, the data enable the Commission to distinguish operations which foster the harmonious development of competition from those which produce distortions in practice and structure. In this connection the Committee would point out that, in the absence of a specific provision under Article 86 of the Treaty, the Commission has no legal power to grant exemptions approving or encouraging concentrations which favour competition.

2.1.1.3. Moreover, if due account is taken of the 'Continental-Can' judgement of 21 February 1973, the abuse of a dominant position in the Common Market or in a substantial part thereof jeopardizes an effective competition structure.

2.1.1.4. Accordingly the Committee proposes that, at the next amendment of the Treaty, an additional provision should be incorporated into Article 86, similar in spirit to Article 85(3), enabling the Commission to grant exemptions for concentration operations regarded as compatible with the aims of improving production or distribution, or likely to promote technical or economic progress, and to the extent that they are ultimately beneficial to consumers.

## 2.1.2. The major disadvantages of this situation

2.1.2.1. The Commission states that 'the impact of mergers and majority acquisitions on competition is likely to be more severe in already highly concentrated industries, such as chemicals' and particularly 'downstream' for pharmaceutical products and certain food products (point 327). Price-fixing in these sectors shows that the degree of concentration has reached a critical point.

2.1.2.2. This tendency appears to be accelerated by:

- the imminent prospect of the Single Market;
- but also probably by the delay in introducing Community rules in this field, or by the temporary retention of sometimes illegally imposed prices;
- the promotion of research and development agreements which establish links between enterprises.

2.1.2.3. The juxtaposition of these reasons may prompt the belief that there is a combination of circumstances favourable to the development of capital movement operations (takeover bids, etc.) within the Community.

2.1.2.4. At the same time there is a blatant slowness in the development of social provisions and in regulating public tenders; these are other factors influencing the market and competition.

2.1.2.5. This discord in the factors contributing to competition policy threatens to cause serious difficulties, and the Committee, which is deeply concerned about this, feels duty bound to warn the Commission.

## 2.1.3. The direct and indirect causes of inequality of treatment of enterprises and holdings

2.1.3.1. The inequality results primarily from the 'notification' conditions required sometimes in advance and sometimes retrospectively.

2.1.3.2. In addition, some factors of inequality result from the fact that the Commission exercises control retrospectively by defining the Community dimension of a concentration operation mainly on the basis of a threshold based on a high turnover figure <sup>(1)</sup>, but also

- because the only enterprises concerned are those engaged in trade between Member States or with third countries;
- because Community case law has introduced the concept of 'collective dominant position' (see point 2.1.4 below).

2.1.3.3. On the other hand, in those sectors exempted from Article 85 for which rules have been drawn up, prior notifications are controlled without a lower limit. This applies to know-how licensing, franchising and research and development agreements.

2.1.3.4. In this connection, attention is drawn to the Commission's positive stance in the following cases:

### Research and development

In three interesting cases, the Commission proved that it favoured technical progress and innovation in the Community. The first of these cases concerns the development by the Continental and Michelin companies of a tyre of entirely new design requiring considerable investments and involving an economic risk which is difficult to assess.

In this context reference should also be made to the Commission decision in the case of Brown-Boveri AG, a company which had concluded agreements with the Japanese company NGK Insulators Ltd. This decision authorizes intensive cooperation between these two firms for the purpose of developing, manufacturing and marketing high-performance batteries, intended primarily for use in electrically powered vehicles.

### Franchising

In a decision on franchising, the Commission also showed that it is prepared in certain cases to waive the conditions

<sup>(1)</sup> The draft rules currently before the Council seek to diversify notification conditions on the basis of geographical criteria, competition external to and within the Community and market shares held by a firm outside the country where it is based.

laid down by the block exemption regulation concerned where the structure of competition on the market in question so allows (*Service Master*).

2.1.3.5. The same applies to subsidies policy: in particular, CAP subsidies are precisely assessed irrespective of the size of holdings, whereas in other sectors the severity of the checks is a function of their impact on intra-Community trade.

#### 2.1.4. The 'activism' of case law

2.1.4.1. There is a hallowed tradition that, when the Community legislator is marking time, the Courts move things along through case law, which emphasizes the spirit of Community law.

2.1.4.2. This is true of:

- (a) The *Van Eycke versus Aspa* judgement, which confirms that Member States are prohibited from enacting or maintaining in force measures likely to render Articles 85 and 86 inoperative (point 98).

Attention should be drawn to the Court of Justice ruling in the case '*Pascal van Eycke versus Aspa*' by which it confirmed and extended its critical case law in respect of national measures which prejudice competition. The Court ruled that Member States must not enact or maintain in force measures likely to render Articles 85 and 86 of the EEC Treaty inoperative. This judgement confirms earlier case law (e.g. *Vereniging van Vlaamse reisbureaus — Association of Flemish Travel Agents*, 1 October 1987) in that it maintains that the effective benefit of the competition rules is limited: when a Member State imposes or encourages the conclusion of agreements contrary to Article 85; or when by adopting certain rules, it reinforces the impact of such agreements; or when it undermines its own rules by delegating to private operators responsibility for taking decisions on economic intervention (ground No 16 of the judgement).

The need for this approach to competition law is seen (for instance) in the efforts made by cooperatives, faced with global competition, to set up an integrated cooperative network.

- (b) Judgements relating to the concept of delegated monopolies (points 106 ff.) which hinge on 'whether the unconnected parallel conduct of several economically independent firms might be caught by Article 86 as constituting abuse of a collective dominant position' and confirm the Commission's conclusions in this respect.

- (c) Particular attention should be given to judgements made by certain national courts (e.g. in the Federal Republic of Germany) which 'directly apply European competition law' (point 127).

#### 2.1.5. The inadequacy of DG IV resources

2.1.5.1. The comments in 2.2 and 2.3 illustrate that insufficient manpower, equipment and legal resources, frequently prevent the Directorate-General for Competition from fully exploiting its high-quality work on analysing the markets and implementing competition policy in the Community — a policy which has the hallmarks of common sense and realism.

2.1.5.2. The Committee therefore notes that:

- the Annual Report appears much too late;
- there is a significant delay in decision-making on issues subject to the decision procedure (cf. point 45).

2.1.5.3. In these circumstances, the question arises whether 'an instrument to monitor concentrations with a Community dimension' (Introduction to the Report, penultimate paragraph) will have the resources necessary for its operation.

2.1.5.4. This leads the Committee to recommend:

- Continuing 'public relations' measures in order to ensure that all economic operators in whatever sector, and all consumers, are always kept informed of their rights and duties with regard to competition policy. Along these lines, the Commission has announced the publication of an additional *White Paper* for the Single Market.

This *White Paper* will give particular attention to setting out the economic and social significance of competition as a basis for a democratic society.

#### 2.1.6. Coordination with anti-dumping policy

2.1.6.1. In consultation with the other Commission departments, the Directorate-General for Competition needs to take account of the safeguard measures in Community trade policy authorized by the Treaty of Rome. Moreover consideration should be given to re-opening the debate in the Community on the implementation of anti-dumping policy.

2.1.6.2. The Community, and especially Member States which joined recently, are sometimes threatened by uncontrolled competition from certain third countries — either from those at an advanced stage of technological development or from those with a large, low — paid workforce.

2.1.6.3. It is not unusual for some countries or their firms to engage in dumping in particular sectors, either to provide an outlet for their goods or to discourage incipient competitive initiatives in the Community.

2.1.6.4. While guarding against the risk of a market imbalance which would impair fair pricing, the Commission needs an effective bulwark against certain unfair trading practices employed by third countries — practices which are often forms of protectionism contradicting and indeed violating international agreements such as the GATT. In this context, the state of the Community market must be assessed not only in relation to world trade but also by production sector.

## 2.2. Sectors of activity deserving special attention

2.2.1. Maritime traffic is the subject of a Committee Opinion on positive maritime measures <sup>(1)</sup>. This involves certain competition policy aspects. These are:

- maritime conferences and exemptions by category, already referred to in 1986 (in this connection the 17th Report mentioned the formal complaints about the Regulation which came into force on 1 July 1987; the 18th Report provides little information on the follow-up to these cases);
- intra-European maritime traffic competing with land and air links, raising the problem of taxation planned in principle but whose application to Community flags should be extended to the flags of third countries to avoid distortions of competition (legal difficulties to be overcome);
- in connection with maritime traffic, subsidies to European shipyards: investments have considerable effects on freight charges, and difficulties are exacerbated by the disparity between subsidies;
- similarly, the taxes and social security contributions paid by ships' crews give rise to distortions which also have an effect on these disparities.

## 2.2.2. Competition rules and copyright

2.2.2.1. Throughout the twentieth century, the participation of 'authors' in economic activities has been increasing. Going beyond the traditional arts, the development of cinema and audio-visual productions calls for new talents. In addition, a new type of 'author' now exists, producing computer software.

2.2.2.2. Sometimes misguided protection of intellectual property rights, either by certain national provisions (e.g. a single price), or by exercising a dominant position with regard to software and refusing information, whether subject to copyright or not, prompts the statement that 'The exercise of exclusive copyrights will not prejudice the

application of the competition rules and the imposition of effective remedies in appropriate cases ...'.

2.2.2.3. Such unfair protection is incompatible with the abolition of internal frontiers. It is essential for Community law to develop in such a way as to prohibit certain 'perverse' forms of discrimination which hamper free competition and create new non-tariff barriers.

2.2.2.4. In this connection, the Committee has reservations about the 'Tetra Pak' decision. In this case the Commission took the view that an enterprise may exploit its dominant position by acquiring another enterprise which holds exclusive licence rights. The Commission did not oppose this concentration, but in order to avoid competitive disadvantage for one of Tetra Pak's competitors, the Commission threatened to withdraw Tetra Pak's exemption from the patent licensing agreements. Tetra Pak had to relinquish its exclusive licence rights, whilst its competitor benefited from a non-exclusive licence. By doing this the Commission interfered with a contractual relationship which was in existence before the merger and had no connection with that merger. This case leads the Committee (a) to stress the sometimes arbitrary attitude adopted by the Commission for a particular purpose, and (b) to oppose its attitude strongly in order to stop this becoming a trend.

## 2.2.3. Competition policy and intervention by public authorities in favour of enterprises

2.2.3.1. In its first report on state aid in the European Community, published at the beginning of 1989, the Commission seeks to shed some light on the jungle of European subsidies, and ultimately to exercise tighter control on national aid granted by Member States.

2.2.3.2. The concept of aid distinct from capital input, on which this study is based, covers the widest possible field. Thus subsidies to public enterprises (particularly national concerns) are included. Taking its cue from Articles 92 and 93 of the EEC Treaty, the report regards measures to encourage certain enterprises or forms of production as subsidies which distort or threaten to distort competition and which affect trade among Member States.

2.2.3.3. An overall survey of all Member States shows that the bulk of the aid goes to railways, agriculture, coal and regional development. In France and Ireland, however, the emphasis is more on promoting trade and exports. In the Federal Republic of Germany regional aid frequently has higher priority, arising partly from the federal structure. The importance of regional aid is further

(1) Doc. CES 1257/89 of 16 November 1989.



enhanced by the special situation of Berlin and the economic position of the regions bordering on the GDR.

2.2.3.4. The first report on subsidies in the Community has some gaps, mainly due to the inadequacy of the data:

- Important areas of the taxation and social security systems have not been taken into account.
- The survey does not include funds granted to public establishments' research projects, or the funding of university research and research assignments (including the military field), although these budget headings constitute subsidies under the very broad basic definition of aid.
- Because so-called general measures are excluded, some subsidies whose importance has been proved by experience (e.g. the European Regional Fund or the EAGGF Guarantee Section) have not been taken into account.
- There is great uncertainty about subsidies granted in a wide variety of forms by local and regional authorities, especially in federal structures.
- Some sectors are omitted, e.g. defence, energy (except coal), transport (except rail and inland waterway transport), press and media, banking, building and public utilities services.
- The data compiled in some Member States (Greece and Italy) are insufficient.

#### 2.2.4. Other comments on the 18th Report

##### 2.2.4.1. The programme of studies

Studies commissioned from bodies independent of the Community enable it better to analyse the positive and negative impact of competition in the various sectors of activity.

These studies follow on from the proposal made in the Committee Opinion on the 12th Report, and their continuance is to be welcomed.

In connection with the 18th Report, it is interesting to note that the border posts, whose abolition is envisaged by the 1984 *White Paper*, are not the only 'barrier to entry' and that advertising expenditure within or beyond an internal frontier can also be regarded as a brake on free competition.

It must also be noted that the idea of a merger analysis grid could be used in implementing the expected Directive.

Moreover, in the case of many enterprises, and particularly in countries which have recently joined the Community (as well as in developing countries) technology transfer

contracts include leonine clauses preventing these enterprises from exporting or obtaining supplies where they wish and from having free access to the market. This delicate issue should be the subject of a research project, to be included in the study programme, to decide whether adequate competition-law procedures should be established.

The Committee hopes that the annual Competition Report will assess the results of the independently completed studies and the benefits reaped from them by the Commission.

##### 2.2.4.2. Regional policies and the agricultural sector

In practice, these mean above all subsidies for regional purposes; the ESC Opinion on the 17th Report mentioned these. Subsidies for agriculture are closely linked with CAP subsidies. Some general measures may lead to distortions of competition (EAGGF Guarantee Section). The result is that the level of agricultural subsidies is sometimes significantly underestimated. It was also asked whether instituting the incomes subsidy had had beneficial effects. The 18th Report confines its treatment of these issues to analysing the subsidies granted by Member States, and refers to a publication in the 'Green Europe' series; it gives no answer to the question raised by the Committee.

The Committee feels it is very important for the Community and its trading partners to work in GATT for trade relations which lead to more balanced terms of competition in the agricultural sector.

##### 2.2.4.3. Comparison of prices

For the consumer, whose freedom to choose his purchases is essential, 'domestic' competition policy holds out the possibility of comparing quality/price ratios. For the time being, prices, and especially large price disparities within the EEC Member States, are important indicators for the consumer as to whether competition is working.

The ESC's Opinion on the 17th Report sets great store by this and the segmentation of national markets, separated by the above-mentioned non-tariff barriers. The Committee confirms its wish that the aspect be taken into consideration and that everything possible be done to ensure that the Community's competition policy accords with the above (see point 3 below).

### 3. Proposals for a necessary development of the Community's competition policy

3.1. In its successive Opinions, and latterly in examining the economic situation of the Community in mid-1989, the

Committee mentioned certain conditions in the development of competition policy.

3.1.1. Genuine competition needs to be preserved in the Community in order to secure the advantages of the Single Market. All citizens will undoubtedly gain from its cost benefits. Thus the expected intensification of competition and improvement in firms' productivity and ability to innovate will come about naturally. On the other hand, the European Community must be given legal powers to vet concentrations of importance to the Community as a whole. The powers to vet these mergers and the powers provided by national legislation must be clearly demarcated under the Commission's authority. The Committee would refer to the its 1988 Opinion on this matter <sup>(1)</sup>. Once barriers to trade have been abolished, market structures and the changes brought about by mergers will also have to be assessed in a Community-wide context. This would appear necessary when markets are open in principle to the rest of the world, if Community industry is to be capable of competing with the United States, Japan and some highly efficient, newly industrialized countries.

3.2. Community and national authorities must pay particular attention to small and medium-sized enterprises which are worse off than large firms with regard to information and planning. Public information and advisory services can help to offset these disadvantages. The Committee welcomes the steps taken by the Commission in helping to set up EC information and advice services in all Member States. In addition, support for cooperation between firms is important for the reduction of small and medium-sized enterprises' competitive disadvantages.

3.3. In the introduction to its 18th Report, the Commission states that 'Community competition policy has reached a crossroads'. This observation is of fundamental importance.

3.3.1. It should be noted at this point that neither the *White Paper* on the Single Market nor the Single Act involve Treaty amendments or decisive new prospects in the development of competition policy, which now appears to have lost its initial 'institutional lead' over the other Community policies.

3.3.2. It must now take account not only of commercial transactions between Member States but also of those within each of the Member States and of those with third countries.

3.3.3. DG IV must remain the driving force, and continue its work with the help of the relevant Government departments of Member States (including that of the customs services for commercial transactions with third countries) <sup>(1)</sup>.

3.3.4. The approach must be a global one since, in the overall Community context, competition policy acts as a jack-of-all-trades and represents the highest common denominator of the various policies which help to create EEC economic policy.

3.3.5. But the essential monitoring of compliance with the rules of competition and harmonization of subsidies policy are not enough. Account must also be taken of:

- (a) protection of the environment (constraints of an environmental policy and duties imposed on producers should be identical and have an equal effect on cost prices within the Single Market);
- (b) equality of consumers, who must reap the benefits of healthy competition and obtain equal advantages for comparable services;
- (c) the workers who help to keep the EEC economy going are entitled to improved remuneration and social security at levels such that their impact on costs of production or services is likely to improve the terms of competition even further and encourage fair competition;
- (d) this statement refocusses attention on the risks attached to work carried out and paid illegally, already mentioned in the Opinion on the 17th Report; this is a special case, similar to the practice of non-invoiced sales in the commercial sector;
- (e) the introduction to the 18th Report states: 'It would seem that economic operators are making increasing provision in their forward planning for the need to adapt to the new market conditions of 1993'; accordingly, it should be ascertained whether, in the present state of legislation (Directives and Regulations) there is sufficient response to the need for such adaptation:
  - in the various fields of application of Community instruments,
  - in the internal legislation of Member States;
- (f) in this connection it should also be stressed that 'The prohibition principle is translated, under Articles 85 and 86 of the EEC Treaty, into prohibition decisions which can comprise heavy fines'. (Introduction to the Report, p. 12). This raises the issue of whether the fairness of contracts and markets could perhaps be facilitated by more positive measures.

#### 4. Conclusions

4.1. In the Committee's view, the abolition of barriers within the Community should lead the Commission to

<sup>(1)</sup> OJ No C 208, 8. 8. 1988, p. 11.

consider an amendment — now essential — of the Treaty provisions covering the implementation of a healthy competition policy within the Common Market.

4.2. In this context, the Committee would ask the Commission to take up and implement the suggestions and practical proposals contained in this Opinion.

4.3. It is therefore important for the Commission to ask the Council to give it the resources needed to ensure that its departments are in a position — both in terms of

manpower and work organization — to achieve this objective.

4.4. The Committee takes the view that the maximum effort must be made to strengthen competition policy within the EEC, so that a state of competition may be perpetuated both within the Community and in relation to third countries which will contribute to the prosperity of all. The future growth of the Community's prosperity and that of its citizens will depend to some extent on the success of Community competition policy.

Done at Brussels, 19 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

**Opinion on the communication from the Commission to the Council and to the European Parliament on completion of the internal market and approximation of indirect taxes**

(90/C 62/08)

On 23 October 1989 the Commission decided, in accordance with Article 198 of the Treaty establishing the European Economic Community, to ask the Economic and Social Committee for an Opinion on the communication from the Commission to the Council and to the European Parliament on completion of the internal market and approximation of indirect taxes.

The Section for Economic, Financial and Monetary Questions, which was responsible for the preparatory work on the matter, adopted its Opinion on 5 December 1989. The Rapporteur was Mr Della Croce.

At its 272nd Plenary Session (meeting of 19 December 1989), the Economic and Social Committee adopted the following Opinion by a substantial majority, with three dissenting votes and 11 abstentions:

**1. Introduction**

1.1. The Commission's purpose is to amend its Communication of 4 August 1987 and the accompanying draft Directives [COM(87) 320-328] relating to completion of the internal market through the approximation of indirect tax rates and structural harmonization.

The 1987 proposals had prompted considerable doubts and concern in the Council and the Member States and within various specialist study groups.

1.2. In this connection, reference should be made to the eight ESC Opinions adopted on 7 July 1988 <sup>(1)</sup>. The Opinions broadly endorse the idea of harmonizing indirect tax rates while highlighting the shortcomings of the proposals and stressing the need for substantial changes.

The Commission Communication implicitly takes account of these ESC Opinions but contains no specific reference.

1.3. Attention is also drawn to the Committee's statement in Opinion CES 739/88 on the Commission's Global Communication on Completion of the Internal Market that it 'fully endorses the aim of removing all frontiers and all border checks by 1 January 1993'.

This Opinion held that tax convergence in the broad sense, i.e. encompassing direct taxes and parafiscal charges, could not be considered as an absolute prerequisite for the establishment of the Single Market but only as one component of a global strategy embracing, for instance, macroeconomic back-up policies.

It is also clear that the current wide differences in VAT rates could generate sharp distortions of competition in a

<sup>(1)</sup> OJ No C 237, 12. 9. 1988.

Community with wide-open frontiers. This point is dealt with in more detail under point 3.2.

1.4. The new Communication provides for:

- (a) a transitional convergence phase running until the end of 1992;
- (b) the adoption of a minimum standard VAT rate instead of the band system;
- (c) the introduction of specific arrangements for certain commercial operations;
- (d) a mechanism for refunding VAT balances in trade among the Member States, to be based exclusively on a macro-economic analysis of statistics;
- (e) substantial amendments to the proposals relating to excise duties, geared entirely to long-term targets;
- (f) continued zero rating for a very limited number of products currently subject to the reduced rate, provided that (i) this does not pose any risks of distortion of competition for the other Member States and (ii) the Council takes a decision on the respective coverage of the standard rate and the reduced rate.

## 2. General comments

2.1. The new proposal is generally an improvement on the previous one since it takes greater account of existing conditions and incorporates a number of the proposals contained in the relevant ESC Opinions. The concern expressed by several Member States is also heeded.

2.2. In particular, it allows for a considerable measure of flexibility.

2.3. The overall Commission approach is highly pragmatic, and takes account of the difficulties that various proposals have encountered in the past and will most likely encounter in the future. However, the Commission communication can be regarded as a declaration of intent and, as such, is very broad. A more detailed general appraisal will not be possible until the proposed provisions of the Directives are published.

2.4. For the time being, it can be pointed out that the complexity of the problems connected with implementation of a Single Market encompassing many different economies rooted in differing monetary and taxation systems is perhaps not sufficiently realized.

2.5. The need to promote greater cohesion, alleviate regional imbalances and ensure genuine freedom of competition in a broad economic growth process militates for neutral taxation and para-fiscal systems. With this in

mind, the Community must encourage the Member States to push ahead without delay with harmonization and alignment.

2.6. The most significant change, compared with the previous proposal, is the indication merely of a minimum standard VAT rate, leaving Member States at liberty to exceed this level.

However, there is a risk that differing rates will persist indefinitely and cause disruption, unless market and competition forces are more effective than regulations in speeding up alignment.

2.7. It is true that the 'toning down' of the initial Commission proposals solves a number of practical problems and that the suggested alternatives deserve careful consideration. There is, however, good reason to fear that the new approach could delay the alignment of VAT and excise rates, with potentially damaging consequences.

2.8. The Commission provides for a transition phase expiring at the end of 1992 in order to facilitate implementation of the reform but continues to insist on the abolition of border checks.

The definition of this transitional phase is to be 'accompanied by steps to give practical shape to Member States' commitment to complete the internal market in the field of indirect taxation, especially as regards the approximation of VAT rates by the end of 1992.'

This vague statement prompts some doubts, especially as to the precise form in which Member States' commitment should be expressed and their willingness to enter into any meaningful form of undertaking.

2.9. One positive feature of the transitional phase is the gradual, predetermined increase in tax-free allowances.

## Specific comments

### 3. VAT

3.1. The Commission does not suggest any changes in the originally proposed reduced VAT rate. The ESC would therefore refer to the views expressed in Opinion CES 741/88, in particular point 2.7.

A list of the products covered by this reduced rate is both advisable and important and the principle of neutral taxation of competing products must also be respected. The Member States should be closely consulted prior to compilation of this list.

3.2. The substitution of a single minimum limit for the standard VAT rate band recommended in the previous proposals prompts some criticism and concern.

Opinion CES 741/88 called for closer convergence between the rates proposed by the Commission (14 % to 20 % rate band) and states that 'if the aim is to be that VAT on goods and services in an internal market free of tax barriers should be neutral, a reduction in the differences between rates to around three percentage points would normally be likely to make tax-related distortions of competition bearable'.

The Commission itself acknowledges that the previously proposed range was 'often regarded as excessive and likely to bring about distortions of competition'.

Since the fixing of this minimum limit could lead — at any rate in theory — to wider divergencies than the rate band, there is a clear inconsistency.

The Commission's shift in position can be considered warranted, in view of the genuine problems experienced by the previous proposal.

The fixing of a single minimum rate would leave the Member States at liberty to adopt higher rates, but it is fair to assume that they will attempt to stay close to the minimum rate in order not to undermine their competitiveness.

3.3. The idea of allowing adjoining Member States to settle problems likely to arise in frontier regions by bilateral agreements must be regarded as incompatible with a Community approach. Further, it seems unrealistic since the sharpest contrasts actually occur between neighbouring countries with significantly different VAT rates.

3.4. As regards the controversial issue of zero-rating, this proposal seems acceptable, but only on condition that such derogations are available to all Member States. The present situation should not be allowed to persist; derogations should be authorized for all Member States, for a very limited number of products and for a transitional period.

This proposal seems acceptable, but only on condition that such derogations are available for all Member States.

#### 4. Clearing mechanism

4.1. The original proposal regarding the clearing mechanism for trade among the Member States is to be radically changed by the introduction of specific arrangements for certain operations (mail-order sales, sales of cars, sales to institutional non-taxable persons and exempt-taxable persons, transactions carried out by enterprises within the same group). Treatment of other transactions between taxable persons is to be calculated on the basis of

external trade statistics, viz. a macroeconomic approach to compensation.

4.2. The new proposal is undoubtedly simpler — and consequently more readily acceptable — but many of the ESC's previous reservations continue to hold good (see points 3.7, 3.8, 3.11, and 3.13 of Opinion CES 742/88).

4.3. The Committee also wishes to point out one serious defect of the mechanism, which jeopardizes its viability.

In the case of cross-border transactions, VAT will be chargeable in one Member State and reclaimed, where appropriate, in another Member State. There are two risks here:

— an increase in 'taxi' operations, where false VAT bills are issued in one country and the VAT is then refunded in another.

These transactions can be halted fairly quickly when they occur in one and the same country and involve only one tax authority. There is a danger that they may persist on an increasingly wide scale if they can only be detected through joint action by two tax authorities, as long as there is no Community taxation 'super-authority'.

— It has hitherto been impossible, in the case of products manufactured under the 'black' economy in one Member State and sold in another, to recover unpaid VAT in the latter country. Under the Commission scheme, a bill could be obtained for refundable (though unpaid) VAT, thereby reducing the tax-free sale price and acting as a powerful incentive to trade in such products.

4.4. It is also worth reiterating the need to establish proper statistical arrangements [see Opinion CES 552/89 — SYN 181 (Rapporteur: Mr Giacomelli) <sup>(1)</sup>].

4.5. There is also an urgent need for effective arrangements to prevent and punish fraud.

4.6. Fraud already exists on a considerable scale but new forms could emerge as a result of the scope afforded by the abolition of frontiers.

There is also a risk that some operators will fail to declare sales in other Member States. Yet it would be in the interests of their national authority not to rectify such

<sup>(1)</sup> OJ No C 159, 26. 6. 1989, p. 16.

errors as they would then have to pay more to the clearing fund.

The basis of the clearing mechanism is therefore precarious and the fiscal use made of trade statistics could even undermine their monitoring, and hence reliability. The Committee urges the Commission to supplement its proposals on fraud prevention and sanctions so as to achieve a truly effective impact.

## 5. Specific arrangements

5.1. Mail-order sales. The Commission is prepared to propose that such sales should be taxed under the rules in force in the country of destination of the goods. It adds that specialized operators would be liable for such taxes but it is not clear exactly what rules would apply.

However, the system should be devised to ensure that conditions are not more stringent than those governing sales from non-member countries.

Some concern must be expressed about the additional administrative burdens that will be placed on the mail order industry.

Further, it should be noted that this problem affects all 'distance' selling, since firms could be set up for the purpose of transporting products they sell to purchasers in other Member States in the latter's name.

Private persons should therefore be able to pay VAT in the country of sale, only if they themselves transport the goods. However, here again monitoring would be far from easy.

5.2. Sales of cars. Here the Commission's solution, viz. that VAT should be payable at the place of registration rather than the place of supply, seems satisfactory. However the term 'cars' should be clearly defined.

Further, as the rules on registration differ from country to country, proper legislation for VAT and other taxes must be framed in order to avoid disparities leaving the way open for fraud. This also applies in the case of subsequent registrations.

5.3. Sales to institutional non-taxable persons and exempt taxable persons. Here the Commission suggests a number of possible solutions, such as a self-supply arrangement or the introduction of a tax on the VAT difference.

Without clarification, any assessment of the above arrangements is impossible. However, once again monitoring would seem to be particularly difficult.

5.4. Transactions between enterprises linked within the same group. The Commission proposes that payment of VAT be suspended pending resale to a non-associated purchaser.

This formula seems feasible, provided that precise rules and monitoring arrangements are worked out.

To leave the individual Member States free to authorize such treatment on a case-by-case basis could generate difficulties and discrimination.

The Committee would, however, point out that:

- the proposed scheme discriminates between undertakings (particularly as regards cash flow). Small and medium-sized businesses would be hit particularly hard;
- the differing national definitions of categories of undertakings could cause serious problems.

## 6. Excise duties

6.1. The Commission is proposing gradual approximation in order to achieve reference values in the form of long-term targets, introducing minimum values for a transitional period.

6.2. Gradual approximation is acceptable in view of the sharp divergences in local conditions, partly influenced by objective traditional factors and differing national practices and customs.

However, the target deadline must be established and details of the approximation process determined in advance.

On reference values, the comments set out in the 1988 ESC Opinions (CES 744/88, 745/88, 746/88) are fully applicable.

Flexibility should entail the introduction of aligned rate bands instead of minimum and reference values.

6.3. Here a precise assessment is impossible as the Commission has not put forward tangible proposals.

## 7. Conclusions

7.1. Given the Communication's very general format it should be reiterated that the Committee is unable to deliver

a specific Opinion but can merely question various points and underline the reservations expressed above.

7.2. In addition, the Committee is fully aware of the progress of discussions within the Community institutions, in particular the conclusions of the Ecofin Council meetings on 9 October and 13 November 1989.

7.3. It would therefore point out that 31 December 1992 is too tight a deadline for the introduction of a general system of taxation in the country of origin. A transitional arrangement, running from 1 January 1993 for as short a period as possible, whereby transactions carried out by interested parties will be taxed in the country of destination, should therefore be introduced.

7.4. It should also be remembered that administrative formalities must be kept to a minimum to avoid unjustified increases in firms' costs, which ultimately hit the consumer.

7.5. Under the new rules border checks will anyway have to be scrapped in favour of tax control within the Member States, backed by suitable forms of cooperation and exchange of information between the tax authorities.

7.6. Freedom of movement and purchases by private individuals will also have to be guaranteed by lifting restrictions on duty-free allowances. Here far-reaching alignment of rates is desirable to avert significant distortion of competition.

Done at Brussels, 19 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

**Opinion on the proposal for a Council Decision amending Decision 86/138/EEC concerning a demonstration project with a view to introducing a Community system of information on accidents involving consumer products and fixing the financial allocation for the last two years of its operation <sup>(1)</sup>**

(90/C 62/09)

On 9 November 1989 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 Committee instructed its Section for Protection of the Environment, Public Health and Consumer Affairs to prepare its work on the matter. Mrs Williams was appointed Rapporteur General by the Committee in the course of its work.

At its 272nd Plenary Session (meeting of 20 December 1989) the Economic and Social Committee unanimously adopted the following Opinion:

**General comments**

1. The Committee approves the Commission's proposal in general and approves the increased allocation of funds to the EHLASS programme in particular.

2. The Committee recalls that the original demonstration project set up under what became the EHLASS programme took the collection of accident statistics from hospitals as its starting point. The objective was to provide information and analyses of such accidents, including an assessment on a trial and error basis, of the failures and successes of the system.

2.1. The new proposal covers an extension of the hospital data collection and the carrying out of 'supplementary studies' of data obtained from other information sources.

3. The Committee would refer to its Opinion <sup>(2)</sup> on the original proposal which was adopted as Council Decision 86/138/EEC of 22 April 1986 <sup>(3)</sup>, setting up the EHLASS project.

4. The Committee draws attention once again to the necessity for the EHLASS programme to be integrated into other Community actions (referred to in paragraph 1.7.3 of its original Opinion), such as ESPRIT, R&D, and the new 'approach' on technical harmonization and standards.

4.1. As an extension of this concept the Committee would like to see the EHLASS programme more fully integrated into the various consumer information actions recently adopted or currently under consideration, e.g. Rapid Exchange of Information on Consumer Products,

<sup>(1)</sup> OJ No C 300, 29. 11. 1989, p. 7

<sup>(2)</sup> OJ No C 188, 29. 7. 1985

<sup>(3)</sup> OJ No L 109, 26. 4. 1986

General Security of Products, Toy Safety, Anti-Poison Centres, etc. The ultimate aim should be the creation of an 'umbrella' information system for use by central and local government, industry, and all concerned with safety standards, publicity and education.

4.2. In this connection the Committee welcomes the statement in the annex to the proposal which under the heading 'Impact on public opinion' says:

'The development of this demonstration project and the establishment of a permanent system of statistical information on accidents involving consumer products should help to improve the standard of product safety and provide for preventive measures and the establishment of priorities, the European citizen being the prime beneficiary'.

5. In its original Opinion (paragraphs 1.2 and 1.3) the Committee drew attention to the rather loose usage in the Commission's proposal of the term 'consumer products', and asked that a more precise definition be formulated, but this has not been done to date, and the Committee therefore repeats its request in this regard. Perhaps the concept of 'products used in normal and personal life' could also be introduced.

6. The Committee endorses the need for the Commission to retain a strong role in coordinating national systems, with appropriate machinery set up to monitor the activities of Member States. Without the involvement of a coordinating body, the EHLASS project will dissolve into a multiplicity of national schemes.

7. The Committee considers that ways must be found of improving the statistical validity of the data collected so that priorities for further research and action can be identified.

7.1. Thus, in the Member States, there are different patterns of hospital use for casualty victims. There must be a definite effort to overcome this problem — such as research to indicate the proportion of the population in each Member State which is treated in hospital.

7.2. Furthermore, the EHLASS programme could be used to identify specific problems (for example, in equipment used for child safety), in respect of which recommendations to CEN/CENELEC could be made.

8. The Committee points to the need for better administrative procedures to be devised, *inter alia*, so that money due to hospitals participating in the scheme is paid without delay.

9. The Committee welcomes the publication of Annual Reports at national and Community level, and urges that these be made widely available in a uniform and consistent format.

9.1. Access to computer printouts should be available to all with a clear need, bearing in mind that the confidentiality factor must be taken into consideration.

10. Finally, the Committee urges the Commission to consider now what follow-up action will be necessary when the current EHLASS programme terminates at the end of 1991.

#### Specific comments

I. On new paragraphs of Article amending Article 4(2) of Decision 86/138/EEC:

##### New paragraph 2

Replace the first sentence so that it reads:

'... to prepare and publicize annual reports on the results obtained'.

##### New paragraph 3

Replace the first sentence so that it reads:

'The Commission shall initiate and carry out the studies...'

##### New paragraph 4

It should be made clear in this text which Committee this Article refers to.

#### II. Annex, point (d)

More details should be given concerning the 'complementary studies' for which ECU 3,8 million have been allocated.

Done at Brussels, 20 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE



**Opinion on the proposal for a Council Directive on the advertising of tobacco products in the press and by means of bills and posters <sup>(1)</sup>**

(90/C 62/10)

On 20 April 1989, the Council decided to consult the Economic and Social Committee, under Article 100 A (3) of the Treaty establishing the European Economic Community, on the abovementioned proposal.

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 28 November 1989. The Rapporteur was Mr Aspinall.

At its 272nd Plenary Session (meeting of 19 December 1989), the Economic and Social Committee adopted the following Opinion by 82 votes for, five against and nine abstentions.

## 1. Introduction

1.1. This is a proposal to harmonize the conditions under which the advertising of tobacco products is allowed in newspapers, magazines and publications of a similar kind and by means of bills and posters. Its aim is to remove the barriers to free trade.

1.2. The legal base is Article 100 A, which is the same instrument as was used in the labelling of tobacco products Directive <sup>(2)</sup>. The proposal does not ban advertising; it is aimed at the removal of barriers to free trade, not at promoting health. Nevertheless, under Article 100 A (3) the Commission is charged with harmonizing regulations to the standard which takes as a base a high level of health, safety and environmental protection.

1.3. The Directive provides for a health warning to be included in any advertisement in newspapers, magazines and publications of a similar kind and by means of bills and posters. These should be the same as those set out in the labelling of tobacco products referred to in 1.2 above.

## 2. General comments

2.1. The Committee supports the objective of the Commission's proposal to harmonize, in so far as this leads to a reduction of trade barriers and subject to the comments detailed below, the conditions for advertising tobacco products in newspapers, magazines and publications of a similar kind and by means of bills and posters, and which would: require all such advertisements to carry a health warning, limit advertisements to the depiction of the

packet; ban advertisements from young people's publications; and ban all indirect advertising.

2.2. The Committee has had difficulty in interpreting some of the Articles in this Directive and suggests that a closer examination of the legal drafting should be undertaken by the Commission if the Directive's objective is to be fully implemented into Member State legislation.

This particularly applies to Articles 3 and 5.

2.3. The proposal's objective is to harmonize authorized advertisements, allowing for considerable room for the competence within Member States' legislation providing for more stringent action e.g. a complete ban on advertising or a more flexible approach giving time and scope for the industry to adapt.

In Article 5 there appears to be a contradiction which means that although a Member State may ban advertisements this covers only internal newspapers, magazines and publications of a similar kind and advertising by means of bills and posters.

2.4. The proposal does not fulfil the aspiration of certain bodies in the Community which would prefer to see a total harmonization undertaken based on a complete ban in line with some Member States' current legislation. All the international medical and health organizations that have studied the problems have called for a total ban on advertising.

Consumer opinion polls show the members of the public want tobacco advertising stopped altogether and a European Communities Survey in Spring 1987 found that nearly three quarters of Europeans approve of the idea of a ban on tobacco advertising.

Public opinion is undoubtedly changing and therefore it appears to the Committee that over a period of time tobacco advertising legislation will have to be tackled.

<sup>(1)</sup> OJ No C 124, 19 5. 1989

<sup>(2)</sup> OJ No C 48, 20 2 1988

2.5. The Committee believes that a proposition to ban all advertisements would go too far at this stage and could create unfair and possibly unreasonable restrictions in some Member States.

The Committee therefore considers that the proposals on direct advertising in this Directive are a reasonable compromise which gives the industry time and scope to adapt by consultation between all interested parties.

2.6. The Committee considers that the provisions on indirect advertising contained in Article 3(2) are unacceptable. The rigidity of the ban is totally out of proportion with the limitations proposed for direct advertising of tobacco products. A total ban would hit companies which have promoted and continue to promote the diversification of production. It would mean job losses both in these sectors and in the advertising sector.

It would seem more sensible to limit the ban to the trademark of tobacco products when it is used without any other inscription or motif, or solely with a depiction of smokers' accessories or non-manufactured items.

2.7. In seeking to remove barriers to free trade in the tobacco industry, the Committee would remind the Council of its Opinion on the harmonization of tobacco excise duty (OJ No C 237, 12. 9. 1988).

#### Specific comments on the Articles

##### *Article 1*

The Committee supports the definition of 'tobacco products' for the purpose of this Directive, so as to be in line with the definition set out in the Common Position of the Council on labelling.

##### *Article 2*

Since the Council of Ministers had adopted on 13 November 1989 a protocol declaration for tobacco products other than cigarettes, it is the opinion of the Committee that the Commission should propose a separate draft Directive or additions to existing Directives to comply with this.

The Committee is also concerned that the meaning of the word 'press' could be misinterpreted, and would suggest that the wording used in Article 5 should be used throughout the proposal (newspapers, magazines and publications of a similar kind).

In the second indent referring to specific warnings the Committee suggests the wording should be changed to coincide with the labelling Directive to read: '... printed in clearly legible print on a contrasting background'.

##### *Article 3*

The Committee recommends the wording to be changed as follows:

'The content of advertisements in newspapers, magazines and publications of a similar kind and on bills and posters shall be restricted solely to the presentation of the packaging of tobacco products and the tobacco product itself as marketed, with only the addition of technical information on the features of the product, if desired.'

##### *Article 4*

The Committee would suggest that the wording be changed to '... mainly intended for young people'.

Publications mainly intended for young people may require some form of interpretation, including verification of readership.

##### *Article 5*

Article 5 (2) should be deleted.

##### *Appendix*

The Committee fully supports the list of amended health warnings as set out in the labelling Directive text.

##### *Impact on competitiveness and employment*

Clearly any unemployment that might occur following implementation of this Directive is of concern to this Committee and therefore we would urge consultation with interested parties to ensure that wherever possible action is taken to retrain employees and farmers made redundant and where appropriate Community funds are allocated.

The Committee also is concerned that the views of the industries involved in tobacco production and distribution do not appear to have been sought by the Commission. It is our view that the senior officials for health of the Member States do not reflect the views of those involved.

Done at Brussels, 19 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

## APPENDIX

The following amendments, which were supported by at least a quarter of the votes cast, were rejected during the debate:

**Page 2.**

Delete points 2.4 and 2.5.

*Reasons*

These points have no bearing on the subject matter of the proposed Directive, i.e. trade barriers, but contain a polemic on health. Hence they do not belong in this Opinion. Furthermore, the third paragraph contains a dubious argument regarding the case for legislation. The logical conclusion is that if public opinion swings back in favour of smoking, restrictions on smoking can be lifted and concerns over health are irrelevant.

*Voting*

Point 2.4: for: 32, against: 37, abstentions: 10.

Point 2.5: for: 34, against: 41, abstentions: 10.

**Opinion on the proposal for a Council Regulation (EEC) laying down health rules for the production and placing on the market of melted animal fat, greaves and by-products of rendering for human consumption <sup>(1)</sup>**

(90/C 62/11)

On 14 November 1989, 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 Economic and Social Committee decided to appoint Mr Gardner as Rapporteur-General with the task of preparing its work on the subject.

At its 272nd Plenary Session (meeting of 20 December 1989) the Economic and Social Committee adopted the following Opinion unanimously:

**1. General comments**

1.1. The Committee welcomes this measure which is necessary for the completion of the Single Market, but considers that it would be better to have it as a Directive. In general, Directives can be applied more clearly within the various frameworks of national legislation. In this case there is a further reason — the time required for adaptation will vary with the Member States.

1.2. This proposal covers definitions, hygiene and production rules, inspection procedures and some analytical standards. On the face of it these seem thoroughly sensible. However, in the detail they refer to three other future Community Regulations. One of these is available as a proposal while the others are not even at that stage.

1.3. The Committee therefore has to reserve the right to give a further Opinion if necessary, when these are in place.

1.4. Subject to the comments above and below, the Committee approves the proposal.

**2. Detailed comments****2.1. Article 2.1**

This requires that the definitions of a future Regulation on general health rules apply [Proposal COM(89) 492 final]. While leaving detailed comments on these to the Committee's Opinion on that proposal, it is essential that there be an adequate transition time to implement them. Many establishments will require extensive modification to comply.

<sup>(1)</sup> OJ No C 327, 31. 12. 1989, p. 25.

2.2. *Article 2.2.(a)*

Here we have reference to two instruments which are not even available as proposals. No meaningful comment therefore is possible at this stage.

2.3. *Article 3*

This refers to requirements of COM(89) 492. The remarks under 2.1 apply here too.

2.4. *Annex, Chapter II, 3(a)*

There should be a time limit for storage at 7°C. For storage beyond that limit, the material must be frozen.

2.5. *Annex, Chapter II, 3(b)*

The present wording is unclear and should be changed to: '... within 12 hours after midnight of the day of slaughter'.

Done at Brussels, 20 December 1989.

*The Chairman*  
*of the Economic and Social Committee*  
Alberto MASPRONE

### Additional opinion on a fresh boost for culture in the European Community

(90/C 62/12)

#### Procedure

At the Plenary Session on 28 April 1988, the ESC Opinion on the Commission Communication on a fresh boost for culture was adopted by an overwhelming majority <sup>(1)</sup>.

In view of the fact that there had been little time to prepare this Opinion, on 27 September 1988 the Bureau of the Economic and Social Committee proposed, under the third paragraph of Article 20 of the Rules of Procedure, that an additional Opinion should be drawn up on European culture.

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 9 November 1989. The Rapporteur was Mrs Rangoni-Machiavelli and the Co-Rapporteur Mr Noordwal.

At its 272nd Plenary Session (meeting of 20 December 1989) the Committee adopted the following Opinion by a substantial majority, with one dissenting vote and two abstentions:

#### 1. Introduction

1.1. Given the importance of the specific and complex problems which today face the EC and the individual Member States in some areas of cultural activity, the Economic and Social Committee has felt it useful 'to prepare a follow-up Opinion on the European cultural

area, with a view especially to giving a closer look at the media and the promotion of the European audio-visual industry.... Such an additional Opinion might consider the role of television as a cultural and educational instrument and the consequences and risks that the development of new technologies in this domain could incur'. This Opinion therefore proposes to examine the 'cultural area' and the 'social consequences related to technological developments in the television and audio-visual sectors', sectors which in business terms should account for about ECU 15 billion in the run-up to 1992 (Commission estimates), and where for

<sup>(1)</sup> OJ No C 175, 4. 7. 1988.

example \$1 billion worth of United States' films and television shows transmitted each year on Europe's television are at stake.

This Opinion also takes as its starting point an understanding of human rights in the field of culture, information and communications which recognizes the following essential prerequisites for democracy in the EC:

- freedom of expression;
- open access to information;
- freedom of the press;
- plurality of cultures.

1.2. It should be noted that the Committee has registered a major interest in Community progress in the cultural/audio-visual area, and has already issued a number of Opinions on 'television without frontiers' <sup>(1)</sup>, of which the following serves as an introductory synthesis:

- european cultural diversity, with its manifold characteristics is part of Europe's rich heritage;
- european television programmes could be promoted while also maintaining the cultural identity and the national structure of the media;
- the European audio-visual industry offers important opportunities to export high-level products of European culture;
- the promotion of European programmes need not take the form of uniform, but rather of flexible and adaptable quotas, which should not be viewed in terms of the national identity of the programmes, but in terms of promoting the production of television programmes within the Community;
- the co-existence of broadcasting stations of differing status, e.g. public and private, can ensure a measure of cultural pluralism;
- legislative and administrative measures in the broadcasting field should aim to avoid arrangements

conducive to the creation of a dominant opinion-forming power;

- a European public body with transnational responsibilities in the field of broadcasting should be set up;
- a quantitative advertisement threshold should be fixed;
- a comprehensive EC proposal, regulating copyright in the Community and providing a guarantee for acquired rights, is needed, based on the principle of contractual agreement rather than statutory licence;
- extra jobs created in the new media will not be sufficient to offset the losses in traditional media, and that the overall number of jobs in the media sector will fall in so far as mergers and multi-media concerns come into existence;
- the Commission has not given sufficient consideration to this point and ought to carry out further studies in this area in order, if necessary, to propose employment and training measures to combat any possible negative effects.

1.3. The Committee notes with approval that progress has been made in some, though not all, of these fields during the 'European Cinema and Television Year' (1988). Financing almost 100 short-term and long-term projects in the 25 European nations taking part, the ECTVY was active in every audio-visual field, helping to promote:

- a standard for European high definition television (hdtv) — a sector bound to assume key importance, e.g. from the angle of international competition, where care must be taken to avoid protectionism in any form;
- new European prizes, rewarding creations, productions, films, etc.;
- television magazines and documentaries depicting the features of Europe's cultural identity;
- european cartoons for children;
- improvements in broadcasting circuits;
- production of minority language films;
- the setting-up of a European Fund for Audio-visual Multilingualism;
- improvements in professional training (training of teachers, European cinema and television schools, new

<sup>(1)</sup> See, for example: the ESC own-initiative Opinion on the *Green Paper* on the Establishment of the Common Market for Broadcasting, especially by Satellite and Cable (OJ No C 303, 25. 11. 1985) plus Opinions on the proposal for a Council Directive on the Coordination of Certain Provisions laid down by Law, Regulation, or Administrative Action in Member States concerning the Pursuit of Broadcasting Activities (OJ No C 232, 31.8.1987), together with the Additonal Opinion (doc. CES 572/89 of 27 April 1984), and the Opinion on the Proposal for a Council Decision on High Definition Television (doc. CES 557/89 of 26 April 1989).

technologies and the picture, workshop on script-writing, etc.);

- the drawing-up in September 1988 of the 'Delphi Declaration' and the subsequent 'Audio-Visual Charter' signed by the ECTVY Committee and the European Federation of Audio-Visual Producers (EFAP) with the view to improving European audio-visual creation and the legal recognition of authors' and creators' rights.

1.3.1. At the end of the ECTVY, the legal environment for European media was given a substantial boost by the adoption in March 1989 of the Council of Europe's 'European Convention on Transfrontier Television' in which Member States:

- reaffirmed their commitment to the principles of the free flow of information and ideas and the independence of broadcasters;
- affirmed the importance of broadcasting for the development of culture and the free formation of opinions in conditions safeguarding pluralism and equality of opportunity;
- stressed the need to present an increasing range of choice, enhancing Europe's heritage and developing its audio-visual creation;
- recognized the need to consolidate the common broad framework of regulation, notably as regards the responsibilities of the broadcaster:
  - not to present indecent, violent or racist material,
  - to reserve for European works a majority proportion of their transmission time,
  - to abide by general standards on the duration, presentation, form and insertion of advertisements,
  - to monitor the content and quality of advertising, with particular reference to information, education and consumer protection;
- and consequently set up a European Standing Committee <sup>(1)</sup> in order to monitor, arbitrate over and, should circumstances so require, amend the Convention.

(1) Each party (i.e. Member State of the Council of Europe) may be represented on the Standing Committee by one or more delegates. Each delegation shall have one vote. Within the areas of its competence, the European Community shall exercise its right to vote with a number of votes equal to the number of its Member States which are parties to this Convention; the European Community shall not exercise its right to vote in cases where the Member States concerned exercise theirs, and conversely. ['European Convention on Transfrontier Television', Council of Europe, Strasbourg, 16 March 1989, DH-MM(89)1].

The Committee would urge all Member States to ratify the Convention as soon as possible.

1.3.2. European Community policy in its stricter sense has also seen the 'EUREKA' audiovisual project launched by the Rhodes Summit, and agreement has been reached, in no small part due to the argument advanced by the Committee, on the 'television without frontiers' Directive <sup>(2)</sup>, recently adopted in the aftermath of the Paris 'Audio-Visual Assizes', and which must be applied by October 1991. The Directive entails a political if not a legal commitment to devote a majority of air-time to European-made programmes (barring news and sport). It also establishes guidelines for banning pornography, scenes of gratuitous violence and cigarette and tobacco advertising. Under the same guidelines, advertising slots would be limited to no more than 15 % of daily programming or 20 % of any one hour, news bulletins of under 30 minutes would not be interrupted by commercial breaks, and feature films would only be allowed to include two breaks in their first 90 minutes. The Directive also prevents any EC country banning television programmes from another Member State, providing they meet widely accepted levels of decency and programming standards.

It is also worth noting that at the 'Audio-Visual Assizes' President Delors pledged an additional ECU 250 million over the next five years to promote European research and collaboration in European television production and technology.

1.4. A general starting point for the current Opinion has therefore already been fixed. As far as the cultural and social aspects of media policy in Europe are concerned, a few more basic reference and guiding points need to be stressed:

1.4.1. As stressed in the earlier Opinion on a fresh boost for culture, and with references to the UNESCO definition, 'culture may be defined as the combined spiritual, material, intellectual and emotional characteristics of a society or social group' <sup>(3)</sup>.

1.4.2. Culture is seen as a dynamic, evolutive enrichment of daily life. The European Community dimension has and can continue significantly to contribute to this, not in any perceived 'identikit' fashion, but through the

(2) OJ No L 298, 17. 10. 1989, p. 23.

(3) OJ No C 175, 4. 7. 1988, *op. cit.*, pt. 2.2. It should be stressed that this is the UNESCO 'Decade in Culture'.

harmony upon which diversity thrives, through increased contact, comparison and mixing, and the identification both of different cultural traditions and of common uniting principles, of mutual understanding and the elimination of prejudices between peoples. The European 'cultural model' is not all exclusive, still less a 'melting pot', but rather a multi-various, multi-ethnic pluralism of culture, the sum total of which enriches each individual culture. The European 'cultural model' serves not as a 'fortress' but as an open springboard towards other cultures both throughout the Community and throughout the world.

1.4.3. The Committee considers that the European Community is competent in policy spheres relating to culture. Community competence, as prescribed in the Treaty, is based on:

- the free movement of cultural goods and services (Articles 8a, 59, 60);
- the free movement of cultural sector workers (Articles 48 to 52);
- improving the living and working conditions of workers in the cultural sector (Articles 117/118);
- improving the employment opportunities and training of workers in the cultural sector, notably through the European Social Fund (Articles 123 to 128);
- promoting overall harmonious development and strengthening of social cohesion, including the promotion of cultural activities and new jobs in the cultural sector throughout the regions of the Community [Article 130 (a) to (e)];
- creating an ever closer union among the peoples of Europe (Preamble), including therefore closer cultural ties.

1.5. Indeed, as we move towards the creation of a 'People's Europe', improved access for everybody to the cultural resources of the Member States should be a clear Community priority<sup>(1)</sup>. A genuine European audio-visual policy is a crucial and integral part of such a European 'cultural area', with all the societal questions this raises as regards citizens' rights and consumer needs and the labour market, training and employment conditions involved. The next two chapters of this Opinion will attempt to review some of the key challenges arising.

(1) See *Programme of the Commission for 1989*, pages 74 to 76: 'Culture and the Audiovisual Sector'.

## 2. Cultural aspects of media policy

### 2.1. *Television as an instrument of culture and education*

Television is neither intrinsically good nor bad; it depends on how it is used. Its introduction and spread has from the start been accompanied by many hopes and fears in the cultural, educational and information fields, and as regards leisure time.

2.1.1. Television has already rendered politics, culture and education more democratic and accessible, enabling people to participate and form opinions. It is now possible for virtually everyone to obtain a wide and growing range of services and information required visually and in his or her own home as well as take part in interactive TV, 'phone-ins', 'points of view programmes', etc. This means, *inter alia*:

- for the housebound: contact with society and escape from loneliness;
- for nightworkers: a similar contact with daily society;
- for children: access to entertainment, stories, educational programmes and learning on a scale which goes far beyond anything they can experience directly;
- for people in the countryside: a window on the world, and contact with modern developments;
- for the tired: entertainment, relaxation and recuperation from work;
- for the curious: the opportunity to seek out all kinds of information;
- for those eager to learn: all kinds of further education possibilities, such as open learning, foreign languages, other cultures, new technologies, etc.;
- for migrant workers and ethnic minority citizens: help both in becoming integrated and in maintaining links with their countries of origins and traditions;
- for all: information, culture and entertainment, television ideally providing a world-wide scale of information and knowledge enabling people to participate in and discuss major problems of the time, such as environmental protection, scarcity of resources, population growth, new diseases, dangers of technology, genetic engineering, etc.

2.1.2. On the other hand, these positive possibilities of television and its use are also accompanied by many risks:

- Human communication can be impoverished and tends to be replaced by technical communication. Television alleviates loneliness, but may also foster it.

- Family and community life may suffer.
- Experience of the word may be acquired at second hand. Direct sensory experience can be diminished, even to the extent that children (and not only children) are sometimes unable to distinguish reality from the visual representations.
- TV may induce viewers to read, though many current programmes have also led to the loss of reading, particularly among the young, resulting perhaps in more illiteracy. Conversely, reading increases the capacity of children to comprehend television programmes.
- The moral and ethical development of children and young people is endangered by gratuitous scenes of sex and violence on TV and particularly (more recently) on videos.
- People become manipulable when they have no means of checking the truth of the information given them through television: for example, most people's knowledge of politics is derived solely from television; adverts can likewise be a source of manipulation.
- The reality of the media is an interpreted reality, often adapted to provide the maximum entertainment of sensational value.

This latter form of presentation fascinates people, and ensures commercial success for the media consortiums.

Power over the media, which influence or indeed mould our opinions, risks being concentrated in fewer and fewer commercial hands. A more accountable and democratic system must be brought in to counter this tendency. Equality of opportunity, participation by citizens and consumers, and respect for minority rights must be the aims.

2.1.3. In all this, inevitable questions arise as to:

- Who decides what is or is not in the public interest?
- What criteria should be set as guidelines?
- To whom should a regulatory authority be responsible?
- How could standards be operable and effective at transnational level?

The Committee does not pretend to have all the answers to such questions. It approvingly notes, nonetheless, that the Council of Europe's 'Standing Committee' on transfrontier television (see point 1.3.1) is a welcome step in the right direction. However, given the revolutionary technological progress in the field of commercial broadcasting by satellite

or by cable, such official measures of international cooperation in the setting of standards and access are important but relative. In the final event, much will rest on individual responsibility and on the 'consumer's' ability to choose and, if necessary, 'switch off'. Likewise, parental and societal responsibilities will also need to be exercised with more discretion and vigour. The recent French High Audiovisual Council Directive on the protection of children and adolescents in TV programming by public and private services is a useful reference guideline in this connection. Clearly, therefore, in addition and integral to official standards being set, is the need to help educate the consumer and ensure more choice and awareness through information and participation, both as regards the establishment, composition and accountability of regulatory bodies and as regards the expression of viewing preferences (majority and minority) in general. Press freedom and more open access to information are also of vital importance in order to ensure such awareness, choice and plurality of view.

## 2.2. *Preservation and development of Europe's cultural heritage*

2.2.1. Society as a whole, including political, social and economic groups and a growing sector of public opinion is worried about the fact that American programmes are gaining a steadily increasing share of the European television market sometimes through 'commercial dumping' techniques. There is legitimate concern that the result will be a loss of cultural identity and diversity in the countries and regions of Europe.

2.2.2. New distribution networks and long-range transmission will virtually double the number of programmes shown on European television screens by the year 2000. The most immediate and rapid facility would be to import or broadcast cheap American, Japanese or other programmes. The Committee would once again stress that a qualitative alternative would be to offer positive support for the rich diversity of indigenous European programmes, for example through a minimum percentage of 'European' air-time, through flexible quota systems, through viewer-led 'quality' grading techniques and through fiscal incentives for transfrontier productions.

It is also important to use peak viewing times in order to transmit programmes of higher cultural value.

2.2.3. In any event, European countries need to intensify cooperation at all possible levels so that a larger number of



programmes can be exchanged, produced and co-produced. Progress and cooperation in these fields was achieved with the ECTVY (see point 1.3). Building on what are mainly individual pilot projects, perhaps a more widespread and substantial European film sponsorship scheme should accordingly be introduced to encourage and promote European film and television production. A special EC-wide fund might also be set up to encourage freelance producers and scriptwriters. Transfrontier co-productions, e.g. in the form of local programmes beamed at areas where several different languages are spoken, should also receive support. All such initiatives should clearly illustrate the purely cultural and not only commercial benefits arising.

2.2.4. Quite apart from the beneficial effects on the labour market, the establishment and consolidation of European television programme industries is essential if the cultural diversity of Europe is to be actually reflected in the programmes shown on the screen.

It is generally taken for granted that the system which will eventually emerge in most European countries is one where public or state-run television broadcasting services exist alongside private and commercial television organizations. Public-service television broadcasters must be afforded all resources and be assured a free flow as well as free access to all Member States, so that they can compete with private broadcasters and play to their strengths by satisfying viewers' demand for top-quality television, whether in the form of domestic programmes or co-productions. Should a situation develop whereby public or state-run broadcasting services merely lay on entertainment on the assumption that this is what the general public wants, then the idea of broadcasting as a public service would be betrayed and those sections of the viewing public interested in intellectually demanding programmes (whether they be a majority or minority), would be abandoned.

Furthermore, if broadcasting is to do justice to the diversity of Europe's culture, then it must itself offer a variety of systems and programmes covering all European countries, including those belonging to the Council of Europe and EFTA as well as those of Eastern Europe.

Likewise the needs of ethnic minorities living in EC countries must also be considered by helping them to maintain their own languages and culture, as well as participate and integrate in the community in which they live.

Television can also be a powerful factor in maintaining regional languages or dialects.

### 2.3. *Promotion of culture in the regions of Europe*

2.3.1. Regional culture (notably live performances) cannot be promoted in Europe unless there is the political will to do so and unless means are made available from the public purse. European-level aid should be provided to top up national aid and so help bring regional culture to life in all its diversity.

2.3.2. In the audio-visual sector the media 'workshops' to be found in the United Kingdom can serve as a model. Such workshops have shown that locally-based and initially small-scale projects can have an innovative and creative impact on the entire film and television output of a given country and beyond. Media workshops and public-access channels are interesting not only because of the unconventional programmes they produce but also because of their very reflective practical and theoretical approach to the new media.

The committed work of non-commercial local broadcasting stations in Europe also deserves more attention and support since one aspect of 'Europeanization from below' is Member States learning about each other's alternative media projects.

2.3.3. Another important aspect of the promotion of regional culture in Europe is the fact that some countries now place a significantly higher value on culture as a whole, judging by the number of exhibitions, festivals, new museum buildings, theatre performances and musical events of every description going on. Decentralization is accordingly of importance and proper attention should be paid to cultural cooperation between regions of Europe with close historical, linguistic and other cultural ties. Exchanges between artists and other creative persons from as many fields as possible is also an enriching experience and a further step in the direction of cultural cooperation (for example, an 'ERASMUS' or 'LINGUA' type exchange scheme for cultural students and workers).

2.3.4. Artists and scientists throughout Europe have quite rightly fought against the tendency of the economy to increasingly highjack their works and use them as 'vehicles' for advertisements. The public has a right to see their works in their entirety, and above all without being continually interrupted by advertisement. The Committee would once again insist on the need for an adequate threshold limit on such advertising.

#### 2.4. *Television: changes in leisure patterns*

2.4.1. The leisure time of European citizens is increasing. However, different groups use leisure time in different ways. Television plays an important part in the lives of older people, the unemployed and low-income groups, being a major inexpensive leisure activity. It is in fact the most common leisure pursuit in Europe. However, except during the Olympic Games, big football matches, etc. and for current events of major popular interest, as a rule not more than 50 % of the adult population watch television at any one time.

2.4.2. Viewing time is known to increase slightly in households with cable TV when more programmes become available. There has been little research on the effects of increased viewing when new programmes become available (it consists primarily of additional viewing by children in the morning, at lunchtime and in the afternoon).

2.4.3. Television would appear to be least used by young people. They like to spend their leisure time flexibly, without being tied to one place, and consequently prefer to use portable radios, cassette players and video equipment.

2.4.4. Indeed, the ways in which Community citizens use their leisure time vary too much from one Member State to another for any definite assessment to be made. However, it is assumed that television viewing times in the various Member States will gradually converge. A significant increase in viewing time is to be expected particularly in Member States where it is at present below average. A maximum rise of 15 % in the average viewing time is expected by the year 2000. The average would then even out at about two and a half hours a day.

#### 2.5. *Improving the knowledge of languages*

2.5.1. Every sort of scheme designed to help children, young people and adults learn languages is to be welcomed. The promotion of translations makes European works of literature more widely accessible. The access to so many different languages within Europe which European media policy and continuing progress in cable TV should provide is also a source of cultural enrichment for viewers.

2.5.2. Language barriers are a major obstacle to international media productions. Cross-frontier television tackles the problem nonetheless in three different ways:

— by gearing programmes to specific language areas;

— by making programmes available in more than one language;

— by sending out 'lingua franca' programmes.

2.5.2.1. Programmes geared to specific language areas take the form of co-productions of broadcasting organizations in neighbouring countries where the same language is spoken (e.g. the second German television channel, Austrian television and the Swiss broadcasting authorities all working together to produce programmes for German-speaking areas). A similar set-up exists in the case of French-speaking areas. The only disadvantage of such programmes is that they exclude other language areas, not to mention minority language groups.

2.5.2.2. Cross-frontier television programmes accessible in more than one language are a more sensible proposition. Under this approach authentic programme material is produced in one country, transmitted in the original language and then dubbed or sub-titled in the language of the country showing the programme. Despite the different languages used, the programme content and picture are preserved. Here every care must be taken to prevent the deterioration of Community languages.

Moreover, despite the high level viewing recorded, both dubbing and sub-titling have their own disadvantages.

2.5.2.3. By 'lingua franca' programmes we mean commercial programmes broadcast in English. Since English has now become a widely understood language of communication, English-language broadcasts of a certain level can be received throughout Europe. When it comes to sport and music, i.e. programmes not tied to any specific culture or linguistic comprehension, the situation is relatively unproblematic, but efforts to widen cultural and linguistic horizons tend to be counter-productive because of the extremely low level of the language used.

#### 2.6. *Audio-visual means as a form of dialogue with the rest of the world*

2.6.1. We must not allow ourselves to forget that the problems associated with the East-West dialogue differ in kind and emphasis from those associated with the North-South dialogue.

2.6.2. In the light of the recent radical changes in Eastern Europe, radio and television are assuming a key role in East-West dialogue and must shoulder this responsibility.

Programmes transmitted by direct broadcast satellite require proper receiving equipment. The infrastructure for this is not yet available in Eastern Europe.

Nevertheless, since Eastern Bloc countries are now increasingly opening their doors to the West and intensive cultural exchanges are taking place at many levels, and changes in media policy are foreseeable. Indeed bilateral agreements in this area have already been established between the Council of Europe and Hungary and Poland.

The 1988 West German-Soviet broadcasting agreement is a first step in a whole series of East-West agreements to follow. The 1988 agreement pursues 'the objective of further developing exchanges in the field of radio and television to help increase mutual understanding'. The agreement reached between West and East German televisions to regularly work together on co-productions is also a step in the same direction. Such action also offers new opportunities to break down the dependency of West European television on American programmes, a situation criticized on all sides.

2.6.3. As far as the North-South dialogue is concerned, it is patently obvious that there is a one-sided flow of information from North to South. To gradually rectify this situation and make it possible to engage in meaningful dialogue, the Member States of the European Community should start by making funds available so that Third World countries can build up their own information systems. For developing countries television is not primarily important as a medium of entertainment but as an instrument of training, education and culture. By developing their domestic television systems, developing countries will be better able to provide their public with information about domestic matters, in addition to producing programmes for the European market. Up to the present time the 'flow' of programmes has largely been confined to cheap exports of films from North to South. This is all developing countries are currently able to afford. A two-way flow must be encouraged, also in the knowledge that this should help widen European horizons and enrich European culture.

By developing media projects and offering wide-ranging support in general (i.e. through such agencies as UNESCO and through the Cultural Foundation in Lomé IV) we can help developing countries from the South produce their own programmes and become self-reliant. These countries will then be able to participate in the international system of cultural exchanges, shape, and gain control over, everyday life in their societies, and help bring different civilizations closer to home.

## 2.7. *Power and the possible misuse of media and audio-visual monopolies*

2.7.1. All communication media have a traditional function as infrastructure. But recently information and communications have themselves become an economic good to be traded. It is consequently hardly surprising when a hardware firm also starts to take an interest in the software market.

2.7.2. The development of new media has not been sparked off by cultural or artistic necessity. Nevertheless, since the electronic media have a considerable influence on the form and content of our thinking and on our cultural life, media moguls are able to exert a hitherto unimaginable influence on the nature of public culture. The development of huge European media corporations is characterized by a tendency to globalization, interdependence and the establishment of mixed companies. Wide transmission coverage, i.e. international markets, is thus essential if television financed by advertising is to be profitable.

2.7.3. This overall trend poses a threat, however, to the cultural diversity of countries in Europe. Communications and individual cultures are very sensitive matters which cannot simply be handed over to international media corporations. International, pan-European television programmes seem to many people to be a decisive step forward towards loss of cultural identity and crass commercialism. Appropriate measures are therefore needed to prevent monopolies and control mergers.

2.7.4. In the case of commercial television or channels financed by advertising, the production of programmes for huge international markets will naturally be based purely on narrow economic considerations. Such considerations will lead to the rationalization of work routines and gradually alter the career profile of the media worker. Such a trend can only be countered by insisting on high professional standards and ethics in the media world.

## 3. Social consequences of media policy

### 3.1. *Labour market and employment*

3.1.1. The rapid increase in recent years in broadcasting demand and capacity throughout the Com-

munity<sup>(1)</sup>, particularly through the multiplication of channels through satellites and cable networks, has not led to any noticeable increase in European audio-visual production. Job-wise, audio-visual production in the EC accounts for only 1,8 % of total manufacturing employment and features amongst the 'sensitive' industrial sectors prone to radical structural changes in the run-up to and aftermath of 1992<sup>(2)</sup>. There is a clear need for adequate EC-wide employment statistics for the audio-visual sector as a whole. This could be a task of the proposed European Employment Observatory.

3.1.2. Indeed, the mass media as a whole in Europe — publishing, press, electronic media, broadcasting, film production and distribution — is already in the midst of a revolution inspired by rapid developments in technology and economic restructuring. Developments such as digitization, miniaturization or glass-fibre and satellite transmission have resulted in entire occupational groups disappearing<sup>(3)</sup>. Tasks which have hitherto been carried out by various specialists are now being accomplished in one single operation. The development of mechanical recording techniques, television, satellites, video-cassettes, cable networks, cross-frontier television, etc., has also undoubtedly been a major cause in the decline of the

performing profession. Indeed, the world-wide electronic revolution has led to a steady decline in the number of performers, accompanied by an increase in unemployment rates for those remaining in the profession. Accompanying this is the unleashing of a new generation of transnational media corporations, often linked to larger groups outside the media sector and integrated into the same corporate business and information strategy. At the same time, a notable increase in 'freelance' media activity (i.e. without staff status, usually for a number of different employers and often without social insurance cover and mostly subject to individual bargaining arrangements), has been registered throughout the Community<sup>(4)</sup>. It is questionable if national labour laws are competent to deal with the changing nature of employment in this sector. This should be studied by the relevant EC authorities.

3.1.3. Such developments have social consequences which clearly need to be addressed:

— First, the conglomeration of power constituted by multimedia transnational consortiums could pose a serious threat to market equilibrium, freedom of information, cultural pluralism and professional standards. The Committee would therefore urge the Commission to consider setting down more clearly the limits to cross-ownership and media monopolization, notably through measures requiring transparency of financial transactions and the full disclosure of global holdings. A European Media Observatory could also be set up in order to monitor and put a brake on such economic concentrations, and to help promote and ensure freedom of information and cultural pluralism.

— Accompanying EC measures and guidelines are also needed in order to guarantee minimum protection for professional standards, ethics, editorial autonomy and freedom of conscience for all journalists, workers and employees involved in the media including, for example, the confidentiality of sources. (Increasingly journalists are under pressure to depart from professional

<sup>(1)</sup> The demand for programme-hours is taken to be 500 000 per annum. On the basis of several estimates this represents a doubling of the 1987 figure of 250 000 programme-hours. Sources: Television Task Force, Manchester 1988; Frost and Sullivan 1987; Prognos Basel 1988.

<sup>(2)</sup> Employment in Europe 1989, European Commission DG V, page 65. It is estimated that orders for programmes from the public television services will decrease by 20 to 40 % in the 1990s. It would appear that this gap will not be filled by private companies. US productions account for 33 % of private station broadcasts (11 % for public channels), the rest is made up of other bought programmes, feature films and repeats. Where these stations do produce their own programmes, they are one third cheaper than those produced by the public channels (according to the production companies).

<sup>(3)</sup> The new broadcasting policy has resulted in the following situation: the 15 public TV services in all the EC Member States are the No 1 employers with a total of 85 000 working in television. In contrast, the 11 new channels which broadcast only via satellite and cable employ merely approximately 700. The 10 national commercial channels in the EC, which can be received terrestrially, have a total workforce of 6 000 (excluding ITV). The policy of deregulation in the EC has resulted in 21 new channels, creating a total of 4 000 new jobs (TF1 excluded).

<sup>(4)</sup> See 'Freelances' a world-wide survey, International Federation of Journalists, information No XXXVI 1987/1988.

conduct, either to satisfy their employer's advertising or circulation interests or because of state pressure) (1).

- EC instruments are also needed in order to ensure that basic collective contractual rights and social insurance cover are maintained or made available, and that transnational corporations respect existing acquired rights and international labour conventions.
- The Commission should give immediate attention to the control of secondary use of recorded material and to the overall impact of new technology on art and the artists. Recognizing that legislation concerning the status of cultural workers, especially performers, in most Member States is lagging behind the general advances in technology, the development of the media of mass communication, the means of mechanical reproduction of the work of performers, appropriate measures should be taken to ensure that cultural industries, benefiting from technological changes, especially radio and television organizations and mechanical reproduction undertakings, play their part in an effort to encourage and stimulate artistic creation, by providing new employment opportunities, by publicity, by the payment of royalties, or by helping to subsidize the production of theatrical performances.

### 3.2. *Training and further training*

3.2.1. The Committee would once again emphasize the urgent need to improve basic and further training both of technical and creative staff involved in the media, so as to ensure that their skills are relevant to the new standards required and technologies involved. It would be essential to involve trade unions in determining the contents of their training courses.

3.2.2. The Commission, through ECTVY and other programmes, has already promoted concrete measures:

- to train journalists, and programme producers;
- to build up a network for cooperation between vocational training and further training centres in the sector;
- to provide scholarships for studies and research work;
- to provide initial and further training in the field of picture and sound engineering, etc.

(1) Information resulting from an international survey. International Federation of Journalists.

3.2.3. The Committee would stress the need to promote broad-based training programmes capable of adapting to changing media needs. The role of the European Vocational Training Centre (CEDEFOP) in preparing common 'occupational descriptions' and 'profiles' as a 'reference framework' for mutually recognized jobs in the European media should also be highlighted.

### 3.3. *Participation*

3.3.1. In all this, account should be taken of the constructive role which both workers, directly involved in the media industry, and consumers, as recipients of the services provided, can play. As the media develops and undergoes sweeping technological changes, freely negotiated contractual solutions, based on proper information and consultation and backed by basic social rights, offer the best prospects of harmony and change by consensus, necessary for the long-term adaptability and survival of the European audio-visual industry.

3.3.2. Such a long-term view must likewise involve a more sensitive attachment towards 'responsible', 'loyal' viewers, building up a sense of real involvement in and allegiance to European stations and programmes. In short a new cultural/media 'social dialogue' needs to be instituted both at European and other appropriate levels in order to promote a healthy, economically-viable and socially-responsible, modern European audio-visual industry.

## 4. *Conclusions*

In order to help work toward such a socially-responsible modern European audio-visual industry, and having regard to the fact that, if it is to be effective, a mass media policy needs financial, credit and fiscal policies at national and Community level, the Committee would highlight and draw the attention of the EC authorities to the following points and proposals:

4.1. The European Convention on Transfrontier Television should be ratified by all EC Member States as early as possible.

4.2. Regulatory bodies need to involve the public more, both as regards their composition and accountability and viewing preferences spurred by more choice and awareness of European culture.

4.3. Press freedom, freedom of expression and more open access to information are of vital importance in order to ensure such awareness, choice and plurality of view.

4.4. A percentage 'European airtime', based on quota systems, viewer-led quality grading techniques and fiscal incentives must be applied in order to offer positive support for the rich diversity of indigenous European programmes.

4.5. An EC-wide effort must be made in order to ensure adequate threshold limits for advertisements and monitor their quality and contents (hopefully in line with the percentages indicated in the Council Directive) and also to try to regulate commercial breaks in works of cultural value, primarily through self-regulation.

4.6. A more substantial and widespread EC fund should be set up to help sponsor European or transfrontier film and TV productions, together with similar media workshops and public access channels, building on the current 'MEDIA' and ECTVY funds for audio-visual multilingualism.

4.7. Local broadcasting stations and productions catering for the needs and cultures of ethnic minorities living in the EC should also be promoted, particularly through an integrated programmes approach.

4.8. Extra aid is needed for gearing programmes to specific language areas, for making programmes available in more than one language, and for 'lingua franca' programmes.

4.9. Appropriate measures are needed to prevent media monopolies and to control media mergers. The Commission ought to set down more clearly the limits to cross-ownership and media monopolization, notably through

measures requiring transparency of financial transactions and disclosure of holdings.

4.10. A European Media Observatory could be set up to monitor and help restrain such economic concentrations, and to help promote freedom of information, cultural pluralism and equal opportunities as regards training and employment.

4.11. Accompanying EC measures to guarantee minimum protection for professional standards, ethics, editorial autonomy and freedom of conscience for all journalists and employees involved in the media are also urged.

4.12. Likewise, EC instruments are needed in order to ensure basic collective contractual rights and social insurance cover for employees involved in the media, and to ensure that transnational corporations respect existing acquired rights and relevant international labour conventions.

4.13. It is essential to involve employees and their trade union representatives in determining the contents of new media training programmes.

4.14. The 'social dialogue' needs to be extended to the cultural and media sectors, both at European and other appropriate levels, involving employees and the public.

4.15. The Commission should provide EC-wide employment statistics concerning the cultural audio-visual sector.

4.16. The Committee would urge the Commission and other EC institutions and bodies to consider and follow-up the proposals made with appropriate actions and initiatives.

Done at Brussels, 20 December 1989.

*The Chairman*  
*of the Economic and Social Committee*  
Alberto MASPRONE

**Opinion on the proposal for a Council Regulation (EEC) concerning minimum standards for the protection of calves kept in intensive farming systems <sup>(1)</sup>**

(90/C 62/13)

On 5 July 1989, 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 Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 30 November 1989. The Rapporteur was Mr Storie-Pugh.

At its 272nd Plenary Session (meeting of 20 December 1989) the Economic and Social Committee adopted the following Opinion by 62 votes to 22 against and 15 abstentions:

### 1. Introduction

The Committee recognizes the Commission's commitment to ensure that common minimum standards for the protection of calves in intensive farming systems are applied throughout Member States in order to avoid distortion of trade and facilitate the completion of the internal market as well as ensuring the welfare of calves.

The Committee is also aware that the existing single-pen system for rearing veal calves can be criticized for many reasons.

The Commission's proposals are welcomed and supported. As a contracting party to the European Convention on the Protection of Animals Kept for Farming Purposes, it is necessary for the Commission's proposals to ensure that the Convention's principles and provisions are fully implemented. The Committee is satisfied that scientific data and practical farm experience support the Commission's proposals. Whilst seeing the positive aspects of the Commission's proposals, the Committee also considers that systematic and hasty implementation of all the provisions may raise practical problems, especially economic consequences for farmers. However it also recognizes that problems will be caused for many farmers using unacceptable production systems and that these problems should be alleviated as far as possible. The Committee also recognizes that stockmanship is an important factor in ensuring both the health and welfare of calves in all husbandry systems. A technological aid to maintaining high standards of stockmanship would be the introduction of computerized husbandry systems which are becoming available for group-housing of calves.

### 2. General comments

2.1. The Committee agrees with the timetable that the Commission proposes and, in particular, the review

proposed in Article 6. This will allow the rational incorporation, without delay of new research findings to improve the conditions under which housed calves are kept without undue disruption of production.

2.2. It is recognized that recent studies have indicated that the morbidity and mortality rates in some group-housing systems are higher than those in single-pen systems. However it was concluded that the primary reason was an inadequate level of the management leading to a failure to detect illness at an early stage rather than an inherent defect in the system.

2.3. The change from individual to group-housing of calves will require a high level of stockmanship. It is felt that the Commission should actively encourage Member States to set up training and educational schemes whereby farmers can acquire the new knowledge and skills necessary for calves in group-housing systems to be properly managed.

### 3. Specific comments

3.1. The provision of Article 3 (1) b and the Annex be amended in accordance with the procedure laid down in Article 10 in order to take account of scientific developments until 1 January 1994 at least, calves may be kept either in group housing or individual boxes.

3.2. A new Article to be inserted between the present Article 7 and Article 8 to make the following point:

‘The draft Regulation is not clear in regard to enforcement. It is important that Member States should be required to provide for adequate sanctions for the contravention of the Regulation.’

3.3. *Article 11.*

The exact meaning should be clarified so as to avoid ambiguity.

<sup>(1)</sup> OJ No 143, 9. 6. 1989, p. 6

#### 4. Annex

##### 4.1. Point 6. Reword as follows:

'Calves shall not be kept permanently in darkness. Either artificial or natural lighting shall be provided for at least eight hours daily. Artificial lighting shall be available and of sufficient intensity to inspect the calves at any time.'

##### 4.2. Point 9

There was concern about the problem of a small percentage of calves in group-housing systems which persisted with aberrant behaviour. Therefore the second sentence should be re-worded as follows:

'Any calf which appears to be ill or injured or behaving abnormally to the detriment of other calves shall be treated appropriately without delay.'

##### 4.3. Point 9

Paragraph 2. The first words 'veterinary advice' amended as follows:

'Advice from a veterinarian shall be.....'

##### 4.4. Point 13

For clarification the second sentence should be re-worded as follows:

'No floor including slatted, perforated or gridded floors shall cause injury or strain to calves standing or lying on it.'

##### 4.5. Point 14

The provision of colostrum for new-born calves within the first six hours of birth is considered to be so important for

their future health and welfare that some reference to this matter should be made. It was also recognized that there were practical difficulties in enforcing this necessary practice, although a field test is available which can monitor the immune status of the calf prior to its entry into the rearing unit.

It was recommended that this paragraph should begin with the words:

'All calves should have received colostrum and shall be provided.....'

A new penultimate sentence should be introduced:

'Iron shall be administered by injection when a calf is found to have an iron deficiency within ten days of birth.'

##### 4.6. Point 16

Liquid milk replacer will not provide sufficient water for the calf's needs under all circumstances particularly if roughage is being added to the diet. The provision of roughage is important for the welfare of the calf and practical experience has shown that there are types of digestible fibre available which do not affect the colour of the meat. It is felt that 100 gm is an inadequate amount for the older calf as it will not provide for its behavioural needs and could lead to abnormal behaviour. This should be re-worded as follows:

'Each calf shall have access to adequate fresh potable water at all times and after the age of two weeks shall have daily access to at least 100 gm of dry food containing digestible fibre. This shall be increased to at least 200 gm after the age of six weeks.'

Done at Brussels, 20 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE



## APPENDIX 1

The following Members or their representatives voted in favour of the Opinion:

**Mr/Mrs/Miss**

ALEXOPOULOS, ASPINALL, BERGER, BERTON, BODDY, BOISSEREE, BORDES-PAGES, BOS, BREDIMA-SAVOPOULOU, BRIGANTI, BROICHER, CAMPBELL, CHRISTIE, CORELL AYORA, CORTOIS, COYLE, van DAM, DODD, DRILLEAUD, van EEKERT, ETTY, EULEN, FLUM, FREEMAN, GARDNER, GERMOZZI, GREEN, HANCOCK, HÖRSKEN, HOVGAARD JAKOBSEN, JASCHICK, KAZAZIS, KENNA, KIRCHFELD, KRÖGER, LAPPAS, LÖW, MEYER HORN, MORELAND, MUHR, MUNIZ GUARDADO, MURPHY, NETO DA SILVA, NIERHAUS, NOORDWAL, PARDON, PETERSEN, PETROPOULOS, PROUMENS, QUEVEDO ROJO, RIERA MARSÀ, ROBINSON, ROLÃO GONÇALVES, ROSEINGRAVE, SALMON, SPEIRS, STORIE-PUGH, TAMLIN, TERMES CARRERO, TIEMANN, TUKKER, YVERNEAU.

The following Members or their representatives voted against the Opinion:

**Mr/Mrs/Miss:**

BENTO GONÇALVES, BERRETA, BERNS, Vasco CAL, CAVAZZUTI, DE TAVERNIER, DONCK, DRAGO, ELSTNER, FRESI, LIVERANI, LUCHETTI, MACHADO VON TSCHUSI, MAINETTI, MANTOVANI, MARGALEF MASIA, MAYAYO BELLO, MORSELLI, SANTILLAN CABEZA, SCHNIEDERS, WICK, WILLIAMS.

The following Members or their representatives abstained:

**Mr/Mrs/Miss**

ARENA, ARETS, BAGLIANO, CEBALLO HERRERO, CEYRAC, COLLAS, MORALES, MULLER, PELLETIER Robert, PERRIN-PELLETIER, RAMAEKERS, RIBIERE, SCHOEPGES, WAGNER, WALDACK.

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**Opinion on the proposal for a Council Regulation (EEC) concerning minimum standards for the protection of pigs kept in intensive farming systems <sup>(1)</sup>**

(90/C 62/14)

On 5 July 1989, 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 Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 30 November 1989. The Rapporteur was Mr Storie-Pugh.

At its 272nd Plenary Session (meeting of 20 December 1989) the Economic and Social Committee adopted the following Opinion by 57 votes to 30 against and 15 abstentions:

The Committee supports the proposal of the Commission concerning minimum standards for the protection of pigs kept in intensive farming systems and makes a number of recommendations, but considers that some of the Commission's proposals appear unnecessary for the majority of pig farmers who are responsible and provide for the physiological requirements of pigs.

### 1. General comments

1.1. There is a considerable concern about the welfare problems caused by the keeping of sows in stalls with or without tethering on a continuous basis.

1.2. The pig is a social-living animal with a natural urge to explore. Systems of extreme restraint which may characterize stalls and tethers can cause stress, and lead to stereotyped behaviour and other problems.

1.3. However, it is also recognized that some group-housing systems could also lead to welfare problems such as vulva-biting and excessive fighting which is mainly associated with feeding activities.

1.4. Although research is being carried out to solve the problems posed by group-housing it was not yet so far advanced that a definite recommendation could be made to prohibit the use of sow stalls and/or tethers in favour of the group-housing systems.

1.5. The Committee considers that the criticism which has been expressed over the keeping of sows in stables or tethers is exaggerated though it may be that such a recommendation might be possible following the Commission report due before 1 January 1994. In the meantime both systems should be allowed.

1.6. The Committee supports the policy of the Commission to propose legislation on a proven factual and scientific basis in this area.

### 2. Specific comments

#### 2.1. Article 1

Concern was expressed about the legal status of the Annexes and it is recommended that Article 1 should make it clear that the Regulation includes the Annexes.

#### 2.2. Article 2 (3), boar

There is concern that some boars, particularly, those used as 'teasers' are kept in inadequate conditions and should therefore be included in this definition.

Proposed new wording:

'Boar: a male pig after puberty, intended for breeding procedures'.

#### 2.3. Article 2 (6)

Proposed new wording:

'Farrowing sow: a sow between the start of the perinatal period and weaning the piglets'.

#### 2.4. Article 3 (1) (a)

This section encourages the farmer to consider the behavioural requirements of the sow but it should be made clear that exercise must take place in a properly constructed or free range area.

#### 2.5. Article 3 (1) (b)

Concern was expressed that these space allowances would need to be increased if they referred to the total floor area available to the pig. They were adequate, however, if applied to the lying area only. Therefore new wording for the introductory sentence:

'The unobstructed floor area available to each weaner or rearing pig for lying purposes and separate from the dunging area, shall not be less than...'

<sup>(1)</sup> OJ No C 143, 9. 6. 1989.

2.6. *Article 3 (2)*

Add the new sentence:

'Consideration should be given to extending the date of 1 January 1999 to 1 January 2005 if the economic consequences for pig farmers are shown to be too severe.'

2.7. *A new article to be inserted between present Article 7 and Article 8 to make the following point:*

The draft Regulation is not clear in regard to enforcement. It is important that Member States should be required to provide for adequate sanctions for contravention of this Regulation.

2.8. *Article 8 (3)*

Any inspections carried out should not lead to any increased risk of spreading disease.

The paragraph should be re-worded:

'General rules for the application of this Article, particularly with regard to proper precautions to prevent the spread of disease, shall be adopted in accordance with the procedure laid down in Article 10.'

2.9. *Article 11*

The exact meaning should be clarified to avoid ambiguity.

3. **Annex A***General conditions*3.1. *Paragraph 6*

Re-word as follows:

'Pigs shall not be kept permanently in darkness. Either artificial or natural lighting shall be provided for at least eight hours daily. Artificial lighting shall be available and of sufficient intensity to inspect the pigs at any time.'

3.2. *Paragraph 9, second sentence*

For clarification the first part of this sentence should read

'Advice from a veterinarian shall be...'

3.3. *Paragraphs 11 and 12*

One of the important behavioural requirements of pigs is to have an area for lying or sleeping which is separate from the area used for dunging. It is obvious that the tethering system cannot provide for separate lying and dunging areas. Only when group-housing systems replace tethering can the requirements laid down in paragraphs 11 and 12 of the Commission's proposals be satisfied.

3.4. *Paragraph 14*

Between 'Floors shall be' and 'smooth' insert the words:

'constructed and maintained so as to be'.

3.5. *Paragraphs 15 and 16*

There is concern that the feeding of sows, even twice daily, does not lead to the natural hunger of the sow being satisfied. It should be possible to ensure that the type of food used contains enough bulk to satisfy the feeling of hunger.

3.6. *Paragraph 17*

The requirement for water depends on various factors such as milk yield of the sow, environmental temperature etc. and some pigs may need water earlier than two weeks of age.

It is proposed that the age at which all pigs shall have access to water be reduced from two weeks to one week.

3.7. *Paragraph 20*

It is accepted that alternative material to straw must be referred to in this paragraph. Nevertheless emphasis should be made on the fact that straw is the best material to satisfy the behavioural needs of the pig.

4. **Annex B**4.1. *I Boars 1*

Proposed additional wording:

'Boar pens shall be sited and constructed so as to allow the boar to turn around, have the sound, smell and sight...'

This is important not only for the welfare of the boar but also for semen production and quality, male libido etc.

4.2. *I Boars 2*

Concern is expressed about the minimum pen size of 6 m<sup>2</sup> as this would appear to be adequate for only very small boars. The pen should be designed so that the boar can turn around in both the lying and dunging area.

Therefore it is proposed that this should be 8 m<sup>2</sup>.

**4.3. IV Piglets 3; second line**

Insert 'other supplements' between 'necessary' and 'electrolytes'.

**4.4. IV Piglets 5**

Recent research has shown that boar taint can be identified by examining carcasses at slaughterhouses. Boar taint is only present in a small percentage of uncastrated pigs but can be found occasionally in pigs of only 40 kilos in weight and even although rare, in female pigs. It is well known that castration is an economically wasteful exercise as well as painful and distressing to the pig.

Consideration should be given to prohibiting castration of pigs altogether although if it is to be allowed then it must never be carried out without anaesthesia unless the pig is less than four weeks of age. Whilst not disagreeing with the Commission's intention, doubt was expressed whether this recommendation is in the correct place in the legislation framework.

**4.5. IV Piglets 6; second paragraph**

Re-word:

'Only the tips of the teeth and the tails may be removed and within three days of birth'.

Done at Brussels, 20 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

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**APPENDIX 1**

The following Members or their representatives voted in favour of the Opinion:

**Mr/Mrs/Miss:**

ASPINALL, BERGER, BERTON, BLESER, BODDY, BOISSEREE, BOS, BROICHER, CHRISTIE, CORTOIS, COYLE, van DAM, DODD, van EEKERT, ETTY, EULEN, FLATHER, FLUM, FREEMAN, GEUENICH, GIACOMELLI, GREDAL, GREEN, HANCOCK, HILKENS, HÖRSKEN, HOUTHUYS, JASCHICK, KENNA, KIRCHFIELD, KRÖGER, LAPPAS, LÖW, MEYER HORN, MORELAND, MURPHY, NETO da SILVA, ORSI, PEARSON, PETERSEN, PROUMENS, RANGONI-MACCHIARELLI, ROBINSON, ROLÃO GONÇALVES, ROMOLI, ROSEINGRAVE, SALMON, SANTILLAN CABEZA, SCHMITZ, STORIE-PUGH, TAMLIN, TELLES, TIEMANN, VANDEN BROUCKE, VERCELLINO, YVERNEAU, ZUFIAUR NARVAIZA.

The following Members or their representatives voted against the Opinion:

**Mr/Mrs/Miss:**

APARICIO BRAVO, ARETS, ATAIDE, BENTO GONÇALVES, BERETTA, BERNS, VASCO CAL, CAVAZZUTI, COLLAS, ALVES CONDE, DE TAVERNIER, DONCK, DOS SANTOS, ELSTNER, GARCIA MORALES, LIVERANI, LUCHETTI, MACHADO VON TSCHUSI, MAINETTI, MANTOVANI, MARGALEF MASIA, MAYAYO BELLO, PARDON, PELLETIER Robert, SCHNIEDERS, SOLARI, VELASCO MANCEBO, VIDAL, WICK, WILLIAMS.

The following Members or their representatives abstained:

**Mr/Mrs/Miss:**

CEYRAC, DELLA CROCE, GOMEZ MARTINEZ, HOVGAARD JAKOBSEN, KAZAZIS, MARGOT, MORALES, MULLER, RIBIERE, SCHNITKER, SCHOEPGES, SCHWEITZER, VALLEJO CALDERON, WAGNER, WALDACK.

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**Opinion on the proposal for a Council Decision on financial aid from the Community  
for the eradication of African Swine Fever in Sardinia <sup>(1)</sup>**

(90/C 62/15)

On 14 November 1989, 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 Economic and Social Committee decided to appoint Mr Storie-Pugh as Rapporteur-General with the task of preparing its work on the subject.

At its 272nd Plenary Session (meeting of 20 December 1989) the Economic and Social Committee adopted the following Opinion by 56 votes to nil against and four abstentions:

### 1. General comments

1.1. Sardinia is one of the last reservoirs of infection with African Swine Fever within the Community. Outbreaks in the western hemisphere have been contained usually by the slaughter of the entire pig population at great cost. Financial measures given in 1980 to aid in the eradication of the disease in Sardinia were unsuccessful.

1.2. The Commission proposes the financial underpinning and supervision of a plan to be drawn up by the Italian veterinary authorities, such a plan to be based upon the criteria which are laid down in the proposal. For this approach to be successful it has to be appreciated that the problem is as much a socio-economic one as a veterinary one.

1.3. Such difficulties include:

- a shortage of political will to eradicate ASF;
- a failure to obtain the necessary cooperation of farmers in the past and other involved interests;
- the systems of pig husbandry prevailing.

1.4. The criteria laid down by the Commission are scientifically sound and have the support of the Committee but the scheme will only give positive results if:

- (a) The full cooperation is obtained by all parties concerned in Sardinia for example the pig breeders, the mayors of affected communes, the local sanitary units and the regional veterinary director;
- (b) To obtain the cooperation of the farmers it is essential that payments for compensation are in fact paid immediately the affected pigs are destroyed;
- (c) The ban on the free grazing of pigs should be removed and financial support given from the FEOGA for the restructuring of the pig industry if the pig industry in Sardinia is to have any long term value;

(d) The plan should have central coordination rather than regional control, if it is to be carried out with vigour. It might be a positive step to create a strong specialist unit to coordinate the disease eradication measures;

(e) The control of classical swine fever should not be allowed to complicate the issue. To obtain farmer's cooperation the role of vaccination should be examined, possibly allowed in the short term but eventually to be discontinued;

(f) In the medium term there is a need for a proposal for horizontal legislation giving harmonized Community rules for ASF.

### 2. Specific comments

#### 2.1. Article 2 2. (a)

It must be made clear in the text that the eventual aim is the systematic testing of all pig farms.

#### 2.2. Article 2 2. (d)

The movement of pigs must be under efficient and strict veterinary control.

#### 2.3. Article 2 2. (e)

Re-word as follows:

'serological testing of all pigs at the time of their slaughter.'

<sup>(1)</sup> OJ No C 327, 30. 12. 1989, p. 54.

**2.4. Article 2 4.**

It is important that under the term 'facilities' it should be understood that adequate funds are made available in particular for the provision of effective installations for the bleeding of pigs, since the whole scientific basis of the scheme is the serological testing of the population.

Done at Brussels, 20 December 1989.

**2.5. Article 3**

This is vital, but the identification system must be seen to be applied rigorously throughout the pig population.

*The Chairman*

*of the Economic and Social Committee*

Alberto MASPRONE

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**Opinion on the proposal for a Council Directive amending Directive 85/511/EEC introducing Community measures for the control of foot and mouth disease <sup>(1)</sup>**

(90/C 62/16)

On 14 November 1989, 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 Economic and Social Committee decided to appoint Mr Storie-Pugh as Rapporteur-General with the task of preparing its work on the subject.

At its 272nd Plenary Session (meeting of 20 December 1989) the Economic and Social Committee adopted the following Opinion by 70 votes to nil against with two abstentions:

**1. General comments**

1.1. The Committee welcomes the Commission's proposal without comments and is in full agreement with a non-vaccination and slaughter policy, vaccination only being used as an emergency measure in extreme situations.

1.2. It is considered that the elimination of foot and mouth disease vaccination is a practical step to rid the Community of this disease. It will be of cost-benefit, cheaper and safer to the Community since the only alternative is panvaccination. Certainly it is considered that the present system cannot go on if trade in animals is to be liberalized in the Community.

1.3. The Committee notes that provisions will be made, by means of separate measures:

- in respect to trade with third countries,
- in respect to the establishment of vaccine reserves,
- in respect to financial support concerning slaughter and destruction.

Done at Brussels, 20 December 1989.

*The Chairman*

*of the Economic and Social Committee*

Alberto MASPRONE

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<sup>(1)</sup> OJ No C 327, 30. 12. 1989, p. 84.

**Opinion on the proposal for a Council Directive amending Directive 88/407/EEC laying down the animal health requirements applicable to intra-Community trade in and imports of deep-frozen semen of domestic animals of the bovine species <sup>(1)</sup>**

(90/C 62/17)

On 14 November 1989, 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 Economic and Social Committee decided to appoint Mr Storie-Pugh as Rapporteur-General with the task of preparing its work on the subject.

At its 272nd Plenary Session (meeting of 20 December 1989) the Economic and Social Committee adopted the following Opinion unanimously:

**1. General comments**

1.1. The Committee is in agreement with the Commission's proposal to amend Directive 88/407/EEC.

1.2. The aim of the proposal is to amend Council Directive 88/407/EEC (OJ No L 194 of 22. 7. 1988, p. 10) which lays down the animal health requirements applicable to intra-Community trade in deep-frozen semen of domestic animals of the bovine species.

1.3. As difficulties have arisen in the implementation of the Directive by the Member States, it has become necessary to make certain changes with regard, in particular, to the tests applicable to bulls entering semen collection centres and the content of the health certificate accompanying consignments of semen.

1.4. The Committee further welcomes the amendment to the certificate providing for the different policies available to Member States in respect of IBR/IPVV and Foot and Mouth. This is a realistic and practical approach.

1.5. Regarding IBR/IPVV, the possibility of derogation in respect of vaccination makes the application of entry and annual tests for these diseases unrealistic.

**2. Specific comments**

**2.1. Article 1 (2) (New Article 17)**

The Committee welcomes the proposal to amend the Annexes under the SVC procedure 'to adapt them to advances in technology'.

**2.2. Article 1 (3) and (4)**

The opportunity to delete the contre filet clause in Article 18, paragraph 4 and Article 19, paragraph 4 is realistic given the nature of the subject.

**2.3. Article 1 (5)B, Annex Chapter II.1.(v)**

It is sensible and practical to limit tests for *campylobacter phoetus* to bulls in production only.

Done at Brussels, 20 December 1989.

*The Chairman*  
*of the Economic and Social Committee*  
Alberto MASPRONE

<sup>(1)</sup> OJ No C 327, 30. 12. 1989, p. 39.

**Opinion on the:**

- proposal for a Council Regulation (EEC) on animal health conditions governing intra-Community trade in and import from third countries of live *equidae*
- proposal for a Council Regulation (EEC) on the zootechnical and genealogical conditions governing intra-Community trade in *equidae*
- proposal for a Council Regulation (EEC) on intra-Community trade in *equidae* intended for participation in competitions <sup>(1)</sup>

(90/C 62/18)

On 14 November 1989, the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the abovementioned proposals.

The Economic and Social Committee decided to appoint Mr Storie-Pugh as Rapporteur-General with the task of preparing its work on the subject.

At its 272nd Plenary Session (meeting of 20 December 1989) the Economic and Social Committee adopted the following Opinion unanimously:

The Committee welcomes the three proposals for Council Regulations concerning *equidae*, subject to the following observations:

**1. General comments**

1.1. The first of the three draft Regulations establishes common rules of veterinary protection of *equidae* and the two other draft Regulations intend to promote their breeding and rearing. Such measures constitute an important part of agricultural policy by helping the breeders in several rural areas of the Community to develop an important activity with economic and commercial prospects especially in the field of breeding and rearing purebred horses and ponies.

1.2. Nevertheless the Committee stresses the need for complementary measures to develop the market for these animals by the promotion of sporting activities and by training of the personnel involved in the early stages of the horse's schooling. The professionals involved should be enabled to improve the performance, and hence the value, of the horse before the animal enters commercial circulation. Another contribution would be the re-introduction of the use of horses especially in forestry in order to decrease the use of damaging machinery.

1.3. The measures are also important to safeguard the continuation of certain breeds of purebred horses and ponies which would otherwise be condemned to disappear, although they represent a zoological and even cultural heritage for certain regions of the Community. Encouragement to breeders by the giving of Community incentives out of e.g. the Social Fund or a premium (c.f. that given for cows in upland areas) could help to prevent the abandoning of breeding because the breed is not widely known and is underestimated by the Community.

**2. Specific comments**

2.1. *Regulation on animal health conditions governing intra-Community trade in and import from third countries of live equidae*

2.1.1. In respect of Article 1, paragraph 2 (a), the Committee is of the view that the following words be deleted:

First indent, 'along roads situated near internal borders of the Community',

Second indent, 'organized by local riding clubs situated near internal borders of the Community'.

Limiting the transportation of horses or ponies to areas near internal borders must be considered as counterproductive to the objectives of Regulation 3. This objective aims to encourage Community wide *equidae* sporting events. Otherwise Community horses are at a disadvantage compared to third country horses [see Article 2(h)].

2.1.2. Concerning the Regulation on animal health conditions, Article 2(b), the Committee observes that the German version should be enlarged and adapted to the English and French versions so that ponies are considered as one of the equine species.

2.1.3. Although the Committee is aware that African Horse Sickness is covered as a notifiable disease of the Community legislation, it is of the opinion that it should also be included in Annex A [see Article 2(f)].

2.1.4. Article 10: The Committee agrees with the positive list of third countries allowed to export horses into the Community, the list of such countries being established through the Regulatory Committee procedure. The Committee asks that the EFTA countries be considered as a priority for compulsory inclusion in this list.

<sup>(1)</sup> OJ No C 327, 30. 12. 1989, p. 61.



2.2. *Regulation on the zootechnical and genealogical conditions governing intra-Community trade in equidae*

2.2.1. The Committee recognizes that this proposal follows the broad lines of the 'Proposal for a Council Regulation laying down zootechnical and pedigree requirements for the marketing of purebred animals' <sup>(1)</sup>.

2.2.2. Having regard to the essential character of the general criteria for the approval of breeding organizations and associations, as well as the registration in studbooks provided for in Article 4 (b) and (c), to avoid discrimination the Committee opines that such criteria be established within the Regulation and could be modified if necessary following the Advisory Committee procedure foreseen in Article 11.

2.2.3. Concerning the identification of equine species, dealt with in Article 4 (a) and Article 6, the Committee believes that the name of the horse or pony is not the best guarantee to prevent unfair practices. More reliable

<sup>(1)</sup> OJ No C 56, 6. 3. 1989, p. 25.

Done at Brussels, 20 December 1989.

identification procedures should be provided for under Article 6, such as tattooing, blood tests and complete description of the exterior of the animal.

2.3. *Regulation on intra-Community trade in equidae intended for participation in competitions*

2.3.1. Article 3

The Committee would prefer the title of this Regulation to be restricted to horses and ponies (see the German version). The essential provision contained in Article 3 consists of an anti-discrimination clause for the participation in competitions of horses and ponies registered or originated in another Member State. Therefore the definition of the competitions to which this anti-discrimination rule applies should be as wide as possible, and Article 2 in the French and German versions enlarged so that combined competitions be included for riding and driving and in fact to include all kinds of horse show and other events involving horses such as bullfighting events. In this respect the Committee draws attention to the English version which already contains the mention of eventing.

*The Chairman*

*of the Economic and Social Committee*

Alberto MASPRONE

**Opinion on the proposal for a Council Regulation (EEC) on animal health conditions governing the placing of rodents on the market in the Community <sup>(1)</sup>**

(90/C 62/19)

On 14 November 1989, the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the above mentioned proposal.

The Economic and Social Committee decided to appoint Mr Hancock as Rapporteur-General with the task of preparing its work on the subject.

At its 272nd Plenary Session (meeting of 20 December 1989) the Economic and Social Committee adopted the following Opinion:

**1. Introductory remarks**

1.1. This Regulation effectively endeavours to control the trade in rodents, in this context rabbits, hares, rats, mice, hamsters, gerbils etc., both from Community and third country sources.

1.2. One of the major reasons for the introduction of control measures is the trade in live rabbits. One Community Member State sold no less than 3 200 tonnes of

live rabbits to other Member States in 1987 and a further 5000 tonnes was imported from third countries.

1.3. At present there is no Community wide control procedure, something that requires attention because of the elimination of border controls at the end of 1992.

**2. General comments**

The general intent of this Regulation is approved. In support of this it must be pointed out that the major

<sup>(1)</sup> OJ No C 327, 30.12.1989, p. 57.

portion of the trade in certain rodents, particularly rats and mice, involves the supply to laboratories for experimental purposes and that these supplies have to meet additional stringent safeguards imposed by the laboratories themselves.

### 3. Specific remarks

#### 3.1. Article 4

3.1.1. In some language versions there is an error in translation. The reference to 'official veterinarian' should read 'official veterinary service'.

3.1.2. The list of diseases to be officially reported is approved as far as it goes but it would be preferable to make these notifiable diseases as, in the absence of sanctions, this provision will be difficult to enforce.

3.1.3. In that both rabies and tularemia are rarely found in the domestic animals covered in this Regulation, it is recommended that two equally serious diseases, salmonellosis and leptospirosis, be added whilst taking account of the practical difficulties involved in testing. Both are capable of transmission to bovine animals, pigs and humans.

3.1.4. There would appear to be a conflict between the provisions of this Regulation and that concerning game and rabbit meat [COM(89) 496 final]. Article 4 of the latter regulation specifies that no rabbit may be slaughtered that is showing clinical signs of disease. This is far more stringent than these provisions and effectively would mean that animals could be shipped legally if they showed signs of diseases other than those listed in this draft Regulation but could not then be slaughtered.

#### 3.2. Article 5

3.2.1. Article 5 (2) is too imprecise regarding the period during which movement is prohibited. The first sentence should be amended to read:

'The period of prohibition after the last recorded case has died or been slaughtered and where the other animals of all susceptible species have not been

slaughtered and that premises have not been disinfected, must be at least:'.

3.2.2. Whilst the chance of rabies occurring in these domestic species is slight, if rabies is to be included in the list of diseases covered then, a prohibition period of one month is clearly insufficient in that there could be an incubation period of several months.

3.2.3. The prohibition periods for salmonella and leptospirosis should be two months in each case.

#### 3.3. Article 6

3.3.1. It is recommended that urgent studies be carried out to see if any of the species covered could be susceptible to contracting haemorrhagic disease. Should this be the case a total prohibition of the movement of wild rodents of such species from any territory in which this disease has already occurred, domestically or in the wild, should be imposed and provision made for similar action in the future in the case of its spreading further.

3.3.2. It must be pointed out that it will be extremely difficult for any competent authority to certify that any of the notifiable diseases are absent from the wild rodent population of its administrative territory. The Article, as drafted, may therefore have very little practical effect.

#### 3.4. Article 7

3.4.1. By inference, draft Regulation COM(88) 383 was supposed to provide the procedures referred in this Article, once it had been approved by the Council. Now that all reference to live animals has been deleted from it there is a need to consider what checks and safeguarded measures should be applied. When the draft Regulation has been amended accordingly the Economic and Social Committee would feel it logical for it to be further consulted.

#### 3.5. Article 10

Add at the end of the first paragraph

'or 1 July 1992 whichever is the later'.

3.6. It is noted that no provision is made for assistance to be provided to the Commission by the Standing Veterinary Committee. It is recommended that this be included in the Regulation.

Done at Brussels, 20 December 1989.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

**Opinion on the proposal for a Council Decision introducing a Community financial measure for the eradication of brucellosis in sheep and goats <sup>(1)</sup>**

(90/C 62/20)

On 14 November 1989, 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 Economic and Social Committee decided to appoint Mr Hancock as Rapporteur-General with the task of preparing its work on the subject.

At its 272nd Plenary Session (meeting of 20 December 1989) the Economic and Social Committee adopted the following Opinion unanimously:

**1. Introductory remarks**

1.1. Brucellosis melitensis infection is a serious disease causing severe financial losses to farmers and flock owners and can infect humans, sometimes with fatal results.

1.2. The disease has been eliminated in seven Member States and now only exists in France, Greece, Italy, Spain and Portugal.

1.3. Whilst animals can be vaccinated this does not totally prevent abortion nor the spread of the disease. Thus slaughter is the only policy that can provide a lasting solution.

1.4. In that farmers are being forced to diversify their activities and the best long wool breeds and heavy milkers originate in the areas now subject to brucellosis, failure to eradicate would cause both economic disadvantage and a barrier to free movement within the Community.

**2. General remarks**

The general objectives of this proposed Regulation are consequently approved.

**3. Specific remarks**

**3.1. Article 2**

As the official brucellosis test, whilst the best presently available, is not as sensitive as might be desirable, the apparent intention of the Commission to have more research carried out into how this might be improved is to be welcomed.

**3.2. Article 3**

3(2) should specify that holders, testing laboratories, veterinary surgeons or other competent persons making a diagnosis should be jointly and severally responsible for making a compulsory notification; Member States should be urged to ensure that penalties for non-compliance are appropriate.

3.2.1. 3(5). There must be concern as to how the ban on the therapeutic treatment of a flock, i.e. with anti-biotics, can be properly monitored. It is hoped that there will be adequate national penalties for knowingly prescribing or using such medicaments in this context.

3.2.2. 3(9). Permanent marking of flocks (the post-Chernobyl marking of affected animals in the United

<sup>(1)</sup> OJ No C 327, 30. 12. 1989, p. 51.

Kingdom provides a precedent) is essential. Proper movement records must be kept and regularly monitored by the competent authority.

3.2.3. 3(10). Whilst it is agreed that where say 60 % of a flock is infected it is better to slaughter all the animals and start afresh, there is a problem in that, on occasion owners might find it financially advantageous to have other animals slaughtered so placing an unnecessary burden on Community funds. The avoidance of this will require that the technical details of the procedures to be carried out are precisely defined.

3.2.4. 3(13). Reference is made in indents 5, 6 and 7 to suitable heat treatment. The use of the term 'pasteurisation' would be preferable, whilst still leaving the decision

as to the appropriate method to be used to the national authorities.

Indent 8 states that parts of infected animals used as animal feed should be treated in such a manner as to 'avoid contamination'. The indent would be clearer if this were augmented by 'and render it brucella free'.

### 3.3. *Article 5*

5(5) is somewhat imprecise in that the number of clear tests required is not stated. It is suggested that the text should be amended to read:

'official brucellosis tests are carried out on the infected holding concerned to the extent necessary to confirm that the disease has been eliminated'.

Done at Brussels, 20 December 1989.

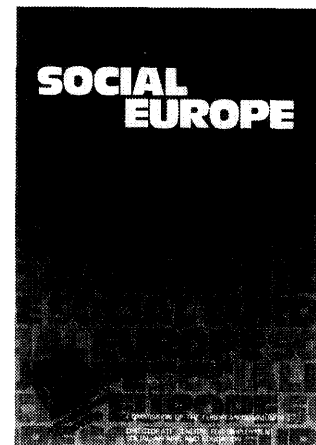
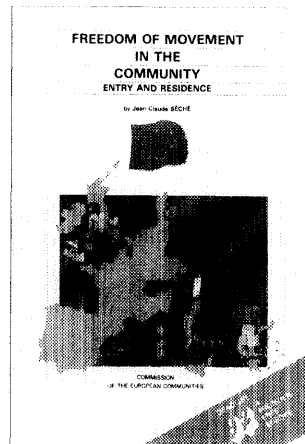
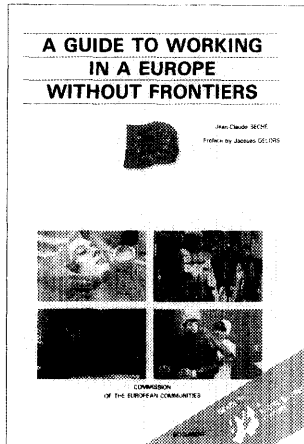
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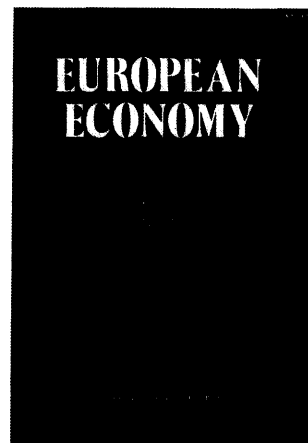
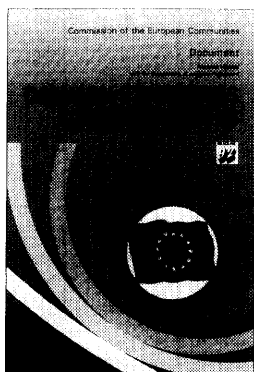
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