

# Official Journal

## of the European Communities

ISSN 0378 - 6986

C 53

Volume 34

28 February 1991

English edition

## Information and Notices

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<u>Notice No</u>	Contents	Page
	I <i>Information</i>	
	.....	
	II <i>Preparatory Acts</i>	
	Commission	
91/C 53/01	Proposal for a Council Decision adopting the annual economic report 1990/91 on the economic situation in the Community and determining the economic policy orientation for the Community in 1991 — annual economic report 1990/91 .....	1
91/C 53/02	Proposal for a Council Directive on a common system of taxation applicable to interest and royalty payments made between parent companies and subsidiaries in different Member States .....	26
91/C 53/03	Proposal for a Council Directive concerning arrangements for the taking into account by enterprises of the losses of their permanent establishments and subsidiaries situated in other Member States .....	30
91/C 53/04	Proposal for a Council Directive on rental right, lending right, and on certain rights related to copyright .....	35
91/C 53/05	Proposal for a Council Decision on the dissemination and exploitation of knowledge resulting from the specific programmes of research and technological development of the Community .....	39
91/C 53/06	Proposal for a Council Directive concerning the minimum requirements for the provision of safety and/or health signs at work .....	46
91/C 53/07	Proposal for a Council Decision setting up a programme for an information services market .....	65

Price: ECU 12

(Continued overleaf)

<u>Notice No</u>	Contents (continued)	Page
91/C 53/08	Proposal for a Council Decision on the LORAN-C radionavigation system . . . . .	71
91/C 53/09	Proposal for a Council Regulation (EEC) on the application of the Decision of the ACP-EEC Council of Ministers extending Decision No 2/90 on transitional measures to be applied from 1 March 1990 . . . . .	72
91/C 53/10	Proposal for a Council Decision extending Decision 86/283/EEC on the association of the overseas countries and territories with the European Economic Community . . . .	73
91/C 53/11	Amended proposal for a Council Regulation (EEC) on securities given by credit institutions or insurance undertakings . . . . .	74
91/C 53/12	Proposal for a Council Decision adapting Decision 87/516/Euratom, EEC concerning the framework programme of Community activities in the field of research and technological development (1987 to 1991) . . . . .	77
91/C 53/13	Proposal for a Council Decision amending Decisions 87/551/EEC, 87/590/EEC, 88/28/EEC, 88/279/EEC, 88/416/EEC, 88/418/EEC, 88/419/EEC, 88/521/EEC, 89/160/EEC, 89/236/EEC, 89/237/EEC, 89/413/EEC and 89/625/EEC, adopting specific programmes under the second framework programme of research and technological development . . . . .	79
91/C 53/14	Proposal for a Council Decision amending Decisions 88/448/Euratom, 88/522/Euratom, and 89/664/Euratom adopting specific programmes in the nuclear field under the second framework programme of research and technological development . . . . .	81

## II

(Preparatory Acts)

## COMMISSION

**Proposal for a Council Decision adopting the annual economic report 1990/91 on the economic situation in the Community and determining the economic policy orientation for the Community in 1991 — annual economic report 1990/91**

COM(90) 613 final

(91/C 53/01)

THE COUNCIL OF THE EUROPEAN COMMUNITY,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 90/141/EEC of 12 March 1990 on the attainment of progressive convergence of economic policies and performance during stage one of economic and monetary union, and in particular Article 4 thereof <sup>(1)</sup>,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

HAS ADOPTED THIS DECISION:

*Article 1*

The annual economic report 1990/91, annexed to the present Decision, is adopted, and the economic policy orientations for the Community put forward in the report are adopted.

*Article 2*

This Decision is addressed to the Member States.

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<sup>(1)</sup> OJ No L 78, 24. 3. 1990, p. 24.

## ANNUAL ECONOMIC REPORT 1990/91

THE EUROPEAN COMMUNITY IN THE 1990s:  
TOWARDS ECONOMIC AND MONETARY UNION

## CONTENTS

	Page
Introduction .....	3
<b>I. The short-term outlook clouded .....</b>	<b>4</b>
<b>A. Community growth tapers off in 1990 .....</b>	<b>5</b>
1. Growth slowing down in most countries .....	5
2. But strong German expansion continues .....	6
<b>B. An unfavourable international environment .....</b>	<b>7</b>
1. Economic consequences of the oil price rise .....	7
2. Slow growth in the United States of America and strong but decelerating growth in Japan ..	10
3. A slow-down in world trade .....	10
<b>C. The outlook for 1991 and 1992 .....</b>	<b>11</b>
<b>II. Economic policy tasks during stage one of economic and monetary union .....</b>	<b>11</b>
<b>A. Maintain stability and growth climate .....</b>	<b>12</b>
1. Avoid an inflation spiral .....	12
2. Safeguard the fundamental conditions for sustained and employment-generating growth .....	14
<b>B. The development of Community potential .....</b>	<b>15</b>
1. Complete the internal market .....	15
2. Improve economic and social cohesion .....	16
3. Structural adjustment and labour market flexibility .....	16
4. The environmental challenge .....	17
<b>C. Policies for improved convergence .....</b>	<b>18</b>
1. Price and cost convergence .....	18
2. Convergence of budgetary policies .....	20
3. Convergence of external positions .....	22

## THE EUROPEAN COMMUNITY IN THE 1990s: TOWARDS ECONOMIC AND MONETARY UNION

### INTRODUCTION

The Community embarked on stage one of economic and monetary union on 1 July 1990. The success of stage one will be crucial for the creation of EMU. To make stage one a success with less favourable short-term prospects for the Community economy requires a stronger coordination of policies to support sustainable growth and greater nominal and real convergence. Given the considerable adjustments needed to bring convergence at the best possible level, this process must be reinforced already now.

Facing the 1990s, the Community economy is in an ambiguous situation. On the one hand, the world economic climate is clearly deteriorating and the United States of America and the United Kingdom are even facing a recession. The Gulf crisis has added to uncertainties and inflation, and growth and investment are decelerating in many countries, particularly in those which were not able to control inflation sufficiently. World trade is slowing down, and the strongly falling dollar reduces the competitiveness of European Community industry. Although the less favourable growth prospects may bring the fall in unemployment temporarily to a halt, the Community can, on the other hand, have much more confidence in the underlying strength of its economy. In spite of the imminent slow-down in growth, the medium-term perspectives remain promising. There has been significant improvement in fundamental determinants of economic growth, and the prospects opened up by the expectation of an early completion of the internal market have imparted additional dynamism.

On the competitive world stage, the Community is still constrained by the fragmentation of its markets. It is precisely in order to secure its economic future that the Community has embarked on a programme to create a market of continental dimensions. That programme is already adding substantially to Community growth prospects. Crowning the completed internal market with a common currency in the near future will further bolster the positive mood of management. Great expectations have been created; they must not be frustrated. Member States need to speed up the implementation of the proposals contained in the White Paper to keep the deadline of 1 January 1993. In particular, the narrowing of differentials in indirect taxes is important for the successful elimination of border controls.

The second factor adding to medium-term growth prospects is the acceleration of the catching-up process in the less-favoured countries and regions. Above-average growth in those countries and regions, apparent in recent years, notably in Spain, Ireland and Portugal, has significantly

expanded the growth potential of the Community as a whole. In view of the existing gap, the catching-up process must be sustained by long term efforts. The countries involved will, despite the recent improvement of structural policies, the doubling of the Structural Funds and the simultaneous strengthening of the financial instruments, remain primarily responsible for their own development. To discharge this responsibility successfully, they must conduct their economic and social policies in a way that will provide the basis for strong and sustainable growth of real GDP, without inflationary pressure or unsustainable internal and external imbalances.

A vital macroeconomic condition for the success of the catching-up process and the internal market programme is the consolidation — and subsequent acceleration in a non-inflationary manner — of growth performances in the more advanced economies. In this respect, a solid consensus has emerged in the Community's economic policy: it centres on a supply side oriented further revitalization of Community growth performance in conditions of price stability. This is to be attained by way of stringency in monetary conditions, progressive consolidation of public finances, increased supply side flexibility, real wage moderation and strengthened coordination of policies within the context of multilateral surveillance of stage one.

Finally the recent East-West détente has important consequences for the medium-term growth climate. Given the intention to reincorporate the State-trading countries into the international division of labour, relations with them are now at a decisive turning-point. Although in the short run, the transformation of the Central and Eastern European command economies into market economies will add to the disruptive factors implying a short-term deterioration in trade prospects, it should not be forgotten that Central and Eastern Europe provide in the longer term a potential market of more than 400 million consumers, right on the Community's doorstep. This increases the Community's interest in helping these countries, but it also raises the world's need for savings.

German unification is the most important immediate effect of the liberalization of Central and Eastern Europe. It has come about very rapidly and is of major direct importance for the Community. It will be accompanied by a strengthening of Germany's growth performance, shrinking — perhaps even eliminating — the current account surplus and transforming East Germany into a market economy. This will accentuate the scarcity of capital in Europe, requiring a Community-wide effort to narrow the Community's savings gap. The most straightforward way to achieve this is to increase public saving.

With the Community economy in better order and the fundamentals for growth still in good shape, it is not very likely that the underlying growth performance in the Community will come to an abrupt stop. Admittedly, there are negative factors in the world environment: the performance of the US is weak and the latest oil price hike, limited though it may be, will further reduce growth in activity. The falling US dollar mitigates oil-induced inflationary pressures in the Community and provided that policies respond to the oil-price hike in a way which prevents the initial boost to prices becoming embedded in a wage-price spiral, it is also not to be expected that a deceleration of world trade going together with a US recession will unduly weaken the confidence of the private sector. Notwithstanding the slowing-down of the growth performance in quite a number of Community countries, the underlying health of the Community's economy and the tonic provided by German unification probably imply that the momentum of the Community growth process will carry through in the medium term. The same appears to be the case for Japan and the South Pacific Basin, where growth prospects remain largely satisfactory. A positive outcome of the Uruguay Round is essential for a resumption of world trade growth. As the world's largest trading block, the Community has a natural interest in its successful conclusion.

At first sight, there might seem to be a fear that the Gulf crisis could significantly alter the picture just presented and put further progress towards EMU at risk. The two previous oil shocks did in fact result in serious damage to convergence in the Community. But this time more favourable

economic circumstances prevail. In 1973 the price of oil quadrupled and in 1979 it trebled. In present conditions, it can be hoped, the extent of the price rise will become much smaller. Further, oil dependency in the productive sector has fallen by around a third since the end of the 1970s, although sizeable differences remain among Member countries. The increase in the oil bill is particularly important for Portugal, Greece and Spain. Furthermore, the general state of our economies has greatly improved. Lastly, with stage one, procedures for improved policy coordination are in place and should be fully used.

In the somewhat shorter run it will be crucial, in responding to the new oil price hike, to avoid the mistakes of the past. Then, oil shocks met with very divergent, but in the aggregate, insufficiently restrictive policies and attitudes that facilitated the efforts to maintain high increases in real wages in spite of the oil-induced terms of trade loss. In the last instance that resulted in an intensified struggle over the distribution of income which was the main reason behind the weak Community growth performance and the increasing divergence of the 1970s. To avoid a repetition of such mistakes, monetary policy will have to maintain and, if needed, even reinforce its anti-inflationary stance: no doubt must be left as to the authorities' intentions not to accommodate inflation. Fiscal policy should remain on a path of medium term budget consolidation; there should be no attempt to compensate for the unavoidable income loss related to the oil shock. Such a policy stance is also important for a successful move into stage two of EMU on 1 January 1994 and, ultimately, for making the attainment of economic and monetary union a realistic endeavour.

## I. THE SHORT-TERM OUTLOOK CLOUDED

After several years of strong expansion with growing levels of investment, rapid employment creation and improved convergence, the short-term outlook for the Community economy has become less favourable in 1990. This is partly the result of internal factors; their impact, however, has been strongly reinforced by external events such as the increase in the price of oil, the depreciation of the dollar, and the slow-down in growth in the United States of America and in world trade.

In 1991 the outlook for the Community is for a further deceleration of growth and employment and an acceleration of consumer price inflation. The extent and the duration of the slow-down in growth and of the acceleration in inflation will depend very much on the policies pursued. With appropriate policies, for which stage one of EMU may provide the necessary disciplinary framework, the Community may already in 1992 resume more buoyant growth in a climate of decelerating inflation.

### A. Community growth tapers off in 1990

Already before the Gulf crisis there was some cooling-off in the Community's growth performance. Real growth was expected to decline from 3,8 % in 1988 to 3,3 % in 1989 and to 2,9 % in 1990. This was notably due to weaker than expected growth in the United Kingdom but also to lower growth in France, Italy and Spain. This slow-down was only partly compensated by the stronger German expansion resulting from unification and the tax reform (see box on particular treatment of Germany), which had a positive spillover effect on the Benelux countries and Denmark.

TABLE 1

#### The EC economy at the turn of the decade

*(annual percentage change)*

	1982—1985	1986—1987	1988—1990	1989	1990	1991 <sup>(1)</sup>
Real GDP	+1,8	+2,7	+3,3	+3,3	+2,9	+2,2
Employment	-0,2	+1,0	+1,5	+1,6	+1,7	+0,6
Inflation <sup>(2)</sup>	+8,1	+3,6	+4,6	+4,9	+5,1	+5,3
Investment:	+0,4	+4,6	+6,5	+6,5	+4,4	+2,9
of which equipment	+3,2	+5,9	+8,9	+8,9	+5,1	+3,7
Real unit labour costs	-1,3	-0,6	-0,5	-0,8	+0,4	-0,2

<sup>(1)</sup> Forecast.

<sup>(2)</sup> Consumption price deflator.

Overall employment continued to grow at a strong pace, but inflation accelerated throughout the Community. This reflected rapidly rising per capita wages, which are expected to rise by 7,5 % in nominal terms and more than 2 % in real terms, one of the highest rates of growth since the late 1970s, ending the continuous improvement of profitability since 1981. In the second half of the year inflation was given a new boost by the oil price rise.

#### 1. Growth slowing down in most countries

The slowing down in the larger Community countries (with the exception of Germany) was particularly due to exports and gross fixed capital formation, the former reflecting less buoyant world trade. At the same time, however, wage costs have been rising relatively quickly in these countries over the last two years. Buoyant demand has so far allowed rising costs to be reflected in higher prices, which may have undermined export performance and investment. The tightening of monetary policy and the resulting higher real interest rates have also had their effect on investment, particularly on construction activity.

### STATISTICAL PROBLEMS FOR GERMANY

All the data presented in this year's Annual Economic Report relate to the Federal Republic of Germany prior to German unification. Due to major statistical problems it is not yet possible to present reliable data for the new German State.

These statistical problems are manifold. Basically they have their origin in the fact that the former GDR was a centrally planned economy. The statistical concepts used there, as in other centrally planned economies, were very different from the standard European National Accounts. The concept of net material product (NMP), unlike the familiar gross domestic product (GDP), excludes all 'immaterial' services (health, education, financial services). In addition, the values indicated in the old GDR statistics carry little economic significance since the whole price structure was distorted. Thus, prices bore little relation to the relative scarcity of goods. Attributing proper prices to the physical quantities of goods produced is also difficult since most goods would not have met the standards of the western market thus making it almost impossible to estimate a realistic price.

Under the above circumstances it is very difficult and not very meaningful to presently estimate the level of GDP in East Germany before unification. New statistics comparable to those of the other Community economies are now in the process of being built up, but this will take time. In the meantime highly tentative estimates for the most important economic aggregates are all that can be used and these must be treated with the necessary caution.

It is expected that the East German economy would go through a drastic adjustment process. A strong reduction of industrial production has taken place, mainly in the second half of 1990, as the production of uncompetitive goods is halted. Gross domestic product in real terms could decline substantially. The fall in activity should bottom out in the first half of 1991, whereafter a recovery is expected. This recovery will continue into 1992 where GDP growth for the whole of Germany could be higher than that for the old Federal Republic. If one includes such tentative estimates for East Germany in the forecasts for the Community as a whole, Community GDP growth would be slightly lower in 1990 and 1991 and slightly higher in 1992.

Unemployment is expected to reach 1,5 million in 1991 and 1992 in East Germany. The figure for short-time work could reach 2 million in 1991 and about 1,5 million in 1992. The unemployment rate for the whole of Germany (number of unemployed as a percentage of the civilian labour force) could amount to 8,7% in 1991 and 8,9% in 1992, excluding 'short-term' workers. This compares with 6,3% in 1991 and 6,5% in 1992 expected in the old Federal Republic. Including East Germany in the Community unemployment figures increases the Community unemployment rate by around 1,5 percentage points in both 1991 and 1992.

Despite the weakening of activity and the appreciation of their currencies, inflation as measured by the private consumption deflator accelerated slightly in 1990. In France, Italy and Spain the rise was only modest (less than  $\frac{1}{4}$  percentage point), but in Italy and Spain the level of inflation was still almost double that of France, and prices rose much more in the United Kingdom (by  $\frac{3}{4}$  percentage point). Nevertheless in all those countries there is a need to further improve growth fundamentals, contain inflation and particularly to keep wage developments in check now that productivity increases are slowing down.

#### 2. *But strong German expansion continues*

German unification is on the other hand leading to a strengthening of Germany's growth performance, accompanied by important changes in the budget position and balance of payments. In fact, while an expansionary swing of some 5% of GNP is expected between 1989 and 1991 in the budget for Germany as a whole, the balance-of-payments surplus will nearly disappear over the same period. The considerable current and capital transfers from Western Germany to the five new *Länder* have partly been converted into new import demands from the latter which have in



turn resulted in a strong growth of West German exports. This induced boost to Western Germany's final demand has resulted in turn in sharply increased imports from the rest of the world.

At the same time, private consumption was boosted by tax cuts representing some 1 % of GDP, large scale immigration from the East and the growth of employment. These positive features in domestic demand supported a strong increase in investment, in particular in equipment. Capital outflows from Germany to the rest of the world are likely to be reduced as a result of the disappearance of the surplus on the current account of the balance of payments. This is compensated, however, by strongly increased imports from the partner countries, which stimulate demand in these countries.

Notably the Benelux countries have been benefiting from the expansion in Germany, and continue to record favourable growth rates supported by a strong investment performance. But also in these countries inflation has accelerated, mainly driven by wage developments.

## B. An unfavourable international environment

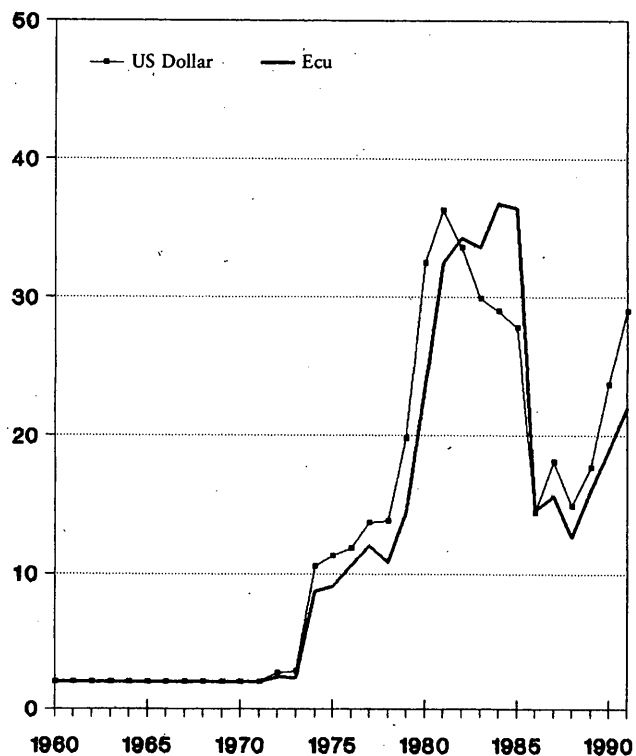
Since the middle of 1990 the Community outlook has been overshadowed by developments outside the Community: the Gulf crisis and the slow-down of growth in the United States and in world trade. Although these developments will not necessarily have a lasting influence on economic conditions in the Community, they harm the short-term stability and growth prospects.

### 1. Economic consequences of the oil price rise

The Gulf crisis resulted in an immediate reduction in world supply of oil by about 7 % that has been compensated since by increased supplies from other countries. Uncertainties about future supplies led to a sharp increase in oil prices from US \$ 21 per barrel at the end of July to around US \$ 35 per barrel at the end of October. Over that period prices have been very volatile, exceeding at one stage US \$ 40 per barrel.

Graph 1

Oil import prices, Community of Twelve



For the oil-importing countries the price increases have so far been less important in relative terms than in the previous oil price shocks of 1973 and 1979 (*graph 1*). If the average price for the period September-October is taken, the price increase in dollar terms is about 60 % compared to around 300 % in 1973 and 200 % in 1979 to 1980.

TABLE 2

Effects of a rise in the world price of oil to US \$ 25 per barrel

*(deviations from baseline, in percent)*

	1990	1991
Industrial countries:		
— Real GDP	-0,2	-0,5
— Inflation	+0,3	+0,5
Community:		
— Real GDP	-0,2	-0,5
— Inflation	+0,3	+0,5
Non-oil less-developed countries' real GDP		
— Exporters of primary products	-0,4	-0,9
— Exporters of manufactures	-0,2	-0,4
— Fuel exporters	+2,0	+4,5

The increase in oil prices involves a significant transfer of revenue from oil importing to oil exporting countries. Higher oil prices will raise domestic prices and lower domestic demand and output. With unchanged monetary policies they would also involve a rise in nominal interest rates. Moreover, the volatility in oil prices is injecting considerable uncertainty into the economy, which may negatively affect expectations.

Simulations based on a working assumption of an oil price of US \$ 25 per barrel on average in 1991, suggest the following effects (table 2): the growth rate of real GDP would be 0,5 percentage point lower in 1991 in the industrial countries and in the Community than the baseline forecast, which assumed an oil price of US \$ 17,8 per barrel and a real growth of around 3 %.

Oil importing less developed countries would, however, be harder hit: the growth rate of exporters of primary products would be 0,9 percentage point lower than the baseline, while that of exporters of manufactures would be about 0,4 percentage point lower. Inflation would be higher by 0,5 percentage point in the industrial countries and in the Community.

If, however, oil prices were to remain at the average level of September and October 1990 (around US \$ 35 per barrel) throughout the year 1991, the abovementioned impacts could be twice as high. The technical assumption in the Community forecast takes an intermediate assumption: the oil price would stay at about this level during the first half of 1991, but would drop to about US \$ 25 per barrel on average in the second half of the year.

The countries of Eastern and Central Europe are subjected to a triple shock. The preferential arrangements that existed with the Soviet Union and provided them with petroleum products at below market prices will lapse at the end of 1990. The price adjustment in these countries will be sizeable as the loss of preferential agreements is compounded by the Gulf crisis. These elements and the loss of the former GDR as a trading partner will add to the economic dislocation stemming from the unwinding of central planning.

For the Community, the consequences of the Gulf crisis will be less important than after the first and second oil price shock.

- First, movements in exchange rates between the dollar and the ecu have in fact resulted in a spreading of the assumed price increase over a three-year period (table 3).

TABLE 3

## Oil price

	1988	1989		1990		1991 <sup>(1)</sup>	
	Level	Level	Variation (%)	Level	Variation (%)	Level	Variation (%)
US \$ per barrel	14,9	17,7	+ 18,8	23,7	+ 33,9	29,0	+ 22,4
US \$/ecu	0,847	0,907	+ 7,1	0,796	- 12,2	0,755	- 5,2 <sup>(2)</sup>
Ecu per barrel	12,6	16,0	+ 27,0	18,9	+ 18,1	22,0	+ 16,4

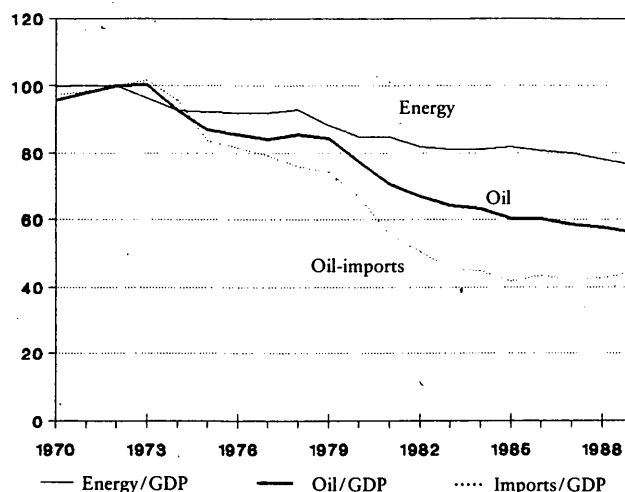
<sup>(1)</sup> Assumptions of the economic forecast.

<sup>(2)</sup> The US dollar is supposed to remain at its value of mid-October 1990.

- Second, the energy dependency of the Community has been greatly reduced since the previous oil shocks: in 1989 the volume of energy requirements per unit of GDP was about 25 % lower than in 1970, as a result of energy conservation measures (*graph 2*). The oil intensity of production has dropped even more, by 45 %, as a result of diversification to other sources of energy. Imports of oil are more than 55 % lower due to increased domestic production in the Community.

Graph 2

Energy intensity per unit of real GDP, Community of Twelve (1972 = 100)



The overall pattern described above must, however, be qualified for individual countries. While overall energy intensity has been reduced to a similar degree in nine Community countries since 1973 (by an average of some - 30 %), it increased in Spain (+ 10 %) and particularly in Greece (+ 23,7 %) and Portugal (+ 26 %) owing to the transition in those countries to a productive structure with a greater industrial content.

- Third, the economic situation and particularly investment profitability in the Community is also much better than at the time of the previous shocks, when the economy was overheating and inflation was soaring.
- Fourth, the Community now has the benefit of hindsight. The previous two oil shocks have provided valuable lessons on how to deal with such situations.

Nevertheless, if the actual oil price increase were to remain within the limits of the above assumptions, this will require policy adjustments so as not to accommodate and perpetuate the inflationary impulse. If these policies are appropriately carried out, the Gulf crisis should not necessarily result in a durable deterioration of the growth and stability fundamentals in the Community.

## 2. *Slow growth in the United States of America and strong but decelerating growth in Japan*

Already before the outbreak of the Gulf crisis it became evident that the United States was experiencing a pronounced slow-down of growth. It is now anticipated that real GNP would grow less than 1,0 % in 1991 and barely a quarter of a point in 1991 (table 4). In particular private consumption and investment will be much weaker than expected. At the same time inflationary pressures will be much more persistent, with inflation rising to 6,3 % in 1991.

TABLE 4

### United States, main economic indicators

(in percent or percent of GDP)

	1988	1989	1990	1991 (¹)
Real GNP	+ 4,6	+ 3,0	+ 1,0	+ 0,3
Investment	+ 5,4	+ 1,6	- 0,4	- 1,0
Consumer prices	+ 4,1	+ 4,4	+ 5,1	+ 6,3
Fiscal balance	- 2,0	- 2,0	- 2,3	- 2,3
Current account	- 2,4	- 1,8	- 1,7	- 1,8

(¹) Forecast.

Despite much weaker domestic growth, the current account of the balance of payments would hardly improve in 1990 and 1991, but the general government deficit, on the other hand, is expected to widen slightly.

Sluggish economic activity has already led over the last year to a significant loosening of monetary policy. The resulting widening of negative short-term interest rate differentials with the Japanese yen and the German mark and the weak outlook for the US economy have led to a continuous decline of the dollar over the period. The growth of imports is expected to decelerate to about 2,5 % down from almost 6 % on average in the period 1980 to 1989.

Inadequacy of domestic saving, largely as a result of the federal deficit, remains a crucial issue for the United States. Further fiscal consolidation is required to limit the absorption of investment resources, particularly in view of the huge demand for investment in Central and Eastern Europe. More determined action to improve the budget outlook might also contribute to the international adjustment process.

In Japan, real GDP growth is expected to decelerate from 6 % in 1990 to about 4 % in 1991, mainly as a result of monetary tightening. The continuous robust rate of growth and the more unfavourable international environment contribute to a further reduction in the surplus on the current balance. Inflation is expected to remain modest.

## 3. *A slow-down in world trade*

The external environment will also be marked by the necessary transformation from Central and Eastern Europe from a planned to a market economy. The integration of Central and Eastern Europe in the international division of labour will increase significantly the demand for capital, adding to the existing sizeable needs of developing countries. Without increased saving, real interest rates will remain at high levels.

The slow-down of growth in the United States, the increase in the price of oil and its impact on less developed countries together with the inevitable transformation in Central and Eastern Europe will create a more subdued international environment. In 1991, real GDP outside the Community

should increase by less than one percentage point. As a result, world trade excluding the Community is expected to expand in 1991 by less than 4,5 % in real terms, down from 6,0 % in 1990 and 7,4 % in 1989. Furthermore, Community exports to the rest of the world could be negatively affected by a further appreciation of Community currencies. By end-November 1990, the dollar value of the ecu was already more than 25 % above its average 1989 level. A successful outcome of the Uruguay Round is essential for a resumption of world trade growth.

### C. The outlook for 1991 and 1992

The rise in oil prices, slower growth in world trade, US recession and the strong appreciation of Community currencies against the US dollar, will contribute to dampen growth in 1991 to around 2 1/4 %, down from 3,3 % in 1989 and 2,9 % in 1990. Again the general slow-down is marked by significant divergences within the Community: growth would be around 3 % in West Germany, Luxembourg and Portugal, but at 1 %, or less, in Denmark, Greece and the United Kingdom. In the other countries the growth rate would be close to the average. All components of domestic demand are expected to weaken, in particular investment.

Employment growth would slow down from 1,5 % on average over the period 1987 to 1990 to 0,6 % in 1991 so that the steady decline in the unemployment rate, seen in most countries in the last few years, would be halted. The budget positions in the Community would slightly deteriorate, mainly as a result of the widening of the budget deficit in Germany to close to 5 % of GDP.

In 1992, with investment profitability basically unaffected, the prospects are for growth to pick up again: domestic demand would expand by 3 %, up from 2,3 % in 1991, mainly as a result of a revival in investment.

The outlook for 1991 and 1992 is subject to considerable uncertainties in the international environment, mainly related to the evolution of the oil price and of the dollar. The oil price evolution will be significantly affected by the outcome of the Gulf conflict.

The second source of uncertainty relates to developments in the United States. On balance the depreciation of the dollar has so far had largely benign effects for the Community, because it has mainly offset the inflationary impact of higher oil prices, while the negative impact on the already buoyant activity has been less a source of concern. A further, important and abrupt decline of the dollar, however, may have along with its beneficial effects on inflation, a more significant impact on exports and investment and could test the stability of the EMS.

## II. ECONOMIC POLICY TASKS DURING STAGE ONE OF EMU

To sustain economic growth and employment in the present unfavourable external environment, the Community will have to rely on its own potential. A climate of stability is an essential prerequisite for its development. Therefore the Community will have to maintain restrictive monetary and fiscal policies. These policies will at the same time help to preserve the favourable growth fundamentals. The completion of the internal market and other structural policies, further improvements in economic and social cohesion and the environment will in turn strengthen the Community's potential.

Furthermore, stage one of economic and monetary union will tighten convergence requirements in the fields of prices and costs, budgetary and external positions. The amount of adjustment is in some cases still important. Some Member States should already now present medium-term adjustment programmes so as to ensure that all Member States would join the final stage of EMU.

The deterioration in short-term growth prospects in the Community does not necessarily alter the fundamental positive assessment of the underlying potential of the Community economy. As a result of adverse internal and external factors, a certain deceleration in growth was inevitable. But provided appropriate policies are followed, profitability should remain favourable and investment activity could resume its strong growth leading to renewed significant job creation.

To meet the challenges it is all the more important that policy coordination is strengthened in accordance with the decision on multilateral surveillance for stage one.

#### A. Maintain stability and growth climate

Despite a significant appreciation of the ecu and a slow-down of growth, inflation remains high. The most immediate policy concern in the present situation is therefore inflation. The oil price increase adds new impetus to an already accelerating cost and price trend. The relaxation of the moderate wage behaviour of the 1980s may be understandable after a long period of economic recovery, but it puts the medium-term growth prospects at risk: unemployment is still very high and many more years of strong investment and robust growth are needed, especially in the less prosperous countries and regions, to recover an acceptable employment situation.

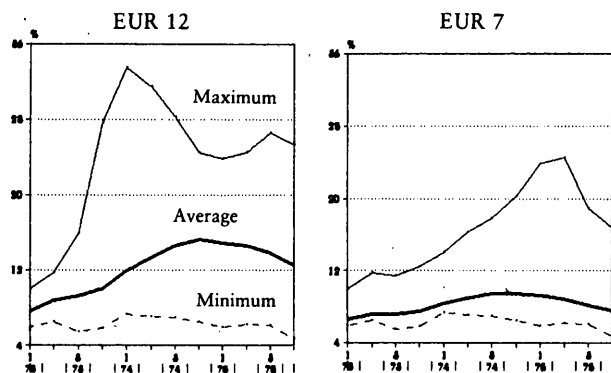
To preserve the continuation of a satisfactory growth climate in the Community, the inflationary threat posed by rising wage costs and the latest oil price hike must be immediately addressed, while at the same time divergent developments must be avoided. The lessons from the previous oil shocks should therefore be adequately drawn. This also includes strengthening of measures of vocational training to support the required adjustments.

##### 1. Avoid an inflation spiral

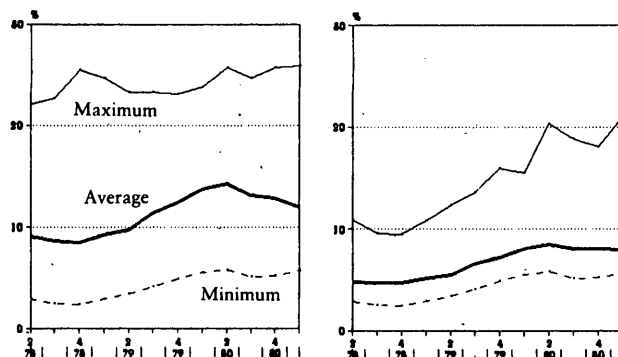
Graph 3

#### Price variability after the two oil shocks

##### 1st oil shock



##### 2nd oil shock



The previous two oil shocks were characterized by a sharp acceleration of inflation and an increase in the divergences between Members' inflation rates. This was especially marked in the reactions to the 1973 oil price shock.

With the benefit of hindsight, the adoption of inappropriately loose and even conflicting policies between Member States appears as one of the main reasons behind the very weak convergence of the EC during the second half of the 1970s (*graph 3*).

The response to the second oil price shock of 1979/80 showed some improvement in policy coordination, due notably to the existence of the EMS. But since the effects of the 1973 shock were not yet fully absorbed, dispersion remained high. The improvement of Community internal cohesion required long and painful efforts throughout the 1980s.

Since the 1979 oil shock, the consensus on economic policy and the coordination of monetary policy improved significantly, making a coordinated approach easier to carry out.

The experience of the previous oil shocks argues for an economic policy stance that does not try to compensate for the loss of real demand and income resulting mechanically from the oil price increase, but that remains oriented towards overall price stability.

In general terms therefore:

- governments should allow the full and complete pass-through of higher oil import prices to oil products on the domestic market; in addition energy conservation policies will need to be reinforced to further reduce energy dependency,
- monetary policy would have to pursue and, if needed, even reinforce its anti-inflationary stance. It must above all prevent the development of a wage-price spiral, by leaving no doubt as to the intention of the authorities not to accommodate inflationary developments,
- fiscal policy should remain on the path of medium-term budget consolidation. It should not try to compensate for the unavoidable loss of private demand and income that any oil shock implies,
- policy coordination should be strengthened within the context of stage one of EMU.

So far, monetary policies in the Community have by and large remained on a restrictive course. The recent appreciation of EC currencies is helping to offset some of the inflationary pressures, confronting the monetary authorities with the difficult task of judging whether this is sufficient to stem domestically-induced wage pressures. The steepening of the yield curve as a result of rising long-term interest rates raises some concern as it may indicate, besides strong capital needs, rising inflationary expectations. Firm policy commitments are therefore needed.

Policies effectively pursued up to now, however, have been less convergent than is desirable. Declining interest rates at a time of rising inflation cloud the policy message of the authorities in terms of their determination to fight inflationary expectations. The danger of insufficiently addressing the inflationary consequences of the oil price rise and of domestic wage developments, right from the beginning, is that policy will have to be tightened anyway at a later stage to quell inflationary pressure, but at a greater cost.

The liberalization of capital movements and the increased exchange rate stability in the EMS have as a consequence that restrictive monetary policies, are less effective. The interest rate lever can be used less and less without overloading monetary policy. Hence there is a need for stronger economic policy coordination. The increasing symmetry of the EMS has to be accompanied by substantial coordination efforts by the monetary authorities to ensure overall stability.

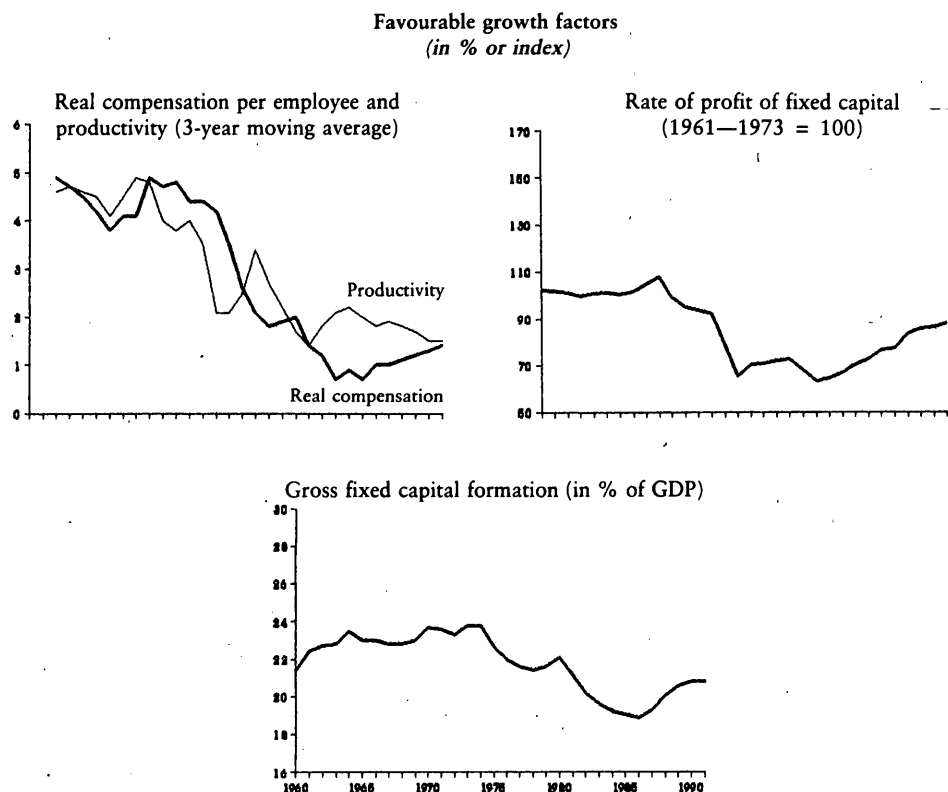
To avoid overloading monetary policy, fiscal policy will have to continue pursuing its medium term consolidation objectives, even if the effects of 'automatic stabilizers' and rising interest rates lead to a temporary deterioration in public accounts. It is particularly important that the public

sector does not use saving to finance current expenditure. The huge investment needs in the Community and in Central and Eastern Europe will lead to rising real interest rates and an unwelcome crowding out of investment unless savings are substantially increased. Increasing public saving is the most straightforward way to increase national saving. In Greece and Italy in particular, but also in Belgium, Portugal, the Netherlands and Ireland, public dissaving is still significant. The public sector should improve its contribution to national saving in these countries.

The sharp increases in the German fiscal deficit resulting from unification is also a reason for concern because it risks placing an undue burden on monetary policy and on capital markets, and may sustain and reinforce inflationary expectations stemming from the oil price rise.

## 2. Safeguard the fundamental conditions for sustained and employment-generating growth

Graph 4



During the 1980s the Community has brought about a considerable improvement in its growth fundamentals (*graph 4*). Appropriate monetary and budgetary policies should ensure that the loss of income entailed by the oil price rise is appropriately split between wages and profits, in order to minimize the negative impact on investment profitability. Economic policy cannot avoid a temporary slackening of growth, but by preventing secondary inflationary repercussions it should be possible to maintain the fundamental medium-term conditions for healthy growth.

As the experience of the previous two oil price shocks has shown the behaviour of wages will be crucial in preserving the growth potential of the Community.

The specific distribution of the burden of the income loss between the state, households and enterprises, will depend on the particular situation in each Member State, but it must be kept in mind that the less investment profitability is affected, the sooner economic growth will resume its upward trend. Divergences in the pattern of burden sharing between countries could also endanger the necessary convergence of Member States' economies. The existence in



some countries of formal or informal wage indexation mechanisms may make wage behaviour unnecessarily rigid. The commitment to monetary stability in stage one implies that the effects of wage rigidity should no longer be absorbed by an increase in the general price level or by exchange rate adjustments. Wage developments need, therefore, to be more flexible in adjusting to developments in competing countries.

A strong commitment to competition and to open markets will provide a consistent and effective framework for positive adjustment in reply to market forces, as put forward in the Commission's communication on industrial policy in a global environment.

## B. The development of Community potential

The general policies which must be implemented to curb the reemergence of inflationary pressures and inflation divergences are also those needed to create the conditions for the realization of the great Community projects: economic and monetary union, completion of the internal market, economic and social cohesion. At the same time, these projects complement the policies being implemented at the national level.

### 1. *Complete the internal market*

To secure its economic future, Europe has embarked on a programme for creating a market of continental dimensions. One of the main constraints the Community still faces on the competitive world stage is the fragmented nature of its markets, which makes it difficult to produce at optimum levels, holds back technological progress and impedes development of the services sector, where growth is particularly strong. The opening of the Community frontiers will enhance competition. Increased specialization and efficiency of production will greatly improve consumer choice.

The internal market programme is the decisive driving force in adding to EC growth prospects and prosperity. Economic operators are increasingly anticipating the highly competitive environment which will prevail and the new operating conditions and opportunities which will exist by 1992. An increasing number of firms have begun to operate on greatly enlarged market horizons and are actively changing their strategies. In addition to the positive growth effects stemming from the abolition of internal border controls, and the removal of technical barriers to the free movement of goods and services, particularly as regards the latter in the financial services sector, growth will also be attributable to the positive effects arising from the necessary restructuring in industrial and services sectors and from positive changes in marketing strategies.

In the single market, an effective Community competition policy is essential since measures and practices aimed at reducing or avoiding competition (such as increased subsidies or market sharing agreements) would reduce these positive effects. To crown the achievement of the internal market with a common currency in the near future would — as recent business surveys show — further bolster the positive mood of management.

The high expectations that have been created must not be disappointed. Therefore the deadline of 1 January 1993 for completing the internal market must be respected. Hence, it is essential that the remaining decisions in respect of the proposals contained in the 1985 White Paper must be taken as soon as possible. Significant progress has already been achieved and decisions have been taken in all areas of economic activity. The Commission has already tabled all the proposals contained in the White Paper, and over two thirds have been approved by the Council. The Commission is turning its attention to the problems of implementation (some 72 % of the so far required national implementing measures have been taken) and to the proper functioning of the single market. Decisions have still to be taken in important fields relating to the complete removal of internal border controls. The Council must give priority to these areas (which include the approximation of indirect taxation rates) and monitor the situation on a regular basis to ensure that decisions are taken such that progress towards removing completely the internal borders becomes irreversible, as is the case for the rest of the programme. Member States ought to accelerate the rate of implementation of decisions and to eliminate all delays by the end of 1991.

## 2. *Improve economic and social cohesion*

The improvement of economic and social cohesion will also strengthen growth prospects. Above average growth in the less favoured countries would contribute to expanding the growth potential of the Community economy as a whole.

The strengthening of economic and social cohesion and the objective of a harmonious development across European regions have been reaffirmed in Article 130 of the Single Act. Above-average growth in those countries and regions, as has been the case in recent years in Spain, Portugal and Ireland, but not in Greece, has started to reduce the income gap (*table 5*) and has expanded the growth potential in the Community as a whole. The gap remains sizeable though, and will require a long-term effort of catching up.

TABLE 5

The catching-up process in the Community GDP <sup>(1)</sup> at current market prices and purchasing parities per head of population (EUR 12 = 100)

	Greece	Spain	Ireland	Portugal
1985	56,8	71,8	65,2	52,1
1986	55,8	72,2	63,5	52,7
1987	54,2	73,9	64,9	53,8
1988	54,3	74,7	65,2	54,0
1989	54,1	75,9	67,2	55,2
1990	53,4	76,7	68,8	56,2
1990 to 1985	- 3,4	+ 4,9	+ 3,6	+ 4,1

<sup>(1)</sup> Reference to GDP may overstate progress to the extent that income transfers to abroad may have outpaced nominal GDP growth.

The economically stronger countries could contribute to this process by the maintenance of a dynamic growth pattern and the opening of markets to trade. The doubling of the Structural Funds and the simultaneous strengthening of the financial instruments will make available to Greece, Portugal and Ireland resources equivalent to between 3 and 5 % of GDP in 1993. They support the considerable improvement in structural policies achieved so far. Economic and social policies on the national and Community level have to provide the basis for a continuous relative growth of real GDP, without inflationary pressure and unsustainable internal and external imbalances. The catching-up countries will, however, remain primarily responsible for their own development.

## 3. *Structural adjustment and labour market flexibility*

Structural policies improve the capacity of Member States' economies to adjust. They enhance flexibility in goods and factor markets and should lead to an improvement in the extent and speed of response of prices in those markets to changes in market conditions. Structural policies thereby reduce the potential size and duration of adjustment costs associated with disturbances.

Beyond the internal market programme, Member countries have engaged in a number of structural improvements to be able to cope with increased competition on the unified market. So far the major initiatives fell within the liberalization of financial markets and the restructuring of personal and corporate taxation.

Governments have taken initiatives to improve the capacity of labour markets to cope with change, and policies for education and vocational training are being given high priority in many Member States. They are an important instrument for the absorption of the long-term unemployed.

Structural policy initiatives for the labour market will need further emphasis. The freeing-up of trade in goods and services in the completed market will certainly put additional strains upon labour markets and particularly upon systems of wage determination. In order to avoid as much as possible negative employment effects, present systems of wage determination within Member States should be made sufficiently flexible (for industries, occupations, regions or firms) to enable a rapid and efficient adjustment to new market circumstances.

Also in the public sector, structural reform has to be carried further so as to improve the efficiency of the public sector.

Higher economic efficiency and improved resource allocation should not only be sought within the Community, but also in the world. The Uruguay Round is a cooperative effort to promote trade and economic growth. As the world's largest trading block, the Community has a natural interest in a successful conclusion of the Round. It is at the same time an instrument to provide a better platform for its weaker trading partners, in particular the Central and Eastern European and the developing countries.

#### 4. *The environmental challenge*

Just as the previous oil shocks helped to break the parallelism that was perceived in the 1950s and 1960s between economic growth and energy use, there is presently a growing awareness, that was given added impetus through the Gulf crisis, that the link between economic growth and pollution needs to be broken. Experience in Eastern European countries, which have a much higher level of pollution than the richer Community countries, shows, however, that the link is not straightforward. The Community's better performance is no reason for complacency and needs to be substantially improved. There does exist, though, a clearer link between the price mechanism and pollution. Often market prices do not reflect the full environmental cost to society of their production or use. Moreover, private economic agents are not inclined to take into account the environmental effect of their activities, when taking consumption or investment decisions.

At the centre of any comprehensive policy to address the pollution problem (beyond the inevitable need for regulatory instruments), is therefore the need to internalize these external environmental effects in order to give the right signals to market participants.

The aim is to transform the patterns of economic growth in such a way as to reach a sustainable development path. A reinforced policy of environmental protection would not necessarily represent a constraint on private business, but could offer significant market opportunities for those pioneering environmentally friendly products and production processes.

There is now a broad consensus that more use of economic and fiscal instruments should be made in environmental policy, but that the optimal policy would still consist of a balanced mix of market-based and traditional regulatory instruments. The main examples of economic and fiscal instruments have been identified as taxes, charges or fiscal incentives, deposit refund systems, tradable emission permits and financial aid or subsidies. In the case of taxes and charges, the impact on the competitive position of the Community and the priorities of the internal market ought to be given due consideration.

In view of the importance of the international dimension of pollution close international coordination is called for. Within the Community there is a need for a minimum of harmonization in order to avoid policy instruments being in potential conflict with other Community objectives and to ensure compatibility of instruments among Member States when the issue is transnational.

### C. Policies for improved convergence

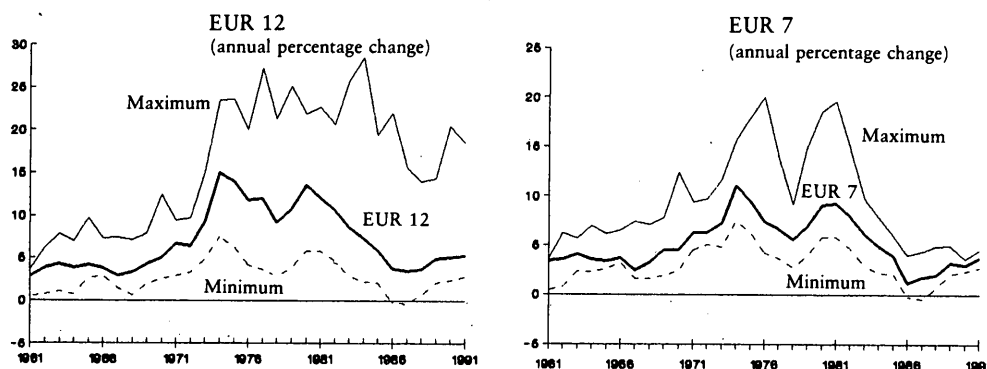
While the Community has significantly improved its economic convergence performance since the beginning of the decade, serious problems remain in some countries and in some areas. Furthermore stage one of EMU will tighten convergence requirements. The significant progress already realized is testimony to the positive effects of the discipline imposed by the exchange rate mechanism of the EMS. In fact, the present convergence positions of Member States are closely correlated with their degree of exposure to this discipline.

#### 1. Price and cost convergence

The degree of price convergence is most marked among those countries which have respected the narrow band of fluctuation from the outset. The average rate of inflation (private consumption deflator) in this group of countries has been close to, or below, the 3% mark since 1986 (*graph 5*). The dispersion in the individual rates of inflation is lower than in the 1960s and the gap between the highest (3,6% in Belgium) and the lowest (2,4% in the Netherlands) rates of inflation for 1990 is just over one point (*table 6*). The acceleration of inflation in 1990 and 1991 in these countries cannot be considered satisfactory from the point of view of stability and needs therefore to be rolled back as soon as possible.

Graph 5

Convergence of private consumption deflators



The price convergence in these countries already broadly corresponds to what might be required for the transition to the final stage of EMU. This convergence in the rate of inflation has been accompanied by a clear deceleration in the rates of increase in nominal and real unit labour costs thereby improving investment profitability. Further improvements in profitability could be required, however, in those countries where unemployment levels are particularly high or where, as in Denmark, economic growth had to be slowed down to fight inflation and reduce the external deficit.

A second group of countries has in 1990 an inflation rate which is still double that of the first group. Italy, which has recently joined the narrow band, and Spain, which joined the wider band last year, have also made significant progress since the beginning of the 1980s, but they still show a much less favourable convergence position. Both countries face strong wage pressures with nominal unit labour costs rising by 7% or more in 1990 against less than 4% for the original participants in the narrow band. These countries should gradually improve their inflation performance over the next two to three years to the level of the narrow band countries. This will require that the claims on resources of the different sectors of the economy be made more compatible with each other. Setting more ambitious but realistic inflation targets and pursuing them by stability-oriented monetary and fiscal policies may help to create a stability environment and may contribute to providing a reference framework for wage developments.

TABLE 6

Inflation convergence in the Community in the second half of the 1980s <sup>(1)</sup>

	1981	1986	1989	1990	1991 <sup>(2)</sup>
	Countries with low and converging inflation <sup>(3)</sup>				
Community of 7	9,3	1,2	3,2	3,0	3,8
Belgium	8,1	0,3	3,4	3,6	4,5
Denmark	12,0	3,5	5,0	2,8	3,3
Germany	6,0	-0,2	3,2	2,8	3,9
France	13,0	2,9	3,3	3,4	3,6
Ireland	19,6	4,0	3,9	2,8	3,5
Luxembourg	8,7	1,2	4,0	3,5	4,0
Netherlands	6,3	0,2	2,1	2,4	2,8
	Countries with high inflation				
Italy	18,2	5,7	6,0	6,1	6,3
Spain	14,3	8,7	6,6	6,8	6,6
United Kingdom	11,2	4,4	6,1	7,0	6,3
	Countries with double-digit inflation				
Portugal	20,2	13,8	12,8	13,2	12,6
Greece	22,7	22,0	14,4	20,5	18,5

<sup>(1)</sup> Private consumption deflator.<sup>(2)</sup> Forecast.<sup>(3)</sup> Countries which registered low and converging inflation rates in the second half of the 1980s; they are the countries which participated from the outset in the narrow band of the EMS.

The United Kingdom, which has recently joined the wider band of the exchange rate mechanism, is experiencing a high rate of inflation (about 7% in 1990 for the deflator of private consumption adjusted for the impact of local government taxation changes) and a large current account deficit (about 3% of GDP in 1990). The current slow-down of the economy will bring some improvement on both fronts. The main problem for the United Kingdom's economy is the excessive increase in wage costs. What is even more worrying is that wage settlements are still running at a high rate and are not yet showing signs of reacting to the slowdown in the economy. The composition of the retail price index may also partly explain this development. After entry of the pound sterling into the ERM, expectations may be favourably affected creating a better prospect for the United Kingdom to reduce inflation.

Portugal still has a very high rate of inflation (about 13% in 1990). Nominal unit labour costs are still growing too rapidly. A persistent effort will be needed to reduce inflation progressively to the level in the narrow-band. Such an endeavour remains possible as experience in other countries has shown. In 1982 and 1983, when exchange rate policy in the EMS became tighter, Ireland had rates of inflation comparable to that now experienced by Portugal. Therefore participation in the ERM should be sought as soon as possible.

The Greek economy is characterized by serious imbalances in many areas, which call for radical measures. The rate of inflation exceeds 20% in 1990, and the budget deficit has reached unprecedented levels in the Community, leading to a rapidly rising public debt to GDP ratio. A serious adjustment effort is essential, and should be sustained over the medium-term. The recent Greek Government's medium-term programme is a step in the right direction.

## 2. Convergence of budgetary policies

Convergence must not only be fostered from the cost and price side, but public authorities also have to reduce their claims on resources, so as to avoid unsustainable imbalances, to improve the supply-side of the economy and to create room for manoeuvre when adverse developments have to be addressed.

In the budgetary area, progress in convergence has been distinctly less marked than for prices and costs. Its impact on monetary and exchange rate stability is only felt in an indirect way and after a prolonged period of accumulated imbalances. Such progress is nonetheless essential because unsustainable fiscal positions undermine over the medium and longer term the credibility of the commitment to monetary stability and impair the conduct of economic policy.

Greece and Italy still have excessive budget deficits. In Greece the budget deficit, at more than 18 % of GDP in 1990, has reached levels never experienced in the Community. Gross public debt has rapidly increased, from less than 30 % of GDP in 1980 to about 90 % in 1990 (table 7). A wide ranging adjustment effort extending over several years is needed, as reflected in the recent medium-term adjustment programme.

TABLE 7

### Gross public debt in the Community countries

(in percent of GDP)

	1980	1986	1989	1990	1991 (1)
Belgium	76,9	123,7	129,9	129,4	129,4
Italy	59,0	88,5	98,9	100,9	102,9
Ireland	76,8	115,7	104,7	101,4	99,4
Greece	28,8	65,3	85,1	89,5	94,3
Netherlands	45,9	71,7	77,6	77,8	78,5
Portugal	37,1	68,4	71,5	67,8	64,7
Denmark	39,3	67,2	63,3	62,8	63,3
Spain	18,1	48,5	45,2	44,7	42,6
Germany	32,7	42,7	43,6	43,7	45,2
United Kingdom	54,3	58,1	45,7	43,0	41,8
France	24,6	34,2	36,0	36,1	36,1
Luxembourg	13,8	13,8	8,8	7,8	6,8
Community of 12	41,0	58,5	59,0	58,9	59,2

(1) Forecast.

Italy also faces a high budget deficit (10 % of GDP in 1990), which leads to a rising level of public debt as a percentage of GDP (about 100 % of GDP in 1990 against 66 % in 1982). The necessary reduction in the rate of inflation will have to go in tandem with significant reductions in budget deficits that allow first a stabilization, and then a reduction in the level of debt as a percentage of GDP. A disinflation process not accompanied by an appropriate budgetary adjustment would result in an even faster rise in the public debt ratio, as was the case in Belgium in the early and middle 1980s. The adjustment efforts required would then have to be even greater.

Belgium, Portugal, Ireland and, to a lesser extent, the Netherlands are still experiencing budgetary problems due to the level of public debt. A decline in the level of debt as a percentage of GDP is needed in these countries to reduce debt servicing costs and vulnerability to interest rate increases.

In Belgium the public debt ratio is still excessively high (128 % of GDP in 1990). The budget deficit is still too large to put the public debt ratio on a downward path, if growth slows or interest rates rise. The double government norm aiming at freezing in real terms non-interest expenditures and at keeping constant the deficit in nominal terms should be applied to all levels of governments. Only its strict and global application will ensure that the public debt ratio will be progressively reduced, which is essential to guarantee long-term stability. Ireland has already reduced its budget deficit substantially, so that the public debt ratio is on a clearly declining trend. This trend should now be continued. In the Netherlands, the public debt ratio, though not as high as in the case of Belgium and Ireland, is still not fully stabilized. The budget position therefore warrants close scrutiny. The budgetary situation in Portugal also needs to be improved in parallel with the disinflation process so as to maintain the progress in stabilizing the public debt ratio.

TABLE 8

General Government net lending (+) or borrowing (-)

*(in percent of GDP)*

	1983	1985	1987	1989	1990	1991 (¹)
Community	-5,3	-5,2	-4,2	-3,0	-3,9	-4,1
High deficit countries						
Greece	-8,3	-13,8	-12,0	-18,4	-18,6	-17,1
Italy	-11,8	-12,5	-11,2	-10,2	-10,0	-9,4
High debt countries						
Belgium	-11,2	-8,5	-7,1	-6,6	-5,6	-5,9
Ireland	-11,8	-11,3	-9,1	-3,2	-3,3	-3,5
Netherlands	-6,4	-4,8	-6,5	-5,3	-5,4	-4,7
Portugal	-9,0	-10,1	-6,8	-3,8	-6,0	-5,6
Other countries						
Denmark	-7,2	-2,2	+2,2	-0,8	-1,4	-1,6
Germany	-2,5	-1,1	-1,9	+0,2	-3,2	-4,8
Spain	-4,8	-7,0	-3,2	-2,7	-3,0	-1,8
France	-3,2	-2,9	-2,0	-1,5	-1,2	-1,1
Luxembourg	+2,0	+5,3	+1,3	+3,4	+3,3	+1,1
United Kingdom	-3,3	-2,7	-1,3	+0,9	-0,2	-0,7

(¹) Forecast.

In unified Germany, the fiscal stance is also a matter for concern, because of the expansionary effect of the budgetary costs of unification. Though a higher public deficit to finance investment during the transition is economically justified, the size of the present borrowing exerts undue pressure on interest rates. Furthermore, the strong demand from the former GDR may strain production capacity in West Germany, putting pressure on inflation and appreciating the exchange rate in real terms. To guard against these dangers and to avoid an overburdening of monetary policy, a tightening of the fiscal stance would be expedient. To the extent that the strong demand is met by increased imports from other Member States, this will diminish the strains on German production capacity and stimulate activity in the other countries.

In a last group of countries — including Denmark, Spain, France, Luxembourg and the United Kingdom — the budgetary position in terms of net lending or borrowing and public debt seems to be under control and does not present the Community with a convergence problem. The increase in budget deficits in Denmark and in the United Kingdom calls nevertheless for attention. The general assessment does not detract, however, from the need, also valid for the other countries, to improve the structural features of their public finance to benefit the supply side of the economy, to

prepare for the single market of 1992 and to increase budgetary flexibility as required by a better policy mix. This will particularly involve improving the structure of expenditure and receipts, winding down in some cases the share of expenditure in GDP and lessening the tax burden.

Moreover, a few of these countries continue to suffer from strong inflationary pressures and large external deficits, such as the United Kingdom and Spain, or from high foreign debt, such as Denmark. Hence, there is a need to maintain a cautious budgetary policy in these countries.

### 3. *Convergence of external positions*

In an integrating economy with fully liberalized capital movements and increasing exchange rate fixity, convergence of current account balances is to be judged in a different context and the appropriateness of current account imbalances has to be individually assessed.

Spain is confronted with a high and rising current account deficit (more than three and a half points of GDP in 1990). A current account deficit *per se* would not be worrying in the Spanish case as long as it corresponded to capital imports financing rapid growth in productive investment. What gives cause for concern, however, especially if high oil prices were to persist in the months to come, is the rapidity of the deterioration of the current account position which was still in equilibrium in 1987. However, the deficit is expected to stabilize in 1991. If exchange rate stability is to be maintained, the rate of growth of unit labour costs in Spain must soon be brought below that of its main trading partners so as to improve its competitive position. This would also create the conditions for the continued strong growth needed both to reduce the persistently high levels of unemployment and to allow the catching-up process to continue. These considerations also apply to Greece where the external position has deteriorated sharply in recent years.

In Italy the external position, while not yet giving cause for concern, nevertheless calls for a critical look at external competitiveness. In the United Kingdom some improvement is expected in the external position, still cost developments will need to be monitored carefully.

The current account positions of the initial narrow band countries appear broadly sustainable. The German surplus, which had given cause for concern in the recent past, is being greatly reduced as a consequence of the redirection of trade resulting from the unification process. Considerable progress has been made in Denmark, where for the first time since the early 1960s the current account would turn into a surplus. This has been achieved, however, at a considerable cost in terms of growth. A further improvement in the competitive position might help to consolidate this improvement, at higher levels of activity and employment.

With appropriate monetary, budgetary and structural policies, the impact of the oil price hike and internal inflationary pressures can be absorbed, thus preserving the positive fundamental growth conditions of the Community. The development of the Community potential will improve the supply side of the economy and contribute to resuming its medium-term growth trend. Such policy mix fulfills at the same time the requirements for a successful move towards economic and monetary union.



**MAIN ECONOMIC INDICATORS 1988 TO 1992**  
**COMMUNITY, UNITED STATES OF AMERICA AND JAPAN**

(a) **GDP at constant prices**  
 (% change on previous year <sup>(1)</sup>)

	1988	1989	1990 (*)	1991 (*)	1992 (*)
B	4,3	4,0	3,5	2 <sup>1</sup> / <sub>4</sub>	2 <sup>3</sup> / <sub>4</sub>
DK	-0,4	1,3	0,9	1	1 <sup>3</sup> / <sub>4</sub>
D	3,7	3,3	4,3	3 <sup>1</sup> / <sub>4</sub>	2
GR	4,0	2,6	1,2	1	1 <sup>1</sup> / <sub>2</sub>
E	5,0	4,9	3,5	2 <sup>1</sup> / <sub>2</sub>	3 <sup>1</sup> / <sub>4</sub>
F	3,3	3,6	2,5	2 <sup>1</sup> / <sub>2</sub>	2 <sup>3</sup> / <sub>4</sub>
IRL	3,7	5,9	4,5	2 <sup>1</sup> / <sub>4</sub>	3 <sup>3</sup> / <sub>4</sub>
I	3,9	3,2	2,6	2 <sup>1</sup> / <sub>4</sub>	2 <sup>3</sup> / <sub>4</sub>
L	4,3	6,1	3,2	3	3 <sup>1</sup> / <sub>4</sub>
NL	2,7	4,0	3,4	2	2 <sup>1</sup> / <sub>2</sub>
P	3,9	5,4	4,2	3 <sup>1</sup> / <sub>4</sub>	3 <sup>3</sup> / <sub>4</sub>
UK	4,1	2,2	1,5	<sup>3</sup> / <sub>4</sub>	2 <sup>1</sup> / <sub>2</sub>
EC	3,8	3,3	2,9	2 <sup>1</sup> / <sub>4</sub>	2 <sup>1</sup> / <sub>2</sub>
USA	4,6	2,5	1,1	<sup>1</sup> / <sub>4</sub>	1 <sup>1</sup> / <sub>4</sub>
JAP	5,7	4,9	6,0	4 <sup>1</sup> / <sub>4</sub>	4

(b) **Domestic demand at constant prices**  
 (% change on previous year)

	1988	1989	1990 (*)	1991 (*)	1992 (*)
B	4,3	5,0	4,0	2 <sup>3</sup> / <sub>4</sub>	2 <sup>3</sup> / <sub>4</sub>
DK	-2,2	0,8	-0,8	- <sup>1</sup> / <sub>4</sub>	1
D	3,8	2,7	3,7	3 <sup>1</sup> / <sub>4</sub>	2 <sup>3</sup> / <sub>4</sub>
GR	5,6	4,2	2,1	1	1 <sup>1</sup> / <sub>2</sub>
E	7,3	7,7	5,3	3	3 <sup>3</sup> / <sub>4</sub>
F	3,5	3,1	2,9	2 <sup>3</sup> / <sub>4</sub>	3
IRL	0,2	6,1	6,4	<sup>3</sup> / <sub>4</sub>	4 <sup>1</sup> / <sub>4</sub>
I	4,6	3,3	2,9	2 <sup>3</sup> / <sub>4</sub>	3 <sup>1</sup> / <sub>4</sub>
L	2,7	5,3	5,2	4 <sup>1</sup> / <sub>2</sub>	4
NL	2,0	4,3	3,9	1 <sup>3</sup> / <sub>4</sub>	2
P	7,4	4,1	5,0	3 <sup>1</sup> / <sub>2</sub>	4 <sup>1</sup> / <sub>4</sub>
UK	7,3	3,1	0,9	<sup>1</sup> / <sub>2</sub>	2 <sup>3</sup> / <sub>4</sub>
EC	4,8	3,6	3,0	2 <sup>1</sup> / <sub>4</sub>	3
USA	3,2	1,9	0,6	- <sup>1</sup> / <sub>4</sub>	<sup>3</sup> / <sub>4</sub>
JAP	7,5	5,9	6,0	4 <sup>1</sup> / <sub>4</sub>	4 <sup>1</sup> / <sub>4</sub>

(c) **Deflator of private consumption**  
 (% change on previous year)

	1988	1989	1990 (*)	1991 (*)	1992 (*)
B	1,8	3,4	3,6	4 <sup>1</sup> / <sub>2</sub>	3 <sup>1</sup> / <sub>2</sub>
DK	4,9	5,0	2,8	3 <sup>1</sup> / <sub>4</sub>	2
D	1,3	3,2	2,8	4	3 <sup>1</sup> / <sub>2</sub>
GR	14,0	14,4	20,5	18 <sup>1</sup> / <sub>2</sub>	15
E	5,1	6,6	6,8	6 <sup>3</sup> / <sub>4</sub>	5 <sup>1</sup> / <sub>2</sub>
F	3,0	3,3	3,4	3 <sup>1</sup> / <sub>2</sub>	3
IRL	2,5	3,9	2,8	3 <sup>1</sup> / <sub>2</sub>	2 <sup>1</sup> / <sub>2</sub>
I	4,8	6,0	6,1	6 <sup>1</sup> / <sub>4</sub>	5 <sup>1</sup> / <sub>2</sub>
L	2,6	4,0	3,5	4	3 <sup>1</sup> / <sub>2</sub>
NL	0,7	2,1	2,4	2 <sup>3</sup> / <sub>4</sub>	2 <sup>1</sup> / <sub>2</sub>
P	10,0	12,8	13,2	12 <sup>1</sup> / <sub>2</sub>	11
UK	5,0	6,1	7,0	6 <sup>1</sup> / <sub>4</sub>	4 <sup>3</sup> / <sub>4</sub>
EC	3,7	4,9	5,1	5 <sup>1</sup> / <sub>4</sub>	4 <sup>1</sup> / <sub>2</sub>
USA	4,1	4,4	5,1	6 <sup>1</sup> / <sub>4</sub>	5 <sup>1</sup> / <sub>2</sub>
JAP	0	1,7	2,5	2 <sup>1</sup> / <sub>4</sub>	2 <sup>1</sup> / <sub>4</sub>

(d) **Balance on current transactions**  
 (as a % of GDP <sup>(1)</sup>)

	1988	1989	1990 (*)	1991 (*)	1992 (*)
B	1,0	1,0	0,3	- <sup>1</sup> / <sub>4</sub>	0
DK	-1,8	-1,3	0	<sup>1</sup> / <sub>4</sub>	1 <sup>1</sup> / <sub>4</sub>
D	4,1	4,7	2,6	<sup>3</sup> / <sub>4</sub>	<sup>3</sup> / <sub>4</sub>
GR	-1,7	-4,8	-5,1	-5	-4 <sup>1</sup> / <sub>2</sub>
E	-1,1	-2,9	-3,8	-4	-4
F	-0,4	-0,2	-0,3	- <sup>1</sup> / <sub>2</sub>	- <sup>1</sup> / <sub>4</sub>
IRL	1,8	1,6	1,2	<sup>1</sup> / <sub>2</sub>	- <sup>1</sup> / <sub>4</sub>
I	-0,6	-1,3	-1,3	-1 <sup>3</sup> / <sub>4</sub>	-1 <sup>3</sup> / <sub>4</sub>
L	34,3	31,5	27,3	24	22 <sup>1</sup> / <sub>2</sub>
NL	2,4	3,6	3,3	3 <sup>1</sup> / <sub>2</sub>	3 <sup>1</sup> / <sub>2</sub>
P	-4,4	-1,2	-1,2	-1 <sup>3</sup> / <sub>4</sub>	-1 <sup>3</sup> / <sub>4</sub>
UK	-4,1	-3,7	-2,8	-2	-2
EC	0,2	0,2	-0,3	- <sup>3</sup> / <sub>4</sub>	- <sup>3</sup> / <sub>4</sub>
USA	-2,4	-1,9	-1,7	-1 <sup>3</sup> / <sub>4</sub>	-1 <sup>1</sup> / <sub>2</sub>
JAP	2,8	2,2	1,6	1 <sup>1</sup> / <sub>2</sub>	1 <sup>3</sup> / <sub>4</sub>

(\*) Forecast October 1990.

(1) GDP for USA and Japan from 1989 onward.

(e) Number of unemployed as % of the civilian labour force.

	1988	1989	1990 (*)	1991 (*)	1992 (*)
B	10,0	8,5	7,8	7 <sup>3</sup> / <sub>4</sub>	7 <sup>1</sup> / <sub>2</sub>
DK	6,5	7,7	8,2	8 <sup>3</sup> / <sub>4</sub>	8 <sup>3</sup> / <sub>4</sub>
D	6,1	5,5	6,0	6 <sup>1</sup> / <sub>4</sub>	6 <sup>1</sup> / <sub>2</sub>
GR	7,7	7,8	8,1	9 <sup>1</sup> / <sub>4</sub>	9 <sup>1</sup> / <sub>2</sub>
E	19,3	17,0	15,8	15 <sup>1</sup> / <sub>2</sub>	15
F	9,9	9,4	8,9	8 <sup>3</sup> / <sub>4</sub>	8 <sup>1</sup> / <sub>2</sub>
IRL	17,6	17,0	16,5	16 <sup>1</sup> / <sub>2</sub>	16 <sup>1</sup> / <sub>2</sub>
I	10,8	10,8	10,2	10 <sup>1</sup> / <sub>4</sub>	10 <sup>1</sup> / <sub>4</sub>
L	2,1	1,8	1,7	1 <sup>1</sup> / <sub>2</sub>	1 <sup>1</sup> / <sub>2</sub>
NL	9,3	8,7	7,4	7 <sup>1</sup> / <sub>4</sub>	7
P	5,6	5,0	4,4	5	5
UK	8,5	7,0	6,4	7 <sup>1</sup> / <sub>4</sub>	8
EC	9,7	8,9	8,5	8 <sup>3</sup> / <sub>4</sub>	8 <sup>3</sup> / <sub>4</sub>
USA	5,5	5,3	5,4	6	6 <sup>3</sup> / <sub>4</sub>
JAP	2,5	2,3	2,2	2 <sup>1</sup> / <sub>4</sub>	2 <sup>1</sup> / <sub>4</sub>

(f) General government lending and borrowing  
(as a % of GDP)

	1988	1989	1990 (*)	1991 (*)	1992 (*)
B	-6,6	-6,6	-5,8	-6	-5 <sup>1</sup> / <sub>2</sub>
DK	0,2	-0,7	-1,4	-1 <sup>1</sup> / <sub>2</sub>	-1
D	-2,1	0,2	-3,2	-4 <sup>3</sup> / <sub>4</sub>	-3 <sup>1</sup> / <sub>2</sub>
GR	-15,6	-18,4	-18,4	-17	-14 <sup>3</sup> / <sub>4</sub>
E	-3,2	-2,7	-3,1	-1 <sup>3</sup> / <sub>4</sub>	-1
F	-1,7	-1,5	-1,2	-1	-1
IRL	-5,2	-3,4	-3,4	-3 <sup>1</sup> / <sub>2</sub>	-3 <sup>1</sup> / <sub>2</sub>
I	-10,9	-10,2	-10,1	-9 <sup>1</sup> / <sub>2</sub>	-9 <sup>1</sup> / <sub>4</sub>
L	2,1	3,2	3,3	1 <sup>1</sup> / <sub>4</sub>	1
NL	-5,2	-5,2	-5,4	-4 <sup>3</sup> / <sub>4</sub>	-4 <sup>1</sup> / <sub>2</sub>
P	-5,4	-3,8	-6,0	-5 <sup>1</sup> / <sub>2</sub>	-4 <sup>3</sup> / <sub>4</sub>
UK	1,1	0,9	-0,2	- <sup>3</sup> / <sub>4</sub>	- <sup>1</sup> / <sub>2</sub>
EC	-3,7	-3,0	-4,0	-4	-3 <sup>1</sup> / <sub>2</sub>
USA	-3,6	-2,0	-2,3	-2 <sup>1</sup> / <sub>4</sub>	-2
JAP	2,1	1,8	2,7	2 <sup>1</sup> / <sub>2</sub>	2 <sup>1</sup> / <sub>4</sub>

(g) Total employment  
(annual percentage change)

	1988	1989	1990 (*)	1991 (*)	1992 (*)
B	1,5	1,3	0,9	<sup>1</sup> / <sub>4</sub>	<sup>1</sup> / <sub>4</sub>
DK	-0,6	-0,5	-0,2	0	<sup>1</sup> / <sub>2</sub>
D	0,6	1,4	2,4	1 <sup>1</sup> / <sub>2</sub>	1
GR	1,6	0,4	0,7	- <sup>1</sup> / <sub>2</sub>	0
E	2,9	4,1	2,7	1 <sup>1</sup> / <sub>2</sub>	1 <sup>3</sup> / <sub>4</sub>
F	0,6	1,2	1,2	<sup>3</sup> / <sub>4</sub>	<sup>3</sup> / <sub>4</sub>
IRL	0,4	1,1	1,6	<sup>3</sup> / <sub>4</sub>	<sup>3</sup> / <sub>4</sub>
I	1,4	0,2	0,9	<sup>1</sup> / <sub>4</sub>	<sup>1</sup> / <sub>2</sub>
L	3,1	3,7	2,4	1 <sup>3</sup> / <sub>4</sub>	1 <sup>1</sup> / <sub>2</sub>
NL	1,3	1,6	1,7	<sup>3</sup> / <sub>4</sub>	1
P	0,1	1,8	0,7	<sup>1</sup> / <sub>4</sub>	<sup>1</sup> / <sub>4</sub>
UK	3,2	2,8	2,0	- <sup>1</sup> / <sub>2</sub>	0
EC	1,5	1,6	1,7	<sup>1</sup> / <sub>2</sub>	<sup>3</sup> / <sub>4</sub>
USA	2,9	2,0	0,9	<sup>3</sup> / <sub>4</sub>	<sup>3</sup> / <sub>4</sub>
JAP	1,6	1,9	1,6	1 <sup>1</sup> / <sub>4</sub>	1

(h) Real compensation of employees per head  
(annual % change <sup>(1)</sup>)

	1988	1989	1990 (*)	1991 (*)	1992 (*)
B	-0,1	0,5	2,6	2 <sup>1</sup> / <sub>2</sub>	2 <sup>1</sup> / <sub>2</sub>
DK	-0,4	-1,3	0,4	- <sup>1</sup> / <sub>4</sub>	1
D	1,9	-0,3	1,9	1 <sup>1</sup> / <sub>4</sub>	<sup>3</sup> / <sub>4</sub>
GR	2,8	3,9	-2,1	-1 <sup>1</sup> / <sub>2</sub>	-1 <sup>1</sup> / <sub>2</sub>
E	1,3	-0,8	1,3	<sup>3</sup> / <sub>4</sub>	1
F	1,0	1,5	2,0	1	1 <sup>1</sup> / <sub>2</sub>
IRL	1,6	-1,5	1,5	1 <sup>3</sup> / <sub>4</sub>	1 <sup>3</sup> / <sub>4</sub>
I	3,8	3,0	2,6	2 <sup>1</sup> / <sub>2</sub>	2 <sup>1</sup> / <sub>4</sub>
L	0,5	-0,2	2,6	1 <sup>1</sup> / <sub>4</sub>	2 <sup>1</sup> / <sub>4</sub>
NL	0,7	-1,5	2,2	1 <sup>1</sup> / <sub>2</sub>	1 <sup>1</sup> / <sub>2</sub>
P	3,1	0,2	3,3	2 <sup>3</sup> / <sub>4</sub>	2 <sup>1</sup> / <sub>2</sub>
UK	2,1	2,5	3,2	2 <sup>1</sup> / <sub>4</sub>	1 <sup>3</sup> / <sub>4</sub>
EC	1,8	1,1	2,2	1 <sup>1</sup> / <sub>2</sub>	1 <sup>1</sup> / <sub>2</sub>
USA	0,9	-0,7	0	<sup>1</sup> / <sub>4</sub>	<sup>3</sup> / <sub>4</sub>
JAP	3,7	2,2	3,0	3	2 <sup>3</sup> / <sub>4</sub>

(\*) Forecast October 1990.

(1) Deflated by the deflator of private consumption.

(i) Investment in construction at constant prices  
(% change on previous year)

	1988	1989	1990 (*)	1991 (*)	1992 (*)
B	15,0	9,6	4,7	-1/4	3 1/4
DK	-3,1	-4,2	-6,1	-2 1/4	-1/4
D	4,7	5,1	5,2	2	2 1/4
GR	7,6	2,0	2,0	2	3 1/2
E	12,6	13,3	11,5	6	7
F	6,2	4,5	3,0	2	3 1/2
IRL	-0,7	9,8	10,6	6 3/4	6 3/4
I	3,7	3,6	2,5	2 1/2	2 1/2
L	9,9	8,8	8,2	5	4 1/2
NL	11,8	2,6	0,8	-1 1/2	2 1/2
P	10,1	7,5	7,0	4 1/2	5 1/2
UK	6,1	-0,4	-2,2	-3/4	1 3/4
EC	6,4	4,7	3,6	2	3 1/4

(j) Investment in equipment at constant prices  
(% change on previous year)

	1988	1989	1990 (*)	1991 (*)	1992 (*)
B	17,7	19,0	10,0	8	8 1/4
DK	-7,5	5,5	1,8	2 1/2	3 1/2
D	7,7	9,7	11,4	7	6
GR	10,8	17,3	4	4	6
E	16,5	14,1	5,4	4	5 1/4
F	8,9	6,9	4,5	4	5 1/4
IRL	5,6	14,1	9,8	6 1/4	6 1/2
I	6,4	6,3	3,4	4	5 1/4
L	-5,4	14,9	12,0	6 1/4	5 3/4
NL	6,8	5,5	5,5	3 1/2	2 3/4
P	23,2	9,0	11,0	8	8 1/2
UK	17,7	10,0	-0,3	-2 1/4	3 1/4
EC	10,4	9,1	5,3	3 3/4	5 1/4

(k) Total investment at constant prices  
(% change on previous year)

	1988	1989	1990 (*)	1991 (*)	1992 (*)
B	16,0	13,6	7,0	3 1/2	5 1/2
DK	-6,5	-0,1	-2,6	0	1 1/2
D	5,9	7,1	8,0	4 1/2	4
GR	9,0	8,6	2,9	3	4 3/4
E	14,0	13,6	8,9	5 1/4	6 1/4
F	7,5	5,9	3,8	3 1/4	4 1/2
IRL	0,3	12,1	10,2	6 1/2	6 3/4
I	4,9	5,1	3,0	3 1/4	4
L	3,2	11,5	10,0	5 3/4	5 1/4
NL	9,8	3,9	2,9	3/4	2 1/2
P	15,0	8,3	9,1	6 1/4	7
UK	13,1	4,8	-1,2	-1 1/2	2 1/2
EC	8,4	6,8	4,4	3	4 1/4
USA	5,4	1,8	0,6	-3/4	3
JAP	13,4	10,9	9,9	5	6

(l) GDP per head  
(EC = 100) at current prices and current PPS

	1960	1973	1986	1991 (*)	1992 (*)
B	95,4	101,3	101,0	103,3	104,0
DK	118,4	113,2	116,7	104,2	103,9
D	118,0	111,3	114,3	112,5	110,9
GR	38,7	56,9	55,8	52,8	52,4
E	59,6	78,1	72,2	77,1	77,8
F	105,9	110,6	110,1	108,9	109,3
IRL	60,8	59,0	63,5	69,2	70,4
I	86,6	93,4	103,2	104,4	104,9
L	158,4	142,3	124,2	125,4	127,4
NL	118,7	113,2	106,3	103,6	103,6
P	38,8	56,4	52,7	56,9	57,7
UK	128,7	108,5	105,1	104,0	104,1
EC	100,0	100,0	100,0	100,0	100,0
USA	190,0	162,0	155,8	147,4	144,9
JAP	55,9	96,4	111,0	122,5	125,4

(\*) Forecast October 1990.  
Source: Commission services.

**Proposal for a Council Directive on a common system of taxation applicable to interest and royalty payments made between parent companies and subsidiaries in different Member States**

COM(90) 571 final

*(Submitted by the Commission on 6 December 1990)*

(91/C 53/02)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE:

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas, in a common market having the characteristics of a domestic market, transactions between companies in different Member States must not be subject to less favourable tax conditions than those applicable to the same transactions carried out between companies in the same Member State;

Whereas this requirement is not currently met as regards interest and royalty payments; whereas national tax laws coupled, where applicable, with bilateral agreements do not ensure complete elimination of double taxation, and whereas their application entails administrative formalities and cash-position problems for the companies concerned;

Whereas abolition of all withholding taxes on interest and royalty payments is the most appropriate means of eliminating such formalities and problems and of ensuring equality of tax treatment as between national and transnational transactions; whereas it is necessary, initially, to abolish withholding tax in respect of such payments of special importance made between parent companies and subsidiaries; whereas the arrangements should not apply under certain conditions where the payment is made to a permanent establishment of the recipient company located in the Member State of the debtor; whereas Greece and Portugal should, for budgetary reasons, be authorized to retain a withholding tax temporarily;

Whereas it is necessary to ensure that interest and royalty payments are actually taxed; whereas it is therefore necessary to permit Member States to take the appropriate measures to combat fraud or abuse,

*Article 1*

Member States shall exempt from any withholding tax interest and royalty payments made between parent companies and subsidiaries in different Member States.

*Article 2*

For the purposes of this Directive:

- (a) 'interest' means income from debt-claims of every kind, whether or not carrying a right to participate in the debtor's profits, including premiums and prizes attaching to bonds or debentures;
- (b) 'royalties' means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

*Article 3*

For the purposes of this Directive, 'company of a Member State' means any company which:

- (a) takes one of the forms listed in the Annex hereto;
- (b) according to the tax laws of a Member State, is considered to be resident in that State for tax purposes and, under the terms of a double taxation agreement concluded with a third State, is not considered to be resident for tax purposes outside the Community;
- (c) is subject to one of the following taxes, without the possibility of an option or of being exempt in respect of the income covered by this Directive:
  - impôt des sociétés/vennotschapsbelasting in Belgium,
  - selskabsskat in Denmark,
  - Körperschaftsteuer in the Federal Republic of Germany,
  - φόρο εισοδήματος νομικών προσώπων κερδοσκοπικού χαρακτήρα in Greece,

- impuesto sobre sociedades in Spain,
- impôt sur les sociétés in France,
- corporation tax in Ireland,
- imposta sul reddito delle persone giuridiche in Italy,
- impôt sur le revenu des collectivités in Luxembourg,
- vennotschapsbelasting in the Netherlands,
- imposto sobre o rendimento das pessoas colectivas in Portugal,
- corporation tax in the United Kingdom,

or to any other tax which may be substituted for any of the above taxes.

#### Article 4

1. For the purposes of this Directive:

- (a) the status of parent company shall be attributed at least to any company in a Member State which fulfils the conditions set out in Article 3 and has a minimum holding of 25 % in the capital of a company in another Member State fulfilling the same conditions;
- (b) 'subsidiary' means that company the capital of which includes the holding referred to in (a).

2. By way of derogation from paragraph 1, Member States shall have the option of:

- replacing, by means of bilateral agreement, the criterion of a capital holding by that of a holding of voting rights,
- not applying this Directive to companies in their countries which do not retain, for an uninterrupted period of at least two years, holdings qualifying them as parent companies, or to those companies in their countries in which a company in another Member State does not retain such a holding for an uninterrupted period of at least two years.

#### Article 5

Notwithstanding Article 1, Greece and Portugal may levy a withholding tax on interest and royalty payments made by subsidiaries to parent companies in other Member States until a date not later than the end of the seventh year following the date of application of this Directive.

Subject to the existing bilateral agreements concluded between Greece or Portugal and a Member State, the rate of this withholding tax may not exceed 10 % during the first five years and 5 % during the last two years of that period.

Before the end of the seventh year, the Council shall decide unanimously, on a proposal from the Commission, on a possible extension of the provisions of this Article.

#### Article 6

The provisions of this Directive shall apply to interest and royalty payments made to a permanent establishment of the recipient company located in the Member State of the debtor company only if that Member State does not apply withholding tax to payments of the kind made between resident parent companies and subsidiaries.

#### Article 7

This Directive shall not preclude the application of domestic or agreement-based provisions required for the prevention of fraud or abuse.

#### Article 8

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 1993.

They shall immediately inform the Commission thereof.

When Member States adopt these measures, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall ensure that the texts of the main provisions of national law which they adopt in the field covered by this Directive are communicated to the Commission.

#### Article 9

This Directive is addressed to the Member States.

## ANNEX

## List of forms of companies referred to in Article 3

- (a) companies under Belgian law known as 'société anonyme'/'naamloze vennootschap', 'société en commandite par actions'/'commanditaire vennootschap op aandelen', 'société privée à responsabilité limitée'/'besloten vennootschap met beperkte aansprakelijkheid' and those public-law bodies that operate under private law;
- (b) companies under Danish law known as: 'aktieselskab', 'anpartsselskab';
- (c) companies under German law known as: 'Aktiengesellschaft', 'Kommanditgesellschaft auf Aktien', 'Gesellschaft mit beschränkter Haftung', 'bergrechtliche Gewerkschaft';
- (d) companies under Greek law known as: 'ανώνυμη εταιρεία';
- (e) companies under Spanish law known as: 'sociedad anónima', 'sociedad comanditaria por acciones', 'sociedad de responsabilidad limitada' and those public-law bodies which operate under private law;
- (f) companies under French law known as 'société anonyme', 'société en commandite par actions', 'société à responsabilité limitée' and industrial and commercial public establishments and undertakings;
- (g) the companies in Irish law known as 'companies incorporated under Irish law', 'registered building societies', and 'registered industrial and provident societies';
- (h) companies under Italian law known as 'società per azioni', 'società in accomandita per azioni', 'società a responsabilità limitata', and public and private entities carrying on industrial and commercial activities;
- (i) companies under Luxembourg law known as 'société anonyme', 'société en commandite par actions', 'société à responsabilité limitée';
- (j) companies under Dutch law known as: 'naamloze vennootschap', 'besloten vennootschap met beperkte aansprakelijkheid';
- (k) commercial companies or civil-law companies having a commercial form, cooperatives and public undertakings incorporated in accordance with Portuguese law;
- (l) companies incorporated under the law of the United Kingdom.

Withholding tax rates on royalties <sup>(1)</sup>

Situation on 1 July 1990

(in percent)

Residence State of the debtor \ Residence State of the beneficiary	Residence State of the beneficiary											
	Belgium	Denmark	Spain	France	Greece	Ireland	Italy	Luxembourg	Netherlands	Portugal	Germany	United Kingdom
Country without tax treaty	10	30	25	33 <sup>1</sup> / <sub>3</sub>	25	30	21	12	0	15	25	25
Belgium	—	0	5	0	5	0	5	0	0	5	0	0
Denmark	0	—	6	0	25 <sup>(2)</sup>	0	5	0	0	10	0	0
Spain	5	6	—	6	25 <sup>(2)</sup>	30 <sup>(2)</sup>	4	10	0	5	5	10
France	0	0	6	—	5	0	0	0	0	5	0	0
Greece	5	30 <sup>(2)</sup>	25 <sup>(2)</sup>	5	—	30 <sup>(2)</sup>	0	12 <sup>(2)</sup>	0	15 <sup>(2)</sup>	0	0
Ireland	0	0	25 <sup>(2)</sup>	0	25 <sup>(2)</sup>	—	0	0	0	15 <sup>(2)</sup>	0	0
Italy	5	5	8	0	0	0	—	10	0	12	0	8
Luxembourg	0	0	10	0	25 <sup>(2)</sup>	0	10	—	0	15 <sup>(2)</sup>	5	5
Netherlands	0	0	6	0	7	0	0	0	—	15 <sup>(2)</sup>	0	0
Portugal	5	10	5	5	25 <sup>(2)</sup>	30 <sup>(2)</sup>	12	12 <sup>(2)</sup>	0 <sup>(2)</sup>	—	10	5
Germany	0	0	5	0	0	0	0	5	0	10	—	0
United Kingdom	0	0	10	0	0	0	0	5	0	5	0	—

<sup>(1)</sup> The possible value added tax applied is not included in these rates.<sup>(2)</sup> No tax treaty.

## Withholding tax rates on ordinary interest payments by a non-resident subsidiary to its parent company

Situation on 1 July 1990

(in percent)

Residence State of the debtor \ Residence State of the beneficiary	Residence State of the beneficiary											
	Belgium	Denmark	Spain	France	Greece <sup>(1)</sup>	Ireland	Italy	Luxembourg	Netherlands	Portugal	Germany	United Kingdom
Country without tax treaty	10	0	25	0	46	30	30	0	0	20	0	25
Belgium	—	0	15	0	15	15	15	0	0	15	0	15
Denmark	10	—	10	0	46 <sup>(2)</sup>	0	15	0	0	15	0	0
Spain	10	0	—	0	46 <sup>(2)</sup>	30 <sup>(2)</sup>	12	0	0	15	0	12
France	10	0	10	—	10	0	15	0	0	12	0	0
Greece	10	0 <sup>(2)</sup>	25 <sup>(2)</sup>	0	—	30 <sup>(2)</sup>	10	0 <sup>(2)</sup>	0	20 <sup>(2)</sup>	0	0
Ireland	10	0	25 <sup>(2)</sup>	0	46 <sup>(2)</sup>	—	10	0	0	20 <sup>(2)</sup>	0	0
Italy	10	0	12	0	10	10	—	0	0	15	0	10
Luxembourg	10	0	10	0	46 <sup>(2)</sup>	0	10	—	0	20 <sup>(2)</sup>	0	0
Netherlands	0	0	10	0	10	0	15	0	—	20 <sup>(2)</sup>	0	0
Portugal	10	0	15	0	46 <sup>(2)</sup>	30 <sup>(2)</sup>	15	0 <sup>(2)</sup>	0 <sup>(2)</sup>	—	0	10
Germany	10	0	10	0	10	0	0	0	0	15	—	0
United Kingdom	10	0	12	0	0	0	15	0	0	10	0	—

<sup>(1)</sup> Moreover, 2,4% stamp duty withheld from interest other than interest on bonds and bank deposits.<sup>(2)</sup> No tax treaty.

**Proposal for a Council Directive concerning arrangements for the taking into account by enterprises of the losses of their permanent establishments and subsidiaries situated in other Member States**

COM(90) 595 final

(Submitted by the Commission on 6 December 1990)

(91/C 53/03)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas in a common market having the characteristics of an internal market, the activities of enterprises across Community borders should not be treated less favourably than activities limited to a single Member State, a requirement that is not currently met, since existing legislation often does not permit enterprises to take into account the losses incurred by their permanent establishments and subsidiaries situated in other Member States; whereas it is consequently necessary to introduce common rules covering all enterprises, whatever their legal form;

Whereas, in the case of permanent establishments, Member States should ensure that the enterprises of which they form an integral part are able to take account of their losses, either by allowing the results of such permanent establishments to be included in those of the enterprises and, at the same time, authorizing the latter to deduct the tax paid by the said establishments in the other Member States from any tax due in respect of their profits, or by authorizing the enterprise to deduct the losses of its permanent establishments from its own profits and taxing subsequent profits of the latter to the extent of the losses deducted; whereas the results of permanent establishments should be determined Member State by Member State;

Whereas in the case of subsidiaries, the latter method appears under the present circumstances to be the most appropriate means of allowing enterprises to offset the losses incurred with respect to activities across Community borders; whereas it is appropriate for the account taken by the parent enterprise of its subsidiaries' losses and profits to be determined separately for each subsidiary in proportion to the parent's holding therein; whereas, since a subsidiary is a legally independent entity, the enterprise which controls it should be free to decide whether or not to take into account its losses; whereas provision should be made to prevent the same losses from being taken into account twice by excluding the use of the method specified in this Directive in conjunction with an adjustment to the value of the holding;

Whereas, where the enterprise applies the method of deducting losses with reintegration of subsequent profits, the results of permanent establishments and subsidiaries may without any difficulty be determined according to the law of the Member State in which they are situated;

Whereas, in order to preclude unjustified advantages for enterprises and to safeguard the Member States' tax revenues, Member States must be allowed, in certain circumstances, to reincorporate automatically losses previously deducted; whereas, in addition, Member States should be free to apply provisions designed to prevent tax evasion and abuse;

Whereas it is appropriate to allow Member States the option of maintaining or introducing other means of taking into account subsidiaries' losses alongside the common method defined in this Directive;

Whereas, with a view to improving the worldwide competitiveness of Community enterprises, it appears appropriate to extend the arrangements laid down by this Directive to permanent establishments and subsidiaries situated in non-member countries; whereas Member States should be free to determine the conditions and scope of any such extension,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Member States shall adopt, in accordance with the provisions of this Directive, arrangements enabling their enterprises to take account of the losses incurred by permanent establishments or subsidiaries situated in other Member States.

TITLE I

General provisions

*Article 2*

For the purposes of this Directive:

— '*enterprise of a Member State*' means any enterprise which, under the tax legislation of a Member State, is considered to be resident for tax purposes in that State,



- 'permanent establishment' means any fixed place of business through which an enterprise of a Member State carries on all or part of its activities,
- 'subsidiary' means any company in the capital of which an enterprise of a Member State has a minimum holding of 75 %, giving it a majority of voting rights. Member States may, however, stipulate a lower minimum holding.

### Article 3

In order to fall within the provisions of this Directive, the enterprises, permanent establishments, and subsidiaries referred to in Article 2 must be subject to, without being exempt from, one of the following taxes:

- (a) in Belgium:
  - impôt des personnes physiques/personenbelasting,
  - impôt des sociétés/vennootschapsbelasting,
  - impôt des non-résidents/belasting der niet-verblijfhouders;
- (b) in Denmark:
  - selskabsskat,
  - indkomstskat til staten;
- (c) in Germany:
  - Einkommensteuer,
  - Körperschaftsteuer;
- (d) in Greece:
  - φόρος εισοδήματος φυσικών προσώπων,
  - φόρος εισοδήματος νομικών προσώπων,
- (e) in Spain:
  - impuesto sobre la renta de las personas físicas,
  - impuesto sobre sociedades;
- (f) in France:
  - impôt sur le revenu,
  - impôt sur les sociétés;
- (g) in Ireland:
  - income tax,
  - corporation tax;
- (h) in Italy:
  - imposta sul reddito delle persone fisiche,
  - imposta sul reddito delle persone giuridiche;
- (i) in Luxembourg:
  - impôt sur le revenu des personnes,
  - impôt sur le revenu des collectivités;
- (j) in the Netherlands:
  - inkomstenbelasting,
  - vennootschapsbelasting;

- (k) in Portugal:
    - imposto sobre o rendimento das pessoas singulares,
    - imposto sobre o rendimento das pessoas colectivas;
  - (l) in the United Kingdom:
    - income tax,
    - corporation tax,
- or any other tax which may be considered a substitute for one of these taxes.

### Article 4

Member States may extend the application of this Directive, under conditions which they shall lay down, to all or some of their enterprises' permanent establishments and subsidiaries situated outside the Community. However, these conditions may not be more favourable than those applicable to permanent establishments and subsidiaries situated in the other Member States.

## TITLE II

### Provisions relating to permanent establishments

#### Article 5

Member States shall make provision for their enterprises to take account of the losses incurred by permanent establishments situated in another Member State either by means of the credit method defined in Article 6, or by means of the method of deducting losses and reincorporating subsequent profits, as defined in Article 7.

Application of the credit method shall be obligatory for enterprises in Member States that have chosen it; application of the method of deducting losses and reincorporating subsequent profits is a matter for each enterprise to decide.

#### Article 6

The credit method shall consist of including in the enterprise's results for a given tax period the positive or negative results of all the enterprise's permanent establishments situated in another Member State, and where appropriate, crediting the tax paid by the latter against any tax which may be payable by the enterprise on the profits of such establishments.

#### Article 7

1. The method of deducting losses and reincorporating subsequent profits shall involve:

- (a) the deduction from the enterprise's taxable profits for a given tax period of the loss incurred in the same tax period by the enterprise's permanent establishments situated in other Member States;
- (b) the incorporation of subsequent profits of such permanent establishments into the enterprise's taxable income to the extent of the loss deducted pursuant to subparagraph (a).

2. The income of permanent establishments shall be determined Member State by Member State in accordance with the rules of the law of the Member State in which the permanent establishment is situated.

#### Article 8

Member States may make provision for losses which are deductible pursuant to Article 7 to be automatically reincorporated into the enterprise's taxable results in one of the following circumstances:

- (a) where reincorporation has not occurred by the end of the fifth year following that during which the loss became deductible;
- (b) where the permanent establishment has been sold, wound up or transformed into a subsidiary.

### TITLE III

#### Provisions relating to subsidiaries

#### Article 9

1. Member States shall make provision for their enterprises to take account of the losses incurred by subsidiaries situated in another Member State by means of the method of deducting losses and reincorporating subsequent profits.

This method shall involve:

- (a) the deduction from the enterprise's taxable profits for a given tax period of the loss incurred in the same tax period by the enterprise's subsidiaries situated in other Member States;
- (b) the incorporation of subsequent profits of such subsidiaries into the enterprise's taxable income to the extent of the loss deducted pursuant to subparagraph (a).

2. The income of each subsidiary shall be determined in accordance with the rules of the law of the Member State in which it is situated, in proportion to the holding which the enterprise has in its capital. The level of holding to be applied in this respect shall be the lowest obtaining during the tax period in question.

#### Article 10

Member States may make provision for losses which are deductible pursuant to Article 9 to be automatically reincorporated into the enterprise's taxable income in one of the following circumstances:

- (a) where reincorporation has not occurred by the end of the fifth year following that in which the loss became deductible;

(b) where the subsidiary is sold, wound up or transformed into a permanent establishment;

(c) where the enterprise's holding in the capital of the subsidiary has fallen below the minimum level laid down by the Member State in which the enterprise is situated.

#### Article 11

Application of the method defined in Article 9 shall be incompatible with any correction of the value of the holding of that enterprise in a subsidiary.

#### Article 12

The provisions of this Directive shall not prevent Member States from maintaining or introducing other methods of taking into account the losses of subsidiaries of its enterprises located in other Member States, including the consolidated profit method.

### TITLE IV

#### Final provisions

#### Article 13

This Directive shall not preclude the application of provisions laid down by national law or under agreements to prevent tax evasion or abuse.

#### Article 14

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 1993. They shall immediately inform the Commission thereof.

When Member States adopt these measures, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall ensure that the texts of the main provisions of national law which they adopt in the field covered by this Directive are communicated to the Commission, and, should the occasion arise, the texts of measures taken to extend the provisions of this Directive to permanent establishments and subsidiaries of their enterprises located outside the Community.

#### Article 15

This Directive is addressed to the Member States.

## ANNEX

## Tax arrangements applicable to losses of subsidiaries and foreign permanent establishments

Member State	Resident subsidiary	Foreign permanent establishment	Foreign subsidiary
Belgium	—	<ul style="list-style-type: none"> <li>— No tax treaty: deduction with reintegration following a certain order (Article 66 and following AR — CIR)</li> <li>— Tax treaties: exemption method</li> <li>— Deduction with reintegration where a treaty provides for exemption</li> </ul>	—
Denmark	Consolidation (consolidated profit 100 % subsidiary)	<ul style="list-style-type: none"> <li>— No tax treaty: taxation of worldwide income with tax credit</li> <li>— Tax treaties: taxation of worldwide income with either tax credit or exemption with progression, or exemption</li> </ul>	Consolidation (consolidated profit 100 % subsidiary) Double taxation is in practice avoided in the same way as for foreign permanent establishments
Germany	Consolidation when the Organschaft system is applied (subsidiary under financial (51 % of votes) structural and economic control) at the option of the parent company	<ul style="list-style-type: none"> <li>— No tax treaty: taxation of worldwide income with tax credit</li> <li>— Tax treaties: exemption method deduction of losses with reintegration where a treaty provides for exemption</li> </ul>	—
Greece	—	<ul style="list-style-type: none"> <li>— No tax treaty: in principle tax credit method except if the global result of all permanent establishments is negative (no deduction of losses in such cases)</li> <li>— Tax treaties: tax credit method</li> </ul>	—
Spain	Consolidation (consolidated profit) 90 % subsidiary minimum	<ul style="list-style-type: none"> <li>— No tax treaty: taxation of worldwide income with tax credit</li> <li>— Tax treaties: tax credit method</li> </ul>	—
France	Consolidation if: <ol style="list-style-type: none"> <li>1. Consolidated profit (bénéfice consolidé) upon authorization by the tax authorities <sup>(1)</sup></li> <li>2. System of fiscal integration (régime d'intégration fiscale) 95 % subsidiary minimum</li> </ol>	<ul style="list-style-type: none"> <li>— Tax treaties: exemption method</li> <li>— Taxation of worldwide income in the framework of the 'bénéfice mondial' system upon authorization by the tax authorities <sup>(1)</sup> and irrespective of whether a treaty applies or not</li> </ul>	Consolidation if: <ol style="list-style-type: none"> <li>1. Regime of 'bénéfice consolidé on authorization' <sup>(1)</sup></li> <li>2. Deduction of losses of the first five years to the invested amount for investment in the EEC with automatic reincorporation once profits are carried and at the latest after 10 years (Article 39-80-B-CGI)</li> </ol>
Ireland	Loss offsetting if: <ol style="list-style-type: none"> <li>1. A minimum participation of 75 % in a subsidiary or</li> <li>2. Consortium</li> </ol>	<ul style="list-style-type: none"> <li>— No tax treaty: taxation of worldwide income with tax credit</li> <li>— Tax treaties: tax credit method</li> <li>— If the foreign tax rate exceeds the Irish rate, a partial deduction is granted for the excess amount</li> </ul>	—

<sup>(1)</sup> In practice very limited application.

Member State	Resident subsidiary	Foreign permanent establishment	Foreign subsidiary
Italy	—	— No tax treaty: taxation of world wide income with tax credit — Tax treaties: tax credit method	—
Luxembourg	Tax consolidation when the Organschaft system is applied (subsidiary at 99%) at the option of the parent enterprise and upon authorization by the Minister of Finance	— No tax treaty: taxation of world wide income with tax credit — Tax treaties: exemption method without deduction of losses	—
Netherlands	Tax consolidation when application of fiscal entity (fiscale eenheid) 99% subsidiary. Under certain conditions losses which arise in the case of winding up a subsidiary that is part of a fiscal entity can be taken into account	No tax treaty: taxation of world wide income with tax credit Tax treaties: exemption method Deduction with reintegration in case of losses when a treaty provides for the exemption method	Under certain conditions, losses which arise in the case of winding up a subsidiary can be taken into account
Portugal	Consolidation (90% subsidiary at the option of the parent enterprise)	— No tax treaty: taxation of world wide income — Tax treaties: taxation of worldwide income with tax credit	—
United Kingdom	Tax arrangements for losses if: 1. 75% subsidiary minimum or 2. Consortium	— No tax treaty: taxation of world wide income with tax credit — Tax treaties: tax credit method	—

(<sup>1</sup>) In practice very limited application.

Proposal for a Council Directive on rental right, lending right, and on certain rights related to copyright

COM(90) 586 final — SYN 319

(Submitted by the Commission on 13 December 1990)

(91/C 53/04)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community and in particular Articles 57 (2), 66 and 100a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas differences exist in the legal protection provided by the laws and practices of the Member States for copyright works and subject matter of related rights protection as regards rental and lending, and such differences are sources of barriers to trade and distortions of competition which impede the proper functioning of the internal market;

Whereas such differences in legal protection could well become greater as Member States adopt new and different legislation or as national jurisprudence interpreting such legislation develops differently;

Whereas such differences should therefore be eliminated by 31 December 1992 in accordance with the objective of introducing an area without internal frontiers, as set out in Article 8A of the Treaty;

Whereas rental and lending of copyright works and the subject matter of related rights protection is playing an increasingly important role in particular for creators, artists and a broad range of industries, and piracy is becoming an increasing threat;

Whereas the adequate protection of copyright works and subject matter of related rights protection by rental and lending rights as well as the protection of the subject matter of related rights protection by the fixation right, reproduction right and distribution right can accordingly be considered as being of fundamental importance for the Community's industrial and cultural development;

Whereas copyright and related rights protection must adapt to new economic developments such as new forms of exploitation;

Whereas the creative and artistic work of authors and performing artists necessitates an adequate income as a basis for further creative and artistic work, and the investments required particularly for the production of phonograms and

films are especially high and risky and the possibility for securing that income and recouping that investment can only effectively be guaranteed through adequate legal protection;

Whereas without effective and harmonized protection throughout the Member States, such creative and artistic work as well as such investment might decrease or never be made;

Whereas these creative, artistic and entrepreneurial activities are, to a large extent, activities of self-employed persons, and the pursuit of such activities must be made easier by providing a uniform legal protection within the Community;

Whereas, to the extent that these activities constitute services, their provision must equally be facilitated by the establishment in the Community of a uniform legal framework;

Whereas protection by rental and lending rights and protection in the field of rights related to copyright by existing legislation, administrative practice, and court jurisprudence does not exist at all in some Member States and, where it exists, is not the same or has different characteristics;

Whereas the uncoordinated development in the Community of legal protection in these fields in the Member States could result in the creation of new disincentives to trade to the detriment of further industrial and cultural development and of the completion of the internal market;

Whereas existing differences having such effects need to be removed and new ones having a negative impact on the functioning of the common market and the development of trade in cultural goods and services need to be prevented from arising;

Whereas the legislation of the Member States should be harmonized in such a way as not to conflict with the existing international conventions on which many Member States' copyright and related rights laws are based;

Whereas the Community's legal framework on the rental and lending right and on certain rights related to copyright can be limited to establishing that Member States provide rights

with respect to rental and lending for certain groups of right owners and further to establishing the exclusive rights of fixation, reproduction and distribution for certain groups of right owners in the field of related rights protection;

Whereas the harmonized rental and lending rights and the harmonized protection in the field of rights related to copyright should not be exercised in a way which constitutes a disguised restriction on trade between Member States,

HAS ADOPTED THIS DIRECTIVE:

## CHAPTER I

### RENTAL AND LENDING RIGHT

#### Article 1

##### Object of harmonization

1. In accordance with the provisions of this chapter, Member States shall provide a right to authorize or prohibit the rental and lending of originals and copies of copyright works, and other subject matter as set out in Article 2 (1).

2. For the purposes of this Directive, 'rental' means making available for use, for a limited period of time and for profit-making purposes, without prejudice to paragraph 3.

3. For the purposes of this Directive, 'lending' means making available for use, for a limited period of time, and not for direct profit-making purposes, if it is made through institutions which are accessible to the public, such as public libraries, research libraries, specialized libraries, school libraries, church libraries, collections of new media or of works of visual art, libraries organized or sponsored by public or private companies, and other collections of subject matter as set out in Article 2 (1).

4. The rights referred to in paragraph 1 shall not be affected by any sale, or other act of distribution, of originals and copies of works and other subject matter, as set out in Article 2 (1).

#### Article 2

##### First owner and subject matter of rental and lending right

1. The right to authorize or prohibit the rental and lending shall belong:

- to the author in respect of the original and copies of his work,

- to the performing artist in respect of fixations of his performance,

- to the phonogram producer in respect of his phonograms, and

- to the producer of the first fixations of cinematographic works and moving images in respect of his visual recordings, and visual and sound recordings.

2. A rental and lending right does not arise in relation to buildings and to works of applied art.

3. The provisions of this Directive shall be without prejudice to any provisions of the Council Directive on the legal protection of computer programs.

#### Article 3

##### Authorization of rental and lending

If the rightholders authorize to a third party against payment the rental or lending of a sound recording, visual recording or visual and sound recording, then each of the rightholders set out in Article 2 (1) shall retain the right to obtain an adequate part of the said payment, notwithstanding any assignment of the rental or lending right or granting of licences. This right to obtain an adequate part of the payment cannot be waived, but its administration may be assigned.

#### Article 4

##### Derogation from exclusive lending right

Member States may, for cultural or other reasons, derogate from the copyright based exclusive lending right referred to in Article 1 (1) for one or several categories of objects, provided that:

- at least authors obtain an equitable remuneration through administering bodies for such lending, and
- such derogation measures comply with Community law, in particular Article 7 of the EEC Treaty.

## CHAPTER II

### PROTECTION IN THE FIELD OF RIGHTS RELATED TO COPYRIGHT

#### Article 5

##### Fixation right

Member States shall provide for performing artists the right to authorize or prohibit the fixation of their performances. Likewise, they shall provide for broadcasting organizations the right to authorize or prohibit the fixation of their broadcasts.

**Article 6****Reproduction right**

Member States shall provide the right to authorize or prohibit the direct or indirect reproduction:

- for performing artists, of fixations of their performances,
- for phonogram producers, of their phonograms,
- for producers of the first fixations of cinematographic works or moving images, of their visual recordings, and visual and sound recordings,
- for broadcasting organizations, of fixations of their broadcasts.

**Article 7****Distribution right**

1. Member States shall provide:

- for performing artists in respect of fixations of their performances,
- for phonogram producers in respect of their phonograms,
- for producers of the first fixations of cinematographic works and moving images in respect of their visual recordings, and visual and sound recordings,
- for broadcasting organizations in respect of fixations of their broadcasts,

the exclusive right to make available, for an unlimited period of time, their respective subject matter to the public by sale or otherwise, without prejudice to paragraph 2.

2. If a subject matter referred to in paragraph 1 has been put into circulation within the Community by the right owner or with his consent, then its import into another Member State may not be prohibited by virtue of the right referred to in paragraph 1.

**Article 8****Limitations to rights**

1. Member States may provide limitations to the rights referred to in Chapter II in respect of:

- (a) private use;
- (b) use of short excerpts in connection with the reporting of current events;
- (c) ephemeral fixation by a broadcasting organization by means of its own facilities and for its own broadcasts;
- (d) use solely for the purposes of teaching or academic research.

2. Irrespective of paragraph 1, any Member State may provide the same kinds of limitations with regard to the protection of performers, producers of phonograms, broadcasting organizations and of producers of the first fixations of cinematographic works and moving images, as it provides in connection with the protection of copyright in literary and artistic works. However, compulsory licences may be provided only to the extent that they are compatible with the Rome Convention (International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations).

3. Paragraph 1 (a) shall be without prejudice to any existing or future legislation on remuneration for reproduction for private use.

**CHAPTER III****DURATION****Article 9****Duration of authors' rights**

Until further harmonization, the authors' rights referred to in this Directive shall not expire before the end of the term provided by the Berne Convention for the Protection of Literary and Artistic Works; this shall be without prejudice to the particular terms of protection of authors' rights not explicitly dealt with by that Convention.

**Article 10****Duration of related rights**

Until further harmonization, the rights referred to in this Directive of performing artists, phonogram producers and broadcasting organizations shall not expire before the end of the respective terms provided by the Rome Convention. This shall apply *mutatis mutandis* to the right referred to in this Directive, of producers of the first fixations of cinematographic works and moving images.

**CHAPTER IV****COMMON PROVISIONS****Article 11****Application in time**

The provisions of this Directive shall apply also in respect of all copyright works, performances, phonograms, broadcasts

and first fixations of cinematographic works and moving images referred to in this Directive which are, on 1 January 1993, still protected by the national legislation in the field of authors' rights and related rights.

*Article 12*

**Final provisions**

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 January 1993.

Member States shall forthwith inform the Commission thereof and communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

*Article 13*

This Directive is addressed to the Member States.



**Proposal for a Council Decision on the dissemination and exploitation of knowledge resulting from the specific programmes of research and technological development of the Community**

COM(90) 611 final — SYN 323

*(Submitted by the Commission on 17 December 1990)*

(91/C 53/05)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130q (2) thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Article 130g (c) of the Treaty states that the Community, complementing the activities carried out in the Member States, is to carry out activities for the 'dissemination and optimization of the results of activities in Community research, technological development and demonstration';

Whereas the second paragraph of Article 130k of the Treaty stipulates that the Council shall define the detailed arrangements for the dissemination of knowledge resulting from the specific programmes;

Whereas the Treaty establishing the European Coal and Steel Community stipulates that the Commission is to carry out activities in the Coal and Steel sector which do not form part of the framework programme for research and technological development, the results of which must be disseminated and used by means of suitable separate activities, using the resources of the ECSC 'operating budget';

Whereas by Decision 90/221/Euratom, EEC (1), the Council adopted a third framework programme for Community activities in the field of research and technological development (1990 to 1994), specifying *inter alia* the activities to be pursued for developing the scientific knowledge and technical know-how needed by the Community, and providing that the detailed arrangements for the dissemination of the knowledge gained, in particular the definition and the implementation of the centralized action, should be the subject of a Council Decision;

Whereas it is necessary to ensure the coherence of schemes for disseminating the knowledge resulting from specific

programmes in the framework programme and whereas such coherence must be based on general rules which guarantee the protection of the legitimate interests of the public and private contracting parties and of the rights linked to the obtaining and exploitation of the results, as well as their exploitation in conformity with the Community's interests, in particular with respect to its economic and social cohesion;

Whereas, in order to improve the insertion of Community research into a broader context and to optimize the utilization of the knowledge which results from it, it is important that the centralized action should both intensify its emphasis on the research-industry interface and widen its scope to the research-science and research-society interfaces;

Whereas an estimate should be made of the amount of Community financial resources needed to carry out this action; whereas the definitive amounts will be fixed by the budgetary authority in line with the financial perspectives covering the period 1988 to 1992 included in the interinstitutional Agreement of 29 June 1988 (2) and with any future financial perspectives covering the period 1993 to 1994;

Whereas the Scientific and Technical Research Committee (Crest) has delivered its opinion,

HAS ADOPTED THIS DECISION:

**I. Definition and implementation of the centralized action**

*Article 1*

1. The dissemination and exploitation of knowledge shall be carried out as part of the specific programmes and by means of a centralized action.

2. The centralized action, as defined in Annex I, shall ensure overall coordination and cohesion in the field covered by the framework programme. It is adopted for the period between the date of publication in the Official Journal of the First Decision adopting a specific programme under the framework programme (1990 to 1994) and 31 December 1994.

(1) OJ No L 117, 8. 5. 1990, p. 28.

(2) OJ No L 185, 15. 7. 1988, p. 33.

*Article 2*

1. The amount of Community expenditure deriving from the levies on the sums considered necessary for the specific programmes, with a view to the implementation of the centralized action established by this Decision, is estimated at ECU 57 million.

The amount includes staff costs, which may amount to a maximum of 6 %. An indicative breakdown of expenditure is set out in Annex II.

2. Should the Council take a decision in implementation of Article 1 (4) of Decision 90/221/Euratom, EEC, this Decision shall be adapted to take account of the abovementioned Council Decision.

3. The budgetary authority shall decide on the appropriations available for each financial year.

*Article 3*

1. Before the end of 1992 the Commission shall review the action and address a report on the results of the review to the Council and the European Parliament, together with proposals for any necessary changes.

2. At the end of the action the Commission shall assess the results obtained. It shall address a report thereon to the Council and the European Parliament.

3. The reports shall be drawn up having regard to the objectives set in Annex I to this Decision and in accordance with Article 2 (4) of Decision 90/221/Euratom, EEC.

*Article 4*

The Commission shall be responsible for the execution of the action. It shall be assisted by a committee of an advisory nature, hereinafter referred to as 'the Committee', composed of the representatives of the Member States and chaired by the representative of the Commission.

*Article 5*

1. In the cases referred to in Article 6 (1), the representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

2. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

3. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

*Article 6*

1. The procedure laid down in Article 5 shall apply to:

- the evaluation of the projects proposed, as well as the estimated amount of the Community's financial contribution,
- the definition of the confidentiality criteria applicable to the dissemination of the results,
- the precise implementing arrangements resulting from agreements concluded with non-Community countries,
- measures for evaluating the action.

2. The Commission may consult the Committee on any matter falling within the scope of the action.

**II. General provisions***Article 7*

1. The dissemination and exploitation of knowledge resulting from the Community's specific research and technological development programmes shall be subject to the following rules:

- (a) The knowledge resulting from work undertaken directly or financed wholly by the Community shall be the property of the Community.

That resulting from work under a shared-cost contract shall be the property of the contractors who carry out the work.

- (b) Knowledge which could be used in an industrial application, if its nature justifies such a measure, shall be protected to the extent required in the light of the interests of the Community and its co-contractors and in accordance with any applicable legislation or conventions.

- (c) The Community and its co-contractors shall exploit the knowledge in their possession, or have it exploited, in conformity with the Community's interests, and taking full account of the objective of strengthening economic and social cohesion in the Community.

- (d) Knowledge belonging to the Community shall be made available to its co-contractors and to interested third parties established in the Community who can prove that they need the knowledge and who undertake to exploit it or have it exploited in conformity with the Community's interests. Such provision of knowledge may be subject to appropriate conditions, particularly concerning the payment of fees.

All contractors shall make the knowledge in their possession, together with any information necessary for

its use, available to the co-contractors and to interested third parties who satisfy contractually defined conditions.

safeguard intellectual property, confidentiality or legitimate commercial interests.

- (e) The Commission shall ensure that knowledge suitable for dissemination is disseminated or published either by the Commission itself or by its co-contractors, without any restrictions other than those imposed by the need to

2. The Commission shall lay down the arrangements for implementing the rules laid down in paragraph 1.

#### Article 8

This Decision is addressed to the Member States.

### ANNEX I

#### AIMS AND CONTENT

The general aim of the centralized action for the dissemination and exploitation of knowledge resulting from Community research activities, carried out under this programme, is to give specific added value to the R&D activities which are the subject of the third framework programme for 1990 to 1994. On the one hand, it provides the necessary continuity for some of the measures carried out under the Value programme; on the other, it introduces new topics concerned particularly with the repercussions of research and technological development activities and their results on society as a whole.

This centralized action is to be conducted in accordance with the following guiding principles.

(a) *Horizontality*

Measures to publish and utilize research results must apply to the whole range of Community R&D activities, irrespective of the nature of programmes, the persons involved and the administrative authorities responsible. This criterion means that this centralized action is one of a series of horizontal measures including programmes like Monitor which is designed to come up with scenarios and strategies for future research.

(b) *Internal complementarity*

The centralized action does not rule out, in fact to some extent it presupposes, measures taken within each specific programme to promote the dissemination of the results. It supplements and coordinates the measures taken under specific programmes. It also concentrates on activities requiring special infrastructure (computerized information systems, a network of 'relay stations', etc.) or special capabilities for transferring know-how to fields of activity in other disciplines.

(c) *Subsidiarity*

The centralized action takes account of the synergies between decentralized (public and private) and Community R&D activities and is designed, in conjunction with other Community measures (regional development programmes, Sprint), and in cooperation with the national and regional authorities responsible, to establish a single space for the utilization and transfer of the technologies and the know-how obtained from research and technological development.

As far as the content of the present programme is concerned, those measures already launched to forge closer links between research and industry will be supplemented by other new measures designed to forge closer links between research and society and between research and the scientific community. These are measures which reflect the new scientific and technological objectives and constraints set by society and its institutions, and the increasing interest in an interdisciplinary approach to research and technological development activities. At this stage, and now that its activities are more developed, this centralized action will incorporate these new topics into its conceptual and operational framework.

#### 1. Research — industry interface

The aim is to help to improve the international competitiveness of Europe's industry in accordance with the provisions of the EEC Treaty by means of specific projects designed to maximize the impact of Community R&D activities on industry as a whole. It is up to companies, first and foremost, to make good use of the results.

Cooperation between universities and industry is encouraged within the framework of specific programmes. The centralized action will help organizations involved in Community R&D projects to protect their findings, but at the same time to exploit and promote them. The following measures are proposed.

A. *New channels of information for companies*

A network of 'relay stations' will be set up to promote Community R&D. This will be done by developing the channels already made available for providing companies with information and for disseminating results. It will provide multifunctional support for the measures planned under the present programme. These relay stations will have special access to Community information and will be able to tailor this information to the various needs which arise at decentralized level. They will also allow companies, particularly small businesses and businesses located in the more peripheral and least favoured areas of the Community, to enter into contact with centres of excellence.

The relay stations will have a role to play both downstream and upstream of specific programmes. Upstream, these relay stations will provide information (by publishing newsletters, translating documents, organizing conferences, etc.), advice and assistance (by helping small businesses to define their Community strategy and to find, and negotiate contracts with, partners). Downstream, they will help with the centralized action to publish and utilize research results consolidating links between the companies and laboratories requiring information at local or national level and the supply of information at Community level (by organizing targeted dissemination projects and information and training campaigns).

The scientific, technical and industrial community will help to select the relay stations in the Member States and to define their specific tasks. In order to make them as dynamic as possible, the quality of information flows will be improved and be made more efficient.

Once the Value programme has been completed, a basic service, Cordis, should become available. As of 1991, the availability of this service can be speeded up by allocating more resources to it within the framework of the centralized action. After 1993, the aim of the centralized action will be to update and add to Cordis data in order to ensure that there is no breakdown in the service. The service will have to provide new functions and continue to expand by including other sources of information. The proposed pattern of development will include: making the service more user-friendly; extending the service by integrating other databases from European bodies or programmes; using electronic storage devices (CD ROM and video discs); developing systems for electronic data exchange between selected users, including the relay stations, which could allow additional information services or special access facilities for certain private data providers.

The development of computerized methods does not exclude the use of more traditional methods like the publication of bulletins and bibliographies which will provide wider access to information services.

B. *Utilization of results*

This action, which was already started in the Value programme, should be extended to the new fields covered by the framework programme and developed in line with the results that become available in the years ahead. This means utilizing the research and development results of which the Community is the owner and, where needed, helping to utilize the results of research and development projects undertaken on a shared-cost basis. In the latter case, the aim will be to help contractors who do not have sufficient expertise, in particular the universities and SMEs, to take advantage of the results of their research and development work.

The work to be undertaken as part of a real Community design engineering service could take different forms depending on each specific case: — identifying, controlling and appraising the results of research in order to develop and target utilization plans, — finding licensees especially for the JRC and, more generally, parties interested in utilizing results, — providing adequate financial support for studies or tests and experimental developments.

This work will be carried out with the help of outside experts and competent organizations in the Member States.

C. *Protection of results*

The protection of results belonging to the Community and management of the patents portfolio that it holds will be continued, as in the past, through systematic examination of the final reports and results obtained by the JRC. The actions described below, which have already been started in the Value programme, will be developed more intensively by the centralized action.

Those universities, research centres and SMEs which do not have a patents department will, on request, be provided with aid by the centralized action. It will supply expertise on patents and financial support limited to the costs of searches for prior claims to novelty and first patent applications.

Public awareness campaigns can also be organized on the importance of protecting results for the research scientists participating in Community R&D programmes.

#### D. *Promotional activities*

Promotion of the results among the scientific and educational community and in the world of business could take the following form: financial support for organizations making an active contribution to the promotion of results and, in general, for organizations within a transnational network set up in order to facilitate, promote and coordinate access to Community programmes; organization of seminars, conferences and other means of communication, including in association with the respective bodies in the Member States and, in particular with the 'relay stations'; attendance at trade fairs. Specific activities are planned to provide economic and social cohesion in countries where dissemination and utilization structures do not exist or are still in their infancy.

## 2. Interface between research and the scientific community

The objective of the activities under this heading is to contribute to the inter-disciplinary reflection already underway about research, and the methods, problems and position of research in the whole range of human activities. The actions in question open a new chapter on 'research on research'. They will involve inter-disciplinary contributions and will be structured around the four following axes:

#### A. *Institutions of research*

The aim is to apply the disciplines of law, political sciences, social and human sciences to a series of aspects of R&D. In particular, the following topics will be studied: questions of intellectual property and other civil law and public law aspects; ethics; history and comparative analysis of public and private research structures; international rules on scientific and technological information, especially with regard to the constraints or opportunities for the optimal dissemination and exploitation of knowledge resulting from specific programmes.

#### B. *Communication of research*

The objective is to apply findings in certain disciplines, such as logic, semiotics, epistemology and cognitive sciences, to the analysis and development of the communication of research. This will involve, in particular: the transfer of scientific and technological know-how to the various classes of user; scientific language in relation to external variables of a socio-cultural nature; the aspects of communication which, by using transcriptional and translational models, allow an interdisciplinary fabric to be constructed which covers the wealth of scientific and technological knowledge.

#### C. *Economics of research*

Macroeconomic instruments and business sciences must be used to determine the optimum use of resources to be channelled into research as part of general economic development objectives and company objectives. The economic and econometric bases must also be provided for research investment policies, in particular with reference to commitments from the Member States and the Community. Taking account also of studies conducted in other contexts, the cost-benefit aspects of the cycle of research and development, and the economic obstacles to its exploitation, will be examined.

#### D. *Management of research*

Management studies will help with the organization of research and laboratory management. They can make a contribution to project management, administrative procedures and methods of management. Particular attention will be paid to subjects relating to decentralized management and making more efficient use of human resources in the departments which manage research. Comparative studies will be conducted on the different management models used by university and industrial research institutes.

From an operational point of view, measures to consolidate links between research and the scientific community will take three forms:

- (a) support for studies and research by institutes and academics in the four subject areas described above, usually according to the additional costs formula;
- (b) contributions to studies, monographs, theses and articles, according to special selection procedures;
- (c) contributions to conferences and other academic events.

### 3. Interface between research and society

This heading covers measures designed to identify and study the impact on society of the new scientific and technological knowledge acquired as a result of Community activities. The aim is to spread scientific know-how widely through Europe. This is a new and essential component of the centralized action, the aim being to make changes in the contemporary approach to science compatible with future plans for our society.

This reflects the more mature and at the same time more critical attitude now being adopted by the public. There is an increasing reluctance to accept implicitly the principle that scientific and technological progress is *a priori* and in every case beneficial to man and society.

The centralized action can help better to direct the Community's R&D policy by paying particular attention to the areas where interaction between science and technology on the one hand and society on the other is particularly critical (or is perceived as such). To this end, it should take its place in an efficient interactive process consisting of the following stages: research, research results, public perception and reaction, assessment of social impact, modification of research activities where necessary. In order to ensure that this procedure works effectively, close links will have to be forged across the board with the specific study programmes developed prior to the policy making process. The centralized action will be in three parts.

#### A. *Contribution to assessment of the social impact of science and technology*

In conjunction with the more specific activities provided for in the individual specific programmes and with the activities of the Monitor programme, more general 'technology assessment' schemes will be developed. Those areas which will be specially monitored and studied are not only those which relate to the exploitation of new technologies affecting health, safety, and the environment, but also ethical and legal questions relating to the exploitation of results. These studies will be conducted with the help of experts in these various fields while maintaining close contact and dialogue with those who are specifically involved in defining strategies and programmes.

#### B. *Communication with the public*

Appropriate channels of communication, particularly through the mass media, will be used to provide information for the public. Special use will be made of the relay stations mentioned above. The Member States will be involved with providing information and for coordination between Community, national and regional channels of information.

#### C. *Analysing public demand and new requirements*

In conjunction with the other programmes concerned, the centralized action will provide studies and surveys designed to identify the latest social needs. Through its direct contact with actual or potential users of the knowledge resulting from R&D programmes, it will offer a rich and varied source of information concerning needs related to the standard of living and the quality of life, as well as in terms of the need to provide greater production and economic opportunities in a coherent Community context.

## ANNEX II

## INDICATIVE BREAKDOWN OF EXPENDITURE

	<i>as a percentage</i>
Research-industry interface	70/75
Research-scientific community interface	15/12
Research-society interface	15/12
	<u>100/99</u>

The above amounts include administrative and staff costs.

Despite this breakdown into different areas, projects may nevertheless fall under several areas.

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**Proposal for a Council Directive concerning the minimum requirements for the provision of safety and/or health signs at work**

COM(90) 664 final — SYN 322

*(Submitted by the Commission on 21 December 1990)*

(91/C 53/06)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 118a thereof,

Having regard to the proposal from the Commission, which was presented following consultations with the Advisory Committee on Safety, Hygiene and Health Protection at Work,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Article 118a of the Treaty provides that the Council must adopt, by means of Directives, minimum requirements to encourage improvements especially in the working environment, in order to ensure better protection for the health and safety of workers;

Whereas, under that Article, such Directives must avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;

Whereas the Commission communication on its programme concerning safety, hygiene and health at work <sup>(1)</sup> provides for a revision and extension of the scope of Council Directive 77/576/EEC of 25 July 1977 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the provision of safety signs at places of work <sup>(2)</sup>; as last amended by Commission Directive 79/640/EEC <sup>(3)</sup>;

Whereas, in its resolution of 21 December 1987 on safety, hygiene, and health at work <sup>(4)</sup>, the Council took note of the Commission's intention of submitting to the Council within a short period of time a proposal for revising and extending the abovementioned Directive;

Whereas Directive 77/576/EEC requires substantial amendment and should be redrafted for the sake of consistency and clarity;

Whereas this Directive is an individual Directive within the meaning of Article 16 (1) of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work <sup>(5)</sup>; whereas the provisions of Directive 89/391/EEC therefore apply in full to safety and health signs at work, without prejudice to more stringent and/or specific provisions in this Directive;

Whereas existing Community provisions mainly relate to safety signs and the marking of obstacles and dangerous locations, and are therefore restricted to a limited number of types of signs;

Whereas the effect of this restriction is that some hazards are not appropriately marked and that new types of signs should therefore be introduced in order to provide better protection for the health and safety of workers;

Whereas the many differences between the safety and/or health signs currently in use in the Member States lead to uncertainty, and this may become more widespread with the free movement of workers within the internal market;

Whereas the use of standardized signs at work is, in general, likely to reduce the risks which may arise from linguistic and cultural differences between workers;

Whereas this Directive constitutes a tangible step towards developing the social dimension of the internal market;

Whereas, pursuant to Council Decision 74/325/EEC <sup>(6)</sup>, as last amended by the Act of Accession of Spain and Portugal, the Advisory Committee on Safety, Hygiene and Health Protection at Work is consulted by the Commission on the drafting of proposals in this field,

<sup>(1)</sup> OJ No C 28, 3. 2. 1988, p. 3.

<sup>(2)</sup> OJ No L 229, 7. 9. 1977, p. 12.

<sup>(3)</sup> OJ No L 183, 19. 7. 1979, p. 11.

<sup>(4)</sup> OJ No C 28, 3. 2. 1988, p. 1.

<sup>(5)</sup> OJ No L 183, 29. 6. 1989, p. 1.

<sup>(6)</sup> OJ No L 185, 9. 7. 1974, p. 15.



HAS ADOPTED THIS DIRECTIVE:

## SECTION I

### GENERAL PROVISIONS

#### Article 1

##### Object

1. This Directive, which is the (. . .) individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC, lays down minimum requirements for the provision of safety and/or health signs at work.

2. This Directive shall not apply to signs for the marketing of dangerous substances and preparations, products and/or equipment, unless other Community provisions make specific reference thereto.

3. This Directive shall not apply to signs used for transport by road, rail, inland waterway, sea and air.

4. The provisions of Directive 89/391/EEC shall apply in full to the whole area referred to in paragraph 1, without prejudice to more restrictive and/or specific provisions in this Directive.

#### Article 2

##### Definitions

For the purposes of this Directive, the following terms shall have the meanings indicated.

(a) *Safety and/or health sign*

A sign referring to a specific object, activity or situation and providing information about a hazard or danger to health and/or safety at work by means of a signboard, a colour, a luminous or acoustic sign, a verbal communication or a hand signal.

(b) *Prohibitory sign*

A sign which prohibits a certain type of behaviour.

(c) *Warning sign*

A sign which warns of a risk or danger.

(d) *Mandatory sign*

A sign prescribing a specific form of behaviour.

(e) *Emergency or first-aid sign*

A sign giving information on emergency escape routes or first-aid facilities.

(f) *Informatory sign*

A sign providing information other than that described in points (b) to (e).

(g) *Signboard*

A sign which provides specific information by a combination of a geometric shape, colours and a symbol or pictogram, and which is clearly visible in daylight; its visibility may be enhanced by the material from which it is made or artificial light, if necessary.

(h) *Supplementary signboard*

A signboard used together with one of the signs described under (g), which provides supplementary information usually in the form of a short text.

(i) *Safety colour*

A colour to which a specific meaning is assigned.

(j) *Symbol or pictogram*

A figure which describes a situation or prescribes a specific form of behaviour and which is used on a signboard or luminous surface.

(k) *Luminous sign*

A sign produced by a device made of transparent or translucent materials which are illuminated from the inside or the rear in such a way as to give the appearance of a luminous surface.

(l) *Acoustic sign*

A coded sound sign which is released and transmitted by a device designed for that purpose, without the use of a human or artificial voice.

(m) *Verbal communication*

A predetermined spoken message communicated by a human or artificial voice.

(n) *Hand signal*

A movement and/or position of the arms and/or hands, in coded form, for guiding persons who are carrying out manoeuvres which constitute a risk or danger for workers.

## SECTION II

## EMPLOYERS' OBLIGATIONS

*Article 3*

## General rules

1. The safety and/or health signs laid down in this Directive shall be provided where there are risks or dangers which have not been eliminated by techniques for collective protection or by the measures, methods or procedures used in the organization of work.

2. Without prejudice to the provisions of Annex V, the signs used for road, rail, inland waterway, sea and air transport shall be installed, wherever appropriate for such forms of transport, inside undertakings and/or firms.

*Article 4*

## Safety and/or health signs used for the first time

A safety and/or health sign used at work for the first time on or after the date referred to in Article 12 (1) must fulfil the minimum requirements set out in Annexes I to IX.

*Article 5*

## Safety and/or health signs already in use

A safety and/or health sign which was already in use at work before the date referred to in Article 12 (1) must fulfil the minimum requirements set out in Annexes I to IX by no later than one year after that date.

*Article 6*

## Modifications to safety and/or health signs

Any modification, extension or transformation of a safety and/or health sign at work on or after the date referred to in Article 12 (1) must fulfil the relevant minimum requirements set out in Annexes I to IX.

*Article 7*

## Exemptions

1. Taking account of the types of activity and size of the undertakings concerned, Member States may specify sectors of activity, categories of undertakings or types of

workstation allowed a total, partial or temporary exemption from the obligation to use luminous and/or acoustic signs as provided for in this Directive, provided that alternative measures are taken which afford the same level of protection.

2. Member States shall consult the national employers' and workers' organizations in advance when implementing the previous paragraph.

*Article 8*

## Information and instruction for workers

1. Without prejudice to Article 10 of Directive 89/391/EEC, workers and/or their representatives shall be informed of all the measures to be taken concerning the health and/or safety signs used at work.

2. Without prejudice to Article 12 of Directive 89/391/EEC, workers must be given suitable instruction, in particular in the form of specific directions concerning the safety and/or health signs used at work.

In particular, the instruction shall cover the meaning of the signs, especially signs incorporating words, and the general and specific forms of behaviour to be adopted.

*Article 9*

## Consultation of workers and workers' participation

Consultation and participation of workers and/or their representatives shall take place in accordance with Article 11 of Directive 89/391/EEC on the matters covered by this Directive, including Annexes I to IX.

## SECTION III

## MISCELLANEOUS PROVISIONS

*Article 10*

## Adaptation of the Annexes

Adaptations of a technical nature to the Annexes shall be adopted, in accordance with the procedure provided for in Article 17 of Directive 89/391/EEC, in the light of:

- the adoption of directives on technical harmonization and standardization concerning the design and manufacture of safety and/or health signs or signalling devices at work,

— technical progress, changes in international rules or specifications and advances in knowledge in the field of safety and/or health signs at work.

#### Article 11

Directive 77/576/EEC shall be repealed on the date referred to in Article 12.

Any references to the repealed Directive shall be taken to refer to the corresponding provisions of this Directive, as listed in the table in Annex X.

#### Article 12

##### Final provisions

1. Member States shall bring into force the laws, regulations and administrative provisions required to comply with this Directive with effect from 1 January 1994. They shall immediately inform the Commission thereof.

The laws, regulations and administrative provisions adopted pursuant to this paragraph shall contain a reference to this Directive or shall be accompanied by such reference at the

time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the text of the provisions of national law which they have already adopted or adopt in the field covered by this Directive.

3. Member States shall report to the Commission every five years on the practical implementation of the provisions of this Directive, indicating the views of employers and workers.

The Commission shall inform the European Parliament, the Council, the Economic and Social Committee and the Advisory Committee on Safety, Hygiene and Health at Work thereof.

4. The Commission shall forward periodically to the European Parliament, the Council and the Economic and Social Committee a report on the implementation of this Directive, taking into account paragraphs 1, 2 and 3.

#### Article 13

This Directive is addressed to the Member States.

### ANNEX I

#### GENERAL MINIMUM REQUIREMENTS CONCERNING SAFETY AND/OR HEALTH SIGNS AT WORK

##### 1. Preliminary remarks

- 1.1. Health and/or safety signs may be used only to give information relating to health and/or safety.
- 1.2. A sign should be used in accordance with its object or aim in respect of existing risks or dangers, taking into account the rules governing the interchanging and combining of signs, as set out in paragraph 3.

##### 2. Types of signs

- 2.1. Signboards should be used for permanent signs relating to prohibitions, warnings and mandatory requirements and the location and identification of emergency escape routes and first-aid facilities. Signboards and/or a safety colour should be used to mark permanently the location and identification of fire-fighting equipment.
- 2.2. Containers and pipes should be permanently labelled and/or painted a particular colour.
- 2.3. Places where there is a risk of colliding with obstacles and of falling should be permanently marked with a safety colour or with signboards.
- 2.4. Traffic routes should be permanently marked with a safety colour.
- 2.5. Luminous and acoustic signs and/or verbal communication should be used when required, taking into account the possibilities for interchanging and combining signs set out in paragraph 3, to signal danger, to call persons to take a specific course of action and for the emergency evacuation of persons.

2.6. Hand signals and/or verbal communication should be used where necessary to guide persons carrying out hazardous or dangerous manoeuvres.

### 3. Interchanging and combining signs

3.1. Any one of the following may be used if equally effective:

- a safety colour or a signboard to mark places where there is an obstacle, a drop or a slippery surface,
- luminous signs, acoustic signs or verbal communication,
- hand signals or verbal communication.

3.2. Some types of signs may be used together:

- luminous signs and acoustic signs,
- luminous signs and verbal communication,
- hand signals and verbal communication.

3.3. In addition to being labelled, containers may also be painted a particular colour, as provided for in point 2 of Annex III. In addition to being painted a particular colour, pipes may also be labelled as provided for in point 1 of Annex III.

4. The instructions in the table below apply to all signs incorporating a safety colour, except those for containers and pipes.

Colour	Meaning or purpose	Instructions
Red	Prohibition	Dangerous behaviour
	Danger — alarm	Stop, shutdown, turn off power Evacuate
	Fire-fighting equipment	Identification and location
Yellow, Amber	Warning	Be careful, take precautions Examine
Blue	Obligation	Specific behaviour or action Wear personal protective equipment
Green	Emergency escape routes, first aid	Doors, exits, routes, equipment, facilities
	No danger	Return to normal

5. The effectiveness of a sign must not be adversely affected by:

- (a) the presence of another sign or another emission source of the same type which interferes with visibility or audibility; therefore, in particular,
- the placing of too many signs too close together should be avoided,
  - two luminous signs which are likely to be confused should not be used at the same time,
  - a luminous sign should not be used in the proximity of another indistinct luminous emission,
  - two sound signs should not be used at the same time,
  - a sound sign should not be used if there is too much ambient noise;
- (b) poor design, insufficient number, incorrect positioning, poor state of repair or incorrect functioning of the signs or signalling devices;
- (c) poor comprehension/perception by the person concerned (including linguistic aspects in the case of verbal communication).

6. Depending on requirements, signs and signalling devices must be cleaned, maintained, checked, repaired, and replaced (if necessary) on a regular basis to ensure that they retain their intrinsic and/or functional qualities.
7. The number of signs or signalling devices to be installed will depend on the extent of the risks or dangers or on the zone to be covered and/or the number of persons concerned.
8. Signs requiring some form of power must be provided with a guaranteed supply.
9. The triggering of a luminous and sound sign indicates when the required action should start; the sign must be activated for as long as it takes to complete the action.
10. Luminous and acoustic signs and indirect verbal communication must be checked to ensure that they function correctly and that they are effective before they are put into service and subsequently at reasonable intervals.
11. If the hearing or the sight of the workers concerned is impaired, including impairment caused by the wearing of personal protective equipment, measures must be taken to supplement or replace the signs concerned.
12. Stores of dangerous substances, preparations or products must be labelled as provided for in paragraph 1 of Annex III, or a warning sign placed as provided for in paragraph 3.2 of Annex II.

Stores of a number of dangerous substances, preparations or products must be indicated by the warning sign for 'general danger'.

The labels or signboards referred to above should be positioned, as appropriate, near the storage area or on the door leading into the storage room.

## ANNEX II

### MINIMUM GENERAL REQUIREMENTS CONCERNING SIGNBOARDS

#### 1. Intrinsic features

- 1.1. The shape and the colours of the signboards are set out in paragraph 3, in accordance with their specific object (signboards indicating a prohibition, a warning, a mandatory action, an escape route, an emergency or fire-fighting equipment).
- 1.2. The pictograms must be as simple as possible and should contain only essential details.
- 1.3. The pictograms used may be slightly different from or more detailed than those shown in paragraph 3, provided that they convey the same meaning.
- 1.4. Signboards should be made of shock- and weather-resistant material suitable for the surrounding environment.
- 1.5. The dimensions and colorimetric and photometric features of the signboards must be such that they can be easily seen and understood.

#### 2. Conditions of use

- 2.1. Signboards are to be installed at a suitable height, taking account of any obstacles, either at the access point to an area in the case of a general risk, or in the immediate vicinity of a specific risk or object and in a well-lit and easily accessible location.  
Without prejudice to the provisions of Directive 89/654/EEC, phosphorescent colours, reflective materials or artificial lighting should be used where the level of natural light is inadequate.
- 2.2. The signboard must be removed when the situation to which it refers no longer exists.

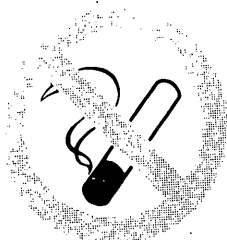
3. Signboards to be used

3.1 Prohibitory signs

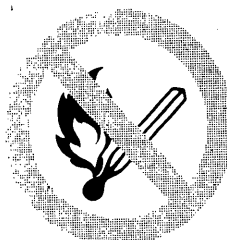
Intrinsic features:

- round shape
- black pictogram on white background, red edging and diagonal line (the red part to take up at least 35 % of the area of the sign).

Signs to be used



No smoking



Smoking and naked flames forbidden



No access for pedestrians



Do not extinguish with water



Not drinkable



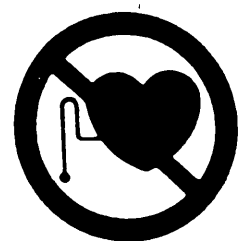
No access for unauthorized persons



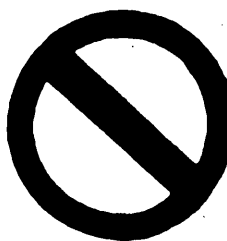
No access for industrial vehicles



Do not touch



No pacemakers



Safety devices must not be removed or neutralized (with supplementary signboard specifying device concerned)

3.2 Warning signs

Intrinsic features:

- triangular shape
- black pictogram on a yellow background with black edging (the yellow part to take up at least 50 % of the area of the sign).

Signs to be used



Flammable material  
or high temperature



Explosive material



Toxic material



Corrosive material



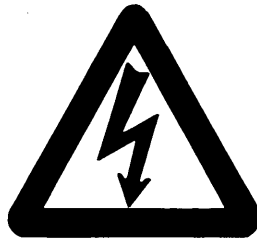
Radioactive material



Overhead load



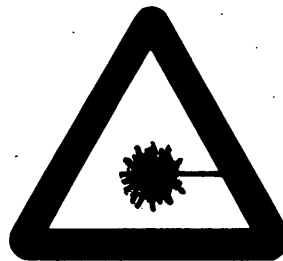
Industrial vehicles



Danger: electricity



General danger



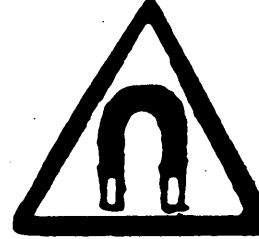
Laser beam



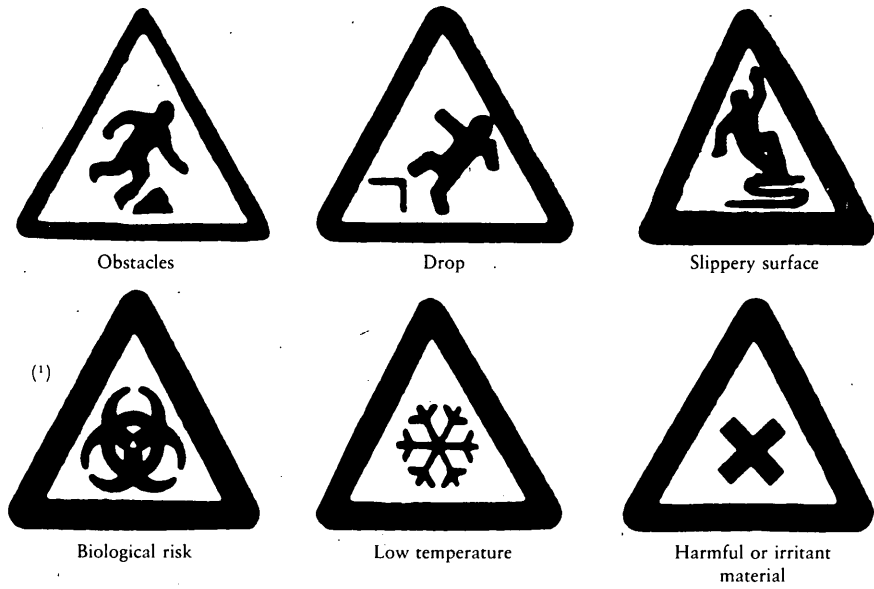
Oxidant material



Non ionizing radiation



Strong magnetic field



3.3 *Mandatory signs*

Intrinsic features:

- round shape
- white pictogram on a blue background (the blue part to take up at least 50 % of the area of the sign).

Signs to be used



<sup>(1)</sup> Sign laid down in the Council Directive on the protection of workers from the risks related to exposure to biological agents at work.





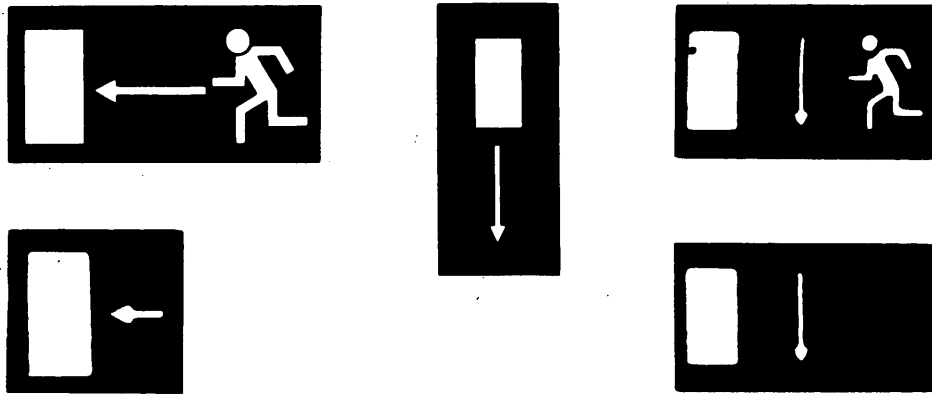
Pedestrians must use this route

3.4 *Emergency escape or first-aid signs*

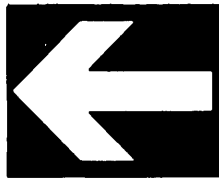
Intrinsic features:

- rectangular or square shape
- white pictogram on a green background (the green part to take up at least 50 % of the area of the sign).

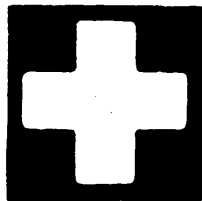
Signs to-be used



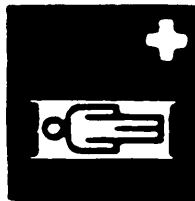
Emergency exit/escape route



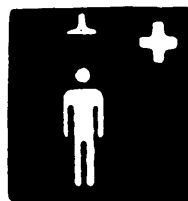
This way  
(supplementary sign)



First-aid post



Stretcher



Safety shower



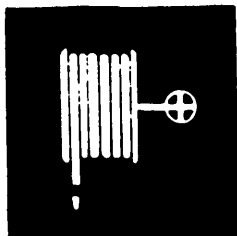
Eyewash

3.5 *Fire-fighting signs*

Intrinsic features:

- rectangular or square shape
- white pictogram on a red background (the red part to take up at least 50 % of the area of the sign).

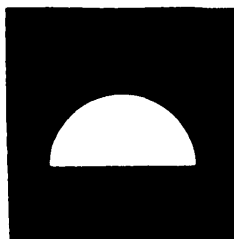
Signs to be used



Fire hose



Fire extinguisher



Fire-fighting equipment (general)



This way  
(supplementary sign)

### ANNEX III

#### MINIMUM REQUIREMENTS FOR MARKING CONTAINERS AND PIPES

##### 1. Labelling

- 1.1. Containers used at work to hold dangerous substances or preparations as defined in Council Directives 67/548/EEC <sup>(1)</sup> and 88/379/EEC <sup>(2)</sup> must be labelled as provided for in those Directives.
- 1.2. Signs must be mounted as follows:
  - on the visible side(s),
  - in unpliable, self-adhesive or painted form.
- 1.3. Where appropriate the signs referred to in point 1.1 must have the intrinsic features defined in Section 1, point 1.4 of Annex II and must fulfil the conditions of use for signboards laid down in Section 2 of Annex II.

<sup>(1)</sup> OJ No L196, 16. 8. 1967, p. 1.

<sup>(2)</sup> OJ No L 187, 16. 7. 1988, p. 14.

## 2. Colour-coding

- 2.1. Where there are no other equivalent signs applicable at Community level, visible pipes must be colour-coded as follows for the main categories of contents carried:
- |                                   |             |
|-----------------------------------|-------------|
| — water                           | green       |
| — air                             | light blue  |
| — steam                           | silver grey |
| — flammable oils and liquids      | brown       |
| — oxygen (gas or liquid)          | white       |
| — gases other than air and oxygen | amber       |
| — acids                           | purple      |
| — bases                           | black       |
- 2.2. The whole length of the pipe must be painted the appropriate colour, or else rings be painted near the most dangerous points, such as valves and joints, and at reasonable intervals.
- 2.3. If colours other than those provided for in paragraph 2.1 are used, particularly to identify the contents carried more specifically, they must not cause confusion with the colours used to distinguish the major categories of contents.

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### ANNEX IV

#### MINIMUM REQUIREMENTS FOR THE IDENTIFICATION AND LOCATION OF FIRE-FIGHTING EQUIPMENT

##### Preliminary remark

This Annex applies to equipment used exclusively for fire-fighting purposes.

1. Fire-fighting equipment must be identified by using a specific colour for the equipment and placing a location signboard, and/or by using a specific colour for the places where such equipment is kept.
2. The colour for identifying this equipment is red. The red area must be sufficiently large to allow the equipment to be identified easily.
3. The signboards provided for in paragraph 3.5 of Annex II must be used to mark the locations of this equipment.

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### ANNEX V

#### MINIMUM REQUIREMENTS GOVERNING SIGNS USED FOR OBSTACLES AND DANGEROUS LOCATIONS, AND FOR MARKING TRAFFIC ROUTES

##### 1. Signs for obstacles and dangerous locations

- 1.1. Places where there is a risk of colliding with obstacles, of falling or of objects falling should be marked with alternating yellow and black stripes in built-up zones in the undertaking to which workers have access during their work.
- 1.2. The dimension of the markings must be commensurate with the scale of the obstacle or dangerous location in question.

- 1.3. The yellow and black stripes must be at an angle of approximately 45° and of more or less equal size.
- 1.4. Example:



## 2. Marking of traffic routes

- 2.1. Traffic routes which are located within the built-up areas of an undertaking to which workers have access during their work, and which are intended specifically for the ground movement of transport or of handling equipment, must be marked on both sides by a continuous stripe in a clearly visible colour, preferably yellow, taking into account the colour of the ground.
- 2.2. The distance between the two stripes will depend on the width of the vehicles which can use the route.
- 2.3. The stripes must be located in such a way as to provide the necessary safe distance between the route and any object which may be nearby.

## ANNEX VI

### MINIMUM REQUIREMENTS FOR LUMINOUS SIGNS

#### 1. Intrinsic features

- 1.1. The light emitted by a sign must produce a luminous contrast which is appropriate to its environment, in accordance with the intended conditions of use of the sign, but without producing glare.
- 1.2. The luminous area emitting a sign may be of a single colour or contain a pictogram on a specified background.
- 1.3. The single colour must correspond to the table of colours and their meanings set out in paragraph 4 of Annex I.
- 1.4. Likewise, when the sign contains a pictogram, the latter must comply with all the relevant rules set out in Annex II.

#### 2. Specific rules governing use

- 2.1. If a device can emit both continuous and intermittent signs, the intermittent sign should be used to indicate a higher level of danger or a more urgent need for the requested/imposed intervention or action than indicated by the continuous sign. The duration of each flash and the frequency of the flashes of an intermittent luminous sign must be such as to ensure the proper perception of the message and must avoid any confusion either between different luminous signs or with a continuous luminous sign.
- 2.2. If a flashing sign is used instead of — or together with — an acoustic sign, identical codes must be used.

## ANNEX VII

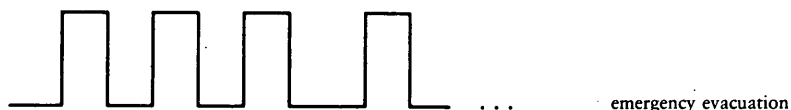
## MINIMUM REQUIREMENTS FOR ACOUSTIC SIGNS

## 1. Intrinsic features

Acoustic signs must:

- 1.1. have a sound level which is considerably higher than the level of ambient noise, so that it is audible without being excessive,
- 1.2. be easily recognizable, particularly in terms of pulse length and the interval between pulses or groups of pulses, and be clearly distinct from any other acoustic sign and ambient noises.

## 2. Codes



## ANNEX VIII

## MINIMUM REQUIREMENTS FOR VERBAL COMMUNICATION

## 1. Intrinsic features

- 1.1. Verbal communication between a speaker or emitter and one or more hearers should take the form of (sometimes coded) short texts, phrases, groups of words and/or individual words.
- 1.2. Spoken messages should be as short, simple and clear as possible; the verbal skills of the speaker and the hearing abilities of the hearer(s) must be such as to guarantee reliable verbal communication.
- 1.3. Verbal communication is direct (by means of the human voice) or indirect (by means of a human or artificial voice which is broadcast by whatever means is appropriate).

## 2. Specific rules governing use

- 2.1. The persons involved must have a good knowledge of the language used so that they are able to pronounce and understand the spoken message correctly and consequently behave in a way which is appropriate to health and/or safety.
- 2.2. If verbal communication is used instead of — or together with — gestures, code words should be used such as:
  - start: to indicate the start of a command
  - stop: to interrupt or end a movement

— end:	to stop the operation	
— raise:	to have a load raised	
— lower:	to have a load lowered	
— forwards backwards right left	} to be coordinated with the corresponding hand signals	
— danger:		for an emergency stop
— quickly:		to speed up a movement for safety reasons.

#### ANNEX IX

### MINIMUM REQUIREMENTS FOR HAND SIGNALS

#### 1. Features

Hand signals must be precise, simple, expansive, easy to make and to understand, and clearly distinct from other such signals.

Where both arms are used at the same time, they must be moved symmetrically and for giving one sign only.

Provided that they fulfil the conditions given above, the signals used may vary slightly from or be more detailed than those shown in paragraph 3: they must, however, be equally meaningful and comprehensible.






#### 2. Specific rules governing use

- 2.1. The person giving the signs, hereinafter referred to as the signalman, will use arm/hand movements to give manoeuvring instructions to the person receiving the signs, hereinafter referred to as the operator.
- 2.2. The signalman must be able to monitor all manoeuvres visually without being endangered thereby.
- 2.3. The signalman's duties must consist exclusively of directing manoeuvres and ensuring the safety of workers in the vicinity.
- 2.4. If the conditions described in paragraph 2.2 are not fulfilled, one or more extra signalmen should be deployed.
- 2.5. The operator must interrupt the ongoing manoeuvre in order to request new instructions when he is unable to carry out the orders he has received with the necessary safety guarantees.
- 2.6. Accessories:
  - (a) The operator must be able to recognize the signalman without difficulty.  
The signalman should wear one or more appropriate distinctive items, e.g. a jacket, helmet, sleeves or armbands, or carry bats.
  - (b) The distinctive items set out in point (a) should be brightly coloured, preferably all of the same colour and for the exclusive use of signalmen.




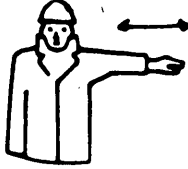
#### 3. Coded signals to be used

##### *Preliminary remark:*


The following set of coded signals are without prejudice to other codes applicable at Community level, used for the same manoeuvres in certain sectors.

Meaning	Description	Illustration
<b>A. General signals</b>		
<b>START</b> Attention Start of command	Both arms are extended horizontally with the palms facing forward	
<b>STOP</b> Interruption End of movement	The right arm points upwards with the palm facing forwards	
<b>END</b> of the operation	Both hands are clasped at chest height	
<b>B. Vertical movements</b>		
<b>RAISE</b>	The right arm points upwards with the palm facing forward and slowly makes a circle	
<b>LOWER</b>	The right arm points downwards with the palm facing inwards and slowly makes a circle	

## C. Horizontal movements

MOVE FORWARDS	Both arms are bent with the palms facing upwards, and the forearms make slow movements towards the body	
MOVE BACKWARDS	Both arms are bent with the palms facing downwards, and the forearms make slow movements away from the body	
to the signalman's RIGHT	The right arm is extended more or less horizontally with the palm facing downwards and slowly makes small movements to the right	
to the signalman's LEFT	The left arm is extended more or less horizontally with the palm facing downwards and slowly makes small movements to the left	

## D. Danger

DANGER Emergency stop	Both arms point upwards with the palms facing forwards	
QUICKLY	All movements faster	



## ANNEX X

## TABLE OF CORRESPONDING ARTICLES

Directive 77/576/EEC, as amended by Directive 79/640/EEC	Corresponding Articles in this Directive
Article 1 — Paragraph 1 — Paragraph 2 (a) (b) (c)	Article 1 — Paragraph 1 — Paragraph 2 (a) (b) (c) omitted
Article 2 — Paragraph 1 (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) — Paragraph 2	Article 2 (a) (i) Annex II, points 3.1, 3.2, 3.3, 3.4 and 3.5 (g) (b) (c) (d) (e) (f) (h) (j) Annexes I, Section 4 and II point 1.1
Article 3 — first indent — second indent — third indent	Article 3, Section 1 Article 4 Article 3, Section 2
Article 4	Article 10
Article 5	Article 10
Article 6	Article 10
Article 7	Article 12

Directive 77/576/EEC, as amended by Directive 79/640/EEC	Corresponding Articles in this Directive
<p>Annex I</p> <p>— Paragraph 1</p> <p>— 1.1</p> <p>— 1.2</p> <p>— 1.3</p> <p>— 1.4</p> <p>— Paragraph 2</p> <p>— 2.1</p> <p>— 2.2</p> <p>— Paragraph 3</p> <p>— Paragraph 4</p> <p>— Paragraph 5</p> <p>— 5.1</p> <p>— 5.2</p> <p>— 5.3</p> <p>— 5.4</p> <p>— 5.5</p> <p>— Paragraph 6</p> <p>— Paragraph 7</p>	<p>Annex I, Section 1</p> <p>Article 3 (1)</p> <p>Annex I, point 1.1</p> <p>Article 8</p> <p>— Annex I, Section 4</p> <p>— Annex II, points 3.1, 3.2, 3.3, 3.4 and 3.5</p> <p>— Annex II, points 3.1, 3.2, 3.3, 3.4 and 3.5</p> <p>— Annex I, Section 4</p> <p>— Annex II, point 3.1</p> <p>— Annex II, points 3.1, 3.2, 3.3 and 3.4</p> <p>— Omitted</p> <p>— Annex II, point 1.2</p> <p>— Annex II, point 1.5</p> <p>— Annex II, point 1.5</p> <p>— Annex V, Section 1</p>
<p>Annex II</p> <p>— Paragraph 1</p> <p>— Paragraph 2</p> <p>— Paragraph 3</p> <p>— Paragraph 4</p>	<p>Annex II, point 3.1</p> <p>Annex II, point 3.2</p> <p>Annex II, point 3.3</p> <p>Annex II, point 3.4</p>

**Proposal for a Council Decision setting up a programme for an information services market**

COM(90) 570 final

(Submitted by the Commission on 28 January 1991)

(91/C 53/07)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas, by virtue of the economic importance of information, the creation of an internal information services market occupies an essential place in the consolidation and strengthening of the internal market after 1992;

Whereas the initial results of the plan of actions for setting up an information services market in Europe adopted by the Council by Decision 88/524/EEC <sup>(1)</sup> indicate that a much broader programme is necessary;

Whereas there exist numerous legal, administrative, fiscal and other technical barriers to the development of an internal information market which are hindering the setting up of new services causing, in some cases, distortions of competition;

Whereas the future development of information resources and information-based services requires the application of new technologies and the achievement of economies of scale;

Whereas the Community has a competitive position which is strong in some sectors of the information market but which needs to be strengthened in others;

Whereas the need for simplification of procedures, as well as harmonization, in the field of database access should undergo priority scrutiny;

Whereas the needs and legitimate demands of users of information services, and particularly of those in small and medium-sized enterprises and in the less-favoured regions of the Community, merit special attention;

Whereas the different rates of development in the provision and use of information services in the Member States merit special attention with the view of strengthening the internal cohesion of the Community and the working of the internal market;

Whereas the growing importance of information in international transactions, and of the related problems concerning services, is receiving increasing attention in international fora and this fact serves to emphasize the necessity for Member States to develop common positions in those fora;

Whereas the Community's financial engineering mechanisms may contribute to the implementation of the present plan of action, in particular with regard to strategic or other pilot and demonstration projects;

Whereas that part of the amount deemed necessary which is intended to finance pilot and demonstration projects may be used, in particular, to attract any necessary additional sources of funding from the partners concerned, thereby having a multiplier effect on the development of the European information services market;

Whereas any information market policy must be complementary to other Community initiatives, notably in the fields of telecommunications;

Whereas the Treaty has not provided the necessary powers to this end, other than those of Article 235,

HAS DECIDED AS FOLLOWS:

*Article 1*

A programme is hereby set up with the following objectives:

1. to establish an internal market for information services;
2. to stimulate and reinforce the competitive capability of European suppliers of information services;
3. to promote the use of advanced information services;
4. to reinforce joint efforts to achieve Community cohesion with respect to information service policies.

<sup>(1)</sup> OJ No L 288, 21. 10. 1988, p. 39.

*Article 2*

In order to attain the objectives referred to in Article 1, the following actions shall be undertaken under the responsibility of the Commission, in accordance with Annex I:

1. improving the understanding of the market;
2. overcoming legal and administrative barriers;
3. increasing user-friendliness and improving information literacy;
4. supporting strategic information initiatives.

None of the actions shall duplicate the work carried out in these areas under Community or national programmes.

*Article 3*

The programme shall cover a period of five years.

*Article 4*

At the midterm and at the end of the programme, the Commission shall submit to the European Parliament and to the Council evaluation reports on the results obtained through the implementation of the actions and may present, on the basis of those results, proposals for adjustment in the orientation of the programme.

*Article 5*

1. The Commission is hereby authorized to negotiate agreements with third countries taking part in the development of the information services market with a view to associating them wholly or partially with the programme. These agreements shall be based on the criteria of mutual advantage.

2. Before entering into the negotiations referred to in paragraph 1, the Commission shall inform the Council of its intentions to negotiate and of the terms of reference of these negotiations.

*Article 6*

This Decision shall take effect on . . .

## ANNEX I

## ACTION LINES OF IMPACT 2

**Action line 1: Improving the understanding of the market**

- 1.1. The European Information Market Observatory (IMO) will continue and extend the scope of its activities for the identification of the European Community's competitive strengths and weaknesses in the sector in order to keep Community institutions and Member States informed in drawing up their policy. During the initial phase of Impact the IMO focused its investigations on the supply of database services. It will enlarge the scope of its investigations to neighbouring publishing markets with particular attention to the market for business and trade press and scientific, technical and medical publishing. The IMO will give greater focus to user surveys, in order to gain better knowledge of the means by which users get access to the professional information they need and identify gaps which require Community initiatives.
- 1.2. The IMO will keep a permanent inventory of existing market data sources. It will primarily rely on these sources to purchase the data it needs for its investigations. It will launch or stimulate additional surveys when the data required are unavailable, incomplete or unreliable. It will also carry out sectoral investigations in order to identify those sectors of the information market which are inadequately served or slowly progressing although they are of strategic importance for the Community. Following the initial methodological workshop organised in 1989 in cooperation with Eurostat, the IMO will support the long term methodological efforts required for the creation of a conceptual framework that will allow the inclusion of the information services sector in official statistics. In addition, the IMO will encourage further work in information sciences and economics of information to stimulate the development of models and forecasting tools which are required for the prognosis of information market trends and the assessment of their impact on the rest of the economy.
- 1.3. The intention of the IMO is to supplement the efforts of Member State companies and other organizations interested in the development of the market. The activities of the IMO will therefore be undertaken in conjunction with and not supplant, the efforts of Member States, private sector companies and other

organizations. The IMO will strengthen its network of national correspondents and improve links with existing European and national associations in the information market. It will cooperate with these associations and relevant research organizations on shared-cost projects. In order to improve its documentation on the world market for information services, the IMO will seek to exchange on information with appropriate non-Community organizations such as the Japan Database Promotion Center and the American Information Industry Association.

- 1.4. The results of the IMO analysis will be widely disseminated to users and industry through dissemination agreements with representative associations and specialized publishers. Each year, the IMO will prepare a report to Council and Parliament on the main changes which have occurred on the information market.

**Action line 2: Overcoming legal and administrative barriers**

- 2.1. The actions which will be undertaken within the framework of Impact 2 will contribute to strengthening the synergy of work being carried out on legal problems of a horizontal nature (e.g. protection of privacy, responsibility, intellectual property, proof and authentication of electronic signatures) and to proposing Community initiatives specific to certain segments of the information services market.
- 2.2. The first category of work will contribute to the improvement of the coordination of sectoral initiatives on legal problems of a horizontal nature being undertaken within the framework of different programmes. With this in view, the Commission will reinforce the expertise and documentary resources it has acquired with the help of the Legal Advisory Board (LAB) in order to provide Member States and Community institutions with easier access to reference documents and to information on current work in the area. To this effect, the Commission will examine the possibility of encouraging the development of a specialized database. It will seek the expertise of LAB in preparing legal initiatives linked to new technologies. In parallel, it will continue and strengthen its cooperation with the Council of Europe and the Organization for Economic Cooperation and Development in areas of common interest.
- 2.3. The second category of work will concentrate on the contribution to the preparation of initiatives specific to certain segments of the information market. The Commission will examine the legal problems raised by the implementation of the guidelines designed to strengthen the synergy between the public sector and the private sector in the information market; it will draw up proposals for harmonizing the rules on the marketing of data files held by public and quasi-public bodies. It will encourage the drawing up of European codes of conduct and monitor the application of data privacy protection in relation to the marketing of certain database services, such as mailing lists and databanks on credit and solvency. It will draw up Community guidelines to harmonize the conditions for opening up electronic information services to the public and to provide the framework for contractual arrangements between the various market actors in areas such as editorial liability, service quality control, confidentiality, database usage and, in particular, publishers' rights.
- 2.4. The composition of LAB will be modified by the Commission so as to make better provision for the participation in its work of public authorities and of relevant market actors as a complement to the participation of independent legal experts specialized in the various topics for examination.
- 2.5. The Commission will implement an active policy of disseminating the results of LAB's work, in conjunction with specialized publishers, in order better to inform the actors of their rights and obligations.

**Action line 3: Increasing user-friendliness and improving information literacy**

- 3.1. In complement to current efforts for Open Systems Interconnection (OSI) the Commission will promote the development of open information interchange standards in cooperation with existing standardization structures such as EWOS, ETSI and CEN/Cenelec. The demonstration and efficient application of information standards or industry norms for the encoding and structuring of information will be supported. Incentives will be provided to the acting parties to complete and extend existing information standards. The Commission will support demonstration projects to promote the application of information standards and to demonstrate their benefits. This will include in particular standards like the Standardized General Markup Language (SGML) and Office Document Architecture (ODA). The use of information standards in public sector information products will be promoted.
- 3.2. The development of generic interfaces providing flexible and economic solutions to access a large spectrum of information services will be encouraged. This will cover multimedia and European-wide access. The integration of multilingual facilities or icons and graphics in information services, the development of controlled vocabulary and natural language retrieval methods will be supported to facilitate access by untrained users. Incentives to extend existing natural language interfaces to other Community languages will be provided to support the Community's cohesion. Efforts will be undertaken to encourage the application of research results in areas such as experts systems, human-computer interface and natural language processing, in information services. An umbrella project for testing the viability of European business Kiosk

facilities that will provide SMEs with easy access to professional audiotex, videotex and ASCII information services will be developed. Integrated application of different types of information using sound, graphics, text and images will be stimulated.

- 3.3. To promote information literacy among professional people, the Commission will rely primarily on multipliers in the information services market and on certain groups of end-users. These multipliers include educational institutions, professional associations, national focal points, gateway operators and the specialized press.

Actions aimed at supporting the multipliers, experts and end-users will comprise: development of appropriate tools such as documentation, multi-media shows, videos, in all Community languages; organization of conferences, seminars, workshops, information days, press conferences; participation in exhibitions; maintenance of existing directories and extension by new information products; publication of a regular newsletter giving information on Community initiatives; presence in information distribution networks of database inventories etc.; providing of a central help desk for users of information services, including a free phone enquiry service; operation of the multilingual host service ECHO (European Commission Host Organization) which will continue to especially support new users of electronic information services and will act as an instrument for transferring know-how to the market place in accordance with the guidelines for the improvement of the synergy between the public and the private sectors in the information market.

- 3.4. Training actions will address all kinds of information handlers within the information chain covering: database production, host service operation, multimedia dissemination of information and use of information. Support will be given to training intermediaries and professionals in the use of electronic information both on-line and off-line, with special attention being given to less favoured regions. Actions will also include training of future trainers in different regions, economic sectors and companies. Close collaboration with national and local authorities and other programmes (e.g. STAR, Delta) will be sought.

#### Action line 4: Supporting strategic information initiatives

- 4.1. The provisions of electronic scientific and technical information services (STI) — a basic resource for the European research community and for industrial progress — will be stimulated and strengthened. The Commission will build on recent initiatives in the areas of biotechnology information and engineering materials data systems by creating a European cooperative network for biotechnology information and the further development of material data services. These initiatives will aim at improving the availability, quality and accessibility of European STI services through the creation of appropriate tools and structures which will foster the integration of existing systems and services and a more efficient sharing of resources.
- 4.2. Information services development in strategically important market sectors will be stimulated and facilities for cooperation will be made available. Where necessary the creation of embryonic structures will be supported. In particular information services which are relevant to Community policies or internal market operations will be stimulated. Harmonization efforts will be undertaken in new sectors in which spontaneous but uncoordinated developments take place; in order to stimulate cooperation and networking. The areas of patent information, information on standards, tourism and transport information, cultural information, environment and health information, and the standardised production of digitized basic geographical maps have been identified as sectors for Community action.
- 4.3. The strategic information projects may be extended and/or reviewed in the course of programme implementation on the basis of requirements identified by the IMO, of the results obtained at the mid-term review of this programme, and following close consultation with the information industry and the programme's advisory body. The priority areas which had been identified for pilot/demonstration projects under the previous Impact programme, but not yet developed so far, will be reviewed and action undertaken, if market needs are confirmed.
- 4.4. Commercial ventures for the development of information products and services on the basis of European partnership, e.g. Groupement Européen d'Intérêt Economique (GEIE), will be stimulated by reducing the financial burden involved in international cooperation. This will be applied in particular to small and medium-sized enterprises (SMEs). A support scheme will be provided for the preparation of international projects, for joint ventures agreed by partners from different Member States and for the transfer of know-how from advanced to less favoured regions of the Community. Closer cooperation between European and national trade or professional organizations will be supported, as well as the involvement of national focal points in order to promote strategic projects and the creation of an internal market for information.
- 4.5. The Commission will explore the possible linking of relevant organizations in the Member States into a networked media laboratory to develop a European expertise in information product prototype development for multimedia information services products, for promoting the exchange of experience and the transfer of know-how, and for achieving synergy between publishers and system suppliers.

- 4.6. The taking off of the information market in less favoured regions depends on strategic information projects with catalytic effects. Adequate national/regional initiatives will be encouraged through Community support to projects with multiplier effect and elements of reproducibility on other geographical areas.
- 4.7. Shared cost projects will be one of the main instruments of the Commission to boost the strategic information initiatives. In some market sectors pilot and demonstration projects will be required to demonstrate new development on a sufficiently wide scale and to achieve a catalytic effect on the development of European information services which otherwise would remain inadequate in size, coverage and scope. These projects will be defined in collaboration with users and/or industry.

## ANNEX II

### INDICATIVE INTERNAL BREAKDOWN OF APPROPRIATIONS

	<i>in %</i>
1. Improving the understanding of the market	8—10
2. Overcoming legal and administrative barriers	7— 9
3. Increasing user friendliness and improving information literacy	33—35
4. Supporting strategic information initiatives	48—50

## ANNEX III

### MODALITIES FOR PROGRAMME IMPLEMENTATION

1. The Commission will implement the programme in accordance with the technical content specified in Annex I.
2. The modalities for programme implementation will reflect the experience obtained with the implementation modalities of the previous Impact programme and taking into account the results of the evaluation report. This suggests an increased number of shared cost projects for horizontal activities, in particular with regard to investigations carried out by the IMO, and streamlining of procedures with regard to the implementation of vertical actions to better respond to the constraints and interests of all kinds of market actors, and to increase and facilitate their participation in the programme.
3. The modalities will comply with the Commission's administrative procedures, and with the criteria of maximum impact and efficiency, equality and objectivity. They will be designed not to distort competition and will be adapted to the specific aims of the various action lines of the programme.
4. The project participants must be physical or legal persons established in the Community, or associations thereof, in particular European Economic Interest Groups (EEIG).

Physical or legal persons from countries which have concluded agreements providing for cooperation in this programme can, on the basis of the criterium of mutual benefit, participate in projects in the framework of the present programme. These partners shall not benefit from the financial contribution of the Community. They will contribute to the general administrative cost.

5. The selection of pilot and demonstration projects will normally be based on the normal call for proposals procedure which is published in the *Official Journal of the European Communities*. The procedures for the implementation of the calls for proposals will be tailored to each area and the specific subject needs. The objectives will be defined by workplans developed in close consultation with the market actors and the programme's Committee.

The main criteria in supporting projects through calls for proposals will be the impact in expanding the market without distorting it. Special add-on incentives will be provided to encourage participation of SMEs and less favoured regions, as well as for the transfer of know-how.

6. The Commission might also implement a more flexible funding scheme than the call for proposals in order to provide incentives for the creation of European partnerships, in particular involving SMEs and organizations in less favoured regions, or for other exploratory activities in different segments of the information market. This scheme might be operated on a continuous basis.
  7. The Commission will make provisions to consider in exceptional cases unsolicited project proposals which provide for a particularly promising and significant information market development, a new highly innovative approach, an exceptional technology or methodology, and which cannot be submitted within the normal call for proposals procedure. The objective of avoiding market distortion will be maintained.
  8. The modalities for the two latter procedures will be implemented in consultation with the programme's Committee and in accordance with the Commission's financial Regulations. They will be published each year in the *Official Journal of the European Communities*.
  9. Projects fully financed by the Commission within the framework of study and service contracts will be implemented through calls for tenders in accordance with the Commission's financial Regulations. Transparency will be achieved by publishing and circulating regularly the work programme to trade associations and other bodies.
  10. For the implementation of the programme the Commission will also undertake activities designed to achieve the general objectives of the programme and the specific ones of each action line. Such activities will include workshops, seminars, conferences, studies, awareness campaigns, training courses, support schemes for joint ventures, assistance to national focal points and specific support for the LFR's information market development.
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Proposal for a Council Decision on the LORAN-C radionavigation system

COM(91) 1 final

(Submitted by the Commission on 30 January 1991)

(91/C 53/08)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 84 (2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the international Maritime Organization (IMO) requires the contracting governments to the Solas Convention to undertake to arrange for the establishment and maintenance of such aids to navigation as the volume of traffic justifies and the degree of risk requires;

Whereas it is a concern of the Community to ensure the highest degree of safety of navigation and protection of the marine environment;

Whereas the United States Coastguard has decided to terminate its LORAN-C commitments outside the USA before 1994 and has the intention to offer the LORAN-C facilities to the relevant host nations;

Whereas the international Association of Lighthouse Authorities (IALA) supports the need for a terrestrial radionavigation system to meet the needs of maritime navigation;

Whereas certain Member States intend to participate in one or more regional agreements on the establishment of LORAN-C chains covering North West Europe and the North Atlantic, the Mediterranean, the Iberian Peninsula and the Baltic;

Whereas the LORAN-C system satisfies the international requirements and the more general utilization of the LORAN-C system does not prejudice the development of satellite aids to navigation; whereas, furthermore, combined coverage by satellite and LORAN-C will offer the highest degree of system verification and continuity of radionavigation coverage for the benefit of maritime safety and environmental protection;

Whereas the establishment of regional LORAN-C systems must ensure a coherent and complete coverage of the

European maritime area, avoiding as much as possible the imposition of additional costs upon the users of existing terrestrial radionavigation systems,

HAS ADOPTED THIS DECISION:

*Article 1*

1. The Member States shall participate in or join regional agreements on LORAN-C as far as necessary to realize the international objectives.
2. With regard to their participation in regional agreements the Member States shall seek to achieve the LORAN-C configurations which cover the widest possible geographical area in Europe and in neighbouring waters.

*Article 2*

The Commission:

- shall ensure coordination between the Member States participating in regional agreements with a view to ensuring compatibility between the LORAN-C chains introduced on the regional level,
- shall encourage the development of LORAN-C receivers, taking account of the ongoing development of satellite systems and the enhancement of the present LORAN-C system,

and shall propose, where necessary, to the Council the necessary measures.

*Article 3*

In their role as member or observer within the international Association of Lighthouse Authorities the Member States and the Commission shall strive to obtain the participation of the greatest possible number of countries in the European regional LORAN-C chains with the purpose of enlarging the coverage of LORAN-C worldwide in order to improve safety of navigation and protection of the marine environment.

*Article 4*

This Decision is addressed to the Member States.

**Proposal for a Council Regulation (EEC) on the application of the Decision of the ACP-EEC Council of Ministers extending Decision No 2/90 on transitional measures to be applied from 1 March 1990**

COM(91) 14 *final*

(Submitted by the Commission on 30 January 1991)

(91/C 53/09)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 113 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the Third ACP-EEC Convention signed at Lomé on 8 December 1984 expired on 28 February 1990;

Whereas the Fourth ACP-EEC Convention signed at Lomé on 15 December 1989 has not yet entered into force;

Whereas Decision No 2/90 of the ACP-EEC Council of Ministers is valid only until 28 February 1991;

Whereas Decision No . . . /91 of the ACP-EEC Council of Ministers extended that validity until the entry into force of the Fourth ACP-EEC Convention or 30 June 1991, whichever is the earlier;

Whereas it is necessary to take the measures to implement that Decision,

HAS ADOPTED THIS REGULATION:

*Article 1*

Decision No . . . /91 of the ACP-EEC Council of Ministers shall be applicable in the Community from 1 March 1991 until the entry into force of the Fourth ACP-EEC Convention or until 30 June 1991, whichever is the earlier, without prejudice to more favourable arrangements for imports of ACP products to be adopted unilaterally by the Community.

The text of that Decision is attached to this Regulation.

*Article 2*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 March 1991.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

**Proposal for a Council Decision extending Decision 86/283/EEC on the association of the overseas countries and territories with the European Economic Community**

*COM(91) 14 final*

*(Submitted by the Commission on 30 January 1991)*

(91/C 53/10)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 136 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas pending a new Decision by the Council on the association of the overseas countries and territories with the European Economic Community, the arrangements applicable by virtue of Decision 86/283/EEC <sup>(1)</sup>, as amended by Decision 90/146/EEC <sup>(2)</sup>, should be kept in force until 30 June 1991,

HAS DECIDED AS FOLLOWS:

*Article 1*

In Article 183 of Decision 86/283/EEC, '28 February 1991' is replaced by '30 June 1991'.

*Article 2*

This Decision shall take effect on the day of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 March 1991.

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<sup>(1)</sup> OJ No L 175, 1. 7. 1986, p. 1.

<sup>(2)</sup> OJ No L 84, 30. 3. 1990, p. 108.

**Amended proposal for a Council Regulation (EEC) on securities given by credit institutions or insurance undertakings**

COM(90) 567 final — SYN 180

*(Submitted by the Commission pursuant to Article 149 (3) of the EEC Treaty on 31 January 1991)*

(91/C 53/11)

*Initial proposal*

*Amended proposal*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the Treaty, in Article 59, enshrines the principle of freedom to provide services;

Whereas many public authorities, when demanding guarantees, ask for guarantees issued by a resident of their national territory, which conflicts with that principle;

Whereas the Treaty principle of non-discrimination is directly applicable and does not require implementing legislation;

Whereas public authorities have a certain discretion in judging the acceptability of the guarantor;

Whereas public authorities also have a particular responsibility for the establishment and functioning of the internal market;

Whereas this responsibility calls for a limitation of the discretion of public authorities in the case of a specific financial service provided by institutions supervised on the basis of Community rules;

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas the Treaty, in Article 59, enshrines the principle of freedom to provide services;

Whereas many public authorities, when demanding a security, ask for a security given by a resident of their national territory, which conflicts with that principle;

Whereas the Treaty principle of non-discrimination is directly applicable and does not require implementing legislation;

Whereas public authorities have a certain discretion in judging the acceptability of the guarantor;

Whereas public authorities also have a particular responsibility for the establishment and functioning of the internal market;

Whereas, in the case of a specific financial service provided by institutions already supervised on the basis of Community rules, a positive measure is needed to limit the discretion of public authorities which accept a security;

Whereas it does not appear reasonable for an authority to be subject without its consent to the law and jurisdiction of another Member State;

<sup>(1)</sup> OJ No C 51, 28. 2. 1989, p. 6.

<sup>(2)</sup> OJ No C 159, 26. 6. 1989, p. 4.

*Initial proposal*

Whereas the First Council Directive 77/780/EEC of 12 December 1977 on the coordination of the laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of credit institutions <sup>(1)</sup>, as last amended by Directive 86/524/EEC <sup>(2)</sup>, provides for a Community system for licensing and supervising credit institutions;

Whereas the First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life insurance <sup>(3)</sup>, as last amended by Directive 87/344/EEC <sup>(4)</sup>, provides for a Community system for licensing and supervising insurance undertakings;

Whereas it appears inappropriate that authorities other than those in charge of prudential supervision of these institutions judge the credit-worthiness of credit institutions or insurance companies acting as guarantors,

HAS ADOPTED THIS REGULATION:

*Article 1***Obligation to accept guarantees issued by credit institutions or insurance undertakings**

1. A public authority which requires to be secured for payment of an actual or potential debt or for respect of any other obligation shall be bound to accept a guarantee issued by any credit institution licensed according to Article 3 of Directive 77/780/EEC or by any insurance undertaking authorized for the class of suretyship insurance according to Articles 6 and 7 of Directive 73/239/EEC.

<sup>(1)</sup> OJ No L 322, 17. 12. 1977, p. 30.  
<sup>(2)</sup> OJ No L 309, 4. 11. 1986, p. 15.  
<sup>(3)</sup> OJ No L 228, 16. 8. 1973, p. 3.  
<sup>(4)</sup> OJ No L 185, 4. 7. 1987, p. 77.

*Amended proposal*

Whereas the First Council Directive 77/780/EEC of 12 December 1977 on the coordination of the laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of credit institutions <sup>(1)</sup>, as last amended by Directive 86/646/EEC <sup>(2)</sup>, provides for a Community system for licensing and supervising credit institutions;

Whereas the First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life insurance <sup>(3)</sup>, as last amended by Directive 87/357/EEC <sup>(4)</sup>, provides for a Community system for licensing and supervising insurance undertakings;

Whereas branches of credit institutions from non-Member States are authorized in the Community only in respect of national territories and therefore have no right to cross-border acceptance of their security;

Whereas it appears inappropriate that authorities other than those in charge of prudential supervision of credit institutions or insurance companies judge the credit-worthiness of such institutions when the latter are acting as guarantors;

Whereas, given the operational requirements of the Single Market, this should apply to security from both the domestic Member State and other Member States,

HAS ADOPTED THIS REGULATION:

*Article 1***Obligation to accept security given by credit institutions or insurance undertakings**

1. A public authority which requires to be secured for payment of an actual or potential debt or for respect of any other obligation shall be bound to accept security given by any credit institution licensed according to Article 3 of Directive 77/780/EEC or by any insurance undertaking authorized for the class of suretyship insurance according to Articles 6 and 7 of Directive 73/239/EEC unless

- the public authority has reason to doubt the soundness of the guarantor, notably if facts are known that cast doubt on his continued solvency,
- the offer does not meet the conditions normally required by that public authority;

<sup>(1)</sup> OJ No 322, 17. 12. 1977, p. 30.  
<sup>(2)</sup> OJ No L 386, 30. 12. 1989, p. 1.  
<sup>(3)</sup> OJ No L 228, 16. 8. 1973, p. 3.  
<sup>(4)</sup> OJ No L 172, 4. 7. 1988, p. 1.

*Initial proposal**Amended proposal**Article 2***Amendment of existing legislation**

Article 27 (3) of Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit <sup>(1)</sup> is hereby replaced by the following:

'3. Subject to Article 33 (2), the guarantee shall consist of the joint and several guarantee of either

- a credit institution licensed according to Article 3 of Council Directive 77/780/EEC <sup>(2)</sup>, or
- an insurance undertaking authorized for the class of suretyship insurance according to Articles 6 and 7 of Council Directive 73/239/EEC <sup>(3)</sup>, or
- any other natural or legal third person established in the Community and approved as guarantor by the Member State in which the guarantee is provided.'

*Article 3***Entry into force**

This Regulation shall enter into force on the first day of the month following the adoption.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

2. Paragraph 1 shall not apply to central banks in the context of their operations in the implementation of monetary policy.

*Article 2***Applicable law and court of jurisdiction**

The legislation applicable to the security and the court of jurisdiction shall be determined by the debt secured unless the authority accepts another arrangement.

Suppressed because modified by Article 24 of Council Regulation (EEC) No 2726/90 of 17 September 1990 on Community transit

*Article 3*

Unchanged

Unchanged

<sup>(1)</sup> OJ No L 38, 9. 2. 1977, p. 1.

<sup>(2)</sup> OJ No L 322, 17. 12. 1977, p. 30.

<sup>(3)</sup> OJ No L 228, 16. 8. 1973, p. 3.

**Proposal for a Council Decision adapting Decision 87/516/Euratom, EEC concerning the framework programme of Community activities in the field of research and technological development (1987 to 1991)**

COM(91) 13 final — SYN 326

(Submitted by the Commission on 1 February 1991)

(91/C 53/12)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130q (1) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 7 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas, pursuant to Article 130i (2) of the EEC Treaty, the framework programme may be adapted or supplemented, as the situation changes;

Whereas Article 1 (3), first subparagraph, of Council Decision 87/516/Euratom, EEC of 28 September 1987 concerning the framework programme of Community activities in the field of research and technological development (1987 to 1991)<sup>(1)</sup>, as supplemented by Decision 88/193/Euratom, EEC<sup>(2)</sup>, states that the total amount deemed necessary shall be ECU 5 396 million, of which no more than ECU 4 533 million are deemed necessary to be committed for the execution of specific programmes before the end of 1991; whereas the 12th recital of the said Decision also states that for the same reason, 'it may be expected that part of the amount deemed necessary for the framework programme 1987 to 1991, ECU 863 million, will have to be committed in the budget after the reference period of the framework programme';

Whereas, however, the progress of the legislative procedure for the adoption of the specific programmes under the third framework programme prompts fears of a slowdown in the Community's overall research and technological development effort in 1991; whereas, the abovementioned estimate should therefore be revised;

Whereas, owing to development on the energy supply market, it is appropriate to step up the search for and development of new energy options that are both economically viable and environmentally friendly; whereas it is therefore appropriate to adapt the estimates of budgetary commitments made by the Council for this purpose in 1987; under these circumstances, it is necessary to determine the breakdown of the amount deemed necessary for activities in the energy field so as to allocate ECU 162 million instead of ECU 122 million for non-nuclear energy and the rational use of energy and to reduce in proportion while at the same time rounding off the other figures in Annex I to Decision 87/516/Euratom, EEC,

Whereas the Scientific and Technical Research Committee (Crest) has been consulted,

HAS DECIDED AS FOLLOWS:

*Sole article*

Decision 87/516/Euratom, EEC is amended as follows:

1. In Article 1 (3), first subparagraph, '4 533' is replaced by '5 193'.
2. Annex I is replaced by the Annex to this Decision.

<sup>(1)</sup> OJ No L 302, 24. 10. 1987, p. 1.

<sup>(2)</sup> OJ No L 89, 6. 4. 1988, p. 35.

## ANNEX

## ANNEX I

## FRAMEWORK PROGRAMME OF COMMUNITY ACTIVITIES IN THE FIELD OF RESEARCH AND TECHNOLOGICAL DEVELOPMENT (1987 to 1991)

Breakdown of the amount deemed necessary between the various activities envisaged

	<i>(million ecus)</i>	
<b>1. Quality of life</b>	<b>372</b>	
1.1. Health	79	
1.2. Radiation protection	34	
1.3. Environment	259	
<b>2. Towards a large market and an information and communications society</b>	<b>2 258</b>	
2.1. Information technologies	1 588	
2.2. Telecommunication	546	
2.3. New services of common interest (including transport)	124	
<b>3. Modernization of industrial sectors</b>	<b>839</b>	
3.1. Science and technology for manufacturing industry	397	
3.2. Science and technology of advanced materials	218	
3.3. Raw materials and recycling	45	
3.4. Technical standards, measurements and reference materials	179	
<b>4. Exploitation and optimum use of biological resources</b>	<b>278</b>	
4.1. Biotechnology	119	
4.2. Agro-industrial Technology	104	
4.3. Competitiveness of agriculture and management of agricultural resources	55	
<b>5. Energy</b>	<b>1 205</b>	
5.1. Fission: nuclear safety	437	
5.2. Controlled thermonuclear fusion	606	
5.3. Non-nuclear energies and rational use of energy	162	
<b>6. Science and technology for development</b>	<b>79</b>	<b>79</b>
<b>7. Exploitation of sea bed and use of marine resources</b>		<b>79</b>
7.1. Marine science and technology	49	
7.2. Fisheries	30	
<b>8. Improvement of European S/T cooperation</b>		<b>286</b>
8.1. Stimulation, enhancement and use of human resources	178	
8.2. Use of large-scale facilities	30	
8.3. Forecasting and assessment and other back-up measures (including statistics)	23	
8.4. Dissemination and utilization of S/T research results	55	
	<hr/>	
<b>Total</b>		<b>5 396'</b>



**Proposal for a Council Decision amending Decisions 87/551/EEC, 87/590/EEC, 88/28/EEC, 88/279/EEC, 88/416/EEC, 88/418/EEC, 88/419/EEC, 88/521/EEC, 89/160/EEC, 89/236/EEC, 89/237/EEC, 89/413/EEC and 89/625/EEC, adopting specific programmes under the second framework programme of research and technological development <sup>(1)</sup>**

COM(91) 13 final — SYN 326

(Submitted by the Commission on 1 February 1991)

(91/C 53/13)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130q (2) thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Article 130k of the Treaty provides that the framework programme shall be implemented through specific programmes developed within each activity;

Whereas, by its Decision 87/516/Euratom, EEC <sup>(2)</sup>, as amended by Decision 88/193/EEC, Euratom <sup>(3)</sup>, and by Decision ... <sup>(4)</sup>, the Council adopted a framework programme of Community activities in the field of research and technological development (1987 to 1991);

Whereas owing to developments on the energy supply market it is appropriate to step up the search for and development of new energy options that are both economically viable and environmentally friendly;

Whereas the Council, in its Decision ... , revised its 1987 estimates with regard to the budgetary commitments necessary for the implementation of specific programmes before the end of 1991 and with regard to the breakdown of the amount deemed necessary for the second programme as a whole between the various activities envisaged;

Whereas it is appropriate, under these circumstances, to revise the estimates of the appropriations deemed necessary for the specific programmes adopted under the second framework programme in the form of an increase from ECU

120 million to ECU 162 million for the Joule programme; whereas it is necessary, as a result, in accordance with Article 130p (2), second sentence, of the Treaty, correspondingly to reduce the amounts deemed necessary for a number of other specific programmes in order not to exceed the total financial provision in the second framework programme;

Whereas the Scientific and Technical Research Committee (Crest) has delivered its opinion,

HAS DECIDED AS FOLLOWS:

*Article 1*

1. Decision 87/551/EEC (in the field of medical and health research) is amended as follows:
  - (a) in Article 2, '65' is replaced by '64';
  - (b) in Annex II, '65' is replaced by '64' and the part-amounts are reduced in proportion;
2. Decision 87/590/EEC (in the field of science and technology for development) is amended as follows:
 

in Article 2, '80' is replaced by '79'.
3. Decision 88/28/EEC (in the field of telecommunications technologies: RACE) is amended as follows:
  - (a) in Article 5, '550' is replaced by '546';
  - (b) in Annex I, '550' is replaced by '546' and the part-amounts are reduced in proportion.
4. Decision 88/279/EEC (in the field of information technologies: Esprit) is amended as follows:
 

in Article 5, '1 600' is replaced by '1 588' and part-amounts are reduced in proportion.
5. Decision 88/416/EEC (in the field of informatics for road transport: Drive) is amended as follows:
  - (a) in Article 5 (1), '60' is replaced by '59' and the part-amounts are reduced in proportion;
  - (b) in Annex I, '60' is replaced by '59' and the part-amounts are reduced in proportion.

<sup>(1)</sup> Respectively: OJ No L 334, 24. 11. 1987, p. 20; OJ No L 16, 21. 1. 1988, p. 35; OJ No L 118, 6. 5. 1988, p. 32; OJ No L 206, 30. 7. 1988, p. 1, p. 29 and p. 34; OJ No L 286, 20. 10. 1988, p. 29; OJ No L 60, 3. 3. 1989, p. 48; OJ No L 98, 11. 4. 1989, p. 13 and p. 18; OJ No L 200, 13. 7. 1989, p. 30; OJ No L 359, 8. 12. 1989, p. 9; and OJ No L 360, 9. 12. 1989, p. 32.

<sup>(2)</sup> OJ No L 302, 24. 10. 1987, p. 1.

<sup>(3)</sup> OJ No L 89, 6. 4. 1989, p. 35.

<sup>(4)</sup> ...

6. Decision 88/418/EEC (in the field of applied metrology and chemical analyses: BCR) is amended as follows:  
in Article 2, '59,2' is replaced by '58,7'.
  7. Decision 88/419/EEC (stimulation of scientific cooperation: Science) is amended as follows:  
in Article 3, '167' is replaced by '165'.
  8. Decision 88/521/EEC (JRC programmes) is amended as follows:
    - (a) in Article 2, '521,7' is replaced by '248,7';
    - (b) in Annex A, '251,7' is replaced by '248,7' and the part-amounts are reduced in proportion.
  9. Decision 89/160/EEC (in the field of agro-industry: Eclair) is amended as follows:  
in Article 2, '80' is replaced by '79'.
  10. Decision 89/236/EEC (in the field of non-nuclear energy and the rational use of energy: Joule) is amended as follows:
    - (a) in Article 2, '122' is replaced by '162';
    - (b) in Annex II, '122' is replaced by '162' and the part-amounts are increased in proportion.
  11. Decision 89/237/EEC (in the field of industrial manufacturing technologies and applications of advanced materials: Brite/Euram) is amended as follows:  
in Article 2, '499,5' is replaced by '496'.
  12. Decision 89/413/EEC (in the field of marine science and technology: MAST) is amended as follows:  
in Article 2, '50' is replaced by '49'.
  13. Decision 89/625/EEC (in the field of the environment and climatology: STEP and Epoch) is amended as follows:  
in Article 2, '115' is replaced by '114' and the other figures are reduced in proportion.
  14. Decision 89/621/EEC (in the field of biotechnology: Bridge) is amended as follows:  
in Article 2, '100' is replaced by '99'.
- Article 2*
- This Decision is addressed to the Member States.

**Proposal for a Council Decision amending Decisions 88/448/Euratom, 88/522/Euratom, and 89/664/Euratom adopting specific programmes in the nuclear field under the second framework programme of research and technological development <sup>(1)</sup>**

COM(91) 13 final — SYN 326

*(Submitted by the Commission on 1 February 1991)*

(91/C 53/14)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 7 thereof,

Having regard to the proposal from the Commission, after consulting the Scientific and Technical Committee,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas, by its Decision 87/516/Euratom, EEC <sup>(2)</sup>, as amended by Decision 88/193/EEC, Euratom <sup>(3)</sup> and by Decision . . . <sup>(4)</sup>, the Council adopted a framework programme of Community activities in the field of research and technological development (1987 to 1991);

Whereas owing to developments on the energy supply market it is appropriate to step up the search for and development of new energy options that are both economically viable and environmentally friendly;

Whereas the Council, by its Decision No . . . <sup>(5)</sup> revised its 1987 estimates of the budgetary commitments necessary for the implementation of specific programmes before the end of 1991 and as regards the breakdown of the amount deemed necessary for the second programme as a whole between the various activities envisaged;

Whereas the Council considered it appropriate, by its Decision No . . . <sup>(6)</sup>, to revise accordingly its estimates of the appropriations deemed necessary for the specific programmes under the second framework programme in the form of an increase from ECU 122 million to ECU 162

million for the Joule programme; whereas it is necessary, as a result, in accordance with Article 130p (2), second sentence, of the Treaty, correspondingly to reduce the amounts deemed necessary for a number of other specific programmes in order not to exceed the total financial provision in the second framework programme,

HAS DECIDED AS FOLLOWS:

*Article 1*

1. Decision 88/448/Euratom (in the field of controlled thermonuclear fusion) is amended as follows:
  - in Article 2, first paragraph, '735' is replaced by '730'.
2. Decision 88/522/Euratom (JRC programme in the field of nuclear fission: nuclear safety) is amended as follows:
  - (a) in Article 2, '448,3' is replaced by '446,3';
  - (b) in Annex A, '448,3' is replaced by '446,3' and the part-amounts are reduced in proportion.
3. Decision 89/664/Euratom (in the field of management and stockage of radioactive waste) is amended as follows:
  - (a) in Article 2, '79,6' is replaced by '78,6';
  - (b) in the Annex, '79,6' is replaced '78,6' and the part-amounts are reduced in proportion.

*Article 2*

This Decision is addressed to the Member States.

<sup>(1)</sup> Respectively OJ No L 222, 12. 8. 1988, p. 5; OJ No L 286, 20. 10. 1988, p. 33; OJ No L 395, 30. 12. 1989, p. 28.

<sup>(2)</sup> OJ No L 302, 24. 10. 1987, p. 1.

<sup>(3)</sup> OJ No L 89, 6. 4. 1988, p. 35.

<sup>(4)</sup> OJ No L . . .

<sup>(5)</sup> OJ No L . . .

<sup>(6)</sup> OJ No L . . . (proposal for a Council Decision amending 14 decisions adopting specific programmes under the second framework programme of R&TD).



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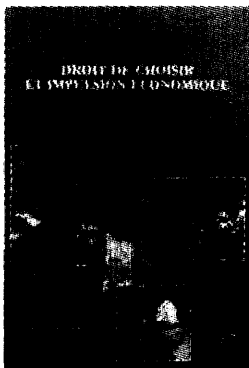
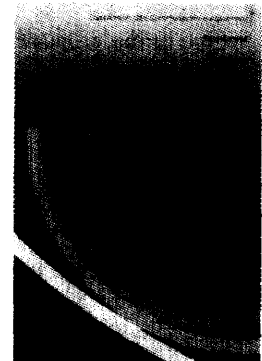
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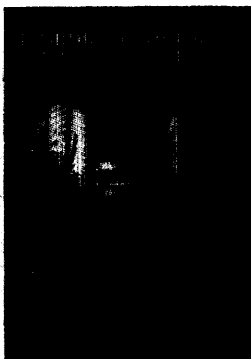
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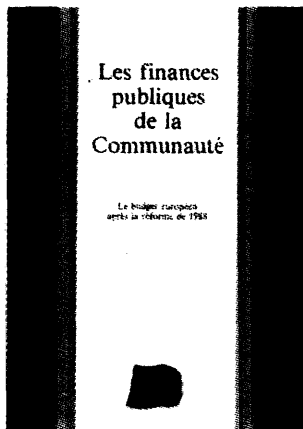
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