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II

(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion on the proposal for a Council Regulation (EEC) Changing Part II of Regulation (EEC) No 1612/68 on freedom of movement for workers within the Community⁽¹⁾

(92/C 40/01)

On 23 October 1991 the Council decided to consult the Economic and Social Committee, under Article 49 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Social, Family, Educational and Cultural Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 14 November 1991. The Rapporteur was Mr E. Saitis.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee adopted the following Opinion unanimously.

1. General comments

1.1. The ESC welcomes the proposed amendment to the Regulation, but expresses some reservations as to whether it will be able fully to achieve the objectives set.

1.2. The Commission proposals are fundamentally sound, helping to boost workers' rights to freedom of movement and employment within the Community—one of the basic factors underpinning European integration.

1.3. The proposed amendments allow for direct access by workers concerned to appropriate sources of information—which thereby gain greater transparency—and also cut through a certain amount of red tape. The most important improvement, nevertheless, is the expansion of information exchange arrangements (Art. 15), putting Community workers' rights onto a more solid footing. However, if this objective is to be secured, further substantial measures will have to be taken by the Member States.

1.4. There is a danger that deletion of reference to the frequency with which information is to be exchanged and its replacement by the term 'regularly' may, if unaccompanied by the compulsory use of new technologies, reduce the flow of information and slow down the procedures governing it.

1.4.1. Moreover, the removal from certain provisions of a more detailed description of the type of job offered in some sectors and regions could lead to only partial information being provided.

1.5. As highlighted by Opinion ESC 121/91, the establishment of a computerized European network linking all employment services in the Member States could help speed up implementation of programmes, by providing real access for those concerned to specific job offers and applications for employment. Greater use of audiovisual techniques and electronic data transmission by Member States to disseminate information on jobs offered and posts sought should be encouraged. Similarly, swifter procedures for recognizing qualifications and diplomas throughout the Community would be an essential contribution to more direct and efficient movement of Community workers. Member

⁽¹⁾ OJ No C 254, 28. 9. 1991, p. 9.

States will also have to make every effort to harmonize the aims of social security covering workers.

2. Specific comments

2.1. Article 14

2.1.1. Paragraph 1: the expression 'by region and by branch of activity' should be reinstated, since it provides a clearer definition of the information referred to in the paragraph.

2.2. Article 15

2.2.1. Paragraph 1, first line: the phrase 'shall regularly send' should be supplemented with 'and, in any case, at least once every three months and whenever requested by the European Coordination Office', as a safeguard for significantly faster exchange of information.

2.2.2. Subparagraph 1(b): 'by occupation and by region' should be added to 'vacancies'.

2.2.3. Subparagraph 1(d): [affects French text only] 'branches d'activité' should be supplemented by 'profession' in order to give a clearer picture of the type of vacancy involved. [Translator's note: the term 'branches d'activité' has been translated into English as 'branch of activity' in Art. 14 of the original Commission text (see point 2.1 above) and as 'occupation' in Art. 15.1(d)].

2.3. Article 16

2.3.1 Paragraph 2: the phrase 'reasonable delay' should be made more specific: in any event, it should be indicated that it must not exceed 15 days.

2.4. Article 19

2.4.1. Paragraph 1: the word 'regularly' should be supplemented with 'and at least twice a year'.

2.4.2. In order to make the Community employment market more transparent, the number of placings of nationals from non-Member States should not be removed from the scope of analysis: on the contrary, the branches of activity and occupations in which they have been placed should be specified [Art. 19, subparagraph 1(3) of the existing Regulation].

Done at Brussels, 27 November 1991.

The Chairman
of the Economic and Social Committee
François STAEDLIN

Opinion on the proposal for a Council Regulation (EEC) on certificates of specific character for foodstuffs⁽¹⁾

(92/C 40/02)

On 31 January 1991 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 9 July 1991. A revised version was elaborated at the Section meeting of 5 November 1991. The Rapporteur was Mr Gardner.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee unanimously adopted the following Opinion.

1. Summary of proposal

The objective is to set up a registration and labelling system for agricultural products and foodstuffs under which these products will be certified if they display specific, closely monitored differential characteristics. By this system of market segmentation the Commission hopes that certain sellers will get bigger sales or improved margins for these products thus bringing some benefit to some farmers. The system is based on national prototypes such as the French 'Label Rouge' but goes further than these in attempting to fix the legal trade description as well as having a special symbol.

The Commission also hopes that this will retain rural population in certain areas.

1.1. *Reorientation of the common agricultural policy (CAP)*

1.1.1. The Commission's arguments appear rather optimistic, although the system may have certain beneficial effects.

1.1.2. It is over-optimistic to assert that diversification of agricultural production and the effects of the specific character system may improve farm incomes, especially in disadvantaged areas, and stabilize rural populations.

1.1.3. Although diversification of agricultural production may result, it will be necessary to take into consideration the specific characteristics of a given product and check whether this will really lead to diversification.

1.1.4. The Commission believes that the existence of a certificate and a possible guarantee that the product

will secure greater market acceptance will improve farmers' incomes. The price difference vis-à-vis similar, non-certified products already on the market will become less significant.

1.1.5. Stabilizing the rural population is extremely difficult, although any support, moral or material, is likely to be welcome.

1.1.6. In this context it would be useful to have a system protecting a) the producer, who is guaranteeing a product hitherto based on commercial standards, and b) the consumer, who will benefit from a choice of different and guaranteed products.

1.1.7. The Commission hopes this system will encourage producers by enabling them to gear their product to a specific quality and a price more in line with the market.

2. General comments

The proposal is well intentioned but has a number of fundamental defects. Unless these are remedied, the Committee cannot approve the proposal.

In detail these defects are:

2.1. *The inclusion of non-Annex II manufactured foods*

2.1.1. If the certificate is successful in generating higher prices and better market shares, these will accrue to the product actually having the label.

2.1.2. Particularly for agricultural products the beneficiary will in principle be the farmer but for manufactured foods these benefits will accrue mainly to the

⁽¹⁾ OJ No C 30, 6. 2. 1991, p. 4.

food manufacturer or retailer whose products bear the label. The manufacturers or retailers have no incentive to pay more for raw materials used in products bearing the certificate.

2.2. *The apparent confusion concerning quality*

2.2.1. Quality is a relative concept. It is impossible to define 'absolute quality', particularly in such a large, complex sector.

2.2.2. The term 'quality' can be used in two senses:

- a) To differentiate between attributes of two products as in 'a different quality'.
- b) To indicate one product is superior to another.

2.2.3. The explanatory memorandum and preamble mention 'quality' and the Commission state that this was meant in the sense of 'difference'. Unfortunately the document does not make this clear. 'Quality' does not appear in the text and forms no requirement for the certificate.

2.2.4. This is sensible for the following reason: It is perfectly possible to have high legal quality standards for quantifiable product attributes such as blemishes or size grading of apples. On the other hand it is almost impossible to legislate for quality in terms of consumer demands since quality from the point of view of the consumer can be defined as food which is:

- a) safe and wholesome;
- b) in conformity with the consumer's requirements for flavour, texture, convenience, environmental status, etc.

2.2.5. Any future proposals referring to quality therefore need to make clear in which sense the term is used.

2.3. *Danger of confusing the consumer*

2.3.1. The proposal provides for three labelling elements. These are: A symbol, the expression 'registered specific character' and the trade description of the product.

2.3.2. The first two are likely to suggest to a number of consumers, that the registered product is 'of superior quality'.

2.3.3. The symbol may become a useful marketing tool as national prototypes have shown but it needs to be associated with genuine consumer benefits.

2.4. *Attempting to fix the trade description*

2.4.1. Fixing the trade description would allow a group of producers to pre-empt a trade description for product manufactured to its specification. There is a danger that this specification is so designed as to make it difficult or impossible for competitors to follow (particularly small and medium-sized enterprises). Also there is a real danger of confusing consumers. (For examples see 3.8.)

2.4.2. Trade descriptions are already regulated by Article 5 of the Labelling Directive (79/112/EEC) which requires the trade description to be 'sufficiently precise to inform the purchaser of its (i.e. the product's) true nature and to enable it to be distinguished from products with which it could be confused'.

2.4.3. The proposed system therefore runs against the EC principle of free circulation of foods from the Member States. Further it will benefit groups from States with the minimum national rules.

2.5. *Anti-competitive aspects*

2.5.1. The proposed system can be used by a group to restrict competition, thus damaging other producers and consumers by limiting marketing choice. This tendency is strengthened by the applicant group having a monopoly over any changes in the specification.

2.6. *New administrative structures*

2.6.1. New administrative structures would have to be set up at both official and private levels to register, evaluate, deal with appeals and control the system. The cost and time involved seem to be out of proportion with any potential benefits to farmers, manufacturers or consumers.

2.6.2. In certain cases administrative systems exist for national labels. However, these are much simpler. They are limited to detailed specifications of existing products and do not involve legal limitations of trade descriptions.

3. Detailed comments

3.1. Title

3.1.1. This should be changed to 'Certificates of specific character for agricultural products and food-stuffs'.

3.2. Legal base

3.2.1. This proposal is under Article 43 of the Treaty, yet claims to cover all food. However, the ambit of Article 43 seems clearly confined to Annex II products (by Art. 38 of the Treaty). This appears to leave the choice to confining the proposal to Annex II products or issuing it under Article 100 (functioning of the Common Market) or Article 100 A. Given our comments in 2.1 it would be best to keep it under Article 43 but confine it to Annex II products.

3.3. Second 'whereas'-clause

3.3.1. It seems very doubtful that this system of certification will reduce de-population of rural areas.

3.4. Article 2.1

3.4.1. The proposal is very vague on what constitutes 'specific characteristics which distinguish'. This needs defining in terms of specific consumer benefits and expectations. The position of ingredients (which may be certified products) in a food is also unclear.

3.5. Article 2.2

3.5.1. The distributors (cooperative and private) should be included here. They are the actual interface with the consumer and without their support the scheme is unlikely to get off the ground. Also they are responsible for labelling 'own brand' products. For these it is their label which will carry the symbol and it is they who will benefit from any higher consumer prices. For 'own brands' presumably it is the retailer who collects any EC subsidy under Article 24.

3.6. Article 2.3

3.6.1. As written there seems nothing to stop two food manufacturing firms who are separately incorporated but are controlled by the same holding company, from forming a 'group'.

3.6.2. There must be provision here or elsewhere for free admission to any group by others. This is particularly important since the group retains a monopoly over any changes in the product specification.

3.7. Article 4, first paragraph

3.7.1. Remarks as Article 2.1.

3.8. Article 4(a)

3.8.1. This is inadequate for several reasons:

- a) small additions to a standard avoid the restrictions;
- b) national criteria are often fixed by codes of practice rather than rules. This applies especially to foods outside Annex II;
- c) manufacturers in countries with few standards will find it much easier to register specificity than those of countries with many detailed standards;
- d) local regulations may stop manufacture (but not sale) of a product registered in another country.

3.8.2. The following examples will illustrate those points and the potential for confusing consumers.

3.8.2.1. Mayonnaise

3.8.2.1.1. Mayonnaise is standardized in some countries but not in others. By adding the term 'sunflower oil', a group could try to register the trade description. 'sunflower oil mayonnaise' for a product with 60-70% sunflower oil and 5% egg yolk, 0,3% acid and made by its particular manufacturing process.

3.8.2.1.2. Competitors who use 80% sunflower oil and 7,5% egg yolk, and a totally different manufacturing process therefore could not sell their product as 'sunflower oil mayonnaise'.

3.8.2.1.3. The applicant's product could be registered and made in Spain, Greece or the UK but not in Germany or France where it is outside the local laws. It could, however, be sold in Germany and France with its special certificate.

3.8.2.2. Marzipan

3.8.2.2.1. The UK and Ireland have no standards for this. German standards allow almonds and a relatively

high level of sugar, Danish standards allow almonds, apricot kernels and a low level of sugar. An Irish group could register 'sweet almond marzipan' to include sweet almonds only (i.e. no bitters, these are readily obtainable from California), apricot kernels and the German level of sugar.

3.8.2.2.2. The product could be made in Ireland and sold throughout the Community but could not (under local law) be made in Denmark or Germany.

3.9. Article 5

3.9.1. Article 5 is ambiguous. The current wording ('Only groups of producers of foodstuffs...') could create confusion, barring products with identical specific characteristics from the register, and would not serve to improve consumer information.

3.9.2. It is proposed that the phrase in question be replaced by the following: 'All groups of producers of a given foodstuff...'

3.9.3. Also there has to be provision for applications from EC wide associations including cooperative and umbrella associations and groups consisting of firms from more than one Member State.

3.10. Article 6

3.10.1. The criteria seem too undefined to persuade consumers to pay more for the added value of having a registered product (which is the object of the exercise).

3.10.2. The criteria need to be spelled out in more detail in the proposal rather than being left to national organizations. As an example the microbiological criteria for 'differing from similar foods' need defining. Further there is no objective way of describing organoleptic criteria.

3.10.3. Including the production rules could disadvantage small and medium-sized enterprises as two large producers could specify a complicated and tightly controlled production process which small manufacturers could not use.

3.11. Article 7

3.11.1. As written there is no method of ensuring uniform procedures between the authorities of Member States. Further what is the position for an applicant group composed of producers from several Member States?

3.12. Article 8.3

3.12.1. If a group of food manufacturers tries to register a trade description which would prejudice a competitor, the latter has to lodge his objection via his government. Three months from publication is too short for this, at least six months are needed.

3.13. Article 8.4

3.13.1. The first line needs changing to include appeals from associations which are directly affected.

3.13.2. The last phrase seems much too vague. Member States must be required to accept or refuse such opposition, giving reasons. Also there must be an appeal procedure nationally and at EC level.

3.14. Article 9.2

3.14.1. This would leave the Commission as final arbiter on the validity of specific designation, a task for which it seems ill qualified.

3.14.2. Also change three to six months.

3.15. Article 10

3.15.1. Article 10 is unclear, as it states that an application for amendment will be prompted by improvements in the registered specific characteristics. The consequence of this would be re-registration. The reference to Articles 6 and 9 in the final sentence of the Article appears to suggest this.

3.15.2. Article 10 does not clarify the situation of groups of producers registered for the manufacture of a given product in the event of the group which first registered the product applying for an amendment. Such an application should give rise to a new registration, thus respecting the prescriptive rights of the other groups.

3.15.3. In any case, all groups of producers registered for the manufacture of a given product must have the right to submit an application for amendment.

3.16. Article 12

3.16.1. For the reasons given in 2.4 above, this Article should be deleted, thus confining the proposal to the symbol and the logo 'Specific Designation'.

3.17. *Article 13*

3.17.1. This seems reasonable providing the criteria for registration are adequately defined. However, a more marketing-oriented expression might be devised (like the 'Label Rouge' in France).

3.18. *Article 14*

3.18.1. It is doubtful whether it is appropriate for an inspection body to have to provide proof [Art. 14(4)]. Reasons for suspicion should be enough.

3.19. *Article 17*

3.19.1. There seems no good reason why both national and Community symbols should not be on the same food, providing this food is registered under both schemes. This Article should be deleted. It has to be made clear that national schemes can continue indefinitely.

3.20. *Article 23*

3.20.1. This appears to leave the Commission as the final arbiter of decisions taken behind closed doors. The Member States have no final decision and can only

challenge the result by appealing to the Luxembourg court.

3.20.2. Consumers and manufacturers and their employees are not consulted. This could be solved by establishing a consultative committee.

3.21. *Article 24.1*

3.21.1. Subsidies should only be given for objective consumer information and for promoting the certificate and symbol. Financial assistance to groups could distort competition.

3.21.2. Also the first indent should be changed to:

'Informing consumers about the scheme and in particular the meaning of Specific Character.'

3.22. *Article 24.2*

3.22.1. This appears a further reason for confining the ambit of this proposal to Annex II products.

Done at Brussels, 27 November 1991.

The Chairman
of the Economic and Social Committee
François STAEDLIN

Opinion on the proposal for a Council Directive laying down minimum standards for the keeping of animals in zoos⁽¹⁾

(92/C 40/03)

On 17 September 1991 the Council decided to consult the Economic and Social Committee, under Article 130 S of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 5 November 1991. The Rapporteur was Mr Vidal and the Co-Rapporteurs Mr Douvis and Mr Masucci.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee adopted the following Opinion by a majority with one abstention.

1. Gist of the Commission document

1.1. The objective of the Commission's proposal is to ensure that minimum harmonized standards for the keeping of wild animals are observed by all zoos in the Community. Such harmonization is deemed necessary to facilitate the application of Community nature conservancy laws and to protect the public.

1.2. The proposal recognizes that zoos can play a threefold role in society: contributing to efforts to conserve threatened or endangered species, carrying out scientific research on species which are difficult to observe and study in their natural habitat, and educating the public on the environment and ecology.

1.3. Articles 2 and 3 of the proposal lay down certain minimum standards to be observed by all establishments deemed to be zoos. In order to ensure compliance with these standards, Article 4 requires all zoos to hold an operating licence, granted only after an inspection of the zoo has established that all relevant standards are being met or can be met within a short time (12 months).

2. General comments

2.1. The Committee welcomes the proposal for a Directive which undoubtedly responds to a need and to concerns expressed by the general public, by experts, and not least by zoo representatives themselves. The Committee can only regret that the Commission did not submit a proposal of this type much earlier, as the

management of certain collections of live wild animals, which do not deserve to be called zoos, still leaves much to be desired, in particular with regard to the unsuitable conditions in which animals are kept.

2.2. The Committee is nonetheless aware of the debate which has been conducted on various levels, and which will no doubt continue, as to whether this subject is really a priority for Community action, and above all as to whether this highly complex matter falls within the legislative scope of the Community. The current proposal appears to be a compromise between those who would like to see very full and detailed Community rules (the references to 'annexes' and to a 'Committee' in the proposal's penultimate recital testify to this approach which has however been partially abandoned by the Commission in drawing up the text) and those who feel that, in line with the principle of subsidiarity, it is the Member States which should adopt legislative, regulatory and administrative provisions.

2.3. The Committee considers the 'compromise' solution adopted by the Commission judicious. Annexes with too many very specific provisions or long lists of scientific names of species could have seriously compromised the chances of rapid adoption by the Council and are in any case inappropriate for Community framework legislation.

2.3.1. This does not however prevent the Commission from taking all necessary precautions to ensure that the provisions, conditions and general measures laid down in Articles 2 and 3 of the proposal are observed by the Member States. The Committee therefore suggests that the Commission make the necessary technical information available to the Member State (e.g. in the form of a manual or guide) to enable the Directive to be applied effectively and uniformly.

2.4. With regard to the legal basis chosen by the Commission, Article 130 S of the Treaty, the Committee

⁽¹⁾ OJ No C 249, 24. 9. 1991, p. 14.

is aware that certain experts think that it should be changed to, or at least supplemented by, Article 100 A on the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market. A major reason for the current proposal is after all the harmonization of minimum standards for keeping animals so as to ensure their well-being (an aspect which is not covered by Article 130 R of the Treaty!) and education of the public.

2.4.1. But the proposal is also part of Community environmental policy, in particular as regards the role which zoos can play in the conservation of species, indirectly via education of the public and directly via captive breeding programmes for endangered species and the return of offspring to the wild. Such programmes are, however, highly specialized activities carried out by only a small number of zoos working together closely under the supervision of the International Union for the Conservation of Nature and Natural Resources (IUCN) [Captive Breeding Specialist Group (CBSG)]. Conserving nature, and species of wild animals, requires above all the protection and management of habitats, as well as control of (legal and illegal) trapping, the prevention of pollution, etc. The Commission proposal also relates to the health and safety of zoo staff and visitors, an objective specifically mentioned in Article 130 R of the Treaty. The Committee therefore considers that the Commission has chosen the right legal basis.

2.5. For the Committee it is clear that the primary function of any establishment keeping wild animals in captivity is to educate and inform the public (particularly young people). The proposal should pay greater attention to this aspect and for example specify, possibly in a separate annex, the minimum educational activities which must be undertaken.

2.6. It is also clear that many Community zoos will have to take steps to bring themselves into conformity with the standards laid down by the Directive, and that such measures will entail considerable expense. It is likely that many establishments, most of which have a non-commercial legal status (foundation, non profit-making body, etc.), will be unable to afford such expenditure. Provision will need to be made for the possibility

of financial aid if they are not to close, with all the negative consequences of this for employment, but also for the public which would no longer be able to see animals without travelling long distances. In this context the Committee thinks that subsidies [European Regional Development Fund (ERDF)] or loans on favourable terms (European Investment Bank) could be looked at.

2.7. Although Article 11 of the proposal allows the Member States to adopt more stringent provisions, in a common market minimum standards should be interpreted and applied uniformly. It would be regrettable if zoos in a given Member State were subject to more stringent rules than others, as this could cause a major distortion of competition. The Committee reiterates its suggestion (see point 2.3) that technical data be made available to the Member States permitting uniform interpretation of the Directive's provisions.

3. Specific comments

3.1. Replace the fourth recital with:

'Whereas zoos should play an important role in educating and informing the public, and can contribute to conservation programmes for endangered species and scientific research.'

3.2. Delete the eighth recital.

3.3. Article 1.2 (a)

3.3.1. The Committee wonders whether the definition of 'zoos' is not too broad. Thus, parks containing one or more 'wild' indigenous species (deer, swans, etc.) which are open to the public would be subject to the provisions of the proposal, as would fenced hunting grounds to which the public has access.

3.3.2. The definition should however be sufficiently specific to prevent abuses, e.g. by establishments keeping animals but claiming not to be affected by the Directive.

New definition

'all establishments, except circuses and pet shops, open to the public, where live wild animals are kept in order to be exhibited.'

3.4. *Article 1.2 (c)*

3.4.1. Also with a view to preventing abuses (and in particular to ensure that establishments such as dolphinariums are covered by the definition of 'zoo') the Committee proposes a stricter definition of 'circus':

'an itinerant establishment where animals are kept or introduced for the sole purpose of performing tricks or manoeuvres at that place.'

3.5. *Article 1.2 (d)*

3.5.1. The Explanatory Memorandum makes it clear that the proposal is aimed purely at species of wild animal and not domestic animals (dogs, poultry, goats, etc.) which might be found on model farms or in schools. The definition of 'animals' should take account of this distinction.

New definition

'specimens of species normally living in the wild.'

3.6. *Article 1.2 (f)*

3.6.1. The inspection of zoos provided for in Article 3 should be carried out by an 'inspection committee', made up, as stipulated in Article 6, of at least three persons, including two 'experts'. In certain Member States the appointment by the competent authority of experts 'who are not involved in the zoo in question' could pose problems in the light of the definition of an expert in Article 1.2 (f) as a person with at least five years professional experience in zoos. The Committee therefore suggests that the definition be amended as follows:

'a person appointed by the competent authority of the Member State in question with knowledge and recognized experience of the management and keeping in captivity of wild animals'.

3.7. *Article 3*

3.7.1. Replace 'inspectors designated' by 'inspection committees designated'.

3.8. *Article 5.4*

3.8.1. In certain cases it would be appropriate to allow a grace period of more than twelve months. Some changes made necessary by the provisions of the Directive will take more than a year, particularly as the work will have to take account of certain biological imperatives (hibernation, reproduction cycle, etc.). The Committee therefore proposes the following amendment:

'Should the conditions laid down in the conditional licence not be complied with within 12 months, the competent authority may withdraw the licence and close the zoo to the public.

If however the inspection committee considers that the rebuilding work or other adaptation measures have been started and can be completed within an acceptable period, the competent authority may grant a new conditional licence for a period not exceeding twelve months.'

3.9. Replace Article 6, first sentence with:

'The inspection shall be undertaken by a committee consisting of at least one member of the competent authority and two experts who, though having professional experience of wild animals in zoos, are not directly involved in the zoo in question.'

3.10. Replace Article 9 with:

'The Member States shall encourage zoos to promote the education and provision of information to the public with regard to the conservation of species of wild animal.'

Done at Brussels, 27 November 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDLIN

Opinion on the proposal for a Council Decision on accession by the European Economic Community to the Protocol to the Geneva Convention on long-range transboundary air pollution on the reduction of emissions of nitrogen oxides or their transboundary fluxes⁽¹⁾

(92/C 40/04)

On 26 August 1991 the Council decided to consult the Economic and Social Committee, under Article 130 S of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 5 November 1991. The Rapporteur was Mr Boisserée.

At its 291st plenary session (meeting of 27 November 1991) the Economic and Social Committee adopted the following Opinion unanimously.

1. The European Community is a contracting party to the Convention on long-range transboundary air pollution (1979 Geneva Convention) as drawn up by the Economic Commission for Europe (ECE) of the United Nations and to the subsequent Protocol to the Convention on the reduction of sulphur emissions (SO₂). A further protocol to the Convention covering nitrogen oxides (NO_x) was established by the ECE in 1988. Eleven EC Member States and several non-EC States have already adhered to it, and it is now proposed that the European Community as a whole should accede to the protocol on NO_x.

2. The Committee approves the Commission's proposal.

3. The Committee refers to its previous Opinion⁽²⁾ on the original Geneva Convention [adopted as Decision 81/462/EEC⁽³⁾] in which it drew attention to

⁽¹⁾ OJ No C 230, 4. 9. 1991, p. 61.

⁽²⁾ OJ No C 72, 24. 3. 1980.

⁽³⁾ OJ No L 171, 27. 6. 1981.

the need to deal with potential transboundary pollutants other than sulphur dioxides (SO₂) which was the main subject under discussion at the time, although meanwhile the reduction of NO_x and its fluxes has assumed considerable importance in the Member States as well as in Community Environmental Policy. Therefore, the current proposal to extend coverage to NO_x is in line with the Committee's views.

4. The Committee had pointed out in its earlier Opinion that emissions emanating from non-EC countries would have synergistic effects with emissions from EC States and vice-versa.

The Committee therefore proposes that the Commission:

- a) keep a watching brief on the accession to the NO_x protocol of additional non-EC countries (particularly those in Eastern Europe), and, if necessary, take appropriate steps to bring about the protocol's more widespread adoption;
- b) supervise the implementation of the protocol in the Member States.

Done at Brussels, 27 November 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDLIN

Opinion on the proposal for a Council Directive amending Directive 89/396/EEC on indications or marks identifying the lot to which a foodstuff belongs⁽¹⁾

(92/C 40/05)

On 2 September 1991 the Council decided to consult the Economic and Social Committee, under Article 100 A of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 5 November 1991. The Rapporteur was Mr Gardner.

At its 291st plenary session (meeting of 27 November 1991) the Economic and Social Committee unanimously adopted the following Opinion.

1. The Committee accepts the Commission's proposal, while deploring the reasons for it.

Done at Brussels, 27 November 1991.

The Chairman
of the Economic and Social Committee
François STAEDLIN

⁽¹⁾ OJ No C 219, 22. 8. 1991, p. 11.

Opinion on the proposal for a Council Directive on restrictions on the marketing and use of certain dangerous substances and preparations

(92/C 40/06)

On 27 November 1991 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 5 November 1991. The Rapporteur was Mr Beltrami.

At its 291st plenary session (meeting of 27 November 1991) the Economic and Social Committee adopted the following Opinion unanimously.

1. The proposed Council Directive concerning restrictions on the marketing and use of certain dangerous substances and preparations is to be seen as a 'legislative consolidation' of Council Directive 76/769/EEC and the 12 subsequent amendments thereto.

2. By combining these provisions in a comprehensive 'single text', the Commission is helping to clarify and make more transparent a set of scattered provisions which are currently difficult to consult.

3. Having ascertained that there is no change in the substance of the texts to be consolidated, the Com-

mittee endorses the proposal and welcomes this attempt at rationalization.

Done at Brussels, 27 November 1991.

The Chairman
of the Economic and Social Committee
François STAEDLIN

Opinion on the proposal for a Council Decision concerning the conclusion of the Agreement between the European Economic Community and the Socialist Federal Republic of Yugoslavia in the field of transport⁽¹⁾

(92/C 40/07)

On 28 June 1991 the Council decided to consult the Economic and Social Committee, under Article 75 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 13 November 1991. The Rapporteur was Mrs Bredima-Savopoulou.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee adopted the following Opinion by a majority vote, with one abstention.

The agreement between the Community and Yugoslavia in the field of transport was signed on 24 June 1991. Hence the Committee's Opinion is something of a formality as there is no prospect of any proposed changes being taken into account. Under these circumstances the Committee would confine itself to the following observations.

1. The agreement will permit the coordinated development of transport between the territories of the two contracting parties and encourage road and rail transit between Greece and the rest of the Community; its signing is therefore to be welcomed.

2. The Committee is deeply concerned by and wishes to see an early solution to the current political crisis

in Yugoslavia, which has grave repercussions for the transport of the Community's external trade through Yugoslavia to Greece and the Middle East. The Committee also notes with concern that Greece's exports to other EC Member States as well as the transport of EC passengers (tourists) to Greece via Yugoslavia are being seriously hampered; it calls on the Community to take alternative action if the crisis persists.

3. The Committee notes that the negotiations between the Community and Switzerland and Austria culminated on 21 October 1991 in the conclusion of an agreement in principle which will also facilitate transit between the Community and Greece through Yugoslavia.

4. The 10-year agreement between the Community and Yugoslavia provides for an annual cumulative 5 % increase in the total number of transit authorizations

⁽¹⁾ OJ No C 181, 12. 7. 1991, p. 5.

for the Community. The Committee reserves its position on the distribution of these additional authorizations between the Member States; this is a matter for a Commission proposal, on which the Committee would hope to be consulted in due course.

5. The Committee calls on the Community to start negotiations for an agreement on maritime transport, air transport and inland waterways transport between the EC and Yugoslavia which respects the 'acquis communautaire' in these fields.

Done at Brussels, 27 November 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDLIN

Opinion on the proposal for a Sixth Council Directive on Summertime Arrangements⁽¹⁾

(92/C 40/08)

On 20 August 1991 the Council decided to consult the Economic and Social Committee, under Article 100 A of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 13 November 1991. The Rapporteur was Mrs Guillaume.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee adopted the following Opinion by a majority vote, with one abstention.

1. Introduction

1.1. The Council of Ministers has already adopted five Directives on summertime arrangements. Most recently, on 21 December 1988, it stipulated that in the years 1990, 1991 and 1992, the summertime throughout the Community would begin at 1 a.m. (GMT) on the last Sunday in March and end at 1 a.m. (GMT) on the last Sunday in September.

1.2. However, an exemption clause concerning the United Kingdom and Ireland was included, allowing these two Member States to take the necessary measures to ensure that the summertime period in the abovementioned years ends at 1 a.m. (GMT) on the fourth Sunday in October, i.e. four weeks later than in the rest of the Community.

1.3. To this date, the United Kingdom and Ireland have differed from the rest of the Community.

1.4. In its latest Opinion of 31 December 1988, the Committee once again urged that not only the beginning but also the ending of summertime be standardized as soon as possible.

1.5. The latest Commission proposal for 1993 and 1994 once again envisages the abovementioned possibility of one date for the ending of summertime in the continental countries of the Community and another for its ending in the United Kingdom and Ireland.

2. General comments

2.1. If summertime arrangements were to end on the same day throughout the Community, transport operators, travellers and the business world would be spared the considerable difficulties and costs caused by the different days on which the clocks are changed.

⁽¹⁾ OJ No C 219, 22. 8. 1991, p. 4.

2.2. The Committee therefore endorses the objective laid down in the Commission proposal but believes that the countries involved should be encouraged to fall into

line voluntarily, so that this anomaly may be resolved expeditiously.

Done at Brussels, 27 November 1991.

The Chairman
of the Economic and Social Committee
François STAEDLIN

Opinion on the proposal for a Council Regulation (EEC) on access to the market for the carriage of goods by road in the European Community to or from the territory of a Member State or passing across the territory of one or more Member States⁽¹⁾

(92/C 40/09)

On 6 September 1991 the Council decided to consult the Economic and Social Committee, under Article 75 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 13 November 1991. The Rapporteur was Mr Tukker.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee adopted the following Opinion by a majority vote, with one abstention.

1. Introduction

1.1. By means of Regulation (EEC) No 1841/88 of 21 June 1988 the Council decided to abolish for Community hauliers, from 1 January 1993, all quotas relating to intra-Community carriage of goods by road on Community territory and to replace those quotas with a system of Community licences issued on the basis of qualitative criteria.

1.2. These decisions are based on Article 75(1)(a) of the EC Treaty in which the Council is called upon to lay down common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States.

1.3. The aim of the proposed Regulation is to enable the Council to carry out the aforementioned decisions. The proposal provides for, *inter alia*:

- complete freedom to provide services (equal treatment) for road hauliers in intra-Community transport,
- replacement of quantitative restrictions on access to the market by qualitative criteria which hauliers must satisfy,
- drawing-up of rules for free access to the relevant market on the basis of qualitative criteria: in practice this means the issue of a quota-free Community authorization which is valid for several years and places no restrictions on the activities of hauliers.

⁽¹⁾ OJ No C 238, 13. 9. 1991, p. 2.

2. Explanatory notes on the text of the draft proposal

2.1. *Scope of the Regulation (Art. 1 and 2)*

2.1.1. According to the proposal the Regulation will apply to any transport operation carried out on the territory of the Community, i.e. any transport between Member States and the following kinds of transport operation in respect of that part of their journey carried out in the Community:

- transport operations starting in a Member State and ending in a non-Community country,
- transport operations starting in a non-Community country and ending in a Member State,
- transport operations between non-Community countries in transit across the territory of one or more Member States.

2.1.2. The proposal does not cover cabotage. The Commission is to submit a separate proposal to liberalize cabotage.

2.1.2.1. According to the proposal, what determines whether the Regulation applies or not is the journey made by the vehicle rather than the movement of the goods. The Regulation will apply if, for instance, goods arrive by ship at a seaport in a Member State A and are carried, whether transhipped or not, by road to Member State B.

2.2. *Access to the Community transport market (Art. 3)*

2.2.1. Access to the Community transport market is granted to hauliers who:

- are established in a Member State in accordance with the legislation of that State,
- satisfy the qualitative criteria for access to the profession (Directive 74/561/EEC amended, i.e. made more stringent, by Directive 89/438/EEC) and the rules for access to the market in force in that Member State,
- are holders of a Community authorization.

2.2.1.1. It could be concluded from these arrangements that the Member States have, in principle, the right to impose extra conditions on access to the market for their own nationals. Community hauliers must not only possess a Community authorization, for which they must satisfy the conditions laid down in Articles 7 and 8 of the proposal, but must also satisfy the conditions laid down by the Member States for access to the market. It must, however, be assumed that the conditions which Member States impose on their own nationals for access to the intra-Community market have to be consistent with the provisions of this Regulation. But as far as access to the domestic market is concerned, the Member States can pursue their own policy with regard to their nationals.

2.2.1.2. At all events the Community authorizations are quota-free and give access to the Community transport market without the imposition of quantitative restrictions.

2.3. *Replacement of existing authorizations by Community authorizations (Art. 4)*

2.3.1. All current EC authorizations for international transport (bilateral and multilateral authorizations) are to be replaced by the Community authorization. National authorizations for transborder transport are abolished by this provision.

2.3.1.1. In this connection it should further be pointed out that the proposed Regulation covers transborder transport operations and hence cannot restrict Member States' policy-making in respect of domestic hauliers. Therefore national authorizations for domestic transport operations may continue.

2.4. *Issue of authorizations (Art. 5)*

2.4.1. The Member States (competent authorities) themselves issue the Community authorizations to their nationals. (Certified copies are issued where the haulier has more than one lorry.)

2.5. *Period of validity of authorizations (Art. 6)*

2.5.1. The authorization is issued for a maximum of six years and may be extended for a further period not exceeding six years on the holder's request.

2.6. *Criteria (Art. 7 and 8)*

2.6.1. When an authorization is applied for or extended (and every three years after issue or extension) the competent authorities must check whether the haulier:

- satisfies the qualitative criteria of Directive 74/561/EEC, as amended by Directive 89/438/EEC (professional competence, reliability and creditworthiness),
- is complying with his tax, social, technical and administrative obligations.

2.6.2. In addition, conditions affecting the public interest (safety, protection of the environment, etc.) may, after consultation of the Commission, be attached to the issue or extension of authorizations.

2.7. *Withdrawal of authorizations (Art. 9)*

2.7.1. The authorization may be withdrawn if the haulier:

- no longer satisfies the conditions and rules laid down in Articles 3(2), 7 and 8,

- has supplied incorrect information when applying for the issue or extension of the authorization,
- has been convicted of serious and repeated infringements of transport and traffic rules.

2.7.2. According to information supplied subsequently by the Commission, these infringements concern:

- a) safety, environmental and social regulations;
- b) right of establishment, free movement of services and unfair competition.

2.7.3. A haulier whose application for an authorization is rejected or whose authorization is withdrawn may appeal to the competent Member State authorities against this decision.

2.8. Provision of information (Art. 10 and 11)

2.8.1. In order to keep an eye on the market and to detect an imminent crisis, the Regulation stipulates that the competent authorities have to inform the Commission, by 31 January each year, of the number of hauliers possessing an authorization and the number of certified copies issued during the preceeding year.

2.8.1.1. The Member States must inform each other of the authorizations issued (name of hauliers possessing an authorization and number of certified copies per haulier), any infringements committed by foreign hauliers and the penalties applied.

3. General comments

3.1. The Commission proposal applies only to professional road haulage. The Committee considers that own-account transport should be treated in precisely the same way. Nor is it clear whether the Regulation applies to all lorries or only to lorries with a specific total weight or capacity.

- As already noted in the comments on Article 3 above, it is assumed that the Member States are bound by the provisions of the Regulation as regards their own nationals. Thus in principle they cannot lay down any extra rules. Article 8 of the Regulation, however, allows them to impose additional conditions in certain respects where this is in the public interest. This raises the question of what these conditions may consist of and to what extent their uniform application and supervision in the Member States can be guaranteed.
- Stringent conditions would seem to be attached to the Community authorization, viz. a check must be made every three years on the qualitative require-

ments and compliance with tax, social, technical and administrative provisions. To prevent distortions of competition it is necessary to align certain provisions, social provisions in particular, within the Member States. In addition, surveillance of compliance with these provisions must be uniform throughout the Community.

- Article 9 stipulates that the authorization may be withdrawn, *inter alia*, where the haulier has been convicted of serious and repeated infringement of the provisions governing transport and traffic. Such vague wording does not provide an adequate guarantee that the Member States will apply the provisions uniformly. In the Committee's view the conditions need to be spelt out and the EC legislation must be applied correctly and uniformly by the Member States.
- On the other hand, the listing of infringements in Article 11 seems superfluous. There is also the question of whether the provision regarding the detention of vehicles could be interpreted differently by the Member States.
- The Community authorization is issued for a maximum of six years. Does this mean that the Member States can decide the period of validity of the authorization provided it is not more than six years?
- In the summary of the views of the professional organizations consulted, the 'impact assessment form' appended to the proposal states that market liberalization will improve the competitive position of businesses and that users are generally in favour of the proposal. Hauliers and forwarders are moderately favourable. Some of them are worried about overcapacity and a relaxation in the observance of rules. It should also be noted that not all organizations representing road-haulage interests were approached.
- While there will no longer be any quantitative restrictions within the EC, access to the market will be subject to strict compliance with (qualitative) criteria. The proposal represents a major strengthening of the qualitative system, in particular it makes it possible to attach conditions affecting the general interest to the issue of an authorization. Such a system stands or falls on the effectiveness of the checking procedure. The Member States must ensure that the supervisory authorities are up to the job. Furthermore, the consistent implementation of the system will impose a considerable extra burden on industry. Will it be possible to ensure that the

rules are implemented in a reasonably uniform manner in all the Member States? That is the question.

4. Specific comments

4.1. Article 11(3), penultimate line

4.1.1. Insert 'repeated' before 'excess speed'.

Done at Brussels, 27 November 1991.

5. Conclusions

5.1. Although well intentioned, the Commission proposal leaves many questions unanswered and, if introduced in its present form, will involve a lot of red tape. The Committee endorses the content of the proposal, but is of the view that some provisions are too vaguely worded to adequately ensure their uniform application in all Member States.

The Chairman

of the Economic and Social Committee

François STAEDLIN

Opinion on the proposal for a Council Directive on the frequency bands to be designated for the coordinated introduction of digital short-range radio (DSRR) in the Community ⁽¹⁾

(92/C 40/10)

On 23 July 1991 the Council decided to consult the Economic and Social Committee, under Article 100 A of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 13 November 1991. The Rapporteur was Miss Barrow.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. The proposal for a Council Directive which the Economic and Social Committee has been asked to consider deals with the harmonization of frequencies for digital short-range radio (DSRR) throughout the Community.

1.2. Recent years have seen great growth in services, both public and private, wishing to make use of the radio spectrum. Efficient administration and, in particular, great care in the allocation of frequencies is

needed to ensure that the greatest benefits can be derived from the finite resources of the radio spectrum.

1.3. Because frequencies are a limited resource and because there are a great many competing needs to use frequencies, both military and civil, public and private, it is clear that harmonization of frequency allocation on an international level will assist in ensuring maximum efficiency in exploiting the radio spectrum. The elimination of conflicting frequency allocation at a domestic level is, therefore, essential. In addition, the harmonization of frequency allocation throughout the Community

⁽¹⁾ OJ No C 189, 20. 7. 1991, p. 14.

will assist in creating a pan-European market for DSRR uncomplicated by national boundaries and inconsistent frequency allocation policies.

1.4. The need for the international coordination of frequency allocation has been recognized for many years and implemented on a large scale by both the International Telecommunication Union and the European Radio Communications Committee of the European Conference of Postal and Telecommunications Administrations (CEPT). However, measures as specific as those in the proposal have not, to date, been implemented on a wide scale. The Committee therefore commends the proposal and supports the principle of pan-European coordination of frequency allocation implemented in accordance with the laws of the European Communities.

1.5. The proposal sets out provisions whereby the Member States of the European Communities are required to allocate the frequency bands indicated in CEPT Recommendation T/R 75/02 (notably 888-890 and 933-935 MHz) for DSRR systems.

1.6. The objective of the proposal is to assist in the development of DSRR by specifically allocating frequency bands to it. This should add momentum to the progress already being made in the development of DSRR with a view to achieving the following:

- a) the completion of a single European standard for DSRR. This involves the standard-setting process of the European Telecommunications Standards Institute (ETSI) and, in particular, the completion of DSRR specifications [1 European Telecommunications Standard (ETS)] by October 1991 and the development of the European Telecommunications Standard for DSRR by 1993;
- b) the coordinated introduction of DSRR throughout the Community;
- c) the operation of DSRR on a pan-European basis because of the availability of common, Europe-wide frequencies;
- d) the creation of a large Europe-wide market for DSRR with consequential benefits for manufacturers as a result of the scale of the market.

2. General comments

2.1. The principles of harmonization to be implemented in the proposal are complementary to the general principles set out in the communication from the Commission entitled 'Towards a dynamic Economy - Green Paper on the development of the Common Market for telecommunications services and equipment' [doc. COM(87) 290, 30 June 1987]. In addition the measures set out in the proposal are in line with

other moves in similar fields such as the development of GSM as a pan-European standard for digital mobile telephony.

2.2. The measures set out in the proposal will clearly be of assistance in resolving the incompatibility of mobile communications systems in the Community and accordingly they are in line with the European Parliament's stated policy (European Parliament Report on Telecommunications in the Community, doc. 1.477/3 of 3 March 1984).

2.3. As there is no formal reference in the proposal, the Committee presumes that, in accordance with normal practice, the Commission will undertake the usual impact study concerning competitiveness and employment.

2.4. Whilst the Committee is in general agreement with the measures set out in the proposal, it does, however, have reservations with respect to several of the detailed provisions of the proposal in particular those relating to the proposed timetable for implementation. They are:

- a) the deadlines set out in Articles 2.1 and 3 of the proposal (1 January 1992 for designation by Member States of the relevant frequencies for DSRR and 31 December 1991 for completion of relevant laws, regulations and administrative provisions) are unrealistic;
- b) the reporting provisions set out in Article 4 of the proposal are neither satisfactory nor will they be helpful.

2.5. In the Committee's view the deadline for implementation of the frequency allocation should be tightly (but realistically) scheduled. The Committee suggests that the Commission should communicate with the relevant regulatory agencies of the Member States to establish what action needs to be taken under their domestic laws to designate these frequencies. The deadline should then be fixed as early as possible within the framework of the action that each Member State has to take.

2.6. In the Committee's view the Commission should report to the Council on the legal implementation of the Directive within twelve months of the deadline for laws, regulations and administrative provisions necessary to comply with the Directive, setting out the position as regards DSRR frequency allocation in each Member State to that date.

2.7. Thereafter it is the Committee's opinion that the Commission should report to the Council on the

practical implementation of the Directive within five years, setting out in detail whether the objectives of the

Directive have been achieved and analyzing the state of the Europe-wide DSRR market.

Done at Brussels, 27 November 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDLIN

Opinion on the Commission proposal for a Council Decision concerning an Agreement between the European Economic Community, the Kingdom of Norway and the Kingdom of Sweden on civil aviation

(92/C 40/11)

On 7 October 1991 the Council decided to consult the Economic and Social Committee, under Article 84(2) of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 13 November 1991. The Rapporteur was Mr Bo Green.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee unanimously adopted the following Opinion.

1. Introduction—Commission proposal

1.1. Further to the Council Decision of 18-19 June 1990 the Commission conducted negotiations with a joint delegation from Norway and Sweden and consensus was reached on an Agreement whereby all Community legislation affecting the air-transport sector would be applicable in Norway and Sweden.

1.2. Since the Agreement is seen as a component of the common commercial policy, the legal base is Article 113 of the Treaty.

1.3. The proposed Agreement's six chapters:

- deal with the scope of the Agreement,
- contain a transcription of the Treaty's competition rules,
- concern the Commission's powers,
- establish a Joint Committee,

— contain provisions for consultation,

— and set out provisions regarding the entry into force and review of the Agreement.

1.3.1. On the Joint Committee referred to in Chapter 4, the Commission—in conjunction with representatives of the Member States—represents the EC.

2. General comments

2.1. The Committee largely agrees with the thrust of the Commission's proposal, especially in the light of the EC-European Free Trade Association (EFTA) Cooperation Agreement concluded on 21 October 1991.

2.2. In its Decision of 7 October 1991 the Council approved the substance of the Aviation Agreement and

decided to consult the European Parliament, drawing the latter's attention to the problems connected with the proposal's legal base.

2.2.1. The Committee feels that it too should be consulted on this matter.

2.3. In this connection, it would refer to its Opinion of 19 September 1990 on the Commission proposal for a Council Decision on a consultation and authorization procedure for agreements concerning commercial aviation relations between Member States and third countries (Rapporteur: Mr Moreland) ⁽¹⁾.

2.3.1. This ESC Opinion, which was adopted unanimously, states that the legal base (Art. 113) is clearly questionable and instead recommends Article 84(2).

2.3.2. The argument that held good for the previous proposal is even stronger in the case of the proposed Civil Aviation Agreement, which is essentially purely a transport matter.

2.3.3. The earlier ESC Opinion points out that:

⁽¹⁾ OJ No C 332, 31. 12. 1990, p. 35.

- 'a) the exclusive application of Article 113 would run counter to case law of the Court of Justice (particularly the judgement of 27 September 1988—Case 165-87);
- b) there is an autonomous and clearly defined position of the Common Transport Policy vis-à-vis other Community policies, in particular those involving trade relations; otherwise, transport policy issues would be dictated by overall community commercial policy and the specific characteristics of the transport sector will not be taken into account;
- c) commercial and technical aspects of transport are often interdependent and cannot easily be treated satisfactorily under separate parts of the Treaty;
- d) the scope of Article 113 is not precisely defined and its use in the transport sector would be contrary to the need for coherence in the development of each Community policy and for legal clarity in respect of their implementation and decision-making procedures.'

2.4. As in the above Opinion, the Committee therefore recommends Article 84(2) of the Treaty as legal base for the proposed Agreement.

Done at Brussels, 27 November 1991.

The Chairman
of the Economic and Social Committee
François STAEDLIN

Opinion on the proposal for a Council Decision concerning the Conclusion of a Multilateral Cooperation Agreement 'Community - European Cooperation in the Field of Scientific and Technical Research (COST)' on Five Concerted Action Projects in the Field of Research in Biotechnology (Bridge programme) between the European Economic Community and COST Third States⁽¹⁾

(92/C 40/12)

On 2 September 1991 the Council decided to consult the Economic and Social Committee, under Article 130 Q(2) of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Energy, Nuclear Questions and Research, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 8 November 1991. The Rapporteur working alone was Mr Velasco Mancebo.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee adopted the following Opinion by a unanimous vote.

1. Introduction

1.1. A specific research and technological development programme in the field of biotechnology (1990-1994) (Bridge) was adopted by a Decision of the Council of 27 November 1989⁽²⁾.

1.2. Article 8 of this Decision authorizes the Commission, in accordance with Article 130 N of the Treaty, to negotiate agreements in particular with countries involved in European Cooperation in the Field of Scientific and Technical Research (COST), with a view to their being wholly or partly involved in the programme.

1.3. COST was instituted in 1971. It is the oldest vehicle for the pursuit by the Community and other European countries of concerted-action science and technology research projects which are of mutual interest for the participating countries.

1.4. COST is in particular complementary to bilateral cooperation between the Community and countries of the European Free Trade Association (EFTA) under framework agreements on scientific and technology cooperation. The main difference is that COST provides for *ad hoc* participation in the actions selected.

1.5. Apart from the twelve EC Member States, seven other countries are involved in cooperation: five of the seven Member States of EFTA (Austria, Finland, Norway, Sweden and Switzerland), along with Turkey and Yugoslavia.

1.6. Iceland, together with three countries of central and eastern Europe (Poland, Hungary and Czechoslovakia), which currently have observer status, will

become fully-fledged members of COST at the Ministerial Conference of participant countries in November 1991.

1.7. The five concerted actions of the cooperation agreement covered by the present draft Decision are explicitly provided for in the Council Decision on the Bridge programme. Annex 1 of the latter Council Decision lists the five research topics which are to be covered by the five concerted actions, and which are specified in Annex A to the cooperation agreement:

- aquatic primary biomass,
- *in vitro* cultures for the purification and propagation of plants,
- methods for early detection and identification of plant diseases,
- vesicular-arbuscular mycorrhizae,
- vaccines against coccidiosis.

1.8. The Council Decision on the Bridge programme provides for a ECU 2 million Community contribution towards implementation of the five concerted action projects, the work involving the organization of meetings, the consultation of experts, publications, the exchange of laboratory researchers and coordination contracts.

1.9. The cooperation agreement, which is attached to the draft Decision, also provides, in particular, for:

- a financial contribution from COST non-Member States participating in the concerted action projects; the contribution, which will cover coordination expenditure, will be ECU 34 000 per non-Member State and per concerted action project. The rules governing the financing of this Agreement are set out in the Annex,

⁽¹⁾ OJ No C 224, 29. 8. 1991, p. 16.

⁽²⁾ OJ No L 360, 9. 12. 1989, p. 32.

- the establishment of a Cooperation Committee to assist the Commission in the implementation of concerted action projects; this Committee will consist of representatives of the Community and the participating non-Member States,
- the exchange of information resulting from the carrying out of the research covered by the concerted action projects,
- the publication of reports on the results of the concerted action programmes,
- the conditions and rules for participating in concerted action projects,
- the conditions governing the renegotiation, renewal or denunciation of the agreement.

2. Comments

2.1. The Committee Opinion of 26 April 1989 on the Bridge programme⁽¹⁾ endorsed the five COST actions, and more generally, the extension of the programme (as then proposed) to other European countries.

2.2. The Committee reiterates its endorsement of the actions covered by the agreement under review, which are designed to ensure coordination of activities of research and technological development (R&TD) in the Community and the COST non-EC States which are party to the agreement.

⁽¹⁾ OJ No C 159, 26. 6. 1989, p. 26.

2.3. The Committee notes the increasing number of actions initiated under COST since its inception and the Council's extremely positive evaluation of this type of cooperation in its Resolution of 20 June 1989 concerning COST and the European Communities⁽²⁾.

2.4. The Committee nevertheless deplores the failure to send in an assessment report enabling it to make a properly informed evaluation of the advantages of this type of cooperation, which are widely unknown.

2.5. The Committee urges the Commission to take all appropriate steps to provide maximum information on actions undertaken under COST and their results.

2.6. With more specific regard to the cooperation agreement under review, the Committee reiterates the importance which it attaches to the ethical and social implications of biotechnology research. The Committee therefore urges that, in connection with each concerted action covered by the cooperation agreement, an evaluation be made of the social, ethical and environmental impact of research by the participant countries in the five fields concerned.

⁽²⁾ OJ No C 171, 6. 7. 1989, p. 1.

Done at Brussels, 27 November 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDLIN

Opinion on the proposal for a Council Decision concerning the Conclusion of a Multilateral Cooperation Agreement 'Community - European Cooperation in the Field of Scientific and Technical Research (COST)' on Eleven Concerted Action Projects in the Field of Food Science and Technology (Flair programme) between the European Economic Community and COST Third States⁽¹⁾

(92/C 40/13)

On 2 September 1991 the Council, acting in pursuance of Article 130 Q(2) of the Treaty establishing the European Economic Community asked the Economic and Social Committee for an Opinion on the abovementioned proposal.

The Section for Energy, Nuclear Questions and Research, which was responsible for the preparatory work, adopted its Opinion on 8 November 1991. The Rapporteur working alone was Mr Velasco Mancebo.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee adopted the following Opinion by a unanimous vote.

1. Introduction

1.1. The specific research and technological development programme in the field of food science and technology (1989-1993) (Flair) was adopted by a Council Decision of 20 June 1989⁽²⁾.

1.2. Article 3 of the Council Decision lays down that the programme is to be carried out in the form of concerted and shared-cost actions and training and mobility grants.

1.3. It is also stipulated that participation in the concerted action projects—designed to coordinate research at national level—shall be open not only to all EC Member States but also to other specified States, including COST participating States.

1.4. Article 7 of the Decision authorizes the Commission to negotiate, in accordance with Article 130 N of the EEC Treaty, cooperation agreements with a number of organizations and countries, including the COST participating States.

1.5. COST was established in 1971. It provides a framework for cooperation between the EC Member States and non-EC European States with regard to the implementation of research projects in scientific and technical fields of mutual interest to the participating countries. It was the first such framework to be established.

1.6. The COST scheme complements, in particular, bilateral cooperation between the EC and States of the European Free Trade Association (EFTA) under framework agreements covering scientific and technical cooperation. COST differs from these bilateral agreements in particular in that, under the COST scheme, States may participate in selected action projects on an 'à la carte' basis.

1.7. As well as the twelve Member States of the Community, seven third countries are parties to this cooperation: five of the seven EFTA member countries (Austria, Finland, Norway, Sweden and Switzerland), plus Turkey and Yugoslavia.

1.8. Iceland, together with three countries of central and eastern Europe, Poland, Hungary and Czechoslovakia, which at present have observer status, will become full members of COST at the ministerial conference of participating countries in November 1991.

1.9. The cooperation agreement which is the subject of the draft Council Decision under review covers eleven concerted action projects designed to coordinate research and technological development (R&TD) activities in the EC and in non-EC States which are members of COST.

1.10. The research topics covered by the action projects, which are listed in Annex A to the draft Council Decision, are as follows:

- spectroscopic techniques [Near Infrared (NIR), Fourier Transform Infrared (FTIR), Nuclear Magnetic Resonance (NMR)] for the rapid direct measurement of food quality,
- relating sensory, instrumental and consumer choice studies,
- predictive modelling of microbial growth and survival in foods,
- prevention and control of potentially pathogenic microorganisms in poultry and poultry meat processing,
- food safety and quality based on the application of combined processes and Hazard Analysis Critical Control Point (HACCP),

⁽¹⁾ OJ No C 224, 29. 8. 1991, p. 5.

⁽²⁾ OJ No L 200, 13. 7. 1989, p. 18.

- *in vitro* toxicological studies and real-time analysis of residues in food,
- improvement of food safety and quality through the use of interactive and competitive bindings of food lectins and bacterial adhesions in the gut,
- measurement of micronutrient absorption and status,
- physiological implication of the consumption of resistant starch in man,
- improvement of the quality and compatibility of food consumption and food composition data in Europe,
- information flow on food technology, food safety and healthy eating, for small and medium-sized enterprises and consumers (Flair-FLOW project).

1.10.1. The cooperation agreement attached to the draft Decision also provides, among other things, for:

- a financial contribution by the Community and the third countries which are members of COST and take part in the projects; the amount of each contribution is specified in Article 2 of the Agreement; the rules governing the financing of the Agreement are set out in Annex B,
- the establishment of a Cooperation Committee to assist the Commission in the implementation of the concerted action projects; this Committee would consist of representatives of the Commission and of the participating third States,
- exchange of information resulting from the implementation of the research covered by the concerted action projects,
- publication of reports on the results of the concerted action projects,
- conditions and procedures for participation in the concerted action projects,
- conditions for renegotiation, renewal and denunciation of the Agreement.

Done at Brussels, 27 November 1991.

2. Comments

2.1. The Committee endorses the draft Decision. In the Committee's view the implementation of the proposed cooperation agreement will not only further the development of a European scientific and technical area extending beyond the frontiers of the EC but it will also promote the interests of consumers by enhancing the quality and safety of food products.

2.2. The Committee considers that the constantly increasing level of trade in agri-food products between the EC and non-EC European States must be backed up by a vigorous policy aimed at improving public health and strengthening consumer protection and a sustained effort to achieve these goals.

2.3. In this context the Committee shares the Commission's view that 'mutual benefit shall be derived from coordination of national research via concerted action projects in the relevant sectors, and utilization of specialized skills and capabilities disseminated throughout Europe'.

2.4. As regards the proposed cooperation agreement itself, the Committee calls for provision to be made, in respect of each of the concerted action projects, for appraisals of the social, human and economic consequences of the research carried out in the participating States in the eleven fields concerned, together with appraisals of any technological hazards involved in such research.

2.5. As regards the dissemination of information on cooperation under the COST scheme, the results of COST concerted action projects and the assessment of these results, the Committee would refer to the comments set out in its parallel Opinion on the draft Council Decision on the conclusion of a similar agreement in the field of biotechnology⁽¹⁾.

⁽¹⁾ OJ No C 224, 29. 8. 1991, p. 16.

The Chairman
of the Economic and Social Committee
François STAEDLIN

Opinion on the New *Länder*—Community Support Framework for the areas of Eastern Berlin, Mecklenburg-Vorpommern, Brandenburg, Sachsen-Anhalt, Thüringen and Sachsen 1991-1993

(92/C 40/14)

On 23 April 1991 the Economic and Social Committee, acting under the third paragraph of Article 20 of its Rules of Procedure, decided to draw up an Opinion on the New *Länder*—Community Support Framework for the areas of Eastern Berlin, Mecklenburg-Vorpommern, Brandenburg, Sachsen-Anhalt, Thüringen and Sachsen (1991-1993).

The Section for Regional Development and Town and Country Planning, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 19 November 1991. The Rapporteur was Mr Schmitz.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. On 3 October 1990 Germany was reunited and the territory of the former GDR became part of the Community. Council Regulation (EEC) No 3575/90 of 4 December 1990 enabled the Structural Funds to be used in the new Federal *Länder* and Eastern Berlin from the date of unification.

1.2. The creation of German economic and monetary union on 1 July 1990 was an event of major economic importance as, overnight, the enterprises of the former GDR had to face up to international competition. On political grounds monetary union provided for a conversion of Ostmarks into deutsche Marks (DM) which put these enterprises in a very precarious competitive position.

1.2.1. Production collapsed in those enterprises suddenly exposed to outside competition. In addition, the switch to use of foreign exchange in trade with eastern European countries meant that this market too largely evaporated. As a result industrial production in the second quarter of 1991 was less than 40% of the level in the same quarter of 1989. Over the same period the number of people in employment fell by almost 3 million (from approximately 10 million at the beginning of 1989).

1.2.2. The share of industrial production in gross value added was very high (approximately 50%) in the former GDR. Compared with western European countries the services and crafts sectors were underdeveloped. There has been a notable upswing in these sectors since economic and monetary union, especially as the purchasing power of the east German population

has been boosted by substantial social transfer payments.

1.2.3. Despite the stabilization of production at a low level, the immediate prospects for those enterprises (including agriculture) exposed to outside competition are not good, as it will not be possible in the short term to match western competitors in terms of costs and productivity. Trends in other sectors are if anything positive (especially services and production—including farming—for the local market).

1.2.4. The switch from a bureaucratic command economy to a market economy poses further problems for the east German economy, in particular:

- a lack of personal entrepreneurial initiative,
- unresolved questions of property ownership,
- the immense difficulties involved in privatization,
- the need to completely rebuild public administration,
- a rundown and inappropriate economic infrastructure.

1.3. Selective measures to strengthen the competitiveness of industry and agriculture are needed to overcome the economic problems. Support is required for radical restructuring. Regional policy, especially that of the Community, can make a specific contribution to this. In particular it must help prevent the economic 'desertification' of industrial and agricultural areas.

1.4. Bearing in mind the speed of political change, the Committee welcomes the immediate response of the Community. The lack of reliable statistics in particular, however, meant that it was not possible to classify the new territory 'in the categories of regions and areas covered by the regional and rural objectives'. Accordingly, Regulation (EEC) No 3575/90 provided for adjustments to the Structural Fund rules for a transitional period. Contrary to EC assistance in the Federal Republic, under these provisions no objective 2 and objective 5b areas are designated. Hence the Structural Fund assistance will cover the whole territory of the new *Länder* and Eastern Berlin. In practice this means assistance as in an objective 1 area. The objectives for 1991-1993 are:

- to inject an additional ECU 3 000 million from the EC Structural Funds to assist with structural and labour market policies in the new territory, including measures which are consistent with the goals of Community initiatives,
- to make this assistance available rapidly and flexibly, in view of the urgent need for action.

1.5. While fully appreciating the reasons behind the flexible procedure adopted, there is a risk that qualitative criteria could be neglected in regional policy. The Committee therefore proposes that greater account be taken of qualitative criteria gradually between now and the end of 1993.

1.6. EC Structural Fund support for the east German *Länder* after 1993 must be seen in conjunction with the forthcoming reform of the Structural Funds. Experience gained in east Germany should be taken into consideration in this reform.

1.7. In the transitional phase funds of the European Regional Development Fund (ERDF) will be used towards the German 'Joint task for the improvement of regional economic structures' (GRW)⁽¹⁾. This procedure was necessary to ensure that the ERDF funds are put to rapid use. In view of the forthcoming Structural Fund reform in 1994, the Committee suggests that German regional aid be reviewed concurrently so that it is consistent with EC regional aid.

⁽¹⁾ The 'Joint Task' is a national aid programme partly co-financed by ERDF structural funds.

2. Outline of the development plan and the Community Support Framework

2.1. Following the submission of a development plan by the German Government, the Commission Decision of 13 March 1991 approved the Community Support Framework (CSF) for the five new Federal *Länder* and Eastern Berlin. At ECU 1 000 million *per annum*, the Structural Fund assistance is a good two and a half times higher than in the old Federal *Länder* and ten times higher *per capita*. 50% of the average annual assistance in the new *Länder* is from the ERDF, compared with only a third in the old Federal *Länder*. The share of the European Social Fund (ESF) on the other hand is 30% as against 50%, and that of the European Agricultural Guidance and Guarantee Fund (EAGGF) 20% as against 9%.

2.2. In addition to the Structural Fund aid, Germany itself is to raise ECU 4 380 million from the public and 6 555 million from the private sector over the period 1991-1993. The European Investment Bank (EIB), the European Coal and Steel Community (ECSC) and other loans are available for the national contribution. The total cost of the assistance is therefore in the region of ECU 14 000 million.

2.3. Instead of the usual allocation of funds to the five priority objectives of EC structural policy, five overall development objectives have been formulated for eastern Germany:

- modernization of industries and services,
- modernization of agriculture,
- development of human resources,
- integration of environmental objectives in the development strategy,
- provision of 'technical assistance for restructuring'.

2.4. On the basis of these development objectives, the CSF lists eight development priorities:

- promotion of infrastructure closely related to economic activities,
- support for productive investment,
- measures to develop human resources,
- combatting long-term unemployment,

- facilitating the occupational integration of young people,
- measures for the development of agriculture, forestry and fisheries and restructuring of the food industry,
- improvement of the living and working conditions in rural areas,
- agricultural, forestry and the rural environment.

2.5. Fund-assisted operational programmes are also planned as part of the CSF. For the moment six programmes, one per *Land*, have been approved for the ERDF and the ESF, with an additional interregional programme for the ESF. The Community global grant from the ERDF towards the national consultancy programme has also been approved, as have the EAGGF programmes.

2.6. The Commission should examine why the outflow of funds from the ERDF, ESF and EAGGF varies considerably from one *Land* to another.

3. General comments on Structural Fund intervention

3.1. Under the circumstances the Commission's approach is basically to be welcomed. It remains to be seen, however, how this approach adheres in practice to the principles of Structural Fund reform. The following aspects in particular will require scrutiny:

- concentration of aid on the structurally weakest areas, tailoring of support to particular regions,
- preparation and implementation of support by the partners, with the participation of the employers and trade unions as part of the social dialogue,
- integration of the Structural Funds in the regionalized plans and programmes, and priority of programme assistance.

3.2. Concentration of aid on the structurally weakest areas, tailoring support to particular regions

3.2.1. Because of the paucity of regional statistical data, the structural aid was basically distributed among the new *Länder* in proportion to their population.

While the regional analyses contained in the CSF give some idea of the differing problems of individual regions, they still do not enable a comparative evaluation to be made of aid requirements. The CSF does not lay down which regions should have priority. While this may be justified in the initial stages, there is a danger that the aid will be spread too thinly rather than concentrated where it is needed most. Regions with relatively good potential for development will have a double advantage over, in particular, weaker eastern regions. In the medium term this will jeopardize the effectiveness of the structural support.

3.2.2. The highest rates of aid should be applied to regions with a high industrial and agricultural component to ease the major restructuring problems in these regions. The rates of aid to certain services-orientated centres (e.g. Berlin, Dresden, Leipzig) should be reduced gradually. In fixing these rates the east German *Länder* should be allowed considerable room for manoeuvre.

3.2.3. As yet there is no evidence that structural support has been effectively tailored to individual regions. The present *Länder* operational programmes were drawn up in accordance with uniform criteria; in practice it was not possible to ensure that the local/regional authorities, institutions, associations, groups or enterprises had a say in their planning. Only a piecemeal start has been made on regional development plans.

3.2.4. Under these circumstances, carefully targeted support is needed for an analysis of the structural problems of the individual regions and the preparation of development plans.

3.2.5. The Commission should put forward a separate proposal to provide additional aid for the regions bordering on Poland and Czechoslovakia. Aid for border regions in Poland and Czechoslovakia should be dealt with under the 'European Agreements' with these countries. One of the primary purposes of this aid should be to further the economic and political integration of the eastern and south-eastern European countries into the Community ⁽¹⁾.

3.2.6. Particular importance attaches to the 'Consultancy programme of the Federal Ministry for Economic Affairs for selected regions in the territory of the former German Democratic Republic for the develop-

⁽¹⁾ ESC Opinion - doc. ESC 1119/91, 26. 9. 1991.

ment of industry-related infrastructure at district and regional level'. This programme is being co-financed by the Commission with a global grant of up to ECU 10 million. The development goals of the consultancy programme are:

- drawing-up of regional development plans,
- consultancy, i.e. provision of advice for the regions when implementing these plans,
- development of regional economic management and promotion,
- marketing of the locational advantages of the region.

3.2.7. The express purpose of the consultancy is to act as a back-up to the regional policies financed jointly by the EC, Federal Government and the *Länder*. It is intended to make a major contribution towards ensuring that aid is coordinated and used efficiently and hence to improving regional economic structures.

3.2.8. The Committee stresses the responsibility which the *Land* monitoring committees will bear for supporting and monitoring the implementation of the consultancy programme. In particular they should ensure that:

- consultation takes place in close collaboration with the relevant sectors of society in the regions,
- it contributes to a more efficient and coordinated use of aid,
- measures are coordinated with action on the environment,
- knowledge of the problems of each region is increased,
- the development plans are compatible with and coordinated with the major development objectives of the *Land*,
- the results are used by the Commission for the continuous assessment of Structural Fund intervention,
- links can be established with the activities at various levels and with the agencies responsible for regional/local structural development. In this, equal account must be taken of district and regional agencies, such as the 'Gemeinschaftswerk Aufschwung Ost' (body responsible for the rehabilitation of the east German

economy), employment agencies, the central and local administration of the Federal Labour Office, or the regional offices and advisory boards of the *Treuhand* (the German privatization agency).

3.2.9. There is a need to improve the integration of the aid from the different Funds and its integration with national and *Land* development measures; to this end the *Land* governments should be helped to set up, in cooperation with the monitoring committees, supra-regional development planning. Local authority representatives should participate in this planning so as to ensure that the necessary local authority independence does not clash with regional development policies.

3.2.10. In order to facilitate support for structural aid, especially at regional level, and the participation of the relevant regional parties, the *Länder* should be further encouraged to use the available technical aid for the development of an appropriate, regionalized consultative infrastructure for structural policy.

3.3. *Preparation and implementation of assistance by the partners with the participation of the trade unions as part of the social dialogue*

3.3.1. So far, partnership in connection with EC structural policy has been confined to cooperation between the Commission, the Federal Government and the *Länder*. The development plan, the CSF and the operational programmes were drawn up without the participation of the social partners. This runs counter to the objectives of Structural Fund reform and the CSF⁽¹⁾ which call for at least the involvement and consultation of the social partners. A structural policy project such as the transformation of the entire economic and social system of the former GDR is hardly conceivable without the participation of the economic interest groups. The present Commission practice of consulting on structural policy almost as an afterthought is totally inadequate and borders on 'going through the motions'.

3.3.2. The Commission's willingness (as stated in the CSF) to include the social partners in the regional monitoring committees at least is to be welcomed. It is

⁽¹⁾ Commission document of 13 March 1991 on Community Support Framework for the five new *Länder*, page 39, point 1.2.1.B.

now up to the Federal Government and the *Länder* to embrace such consultation and a dialogue on structural policy. The Committee regrets that, in the ERDF operational programmes submitted by the competent *Land* ministries for instance, the monitoring committees are composed of officials only. This has been done without any explanation whatsoever or consultation of the social partners.

3.3.3. The Committee urges that the social partners be consulted on projects of special importance for regional policy. The present one-sided consultation of industrial and trade associations is not sufficient.

3.3.4. The collaboration of the social partners in the economic development of the east German *Länder* should be organized in such a way as to further the integration of the various aid measures. The preparation of regional development plans is particularly important in this. Hence it would only be possible to do without the participation of the social partners in the regional monitoring committees if their collaboration were ensured in another consultative body with responsibility for regional development policy and planning.

3.4. *Integration of the Structural Funds in the framework of regionalized plans and programmes and priority of programmed aid*

3.4.1. The CSF provides for the integration of the Structural Funds primarily through the overall objectives, the development priorities and incorporation in national structural and labour market policies. Practical considerations ruled out integrated development programmes tailored to the individual regions.

3.4.2. Direct interlocking of the Structural Funds is premature. Instead Structural Fund intervention is

concentrated on co-financing of the 'Joint task for the improvement of regional economic structures' and the measures of the Federal Labour Office. As these are highly specific aid systems, such an approach is justified only in the short term. The development of integrated, programme-driven aid strategies clearly geared to the individual region is still in its infancy. It is dependent on preconditions still to be created at Federal and *Land* level. In this respect the Committee sees an urgent need for the further theoretical and practical development of the structural aid provided in the short term.

3.4.3. Uncoordinated aid should be avoided as far as possible. In the case of major projects, an interface between investment promotion and the qualifications of the workforce should be created. Global grants should also be awarded. In this connection special attention should be given to the setting-up of new enterprises and to industrial and agricultural restructuring measures. The experiences of the Saxony Ministry for Economic Affairs and Labour in this field have been promising.

4. Concluding remarks

4.1. In future it must be ensured that the principles and practical rules of EC structural policy are adhered to and retain their innovative impact even under the difficult circumstances of German unification. Structural policy initiatives in the new *Länder* must bear in mind from the outset that German unification means primarily the integration of the new *Länder* in the European Community. The economic and social structure must be rebuilt as part of the European internal market if it is to be sound. Against this background it is axiomatic that the guiding ideas and instruments of EC structural policy be applied in the new *Länder* and in Eastern Berlin.

Done at Brussels, 27 November 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDLIN

Opinion on the Commission communication on industrial policy in an open and competitive environment

(92/C 40/15)

On 21 December 1990 the EC Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the abovementioned communication.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 6 November 1991. The Rapporteur was Mr Petersen.

At its 291st plenary session (meeting of 27 November 1991), the Committee adopted the following Opinion by large majority (one abstention).

1. Introduction

A common industrial policy does not feature in the Treaties of Rome. Elements of such a policy are to be found only in the European Coal and Steel Community (ECSC) Treaty. The EC Commission made an initial attempt to frame a coherent industrial policy in the mid-Sixties: in 1970 it presented a comprehensive memorandum on Community industrial policy⁽¹⁾, which was intended to serve as a basis for a detailed discussion with other Community institutions and with the bodies representing the Community's socioeconomic interest groups. Economic and social differences in the Member States and the reluctance to tackle structural adjustment problems jointly with an adequate industrial policy thwarted the Commission's proposals and condemned the industrial policy memorandum to failure. The Commission's 1971 proposal to create an industrial policy committee also got lost in the sands. The action programme in the field of industrial and technological policy⁽²⁾ which the Commission submitted in 1973 likewise failed to achieve any results.

The Economic and Social Committee entered the industrial policy debate at the end of 1977 with its Opinion on industrial change and employment—a review of the Community's industrial policy and future prospects⁽³⁾. The Opinion pointed out quite rightly that, in the absence of a Community industrial policy, Member States' policies would develop along purely national lines and, because of these narrower horizons, could even conflict with each other. Structural problems would be exported to neighbouring countries under certain circumstances. Measures which were intended

to strengthen industry and increase employment in one country could undermine the economy—and thus employment—in others.

Instances of countries going it alone in the second half of the Seventies were sufficient reason for the Commission to take specific measures at Community level in individual industrial sectors, such as steel, ship-building, textiles, chemical fibres and footwear. In almost all cases the Commission could argue that—motivated by difficult structural problems and noticeable falls in employment—there was a strong tendency for some Member States to preserve existing structures by measures which caused new distortions of competition, triggered protectionist reactions and were ultimately capable of disrupting the common market.

A new attempt to revive the debate on industrial policy strategy was made by the Commission in 1981 when it presented the Council with a communication on the development of industry in Europe: a Community strategy⁽⁴⁾. In this communication, the Commission called on the Member States to meet the challenges facing economic and employment policy jointly, under the unifying umbrella of the Community: 'The industrial strategy of the public authorities, like that of the major companies and industrial complexes, must now be formulated on a scale of complexity, a breadth of scope and a time-span which in Europe are feasible only at Community level. The aim must be to re-create a climate of confidence that will encourage innovative and expansion investment, both by the major industrial groupings and by the small and medium-sized businesses, whose contribution to the creation of productive employment is common knowledge.' However, this urgent appeal also met with a poor response. The

⁽¹⁾ Doc. COM(70) 100 final.

⁽²⁾ Doc. SEC (73) 3824 final.

⁽³⁾ OJ No C 292, 3. 12. 1977.

⁽⁴⁾ Doc. COM(81) 639 final, p. 2.

breakthrough to a comprehensive and future-oriented industrial policy failed once again.

To be precise—and here the Committee agrees unreservedly with the Commission—the debate on industrial policy in the European Community has for years been hampered by the lack of an 'appropriate conceptual framework'. On top of this, the idea of global competitiveness, which has frequently been pinpointed as the aim of Community industrial policy, is vague and ambiguous. The Committee therefore welcomes the fact that, in its newest communication on industrial policy in an open and competitive environment, the Commission is making an attempt to develop the concept of a modern and dynamic industrial policy. The focal point of this concept is the Community interest.

2. Gist of the Commission proposal

European unification is gaining momentum both politically and economically. An initial target—the completion of the internal market—will be reached by the end of 1992. The internal market—according to the Commission—will be decisive in helping to force businesses to think and act strategically beyond national frontiers. Global corporate strategies will increase in importance. At the same time, the environment in which Europe's economy operates is undergoing permanent change: international competition is becoming keener, technological know-how is necessitating greater investment, production cycles are constantly being shortened and the macroeconomic conditions for manufacturing investment are deteriorating. In these circumstances the limits of national policies are soon reached and their alignment and coordination at European level becomes an urgent necessity. In the fields of both economic and industrial policy a high degree of consensus is required in Europe in order to consolidate and build on what the Community has achieved. Whoever chooses to ignore this and insists on continuing to think and act nationally, is turning his back on growth opportunities, job openings and greater prosperity.

It is generally believed that only a competitive economy will meet the challenges and enable the Community to secure and strengthen its position in the world economy. The Community's industrial policy blueprint is therefore prompted by the will to optimize market efficiency. The main problem according to the Commission is to create the 'appropriate' corporate climate for (a) an optimum allocation of the factors of production by market forces, (b) swifter structural adjustment, (c) greater economic competitiveness in Europe and (d) the establishment of a platform for long-term industrial

and technological development. The main responsibility for industrial competitiveness lies with industry itself. The public authorities act mainly as a catalyst and pave the way for innovation, with firms being able to expect them to provide a clear predictable environment and prospects.

This positive and open approach, which is committed to the principle of subsidiarity, is based on recent experience. The Seventies and Eighties, in particular, showed that interventionist policies in individual sectors of industry are not an effective instrument for promoting structural change. These policies failed to make industry competitive. They may help temporarily, but they inevitably risk delaying structural adjustments and thus causing job losses in the future; they also tie up resources which could be deployed more productively elsewhere. The economy is given the right signals by being firmly placed within the international division of labour and by compliance with the associated rules. Experience has shown that competition on equal terms is the best guarantee of a strong, competitive industry.

However, the situation in individual sectors of the European economy is not static and from time to time problems peculiar to individual sectors must be addressed and solved at Community level or by the Member States. It is vital in these cases too, however, for all measures taken to be fully consistent with the general principles of Community industrial policy.

Structural adjustment and international competitiveness are closely linked. A dynamic European industrial policy must therefore focus on the effective and coherent implementation of all those policies which make industrial restructuring an easier, more secure and speedier process. Accordingly, the Commission thinks that structural adjustment mainly involves three stages and that the Community's industrial policy blueprint must strike an appropriate balance between the three:

i) *Necessary prerequisites for structural adjustment*

- securing a stable economic environment in order, in particular, to strengthen firms' ability to invest,
- maintaining a competitive environment by keeping a careful watch on large mergers and acquisitions and controlling state aid rigorously,

- guaranteeing a high level of educational attainment as the basis for generating and assimilating new technologies and organizational methods,
- promoting economic and social cohesion between Community regions, with emphasis being placed on the role of the Structural Funds for areas with lagging economies: employee information, consultation and participation when corporate decisions about structural adjustment measures are taken,
- achieving a high level of environmental protection in order to safeguard human health and the natural environment and create new markets as a source of competition for 'clean' growth.

ii) *Measures for underpinning structural adjustment*

- completion of the internal market, to be achieved in particular by improving European standards and product quality, liberalizing public procurement, abolishing national import quotas (Art. 115 of the EEC Treaty) and establishing a coherent legal framework and trans-European networks,
- an open trade policy as a necessary complement to the opening of the internal market, with strict respect for the internationally agreed rules by all world trade partners; this includes refraining from unfair trading practices and the Community being willing to take effective action to defend itself.

iii) *Means of speeding up structural adjustment*

- development of firms' technological capabilities by providing more favourable conditions for the planning, development, diffusion and use of advanced technologies,
- a dynamic policy towards small and medium-sized enterprises, designed to limit redtape, increase cooperation and improve access to Community and world markets,
- better use of human resources and easier introduction of new technologies and working methods as a result of worker training and retraining,

- ensuring the requisite conditions for the development of dynamic and competitive business services (in particular in the field of financial services).

The Commission stresses that its industrial policy blueprint is based on a clear consensus and not on a compromise which represents the smallest common denominator acceptable to all. The blueprint rests on the principle of free trade and cannot be misunderstood under any circumstances as a policy of *laissez-faire*. It should be seen as being part and parcel of a policy for shaping rules and regulations designed to ensure that market forces and free competition are able to flourish in the industrial sector, too.

3. Comments

3.1. *The European Community's industrial policy approach*

The Committee agrees with the Commission that greater European integration implies that industrial policy problems should be solved at European level and that structural adjustment measures should take the Community market into account. It also endorses the view that only competitive industry can contribute towards Europe's economic and social development. The Committee assumes in this connection that the term 'European industry'—as used by the Commission on several occasions—is not confined to 'European-owned firms'.

The main idea behind the industrial policy blueprint is that an open and competitive environment should be established, and there is no alternative to this which has any chance of success. Within the field of industrial policy this is a top priority objective. The European Community will not master the challenges it has set itself in the Treaties, and intends to set on the path towards Political Union, by building a wall around its market and pursuing defensive policies to preserve existing structures.

However, the Committee would criticize the failure of the Community blueprint to give sufficient consideration to industrial policy's regional and social dimension. The strengthening of European industry's competitiveness will not in itself suffice to develop industry in lagging regions or to cater for social needs. Therefore, in its industrial policy blueprint, the Commission must give even greater prominence in particular to the interests of lagging regions and work these interests more convincingly into its policy instruments. The general reference to the Community's Structural Funds does not go far enough. The view that dialogue and partnership between industry and the public authorities

also has a 'vital' role to play in promoting economic and social cohesion is ambiguous and therefore requires urgent clarification.

In practical terms, the Committee would urge that apart from the horizontal measures for assisting structural change and increasing industry's adaptability a place must be retained for industrial policy measures which (a) provide secondary support for the requisite (regional and sectoral) adjustment processes in problem areas and (b) cushion the social impact of structural change with the aid of suitable co-ordinated transitional measures. This policy should include the following ingredients, which overlap and also influence each other in part:

- a regional policy which evens out discrepancies, for strengthening lagging regions' potential and ability to develop,
- a regional policy which evens out discrepancies, for regions with economic restructuring problems,
- adjustment assistance for offsetting social hardship in times of structural crisis or when industry is being slimmed down.

3.2. Prerequisites for structural adjustment

3.2.1. Macroeconomic conditions and flexibility

The Commission has rightly highlighted the importance of a favourable and reliable (macroeconomic) environment for corporate activity, and stressed that Community policy must accommodate this requirement. An important role is also played by the general political conditions. More often than not, the effect which these conditions have in shaping industry is overlooked. The Committee would have welcomed a clearer reference in the Commission document to the intricate links between the political, economic and social spheres.

The Committee's concern is that there should be a clear distinction in economic policy between (a) the general organization of the economy and (b) economic policy instruments. The former establishes the general framework for economic activity. Therefore the Commission should clearly indicate the purpose and shape of the general economic framework. It should pinpoint the principles on which this framework rests, and call on Member States to observe these principles when taking industrial policy decisions. The organizational framework should also be able, within limits, to take account of evolutionary changes. This includes the deliberate acceptance of temporary exceptions when these are justified. There is no reason to fear that the principles

underlying the organization of the economy will be undermined, unless these exceptions become the rule. As long as this is not the case, the exceptions can be considered to prove the role.

With regard to the economic policy instruments, the Committee thinks that initially the package of economic policy objectives should be specified and spelt out in the light of EEC Treaty Article 104. This stipulates that each Member State is to pursue the economic policy needed to ensure the equilibrium of its overall balance of payments and to maintain confidence in its currency, while taking care to ensure a high level of employment and a stable level of prices. This catalogue of objectives is by no means complete. Above all, it does not include economic growth, which is important for successful economic restructuring. This growth should contain both quantitative and qualitative elements, which should influence and complement each other in appropriate fashion. Protection of the environment and conservation of natural resources are vital for longer-term quantitative growth.

It is the Member States' task to adopt the measures which are suitable for achieving the macroeconomic objectives. These measures should also be blended in such a way that corporate initiative and adaptability is encouraged and strengthened, not impeded. There is a constant danger that too many unduly complicated provisions which are guided too little by economic criteria will restrict firms' ability to act, weaken the market's self-regulatory forces and threaten corporate flexibility, especially in the small/medium business sector. The economic challenges of the future and the keener competition worldwide require firms to adapt rapidly to structural changes. Time lags are now tolerated less and less by the market. The Committee shares the Commission's views on this, but would underline that the flexibility which firms need to have should not call workers' social protection into question. As the Commission points out, an 'adequate level of social protection... provides a safety net which diminishes the risks of (structural) change and ... promotes mobility'.

Economic policy measures must be coordinated more closely at Community level. A higher degree of macroeconomic convergence can only be achieved with the aid of joint, specially-targeted efforts. The Convergence Directive was adopted as long ago as 1974 with a view to improving and streamlining the procedure for cooperation between Member States in the field of economic policy. However, little has been achieved on the ground at Community level. What is the point—

the Committee asks—of the European Council and others making lengthy declarations on Community economic policy, and of the Commission issuing numerous proposals on global economic strategies (the most notable example being the 1985 cooperative growth strategy for more employment, which was also firmly supported by the social partners within the framework of the social dialogue), if economic policymakers in the Member States pay little or no attention. In the final analysis there has always been a lack of political will to agree on economic policy objectives, to lay down their order of priority and, above all, to make agreements more binding.

In its recent (Additional) Opinion on Economic and Monetary Union the Economic and Social Committee reiterated the need to agree on common economic policy guidelines and objectives⁽¹⁾. The Commission should put forward multiannual economic policy guidelines based on an assessment of economic performance in the Member States and submit them to the Council of Ministers of Economy and Finance (ECOFIN) and the European Council, which should act in accordance with the procedures to be laid down in the EEC Treaty's planned Article 102 C. These guidelines should be adapted each year and should refer in particular to finance policy, labour-market policy and structural policy. The economic reform programmes of the structurally weaker Member States will need to be given support and taken into consideration in the Community's economic policy guidelines if these Member States are to catch up and attain the desired level of economic convergence. It will also be necessary to strengthen the multilateral surveillance, launched in 1990, of all economic policy aspects of importance to the Community (price and cost trends; competitiveness; employment; regional development; public budgets). The Committee considers that the Community's industrial policy blueprint will be deprived of one of its main pillars if the EC proposal once again fail to score a resounding success.

3.2.2. Competition

The globalization of markets and growing economic interdependence of EC Member States inevitably provoke structural change. Mergers and acquisitions are one of the ways of meeting the challenge at company level and adapting European industry. The Committee

has repeatedly referred to this trend and has called on (national and Community) anti-trust bodies to consider at least the European dimension when assessing pertinent markets. 'The continued existence of national economic areas is an anachronism when it comes to achieving a sufficient degree of real competitiveness', the Committee stressed in its Opinion on the Commissions' 15th competition policy report, adding that 'the smallest possible geographical yardstick is now the Community, and even then the world dimension cannot be disregarded⁽²⁾. US and Japanese competition policy has long been tailored to cross-frontier, or even world markets.

At the same time the Committee called for an anti-trust system at Community level in order to maintain competition and secure the best possible mix between the requirements of international competition and the maintenance of balanced conditions of competition in the internal market. The December 1989 Regulation on the control of concentrations between undertakings was welcomed in principle by the Committee, because it also helped to remove legal uncertainties. This applied especially to the nature and extent of the Commission's merger control powers and the demarcation of European from national law. However, there are still a number of doubts about the Regulation. In particular, the ECU 5 billion threshold is (too) high and is not justified on either economic or competition grounds. 'Having thresholds in an initial phase which are too high will make it more difficult, if not impossible, to formulate a uniform competition policy for all Member States—at any rate in the key areas'⁽³⁾. With regard to the second main point of criticism—the substantive criteria for intervention—the Committee regretted that important yardsticks, such as degree of development and need for restructuring in certain areas of the Community, were only to be found in the protocol statements which had no binding force. Industrial and social policy considerations, and especially the need to preserve jobs threatened by structural change, made it imperative to include these criteria in the Regulation.

The Committee is naturally aware that an anti-trust Regulation based on competition policy considerations cannot solve all the many economic and social problems associated with mergers and acquisitions. All the more urgent therefore—according to the Committee in its Opinion on the Basic Regulation—is 'the need for coordination of competition policy with all other policies, such as regional and sectoral structural

⁽¹⁾ OJ No C 102, 18. 4. 1991, p. 24.

⁽²⁾ OJ No C 333, 29. 12. 1986, p. 86.

⁽³⁾ OJ No C 208, 8. 8. 1988.

policy, research and development (R & D) policy and consumer policy'.

Furthermore, competition policy must leave European firms with enough scope for cooperation in order to meet the challenges of worldwide competition. In this connection, R & D cooperation is particularly important. Cross-frontier technological transfer and technological cooperation should not be stifled by unduly rigid rules on competition. An important role is played by group exemptions for research cooperation which—in view of the growing demands—ought to be extended. The Commission should also bear in mind that the cross-frontier transfer of technology will considerably improve the Community's overall competitiveness in relation to third countries and that the transfer of know-how is vital for increasing the competitive strengths of small and medium-sized enterprises in particular and helps to safeguard and create jobs.

3.2.3. State aid

The Committee expressly welcomes the Commission's remarks on aid policy. Articles 92 and 93 of the EEC Treaty enable the Commission to protect competition from distortions caused by State aid and to counter the artificial preservation of structures. However, there is no question of abolishing aid completely. Aid is fully compatible with the Common Market in the cases referred to in Article 92(2) and (3) and, to this extent, is a legitimate industrial policy instrument. However, in future it should pave the way for structural adjustment and support the establishment of new industrial structures and should not be disbursed to preserve existing structures. There is a need for the direct (problem-oriented) granting of aid to tackle deficiencies with regard to infrastructure, training, industrial sites, reclamation of dumps and basic research. In addition, a regionally-oriented system of aid is clearly superior to one which focuses on individual industries. Aid is less dirigiste and has less of an unwanted tendency to preserve structures if it goes to regions rather than ailing industries. This does not exclude the granting of aid to individual industries in special cases in order to support an orderly changeover to the new structures.

The Committee agrees with the Commission that self-help incentives must be preserved and strengthened by public aid, that distortions of competition should be minimized and that public aid should not discriminate

between the public and the private sector. Public aid should also be limited in time, should be tapered and should be spent on the targets for which it is intended. Community aid should also fulfil these criteria, which are more or less commensurate with the ones adopted by the Council of Ministers of the Organization for Economic Cooperation and Development (OECD) in 1978 under its positive structural adjustment plan.

In this connection the Committee urges the Commission to make full use of the instruments available for monitoring aid (Art. 93 of the EEC Treaty). National financial support should be strictly vetted, continuously monitored and made sufficiently transparent. It would be an utter disaster if competition between firms were to be increasingly replaced by governments outbidding each other. The Committee notes with concern that according to the Community survey on State aids⁽¹⁾, between 1981 and 1986 the four largest Member States accounted on average for roughly 88% of all national aid. The initial statistics for 1986-1988 do not indicate any great change. The Committee therefore calls on the Member States, and especially the four largest, to sort out the chaos surrounding subsidies at long last and to make appreciable cuts. The Commission has repeatedly pointed out that national aid to Community firms far exceeds the aid disbursed by the Community's structural funds. In view of the level of economic interdependence now attained by EC Member States, the Committee thinks that the fullest possible record should be made of all aid and that this aid should be coordinated in liaison with the EC Member States.

As the Commission quite rightly says, 'a firm aid discipline is a prerequisite to the increased competition without which very little of the projected gains from the internal market will be realized'. This should be borne in mind by the EC Member States. However, Europe's firms are also required to stop their appeals to their governments and stop demanding State guarantees for their survival. The social market economy must once again be conceived as a principle underpinning life in society—it must not be watered down to an empty formula.

3.2.4. Education

One of the keys to successful structural adjustment, according to the Committee, is a better Community-wide standard of education. Lifelong learning

⁽¹⁾ Second Survey on State Aids in the European Community in the manufacturing and certain other sectors (Commission, 1990).

and above all permanent readiness to adapt one's personal capabilities and knowledge to new demands are vital for maintaining and improving the quality of human capital. The spread of data and information technologies into all branches of the economy and society makes the proper handling of new technology an important part of more and more people's lives and plans. However, it also means that education will have new tasks to face in the Nineties in all EC Member States. Firstly, it will have to take into account the new, mostly higher skills needed to cope with technological change and help to ensure that basic instruction in information technology is provided at school. And secondly, it will have to lay the foundation which will enable individuals to master this change intellectually.

The new information technologies disseminate knowledge at an unprecedented speed and on an unprecedented scale. Hence the growing importance of being able to order and arrange facts. Even now, numerous occupations are heavily affected by technological change. By the mid-Nineties—according to the estimates of various research institutes—more than 50% of the workforce will have to have a grounding in data processing. Hence the absolute necessity of skills offensive with the twin objective of:

- equipping individuals who have poor employment prospects with a skill,
- catering on a wide scale for the new, more stringent demands of technical change.

The Committee calls on all those responsible for education policy at Community level and in the Member States to increase their efforts and help to correct existing skills shortages in the coming years. It will not be possible to reduce tensions and adverse developments on the labour market until education and employment are better coordinated. The Committee also warns against undue specialization by workers, for this could limit their ability to adapt to structural change and cause considerable social problems.

3.2.5. Economic and social cohesion

The Commission's remarks on promoting economic and social cohesion fall well short of the Committee's expectations. Article 130 A of the EEC Treaty clearly states that in order to promote its overall harmonious development, the Community is to develop and pursue a policy for strengthening its economic and social cohesion. In particular, the disparities between the

Community's various regions and the backwardness of the least favoured regions are to be reduced. There is little trace of this concern in the industrial policy paper.

In connection with the Commission's remarks on regional policy the Committee wonders, for example, why so little attention was paid to the Commission's own studies on the internal market and the panorama of EC industry. Above all, the report published by the Commission on the impact of the internal market by industrial sector: the challenge for the Member States⁽¹⁾ contains findings which are highly relevant for the development of a common industrial policy strategy. The study—which offers a careful analysis and is empirically based—provides compelling proof that, as far as the most highly industrialized Member States are concerned, the challenges of the internal market are broadly not of a sectoral nature. For the less-developed Member States, however, two scenarios are presented and the sectoral changes which these will cause may be far-reaching. The first involves greater specialization in the traditional industries in which these countries have competitive advantages, whilst the second centres around the development of new high-tech sectors. In the first (inter-industry) scenario it is presumed that there will be a greater concentration on branches of industry in which the expected rise in demand is calculated to be rather low. In the second (intra-industry) scenario the southern Member States would expand in branches of industry which offer better growth prospects and—at least in the medium term—would enable these Member States to catch up with the rest more quickly. Economic reality is, however, such that it will not be a question of either one scenario or the other, and the completion of the internal market is not likely to result in fundamental shifts between geographical zones in the pattern of industrial distribution. Nonetheless, the Committee thinks that both scenarios must be taken into account in the Commission's industrial policy blueprint and analyzed in depth and that the right economic policy instruments must be chosen in liaison with the Member States. This would appear all the more urgent since—according to the EC Commission—the probability of each scenario happening will be influenced by the policy pursued at Community level. In another prophetic remark it is stated that the role of the structural funds may also differ in one or the other case.

The Commission's remarks on social cohesion in firms are also unsatisfactory. Statements such as 'a good balance between the needs of the various parties concerned will play an important constructive role in such

⁽¹⁾ 'The impact of the internal market by industrial sector: the challenge for the Member States' (*European Economy*, Special edition 1990).

processes' are too vague and do not get us anywhere. The social groupings represented on the Committee have repeatedly made practical remarks on the subject of social cohesion. The Committee has repeatedly endorsed such cohesion in principle, mainly with a view to the representation of workers' interests within firms and their involvement in certain corporate decisions, emphasizing that worker participation is an important prerequisite for the development of a democratic society. Neglecting staff considerations in a firm means ignoring economic, social, historical and legal reality. Co-determination at company level should take the form of an open dialogue. However, this dialogue also presupposes that entrepreneurs take a clear stance and heed the effect which corporate activity has on society. The same applies to the Commission, which should review and amplify the relevant passages in its blueprint.

3.2.6. Environment

The Committee agrees with the Commission that environmental protection is an important part of industrial policy. Environmental protection is a cross-frontier challenge which nations cannot solve in isolation. Environmental policy must therefore be seen as a task for the Community; it must be a policy of prevention based on cooperation, and must be carefully coordinated with other policy areas (e.g. regional policy, R & D policy). The 'prudent and rational utilization' of environmental resources is called for. Environmental risks must be properly identified at an early stage and suspected causal chains must be brought to the public notice. This implies close and loyal cooperation between the worlds of politics, business and science. Consideration should also be given to consumer behaviour, which is shaped in many ways by environmental measures. Environment policy, so the Committee says, may have a 'major influence on the consumer (prices, taxes, diversity of choice, health and safety); consumer policy may also, through the consumer choices it triggers, influence the environment for the good or for the bad⁽¹⁾. Increasing attention should be paid to the interface between consumer policy and environmental policy.

Economic development is a prerequisite for effective environmental protection, for it is the only way to meet the cost of environmental activities. At the same time environmental activities create new markets with a broad and varied range of products and services for protecting the environment. The development of new

markets is made easier if environmental policy targets are set but industry is left to choose the best path. This is the only way to develop an innovative climate which encourages technical progress, growth and employment incentives. A major role here has to be played by the Community and the Member States, which—acting in liaison with all social groupings—must decide how far they wish to go with environmental protection. Not until this has been done can the measures for achieving environmental targets be introduced.

The Committee would refer in this connection to its Opinion on environmental policy and the single European market, which focused on the use of market economy instruments and incentives for environmentally—friendly consumption⁽²⁾.

In addition, the Community should make full use of its powers to enact environmental standards, coordinate the requisite measures with national environmental activities and seek the harmonization of divergent environmental provisions and rules in the Member States. In particular, cross-frontier pollution must be reduced and the distortions of competition caused by environmental policies eliminated. The Community should not be guided by the smallest common denominator; it must achieve what is ecologically necessary. This includes taking suitable administrative and legal action to ensure that once measures have been decided, their implementation is pushed through everywhere in the Community. The will to take environmental protection seriously is often still lacking.

3.3. Measures for underpinning structural adjustment

3.3.1. Internal market

The Committee agrees wholeheartedly with the Commission that the programme for completing the internal market will create a 'home market' of considerable size and quality and must therefore be considered as an 'industrial policy measure par excellence'. The Committee would refer in this connection to its various positive Opinions on the moves towards the internal market and would reiterate the expectation that the internal market will benefit everybody—workers, firms, consumers and investors.

The internal market programme's practical economic and social repercussions will hinge on whether and to

⁽¹⁾ Doc. ESC 1115/91.

⁽²⁾ OJ No C 322, 31. 12. 1990, p. 107.

what extent the internal market initiatives are put into action in the Member States. There are still shortcomings and numerous deficits in this area. Even though the Commission notes in its sixth report concerning the implementation of the White Paper on the completion of the internal market⁽¹⁾ that the percentage of measures transposed into national legislation rose from 69% in December 1990 to more than 73% in May 1991, some Member States still lag a long way behind. The Committee therefore not only calls on the Commission to make an even greater effort to ensure that infringement proceedings are instituted rapidly; it would also ask the Member States to make an effective contribution to the completion of the internal market by speeding up their transposition of Community laws. The Committee also requests the Commission to act early to ensure that the non-transposition of laws in individual Member States does not jeopardize establishment of the barrier-free internal market in 1993.

3.3.1.1. Standards and product quality

European standards are a key factor in Community-wide market integration and are extremely important for industrial competitiveness. They remove technical barriers to trade and have a deregulating effect, thereby making cross-frontier industrial cooperation easier and enabling firms to benefit from economies of scale. When the basic requirements to be met by products are laid down, the Commission should ensure that the highest possible level of protection is provided. This applies both to the protection of health and safety (especially at work) and to environmental and consumer protection.

Despite the undisputed advantages of European standards, Community standardization work presents a far from satisfactory picture. There is still a plethora of national standards which act as de facto market barriers in the Community. As a result small and medium-sized enterprises in particular have difficulty in gaining access to public contracts in other Member States. Although the number of new European standards, according to the Commission, increased sharply from 19 in 1985 to 150 in 1989, this falls a long way short of the requirements of the internal market programme. The Committee calls on the Commission to increase its efforts to harmonize standards and also to use its influence to step up the establishment of effective procedures for the application of standards in the Community. In this connection the Committee would reiterate the idea of establishing an organization such as the European Standardization Council proposed by the Commission,

to improve coordination and coherence, propose priorities and encourage participation and transparency in the field of European standardization, including the national level⁽²⁾.

3.3.1.2. Public procurement

The Committee agrees with the Commission that the liberalization of public procurement in all areas is central to the internal market programme and is of great significance in industrial policy terms. European industry will not move closer together unless the continuing tendency to favour 'national champions' when awarding public contracts is abandoned at last once and for all. 'This continued partitioning of individual national markets', as the Commission said already in its June 1985 White Paper, 'is one of the most evident barriers to the achievement of real internal market'⁽³⁾.

The directives adopted so far on the Community-wide liberalization of public procurement mark a considerable step forward. However, the fact that small and medium-sized enterprises still have no adequate access to public contracts is viewed with concern by the Committee. Improvements are especially necessary in the field of subcontracting, where upper limits should be imposed in individual cases. The Community should also press more in future for the worldwide liberalization of public procurement, in keeping with the principle of reciprocal access to markets.

Small and medium-sized enterprises' access to public contracts in other countries could be further improved if the TED data bank were to be broken down by sector. The German pilot project POINT (Public Orders Information Network) is in progress at the moment in this field. The purpose of POINT is to provide a technically perfected service for small and medium-sized enterprises in need of reliable information about public procurement procedures in the Community. The Commission should lend its support to this project and further its wider cross-frontier use after its completion.

3.3.1.3. Abolition of national protective measures

With the completion of the internal market, the cases where EEC Treaty Article 115 can be applied will probably become fewer and fewer. National protective measures are not compatible with the principles of an open, competitive industrial policy. The Committee therefore supports the Commission's efforts to abolish these measures in order to expose national markets to a greater degree of intra-Community and worldwide

⁽¹⁾ Doc. COM(91) 237 final.

⁽²⁾ OJ No C 120, 6. 5. 1991, p. 28.

⁽³⁾ Doc. COM(85) 310 final.

competition and so prepare them better for global challenges. However, in many cases it is to be assumed that accompanying structural measures will be necessary so that unavoidable structural adjustments can be made relatively smoothly.

3.3.1.4. Coherent legal framework

Comparable legal conditions in the Member States are of vital importance for European firms if they are to operate unhindered throughout the Community. At the moment identical *de facto* situations still differ *de jure*. Although the Community has made visible progress in recent years in the approximation of legislation, a whole series of further measures are needed—not least in the field of company law. Views differ on the level of harmonization required in this field, but there is probably agreement that the common market requires national company laws to be aligned to a certain extent. In addition, there should be more supranational legal vehicles—such as the European Economic Interest Grouping—based on European law.

The Committee has in various Opinions called on the Council and the Commission to 'step up and properly organize their overdue action' with regard to the approximation of legislation⁽¹⁾. This includes further improving the protection of intellectual and industrial property. European firms need a reliable framework for action and more scope for reorganizing themselves if they are to strengthen their competitiveness, find a flexible response to the growing pressures from international firms based outside the Community and create and permanently safeguard jobs.

3.3.1.5. Trans-European networks

The Commission rightly stresses that trans-European networks are vital for the completion of the internal market and an important prerequisite for the integration of the Community's markets. They close gaps in existing networks and promote the development of the Community's peripheral regions, while also facilitating the construction of the European Economic Area and supporting the economic development of Central and Eastern Europe.

It is with this in mind that the Committee has repeatedly emphasized the necessity to establish and develop trans-European networks—especially in the transport, energy, telecommunications and vocational training sectors. In its Opinion on the Commission's action programme for trans-European networks⁽²⁾ the Committee calls for a

global, integrated, multi-mode approach, providing a reference framework. Investment risks will thus be reduced, Community, national and regional measures will be more effective and due account can be taken of long-term needs⁽³⁾.

3.3.2. Open trade policy

There have been considerable changes in the international division of labour in recent decades: industries have been relocated and new economic centres and areas have sprung up—the most obvious one being the Pacific area, which includes the US West Coast, Japan and the countries of South East Asia and South America. 'Old' industrial regions have upgraded by changing their structures, reorganizing and switching to new technology. This worldwide change has not been without friction. The risks and dangers involved present governments and central banks—but also firms and social groups—with the intricate task of having to weigh up and settle conflicts.

The European Community, because of its economic importance, has a lot of responsibility to bear in the field of world trade. Article 110 of the EEC Treaty expressly requires the Community to 'contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and the lowering of customs barriers'. Hence the Committee welcomes the Commission's remark that an open trade policy is required as a necessary complement to the single market. The liberalization of domestic markets must be accompanied by a liberal external trade policy. It would be absolutely disastrous if the Community were to be the cause of international trade tensions and upheavals.

This being so, the enormous gap between the trade policy guidelines outlined by the Commission in its paper and the international reality is a matter for concern. Administrative trade barriers, subsidies which distort competition and strategies which restrict competition—including the inglorious practice known as 'laser beaming'—are the order of the day and are generating considerable disturbances in world trade. Regional cooperation is also increasing further. Countries with the same or similar economic objectives

⁽¹⁾ OJ No C 124, 21. 5. 1990, p. 34.

⁽²⁾ Towards trans-European networks—for a Community action programme [doc. COM(90) 585 final].

⁽³⁾ Doc. ESC 1282/91.

have joined forces not only in Europe but also elsewhere in the world. What was considered an exception at the time of the establishment of the General Agreement on Tariffs and Trade (GATT) has now become the rule. The multilateral principle of world trade is thus becoming more and more of a farce. The international division of labour is being dominated more and more by economic giants and especially the triad formed by Europe, the USA and Japan. This triad encompasses the main markets and this is where competition is keenest.

Hence the growing importance—and here the Committee agrees with the Commission—of requiring that ‘the rules of the game be respected by all trading partners since the Community’s economy will become more sensitive to such practices in line with its even greater openness’. In view of the continual violation of these rules it is hardly surprising that the call for ‘reciprocity’ is becoming louder and louder. Reciprocity alone—according to its advocates—‘can ensure that the markets of Japan, South Korea, Taiwan and other Asian countries are also part of ... the triad’s (overall market), and are not fenced home bases from which Japanese and East Asian ... (firms) conquer the markets of America and Europe’⁽¹⁾.

Against a background of latent dangers for the international division of labour, the Committee urges the European Community to continue to make an allout effort to convince world trading partners of the advantages of free markets under conditions of fair competition and to ensure that the GATT Uruguay Round is brought to a successful conclusion. The increasing globalization of corporate activities—even in the small/medium business sector—demands rules for the international division of labour in which we can trust. Above all, more credibility and discipline are needed in world trade. Solemn commitments by western trading partners, reiterated at length again and again at the OECD or at ‘world economic summits’, are no longer enough. The Committee expects the GATT negotiations to produce not only concrete assurances from all GATT members that they will observe existing GATT rules, but also a noticeable improvement in the rules in critical areas (e.g. subsidies, escape clause) and the inclusion of new areas in GATT (e.g. services, protection of intellectual property).

There must be a greater general realization that—given present-day economic and political constraints in the world—it will not be possible to solve the tasks facing us and avoid new tensions in world trade unless the

No 1 rule is international cooperation based on trust. There is no place any more for nations going it alone. The world’s trading partners will either have to work together more in future or they will have to follow the lead set by others and undergo the painful process of restructuring.

3.4. Means of speeding up structural adjustment

The Commission stresses that the capacity to restructure must be accelerated by accompanying measures. Special emphasis is placed on research and technology policy and a more dynamic policy towards small and medium-sized enterprises.

3.4.1. Technological strength

The Committee agrees in principle that the technological competitiveness of European industry plays a key role and determines whether European firms can hold their own on the world markets. It would emphasize even more clearly than the Commission, however, that measures for enhancing competitiveness should not be confined to a few high-tech sectors but must also address broadly based technologies. In addition, there is no guarantee that European industry will develop harmoniously unless these technologies can also be applied by firms in lagging regions. Member States have important tasks to perform here. Support for the Community’s technological capabilities remains an absolute must, especially where pre-competitive research and the transfer of technology to small and medium-sized enterprises and less developed regions are involved. However, the Committee would point out that the principle of subsidiarity must be retained in the field of research policy, too. Community support for research should be channelled into areas where national funds do not suffice or the Community can reap clear benefits. In addition, priority must continue to be given to corporate responsibility for R & D. Firms are in a better position than the State to decide where research is worthwhile and to what extent it can be seen through and developed into marketable products.

3.4.2. Small and medium-sized enterprises

Support for R & D in small and medium-sized enterprises—especially through better information and advice in new areas of technology and improvements in the transfer of know-how and technology—is an important

⁽¹⁾ K. Seitz, *Die japanisch-amerikanische Herausforderung: Deutschlands Hochtechnologie-Industrien kämpfen ums Überleben*, 2. Auflage, München: Bonn Aktuell, 1991.

concern. Smaller businesses must be involved more closely in existing (national and Community-wide) research programmes and the procedures for the grant of support must be simplified. Not until this has been done will it be possible for smaller businesses to fulfil their central role in the process of industrial adjustment. In an age in which there is a greater specialization within sectors, European industry relies more than ever on a flexible and innovatory small and medium-sized enterprises sector. However, support programmes are no substitute for a policy aimed at improving the general environment (e.g. with regard to taxation) and the reduction of red-tape.

The Commission rightly places the emphasis on the importance of training in this connection. The Committee agrees with the Commission that in the face of the impending skill shortages and a much faster rate of innovation, the adaptability and quality of human capital has become the key determinant of industrial competitiveness and the one on which developed economies must place greatest reliance in future. In this connection the distinction between 'high-tech' and 'low-tech' industries is losing its importance. There must be broadly-based R & D and training in all sectors and regions.

4. Application of the industrial policy blueprint to sectors

The Commission has recently begun to apply the open, horizontal and offensive industrial policy approach to individual sectors. The sectors concerned are sectors which 'can play a key role for the development of European industry', such as the information technology (IT) and electronics industry and biotechnology. The Commission is also interested in areas whose worldwide environmental and economic importance is increasing (e.g. deep-sea mining). In addition Community blueprints are to be developed for sectors—such as the textile and clothing industry—which occupy an important place in the structure of the Community's economy but which are likely to have to 'come to terms with structural change, which in some cases will be radical'.

4.1. The European IT and electronics industry⁽¹⁾ is poorly represented in key areas such as semiconductors, peripherals and consumer electronics, and in the IT sector the situation can only be described as difficult. Whilst the Commission's analysis of weaknesses does

identify some cyclical causes, interacting structural weaknesses are far more significant:

- the high degree of fragmentation of the Community market,
- unequal competition conditions in the various regions of the world market,
- disadvantages linked to financing,
- lack of highly qualified staff,
- weak points in the structure of production,
- inadequate corporate strategies.

In the Commission's view measures needed to correct structural weaknesses and improve competitiveness should primarily be left to the firms themselves. The job of the Community and the Member States is, subject to the principle of subsidiarity, to create a favourable environment for firms and in so doing to take account of the potential of IT and electronics technology for the Community. Against the background of this analysis the Commission has drawn up a five-point action programme to complement and reinforce initiatives by firms. The proposed measures cover demand, technology, training, external relations and the business environment.

In its Opinion⁽²⁾ the Committee welcomes the Commission's industrial policy initiative and judges the action programme to be a suitable basis for creating—in partnership with firms—competitive structures and good job prospects offering good working conditions in the European IT and electronics industry. Recent unfavourable developments such as losses of market share in consumer electronics to East Asian competition and current market problems in semiconductors and the computer industry have clearly shown how urgent Community action has become. The Committee feels that the strategically important conditions are to be found in research and technology, infrastructure, production capacity, training and skills. In these areas the Committee proposes a broad spectrum of measures to complement the Commission's proposed package; these should be taken up by the Community and the Member States and used to construct a framework for the activities of firms.

The Council Resolution of 18 November 1991 on electronics information and communication technologies⁽³⁾ has been noted by the Committee with approval. Basically, this Resolution tallies with what the Committee says in this Opinion, and also fits in with the Committee's Opinion on the European electronics and information technology industry.

⁽¹⁾ Doc. SEC(91) 565 final.

⁽²⁾ Doc. ESC 1392/91.

⁽³⁾ No 9298/91 (Presse 208) of 18 November 1991.

4.2. Biotechnology is of strategic importance in dealing with the major challenges facing both industrialized and developing countries in the fields of nutrition, health, environmental protection and population growth. It should be understood as an interdisciplinary field straddling chemistry, biology and process engineering and using the biochemical synthesis of living cells to obtain or modify substances as part of industrial production processes. Biotechnology offers great opportunities for many sectors of the economy, from power generation, metal extraction, refuse disposal and chemicals to bioelectronics. It is true that this technology has a bad public image. Reservations are aimed mainly at the possible consequences of improper use for human and animal health and safety.

In view of the growing importance of biotechnology—not least for the EC's economic future—the Commission has drawn up a paper on biotechnology and proposed numerous initiatives across the whole spectrum⁽¹⁾. Their aim is to improve the competitiveness of firms involved in biotechnology, to adapt the legal framework, to establish biotechnology standards, to provide for the protection of intellectual property and to help with R&D financing. At the same time, the Commission says, ethical issues raised by biotechnology must be taken up by the Member States and at Community level and discussed at length in the framework of an open dialogue.

The Commission identifies the following priorities:

- the establishment of a biotechnology information infrastructure via research programmes, information policy and international cooperation,
- the phased introduction of support for biotechnology R&D (possibly extending beyond the pre-competitive phase),
- the drawing up of a clear and precise mandate for activities of the European Committee for Standardization (CEN) in the field of biotechnology,
- the adoption of Community rules protecting intellectual property and the incorporation of Community law in national law,
- the establishment of biotechnology statistics (industry and product statistics),
- the intensification of bilateral and multilateral contacts. The setting up of working parties [GATT, OECD, the European Free Trade Association (EFTA)] to formulate objectives for health and environmental protection,

- the setting up of a suitable Community advisory body on ethical issues related to biotechnology, e.g. questions concerning life and human identity.

To complement its policy initiatives and biotechnology research programmes, the Commission will continue to assess social, economic and technological consequences. It also intends to monitor regularly the progress and competitiveness of the Community's biotechnology industries, in order to ensure that the agreed concept performs its function. The Commission remains convinced that future market successes will depend to a great extent on the strategies developed and followed by firms.

The Economic and Social Committee reserves the right to issue a separate Opinion on the Commission's biotechnology paper.

4.3. Maritime issues have become increasingly important on an international level in ecological, economic and political terms. In its Communication on maritime industries⁽²⁾ the Commission says that the EC should actively react to this. In the light of their interdependence, shipping, shipbuilding, the use of the resources of the sea, and the need to keep these resources and the seas themselves free of pollution, have to be seen and treated as part of a single maritime dimension. The Commission's Communication therefore covers this whole area in order to pave the way for better use of present and future synergies between maritime activities.

Only efficient maritime industries can guarantee that the Community will be in a position to participate adequately and successfully in international trade and benefit from the exploitation of the oceans. In the past the Commission has undertaken and proposed a range of different initiatives, but until now there has been no comprehensive view of all maritime issues. A new and effective global approach is therefore needed. This does not, however, mean substituting for efforts by companies themselves. The Commission's objective is, rather, to improve the competitiveness of the maritime industries via appropriate horizontal measures:

- improved conditions (elimination of trade barriers),
- improved maritime safety (navigational safety, safety on board, safety at work),
- drawing up of an integrated Community approach to maritime R&D,
- development of a combined transport network and extension of transport infrastructure,

⁽¹⁾ Doc. SEC (91) 629.

⁽²⁾ Doc. COM (91) 335 final.

- improved basic and further training of employees,
- development of common maritime environmental strategies,
- convergent conditions of competition between the Member States.

The implementation of the proposed horizontal measures offers firms in the maritime sector the opportunity to keep pace with the most recent developments and exploit fully the advantages of the internal market, Preconditions for this however are more efficient internal coordination of policy and a better understanding between firms in each sector, the individual economic sectors, the Member States and the Commission. The Commission therefore proposes a discussion forum consisting of representatives of the various industries and research institutes, the maritime and economic authorities of the Member States and the Commission. The forum's job would be:

- to define in greater detail the scope of the global and horizontal approach,
- to identify areas and measures which could improve the competitiveness of the maritime industries,
- to develop appropriate methods for the implementation of the necessary measures.

The forum should present a report to the Commission within nine months of adoption of the Commission proposal. The Commission will then decide what concrete measures are needed and should be proposed in the common interest of the maritime industries.

The Economic and Social Committee—one of the recipients of the Communication—will be submitting a separate Opinion on the European Community's maritime sector.

4.4. The textile and clothing industry plays an important role in the Community's structural make-up, not only in terms of sales, production and jobs but also because of the creativity aspect and the wealth of experience amassed. In the coming years this industry is once again likely to be under considerable pressure to adapt. The challenges facing the industry—and in particular the integration of Mediterranean and East European countries—are forcing it to speed up the restructuring process but also require the European Community to demonstrate its solidarity. The fact that the textile and clothing industry is of vital importance for some of the Community's less developed regions (especially in Portugal, Spain and Greece) heightens the need for solidarity.

The Commission has become increasingly aware in recent times that the current problems with their possible structural and social repercussions have prompted

several Member states to consider or frame their own (national) plans of action. The danger here—according to the Commission—is that 'failure to establish clear guidelines (will) produce results which will cause problems at Community level'. For this reason, but also to emphasize the importance which the Community attaches to the textile and clothing industry's economic and social difficulties, the Commission has put together a package of measures for effectively helping the industry to modernize and strengthen its competitiveness⁽¹⁾. It should be borne in mind in this connection that even in those areas where the industry has been extensively restructured and modernized, the task of safeguarding and strengthening firms' competitiveness will be an extremely difficult one.

As the Commission sees matters, the requisite Community measures must satisfy two conditions: they must be in tune with the overall framework of Community industrial policy and they must do justice to the distinguishing features of each region. This will require a balanced policy-mix, with the firms themselves bearing responsibility, as ever, for the structural adjustments. The numerous Community support measures will focus on:

- promoting and improving communications and information,
- improving the transparency and coherence of State aid,
- improving basic and further training for workers,
- stepping up research and development,
- structural fund assistance for the regions affected.

The Community's textile and clothing industry is 'extremely international', and industrial policy measures by the Community must therefore also take developments on the world markets into consideration. Top priority should be given to reinforcing the Community's outward-looking approach, while a balance must also be established between the rights and obligations arising from the application of competition and trade rules. The following specific measures are listed in the Commission Communication's chapter on commercial policy:

- opening up the markets of non-Community countries,
- export promotion,
- making corporate strategies international,
- measures against dumping and subsidies,

⁽¹⁾ Doc. COM (91) 399 final.

- cooperation between customs authorities in the Community,
- protection of labels, designs and models,
- application of commercial policy instruments.

The Commission appeals to the Member States to ensure that joint complementary action is taken. It is also the Commission's firm intention to co-ordinate the use of its instruments and policy measures so as to give lasting support to the structural adjustment of the textile and clothing industry and speed up economic diversification in the affected regions.

The Economic and Social Committee reserves the right to deliver a separate Opinion on this Communication, too.

5. Conclusions

The conclusions adopted by the Council of Ministers on the Commission's industrial policy blueprint are noted by the Committee with satisfaction. In particular,

the Committee welcomes the fact that the Council has lent its approval to a Community industrial policy which takes into account 'the complexities of the situation both internal and external to the Community' and allows 'a more balanced development and a greater economic and social cohesion within the Community'⁽¹⁾.

The Committee thinks that it would make sense to include key objectives and elements of a Community industrial policy in the Treaty, thereby providing firms in the Member States with the right conditions for exploiting to the full the benefits of the single market, Economic and Monetary Union and the common research and technology policy. Provision should also be made for coordinating national industrial policy decisions with corresponding measures taken at Community level and involving the Economic and Social Committee in this.

⁽¹⁾ Conclusions of the Council of 26 November 1990 on industrial policy in an open and competitive environment, document 10159/90 (Presse 198-G).

Done at Brussels, 27 November 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDLIN

Opinion on the proposal for a Council Directive on the appointment of an officer for the prevention of the risks inherent in the carriage of dangerous goods in undertakings which transport such goods, and on the vocational qualification of such officers⁽¹⁾

(92/C 40/16)

On 5 July 1991, the Council decided to consult the Economic and Social Committee, under Articles 75 and 84 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 13 November 1991. The Rapporteur was Mr Giesecke.

At its 291st plenary session (meeting of 27 November 1991) the Committee adopted the following Opinion by a large majority with three abstentions.

1. The Commission proposal

1.1. In view of the increasing number of accidents during the transport of dangerous goods over the last few years, the Council and the Parliament are pressing for an improvement in the safety rules in this particular area of transport. This is the reason for the Commission's submission.

1.2. The Commission draft states that all enterprises transporting dangerous goods by one or more modes of transport must ensure a high level of vocational competence. The enterprises concerned are therefore required to appoint highly qualified risk prevention officers. They will have particular responsibility for maintaining high risk-prevention standards.

1.3. The Directive is to apply only to firms which transport dangerous goods on own account or for hire or reward; it is not to apply to firms that only occasionally carry dangerous goods which, because of their special characteristics or the small quantities involved, pose only a minimal risk to people and the environment.

1.4. The duties of risk prevention officers and the content of the required training are set out in the annex.

2. Preliminary comments

2.1. The Committee welcomes and supports in principle this EC initiative to improve the safety of dangerous goods shipments.

2.1.1. Risk prevention officers can help provide better protection from the risks involved in dangerous goods shipments which might endanger human or animal health or the environment.

2.1.2. Their activities can also improve the safety of the workers involved in the shipments and of the products produced and transported.

2.2. The Committee assumes that the public and firms concerned are aware of the high degree of risk involved in the transport of dangerous goods; the current debate on environmental protection is an expression of this heightened safety awareness.

2.3. The Directive requires persons involved in the transport of dangerous goods to adopt the preventive measures required by the nature and extent of the potential risks, in order to prevent accidents and to limit the extent and impact of any damage resulting from an accident. To this end, firms are required to appoint an employee holding a position of responsibility or a qualified expert as 'risk prevention officer'.

2.4. The risk prevention officer is to be concerned with safety at his firm or the firm for which he is responsible.

2.4.1. It is not the job of the risk prevention officer to carry out the supervisory duties of official bodies or take over official functions in firms.

2.5. The Directive is intended to help reduce the disparities between Member States as regards the rules governing the transport of dangerous goods; these have in some cases, led to distortions of competition.

2.5.1. The Commission's Draft Directive is a welcome follow-up to previous Directives on the protection of workers' health and access to the profession of road haulage operator and inland waterway goods transport and to the Regulation on the import and export of dangerous chemicals.

⁽¹⁾ OJ No C 185, 17. 7. 1991, p. 5.

2.5.2. The Committee particularly welcomes the fact that the draft Directive will also cover firms transporting dangerous goods in vehicles of less than 3,5 tonnes total weight and that own account transport on public highways also falls within the scope of the safety rules.

2.5.3. The Committee endorses the Commission's reference to its proposal concerning minimum requirements for vessels entering or leaving Community ports carrying packages of dangerous or polluting goods [doc. COM(89) 7 final, 19 May 1989]. In this context the Committee refers to its proposal (doc. ESC 1127/89) that the Community comply with the standards set by the specialized international shipping bodies, enact these in Community law and ensure that they are strictly observed. The Committee suggests that risk prevention officers also be appointed in Community sea ports.

2.5.4. The Committee points out, however, that, whilst the dangerous goods transported are themselves the source of the risk, other factors such as the design and choice of routes and the conduct of other road users can also compromise the safety of dangerous goods shipments. Such risks cannot be eliminated by rules on transport.

2.5.5. The Committee points out that companies have themselves developed a heightened awareness of safety. The safety rules of insurance companies also reinforce the trend towards the limitation of risks in industry.

2.6. The Committee suggests that the rules on the appointment and training of risk prevention officers should, if possible, enter into force simultaneously with the establishment of the internal market on 1 January 1993.

3. General comments

The objective of the Commission proposal is in principle to be welcomed. However, the explanatory memorandum, detailed provisions and annexes show a number of serious shortcomings. Unless these are put right the Committee cannot support the proposal. The Committee expects its proposals to be taken into consideration.

The following points of principle need to be made:

3.1. The Directive requires the appointment by firms of responsible persons as risk prevention officers to ensure that current national, EC and international rules are complied with.

3.1.1. They must therefore have the necessary legal knowledge.

3.1.2. They cannot, however, also be responsible for ensuring application of and compliance with technical rules, checking equipment, defining the dangerous goods in accordance with their chemical properties, and ensuring that each individual transport complies with the rules.

3.1.3. To do all these things the risk prevention officer would need to be a qualified expert in business management, lawyer, engineer/technician and chemist.

3.1.4. The list of the responsibilities of the risk prevention officer should therefore be redrawn to ensure that the responsible persons within a firm or external experts are made responsible for ensuring compliance with all the rules governing the transport of dangerous goods and that they have the thorough and up-to-date knowledge required.

3.1.5. The risk prevention officer is responsible on behalf of the head of the firm for ensuring that the rules governing the transport of dangerous goods are observed.

3.1.6. His/her job is to submit appropriate suggestions to the head of the firm or responsible persons in the firm.

3.1.7. He/she is, however, not empowered to give instructions to firm employees unless he/she is, in an individual capacity, owner of the firm or the employees' superior. He/she may however give instructions in an emergency or to avert danger. In situations of conflict workers have the right to contradict superiors and risk prevention officers.

3.2. Within the transport chain, the responsibility for transporting dangerous goods cannot lie exclusively with companies which are engaged in the transport of such goods as a main or secondary activity. Even before the dangerous goods are loaded the transport enterprise needs to have had them defined chemically and by category and it has to have the accompanying documents, correctly filled out, and the necessary accident information notices.

3.2.1. The Committee notes that the present Directive applies only to carriers. It suggests that the same requirements apply to consigners/shippers and firms or bodies on whose property or under whose supervision dangerous goods are transported or temporarily stored (e.g. port authorities).

3.2.2. The Committee calls on the Commission to include in the Directive an exact list of all firms, areas and acts forming part of the dangerous goods transport chain which are affected by the Directive.

3.3. The armed forces transport large quantities of dangerous goods (e.g. explosives, aircraft fuel) on public highways.

3.3.1. For this reason the Committee feels that comparable safety rules should apply to the armed forces.

3.4. The Commission proposes that the Directive apply to all companies transporting dangerous goods.

3.4.1. This would mean small firms also being affected which transport dangerous goods purely for their own use (e.g. roofers and tilers who transport propane gas cylinders).

3.4.2. Such persons (particularly artisans and small firms) are familiar with the goods they transport and with the precautions necessary to ensure their own safety.

3.4.3. Including these persons would do nothing to further the objectives of the Directive.

3.5. The Committee supports the Commission's view that this Directive should not apply to firms which only occasionally carry dangerous goods or where the goods, because of their special characteristics, small quantities or the safe packaging required, pose only a minimal risk to human health and the environment.

3.5.1. The Committee feels that the degree of risk posed by the dangerous goods transported should alone determine whether or not a risk prevention officer is appointed. The following should be borne in mind:

3.5.1.1. A lower limit should be fixed for the concept of 'small quantities'. The Committee suggests 50 tonnes net of total dangerous goods transported per calendar year.

3.5.1.2. Firms concerned should estimate themselves whether they are likely to achieve this limit in the next calendar year and whether therefore a risk prevention officer needs to be appointed.

3.5.1.3. Goods which are potentially highly dangerous, such as explosive or radio-active substances and especially dangerous goods listed individually in point 10011 of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) should be excluded from the minimum quantity provision. If such goods are transported, a risk prevention officer must be appointed in every case.

3.5.2. The Committee suggests that the Commission consider to what extent and under what conditions the particularly safe packaging requirement means a reduction in potential risk and that the dangerous goods transported in this way can therefore be exempted from the quantity provisions.

3.5.3. Firms are affected only if they transport dangerous goods regularly, rather than occasionally. The Committee suggests that the concept 'regularly' should be defined: e.g. if a firm transports the same dangerous good at least 20 times per calendar year.

3.5.4. The transport of waste does not generally pose any danger. The danger only arises when waste is destroyed.

3.6. The Committee suggests that the possibility be looked into of including the checking of social provisions (e.g. working and rest periods of drivers) in the risk prevention officer's list of duties.

3.7. The Committee supports the Commission's initiative and hopes that it will be rapidly implemented by Council and Member States.

3.7.1. Rules only achieve their objective however if they are observed.

3.7.2. The Committee expects the Member States to supervise implementation of the rules by the companies concerned in an appropriate way.

3.7.3. Member States should inform the Commission in due course of how they intend to carry out this supervision and of the conclusions drawn.

3.8. The Committee points out that the sentence 'the presence of a Risk Prevention Officer is required in each of the undertakings concerned' in the first sentence of Article 4(1) appears in the German, but not in the English and French texts. The Committee asks the Commission to clarify this.

4. Specific comments

4.1. The Commission proposal does not take sufficient account of the following:

4.1.1. The German text of the explanatory memorandum states that dangerous goods transport will be 'simplified' by the activities of a risk prevention officer.

But the object of this Directive should not be simplification, but rather a reduction of the potential risk.

4.1.2. In the recitals the Commission points out that the transport of dangerous goods has increased steadily in recent years. As a rider to this, the Committee points out that scientific research and the resulting development work in firms means that the number of dangerous substances produced and transported has increased significantly and will continue to increase.

4.1.2.1. This has in turn resulted in an increased threat to safety which will only worsen.

4.1.3. The Commission states in the recitals that there are as yet no national rules governing the training of risk prevention officers.

4.1.3.1. The Committee would refer the Commission to the German Regulation of 12 December 1989, on the appointment of risk prevention officers and the training of authorized persons in firms (Risk Prevention Officer Regulation) (*German Official Gazette* I, p. 2185). Paragraph 2 of this Regulation concerning the training of risk prevention officers entered into force in Germany on 23 December 1989 and the remaining provisions entered into force on 1 October 1991.

4.1.3.2. The Regulation requires chambers of industry and commerce to define the duties of the risk prevention officer and the content and duration of specialized training; industry is also required to take on the responsibility for checking and authorizing organizers of training.

4.1.4. The Committee also points out that the Regulation on admission to the occupation of road haulage operator entered into force in Germany on 1 May 1991. As part of the check on professional competence, evidence must be provided of knowledge of the rules governing dangerous goods.

4.1.4.1. The German Transport Ministry recently submitted to the Commission for its consideration the draft of a Regulation on access to the occupation of carrier of goods by waterway in national and international transport. Here too, evidence of knowledge of safety rules is required as part of the examination leading to admission to the occupation.

4.2. *Comments on individual provisions*

4.2.1. Article 1

Suggested wording:

'The Member States shall take the necessary measures in accordance with the requirements laid down in this Directive to ensure that undertakings which in a calendar year consign, transport or have transported no less than 50 tonnes net of dangerous goods, radioactive or explosive substances or other highly dangerous substances within the meaning of point 10011 of the ADR, appoint one or more officers for the prevention of the risks inherent in the transport of such goods, in order to safeguard the general public, human and animal life and health, the environment and public safety and order.'

4.2.1.1. The Committee points out that the term 'Sicherheitsbeauftragter' (Safety Officer) which appears in the German text should not be used here as it is already used in other legal standards. In addition, the expression 'risk prevention officer' is the only used elsewhere in the Directive.

4.2.2. Article 3

Proposed wording (see point 3.3.1 of this Opinion):

'Comparable safety rules should apply to Dangerous Goods Transports carried out under the responsibility of the armed forces.'

4.2.2.1. Proposed wording (with reference to points 3.4, 3.5.2 and 3.5.3 of this Opinion):

'This Directive does not apply to undertakings—in particular artisans and small firms—which carry dangerous goods only occasionally or for their own use, or where the goods carried, because of their special characteristics, small quantities or the safe packaging required, pose only a minimal risk to people, animals and environment.'

4.2.3. Article 4(1)

4.2.3.1. The German text of Article 4(1) contains the following provision: 'The presence of a risk prevention officer is required in every undertaking concerned.' (This provision does not appear in the English and French texts; it can be dropped.)

4.2.3.2. The second sentence of the German text states that the risk prevention officer shall require action ('Massnahmen ... veranlassen'). He/she will not in general be able to do this, as this is the job of management. It is proposed that the German text be amended. (The amendment does not apply to the English text which reads '... promote all appropriate action ...'.)

4.2.4. Article 4(2)

Add the following new sentences:

'If no risk prevention officer is appointed, the head of an undertaking shall automatically be the risk prevention officer. The risk prevention officer may delegate his/her duties to a deputy. The head of the undertaking or risk prevention officer's deputy must hold a training certificate under Article 5.'

4.2.5. Article 4(3)

Suggested wording:

'The undertakings concerned may also appoint risk prevention officers from outside. Their duties and training requirements will be the same.'

4.2.5.1. The Committee maintains that this proposal is justified by the safety interests and duties of small and medium-sized enterprises; an employee of a small or medium-sized firm working as a risk prevention officer in a secondary capacity will, for example, not be able to make a regular study of publications on new scientific discoveries, materials, technological changes and legal regulations. He/she will usually not have copies of national and international rules on dangerous goods and will seldom have the opportunity to attend further training courses.

4.2.5.2. The appointment of external risk prevention officers, e.g. from safety organizations, private dangerous goods offices, trade associations or universities, will be in the interests of the safe transport of dangerous goods by small and medium-sized enterprises and will lighten the burden on these firms in terms of staffing and finance.

4.2.6. The Committee proposes the following new Article 4(4):

'The risk prevention officer shall work together with all the undertaking's safety staff. He/she shall inform all the undertaking's employees of his/her duties.'

4.2.7. Article 4(4) [new 4(5)]

Proposed wording:

'The authority or body designated by the Member State may, for a given reason, require the undertakings concerned to communicate the names of their risk prevention officers.'

4.2.7.1. The reason for this amendment to the Commission proposal is that automatic communication is not in the interests of safety and leads to unnecessary administrative work. It is sufficient if the names of risk prevention officers are supplied only on request when there is a specific reason.

4.2.8. Article 5(1)

Proposed wording:

'The risk prevention officer shall prove by means of a certificate issued by an organizer recognized by the competent authority/body that he/she has taken part in a training course covering general and specific knowledge of dangerous goods regulations with respect to one or more modes of transport.

Certificates obtained in accordance with national rules shall remain valid until their normal expiry date and shall be recognized by all Member States.

The training course shall cover at least the subjects listed in Annex II. For training limited to specific sectors or occupations, individual subject areas or the transport of specific categories of dangerous goods, shorter or more specific courses shall be acceptable.'

4.2.9. The Committee asks the Commission to ensure that experts with many years experience of dangerous goods be able to obtain a certificate of qualification without attending a basic training course.

4.2.10. With respect to the whole of Article 5, the Committee would refer to the Directive on admission to the occupation of road haulage operator (89/438/EEC).

4.2.11. Article 6, second sentence

Proposed wording:

'The validity of the certificate of attendance shall be extended for a further three years, where the holder participates in another course before the certificate expires. The subjects required to be covered by these courses shall be laid down at a later date (after the rules laid down in Article 5 have been running for a trial period).'

For reason *cf.* point 4.2.10 of this Opinion.

4.2.12. Article 7

Proposed wording:

'Whenever an accident affecting persons, goods or the environment, or prejudicing public safety occurs during carriage by the undertaking or, during loading, unloading, or temporary storage, the risk prevention officer shall draft an accident report for the undertaking's management.

The risk prevention officer shall state in all accident reports, whether drafted by himself, the police or other authorities, whether lessons have been learnt, and if so what lessons, which could contribute to improved safety in the transport of dangerous goods.'

4.2.12.1. Comment:

The term 'accident' as used in the Directive must be defined, e.g. as follows:

- if dangerous goods cause personal injury,
- if a sizeable quantity of dangerous goods (e.g. more than 100 litres/kg) is released,
- if the goods or the means of transport suffer substantial damage.

4.3. Comments on the Annexes

4.3.1. Annex 1: List of the duties of the Risk Prevention Officer referred to in Article 4 of this Directive

a) Proposed wording:

'As a responsible employee of the undertaking or external expert, the risk prevention officer shall *inter alia*:

- have the right to give his/her opinion on the purchase or hire of vehicles for the carriage of dangerous goods and on the specialized equipment required for such transport,
- supervise the persons entrusted by the undertaking with the transport of dangerous goods in accordance with the current national and international rules on the transport of such goods,

— keep a written record of his/her supervisory activities,

— report shortcomings affecting safety during the transport of dangerous goods to the head of the undertaking, or his/her representatives, without delay.'

b) On the basis of these general supervisory rules:

— indent 2: proposed wording:

'— ensuring that equipment used is suitable for the transport of dangerous goods,'

— indent 3: proposed wording:

'The shipper shall check whether the rules applicable to the relevant mode of transport permit carriage of the dangerous goods which are to be entrusted to the carrier. The carrier in turn shall be required to check, on the basis of the shipping documents provided by the shipper, whether the rules applicable to the relevant mode of transport permit carriage of the dangerous goods. The carrier's risk prevention operator can only check whether the information provided is complete, and not determine the dangerous goods prior to loading.'

— indent 4: proposed wording:

'— ensuring that prohibitions on mixed loading are observed,'

— indent 5: proposed wording:

'— ensuring that the necessary documents are properly filled out and carried,'

— indent 6: proposed wording:

'— in collaboration with the responsible employees, ensuring that dangerous goods transport is properly effected,'

— indent 7: proposed wording:

'taking charge of the timely training of workers involved in the carriage of dangerous goods in accordance with the regulations currently in force, and certifying this.'

— indent 8 can be dropped, as this is already covered by national rules,

- indent 9 can be dropped, as this is already covered by the general requirements,
- indent 10: adopt wording of Article 7.

4.3.2. Annex 2: List of subjects referred to in Article 5

4.3.2.1. Content of training

Suggested wording:

- 'A General part (obligatory for all modes of transport) (Duration: at least 5 hours)
- I EC Risk Prevention Officer Directive (additional national rules on risk prevention officers);
- II International context: overview of organizations and their activities connected with the law on dangerous goods;
- III National law governing the transport of dangerous goods;
- IV Aspects of criminal and civil responsibility; insurance law;
- V Modern techniques for electronic data transmission and the monitoring of dangerous goods during carriage;
- VI Other rules (e.g. laws on waste, nuclear questions, environment; accident protection).
- B Specific part (traffic by road, rail, inland waterway, sea, air—individually or in combination) (duration per mode of transport: at least 20 hours)
- I National laws on the transport of dangerous goods for the various modes of transport;
- II Duties of persons responsible for the transport of dangerous goods under international and national rules (e.g. consignors, transporters, drivers, skippers, airport authorities, shippers, consignees, warehouse-keepers);

III Substantive content of national rules applicable to individual modes of transport and their areas of application;

IV Classification in accordance with rules for specific modes of transport;

V Packaging, large containers [intermediate bulk containers (IBC)], tanks (tank containers, fixed tanks, batteries of receptacles, removable tanks), containers (freight containers);

VI Labelling;

VII Documentation (e.g. transport documents, accident notices, certificates of inspection, training certificates, transport authorizations, checklists for tanker ships, dangerous goods declaration, loading plan for ships, airfreight document);

VIII Transport'.

4.3.2.2. Duration of training

Proposed wording:

'The duration of training shall be not less than:

- five hours in the case of general instruction covering different modes of transport,
- twenty hours in the case of instruction covering each individual mode of transport,
- where instruction on several modes of transport is combined, the duration of training may be reduced.'

The reason for this change is that the Commission proposal is largely based on the existing ADR rules of the training of drivers of dangerous goods.

The curriculum proposed by the Commission covers knowledge required by persons working alone on the transport of goods.

Risk prevention officers, as people carrying responsibility within the undertaking, ought to receive a general legal training in international and national regulations to enable them to perform their supervisory duties.

Training should therefore be limited to basic legal provisions.

4.3.3. Annex 4: Vocational training certificate

Proposed wording:

CERTIFICATE OF ATTENDANCE

EEC Certificate of attendance for officers for the prevention of the risks inherent in the carriage of dangerous goods

Name:
Forename(s):
Date of birth:
Nationality:
Signature of holder:

Training complied with the provisions of Council Directive ... of ... The content and duration of training were as follows:

- General part, Rail transport, Inland waterway transport, Maritime transport, Air transport, Road transport

The duration of the course was ... hours.

The following were combined: Road transport/Rail transport/Inland waterway transport/Maritime transport/Air transport (delete as appropriate). Duration ... hours

Organizer:
Authorized by: (competent authority/body)
Date:
Address of training establishment:
Valid until:
Extended until:
by: (address of training establishment)
Date:
Signature:

Done at Brussels, 27 November 1991.

The Chairman
of the Economic and Social Committee
François STAEDLIN

Opinion on:

- the proposal for a Council Directive relating to Speed Limitation Devices of Certain Categories of Motor Vehicles⁽¹⁾, and
- the proposal for a Council Directive on the Installation and Use of Speed Limitation Devices for Certain Categories of Motor Vehicles in the Community

(92/C 40/17)

The Council decided on 14 August 1991, in accordance with Articles 75 and 100 A of the EEC Treaty, to ask the Economic and Social Committee for an Opinion on the abovementioned proposals.

The Section for Transport and Communications, which was responsible for the preparatory work, adopted its Opinion on 13 November 1991. The Rapporteur was Mr Bleser.

At its 291st plenary session (meeting of 27 November 1991) the Economic and Social Committee adopted the following Opinion by a majority, with 8 votes against and 11 abstentions.

1. Introduction

1.1. The Commission is submitting two proposals based on two European Parliament Resolutions of 1984 and 1986 which call upon the Council to take steps to promote road safety.

1.2. Two Member States already use speed limiters. On the basis of their experience, the Commission thinks it would be useful, even essential, to extend the use of this type of device throughout the Community and make it compulsory.

1.3. The Commission sees three advantages in using an approved speed limitation device for vehicles in categories M3 and N3:

- a) greater road safety;
- b) less air pollution, and therefore a better environment; and
- c) lower fuel consumption.

2. General comments

2.1. The Committee welcomes a measure which, after the failures to introduce general speed limitation measures at Community level, will have the advantage of being a general, Community-wide measure.

2.2. The Committee welcomes any measures aimed at limiting environmental nuisances and saving fuel.

2.3. The Committee welcomes a measure which, by relying on a tamper-proof (mechanical or electronic) device makes it possible to avoid having to step up road checks.

2.4. However, the Committee wonders about the limited application of such a device to vehicles in category N3 (i.e. over 12 tonnes) when other road transport directives use different weight limits. The Committee would like to see some harmonisation here too.

2.5. Regarding the device defined in proposal COM(91) 240 final, the Committee particularly urges that points 7.1.2, 7.1.4 and 7.1.5 in Annex 1 not be modified, as these three points will lead to the device making life safer for drivers.

2.6. The Committee has noted that the cost of the device must be set at such a level that its introduction would not be incompatible with the normal management of a transport firm and that, on the contrary, the amortisation of the investment by savings on fuel should lead to its being in general use fairly rapidly, so as not to lead to operating disparities on the road between old and new vehicles.

3. Conclusion

3.1. From the presentation and the proposals of the Commission it transpires that the use of this

(¹) OJ No C 229, 4. 9. 1991, p. 5.

device, if it is adopted by the Council, will improve road safety considerably and will be a first in the harmonisation of vehicle speeds in the Community; it will also lead to less pollution from the combustion of gas oil by engines while helping to keep down supply costs in this area.

3.2. For the reasons set out above the Committee is in favour of the two proposed directives COM(91) 240 final and COM(91) 291 final and calls upon the Commission to go further in this area by proposing a series of measures to help improve road safety and the environment.

Done at Brussels, 27 November 1991.

The Chairman
of the Economic and Social Committee
François STAEDLIN

APPENDIX

to the Opinion of the Economic and Social Committee

Rejected amendment

The following amendment, which was tabled in accordance with the Rules of Procedure, was rejected during the proceedings:

Delete points 2.4, 2.6 and 3.2 and replace them with a (new) point 2.4, worded as follows:

'The Section would, however, ask that this obligation be limited to vehicles placed on the road for the first time after 1 January 1990.

Making the Directive apply retroactively to vehicles placed on the road after 1 January 1985, as proposed by the Commission, would entail excessive investment and installation costs for motor vehicles which would be more than three years old at the time of entry into force of the Directive.

The Section also asks that the devices be set to a maximum speed of 90 km/h for category N3 vehicles and 110 km/h for category M3 vehicles.

The settings proposed by the Commission (80 km/h and 100 km/h respectively) would have a very negative impact on the safety and flow of motorway traffic and on transport economics.'

Voting

For: 33, against: 81, abstentions: 10.

Opinion on the Commission communication on the Development and Future of the common agricultural policy (CAP)

(92/C 40/18)

On 26 February 1991 the Economic and Social Committee, acting under the fourth paragraph of Article 20 of its Rules of Procedure, decided to draw up an Opinion on the abovementioned communication.

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

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee adopted the following Opinion by 96 votes to 26, with 11 abstentions.

1. The Commission's justification for reform

1.1. The Commission's view, as represented in doc. COM(91) 100 final, highlights six main interconnected problems caused or unresolved by the common agricultural policy (CAP) which make a change of policy necessary:

- 1) formation and steady build-up of surpluses;
- 2) growth of market-intervention spending;
- 3) international frictions caused by export refunds;
- 4) low overall increase in farm incomes;
- 5) a distribution of support which favours the larger farms because of their larger production capacity;
- 6) intensification of production beyond the level compatible with resource conservation.

1.2. According to the Commission, the common thread is that the CAP's emphasis on 'market' support and unlimited guarantees of disposal have been a powerful stimulus to increase production, and support has been tied to the volume of production.

2. Study and assessment of the Commission's arguments

2.1. If we consider the Community as a whole, the Commission is undoubtedly right that these are the key problems of the CAP. However, a more detailed analysis of the first four problems, broken down into products and/or Member States, reveals significant variations.

2.2. The Committee considers it appropriate to analyze the Commission's arguments to see whether they are valid.

2.3. Formation and steady build-up of surpluses

2.3.1. The sustained build-up of production surpluses (to which imports have contributed) over the

years has made them a major problem. Technical advances in the way farms are organized have played a decisive role in the quantitative growth of the sector.

2.3.2. Surpluses are measured according to the level of self-sufficiency—the ratio of production to domestic consumption (the amounts exported abroad are obviously also taken into account). The problem with this yardstick is that domestic consumption—and thus domestic demand—is itself influenced by the CAP. Aids for consumption and processing can artificially increase domestic consumption to such an extent that they can be seen as domestic refunds.

2.3.3. Though the level of self-sufficiency, as calculated above, may be a distorted indicator of EC productivity, the EC sectoral breakdown (Table 1) is of interest:

Table 1

Level of EC self-sufficiency in 1989: Sectoral breakdown

Cereals (excluding rice)	113
Processed rice	76
Sugar ⁽¹⁾	124
Fresh vegetables ⁽¹⁾	106
Fresh fruit (excluding citrus fruit) ^{(1) (3)}	84
Citrus fruit ^{(1) (3)}	67
Wine	91
Eggs ⁽²⁾	102
Meat ⁽²⁾	102
of which: Beef/veal	104
Sheep and goatmeat	83
Pigmeat	103
Poultry	105
Oils and fats ⁽²⁾	75
Potatoes	101

⁽¹⁾ 1987/1988

⁽²⁾ 1988

⁽³⁾ The seasonal nature of these crops should be noted.

Source: 1990 Report on the Agricultural Situation in the Community.

2.3.4. In the first group of products—sugar and cereals—the level of self-sufficiency exceeds 110 (124 for sugar, 113 for cereals). A second group with a level of self-sufficiency of around 100 is also in surplus; vegetables, beef and veal, pigmeat, poultry and eggs. In contrast, a third group (including sheepmeat and goatmeat, fresh fruit, wine, oils and fats) is in deficit.

2.3.5. EC statistics for the dairy sector do not indicate the average level of EC self-sufficiency.

2.3.6. However, the data for the individual products and Member States generally show a very high level of self-sufficiency, bearing out the acute problem of dairy surpluses.

2.3.7. The formation and steady build-up of surpluses has had two adverse effects highlighted by the Commission:

— higher spending of the European Agricultural Guidance and Guarantee Fund (EAGGF) (Guarantee),

— frictions in the EC's international trade relations regarding certain products, caused by the relevant EC export subsidies. At the same time differences on national markets have determined the way the benefits of market support are distributed.

2.3.7.1. Surpluses are partly the result of the Community's prices policy and, in particular, of the fact that the annual fixing of farm prices makes only a marginal differentiation between high and low quality products. In the cereal sector, for instance, the price of fodder grain, barley and maize is only slightly lower than that of wheat of bread-making quality. If it had limited its support to high-quality products, the Community could have curbed the overall cost of support and geared production more towards market demand.

2.4. Greater expenditure on market intervention

2.4.1. Over 51% of EAGGF (Guarantee) spending in 1989/1990 went on four surplus products: milk (18,9%), cereals (15,3%), beef and veal (9,1%) and sugar (8,1%). If we add expenditure on colza and sunflower (12,1%), sheepmeat (5,6%), wine (5%) and olive oil (6%), we reach 80% of total spending. However, it must be remembered that in these years the EC needed strategic reserves.

2.4.2. Alongside the level of spending in absolute

terms, it is interesting to consider the correlation between EAGGF spending and production value.

2.4.3. In 1988/1989 the EC spent ECU 13,6 for each ECU 100 of production value, compared with ECU 8,7 in 1980/1981.

2.4.4. The relation between EAGGF (Guarantee) spending and production value is not always an exact indicator of the level of support for a product, which also depends on the guarantee mechanism applied (deficiency payment, protection). The Community budget depends primarily on the instruments deployed (levies, subsidies and domestic refunds, including aid to the consumer) and on the end use of surpluses (export, storage or withdrawal from the market).

2.5. Frictions in international relations caused by export refunds

2.5.1. Export refunds are one of the main causes of the dispute between the EC and its competitors on the world markets.

2.5.2. If we look at the percentage breakdown of EAGGF (Guarantee) spending according to the economic nature of the measures, the importance of export refunds becomes clear.

2.5.3. In the two years 1980/1981 they accounted for over 47% of the total, and in 1988/1989 around 40%. For the main products traded internationally, refunds in 1988/1989 accounted for 75% of total spending on cereals, almost 55% for milk products, 43% for beef and veal, 78% for pigmeat and 74% for sugar.

2.5.4. The relation between spending on refunds and production value rose over the same period (from ECU 4,1 to 5,3 per ECU 100 of production value).

2.5.5. The high proportion of EAGGF (Guarantee) spending allocated to refunds, particularly for products such as cereals, is explained *inter alia* by the weakness of the US dollar. Another factor is the high level of storage costs, which differ from product to product.

2.6. Low overall increase in farm incomes

2.6.1. In real terms, EC farm incomes have risen only modestly over the years. Between the three-year periods 1979-1981 and 1986-1988, the rise was much lower than the increase in EAGGF spending.

2.6.2. Analysis of farm income trends cannot over-

look two important aspects: differences between countries and between farms.

2.6.3. Real income trends in the Member States have differed significantly. In some countries, incomes have remained stationary or even fallen.

2.7. *Unbalanced distribution of market support*

2.7.1. The income support mechanism guaranteeing a given domestic price is by its very nature directly proportional to the amount produced and thus (with all due qualifications) to overall farm production capacity. All developed nations have hitherto implemented farm price policies designed to ensure the economic and social stability of rural society, particularly in areas where farms are an important source of employment. This principle underlies the paper presented by the EC for the agricultural negotiations of the General Agreement on Tariffs and Trade (GATT).

2.7.2. The CAP aid system uses as its direct reference the quantity produced, and thus only has an indirect bearing on farm incomes. As smaller farms make a more modest contribution to total production, they have received a smaller share of the Commission's market-support funding.

2.8. *Intensification of production methods beyond the level compatible with resource conservation*

2.8.1. Advances in production techniques have encouraged an increasing and ever more effective input of pesticides and fertilizers, and the use of alternative energy sources to replace manpower. These practices have proved economically viable even in the face of declining real and nominal agricultural prices. At the very least, the principle of unlimited guarantees has encouraged the production of large quantities regardless of their impact on the environment.

2.8.2. One of the main goals (and obligations) of agricultural policy must be to alleviate the environmental damage caused by intensive farming, particularly in the surplus sectors.

3. The Commission proposal [doc. COM(91) 258 final]—Aims and instruments

3.1. According to the Commission, Community agriculture should:

- 1) make its own contribution to world agri-food production in a manner consistent with international agri-food trade rules;

- 2) foster economic and social development in rural areas;
- 3) alongside other sectors, meet society's changing needs with regard to quality of life.

3.2. Such a strategy pursues two objectives:

- a) selection of a range of competitive farms;
- b) preservation of an appropriate number of farmers and farms.

3.3. The Commission document of July 1991 [doc. COM(91) 258 final] announces the various instruments to be enlisted for this purpose. The broad lines of action are as follows:

- 1) reduction of the gap between EC prices for certain basic products and world market prices;
- 2) decoupled and modulated compensation for the resulting loss of income, partly by means of linkage with set-aside policies;
- 3) early retirement;
- 4) environmental and forestry measures;
- 5) pursuit of the existing structures policy;
- 6) maintenance of those market organizations which so far seem consistent with the CAP's basic aims.

4. General comments

4.1. Any assessment of the proposals implies first and foremost an examination of the extent to which they are consistent with the aims of the reform:

- improvement of farm incomes,
- a guarantee—no least for the future—of the competitiveness of efficient farms in a more open international market,
- redistribution of aid,
- market balance,
- maintenance of rural populations,
- control of agricultural spending by the EC.

4.2. Before entering into a discussion of the merits of the Commission's individual proposals, an overall assessment of the new CAP is called for.

4.2.1. One of the most recurring criticisms of market support concerns the linear way it has been applied to all farm structures and all types of regions.

4.2.2. This linear approach will make it difficult to overcome sectoral, farm and regional imbalances, as has been borne out by a large number of earlier analyses and several of the Commission's own documents.

4.2.3. The present proposals too take little account of the diversity of agriculture in the Community: differences in farm structures, physical geography and the general backwardness of various sub-regions.

4.2.4. To ignore specific regional features in the name of the 'single market' philosophy means in reality that instruments of aid will continue to favour sectors in a more advantageous structural, organizational, regional and macroeconomic position. The situation this time round will be aggravated by the fact that agriculture now finds itself setting out on a course which, given the international context, will lead to the ever-increasing liberalization of markets and cut-backs in aid. This means that, in the medium to long term, the weakest agricultural sectors will be permanently forced out of the market under the pressure of greater competition on the Community and international markets.

4.3. The Commission should be more explicit about what it intends the proposed reforms to achieve.

4.3.1. Care must be taken to prevent the new CAP from (a) adversely affecting farms which at present are efficient and (b) forcing others out of production. This would mean the end not only of small marginal farms but also of the intermediate ones which in numerical terms make up the bulk of the EC's farm economy and which, given appropriate restructuring and investment, could become competitive.

4.3.2. The Committee approves the aim of ensuring that agricultural activities are carried out by those who have the potential for doing so successfully (in terms of countries, regions and type of farm structure). However, alternative development opportunities must be created for those countries, regions and farm sectors

forced on practical grounds to relinquish their market share.

4.3.2.1. In the less favoured regions, two different types of farm situation must be considered:

— situations where the farm is in a position to diversify,

— areas where the sole overriding aim is to protect the land, and where economically and socially viable agriculture is impossible.

4.3.2.2. These two types of situation call for differing forms of assistance, and agricultural policy measures will have to be linked to macroeconomic and social measures (the cost of which cannot be assigned to agricultural expenditure). The reform of the structural funds goes some way in this direction.

4.4. The cornerstone of the reform proposed in doc. COM(91) 258 final is the distinction between small and large producers. This distinction rests on three further basic elements:

- a) a desire to control supply by means of a sudden and drastic reduction in prices and the introduction of compulsory set-aside;
- b) a decision to exempt small producers from the set-aside obligation;
- c) recognition of the need to divide support better between farmers.

4.4.1. Hence the Commission's decision to offer only limited compensation to large producers for income losses caused by the drop in institutional prices.

4.4.2. In the Committee's view, this decision must be assessed in the light of the two basic objectives of the reform:

- (a) selection of an efficient and therefore viable and competitive agricultural sector;
- (b) retention of an appropriate number of farmers.

4.4.3. Four points need to be made here:

- a) with respect to objective (a), it is economically, socially and politically unacceptable to target solely

the limited number of farms which are at present efficient but which may not be able to survive in a much more competitive market than presently exists. The new CAP should aim to have as many farms as possible contributing to the economic performance of Community agriculture;

- b) compulsory set-aside risks making these farms less efficient;
- c) quantitative analyses carried out by a number of parties suggest that redistributing support by exempting small producers from compulsory set-aside will have a very limited effect.

Hence there is no justification for a measure which will threaten farms that are currently viable. The redistribution of support is too modest to help achieve the second of the two objectives cited above;

- d) the administrative costs of the policy should not be underestimated. The large number of farms involved, and the procedures laid down for aid applications, will lead to a welter of red tape; farmers are likely to experience long delays before they receive any aid.

4.4.4. The Committee therefore considers that the new CAP reform strategy should not rest on an oversimplified distinction between small farmers and large farmers.

4.4.5. As an alternative, the Committee proposes that all the new reform measures be based on a classification of Community farms that takes account of the current (total average) cost structure.

4.4.5.1. On the basis of this economic criterion, Community farms could be grouped into three broad categories:

- a very small category of farms whose total average costs (both variable and fixed costs) are more than covered by the current market price and therefore make an 'extra profit',
- farms which cover their variable costs and a part of their fixed costs, at present market prices,
- marginal farms which cover their variable costs, but not their fixed costs, at present market prices.

4.4.6. The new policy for controlling supply must clearly be assessed in the light of these three categories. Better targeted measures must then be devised both to compensate for lost income and to make agriculture competitive.

4.5. The Committee notes the close link between the proposal to reform the CAP and the problem of international trade, with particular reference to the present Uruguay Round negotiations.

4.5.1. The Committee stresses that prices on the agricultural market are by nature marginal, since they refer to trade in items in production surplus. It is therefore difficult to talk of an 'equilibrium price' on a totally free market.

4.6. Moreover, the Committee considers that the CAP should be in terms of a world context of generalized support for the agricultural sector.

4.6.1. The appended statistics on aid to farmers in different countries show that the EC grants much less aid than the main world producers.

4.7. The Committee also wonders about respect for the basic principle of Community preference. Since EC prices are to be aligned on world prices, this preference will inevitably tend to disappear.

5. A detailed assessment of various production sectors and of accompanying measures

5.1. The Committee considers that the Commission's proposals on individual sectors can be assessed by reference to the proposed implementing regulations (in this context the Committee has already made its views known on the draft regulation on oilseeds)⁽¹⁾. The Committee would nevertheless make a number of comments concerning the overall rationale.

5.2. *Cereals, oilseeds and high-protein crops*

- a) As already noted, the distinction between small and large producers made in the proposal is not an appropriate yardstick for calculating aid accurately.

(1) Doc. COM(91) 318 final and doc. ESC 1263/91.

Undifferentiated per hectare aid will turn out to be simply support for farm incomes; it will be a source of additional profits for the most efficient categories, whereas for potentially viable categories it will merely be a short-lived aid to ensure survival, rather than long-term development.

- b) In the final analysis, aid linked to average regional yields would perpetuate existing imbalances between the various regions of the Community. It would in fact be based on a philosophy which differs only slightly from that underlying the 'old CAP'.

Aid was originally linked to the factor-resources of individual farms; under the new proposal however

it is linked to the average factor-resources of a homogenous area. In consequence, we merely have a redistribution of aid within a given region and/or sub-region, in inverse proportion to its level of homogeneity: the less homogenous the area, the greater the internal redistribution of aid. Conversely, the distribution of aid between areas and regions is hardly affected.

- c) The redistribution of aid in favour of small producers would, all in all, be limited. Within each country, aid redistribution would only be on a limited scale, whilst taking the Community as a whole, it would come to between 5% and 7% (cf. table 2).

Table 2

Calculation of redistribution of aid between small and large producers under the Commission proposal
[doc. COM(91) 258 final]

	Farms (millions)	Cereals [usable agricultural area (UAA)] (millions ha)	Output (millions tons)*	Yield (t/ha)	Set-aside (millions ha)	Set-aside hectares compensated	Set-aside compensation (ECU millions)
Small producers	3,7	14,4	56,76	3,94	0	0	0
Large producers	0,6	21,6	115,24	5,34	3,24	2,55	645,15
EC Total	4,3	36	172	4,78	3,24	2,55	645,15
	Former aid system (ECU millions)	% of aid	New aid system (ECU millions) premise 1	% of aid	New aid system (ECU millions) premise 2	% of aid	
Small producers	3 121,80	33%	3 121,80	34,1%	3 785,76	40,39%	
Large producers	6 338,20	67%	6 032,63	65,9%	5 471,99	59,11%	
EC Total	9 460,00		9 154,42		9 257,75		

* 1990/1991

Source: Data contained in Commission Communication: The development and future of the Common Agricultural Policy, doc. COM(91) 258 final.

- d) Progress towards a market balance is to be achieved in the short term by set-aside (which is expected to push output 8,8% below the 1989-1990 level): in the medium and long-term, more substantial progress is to be ensured by the expected disappearance of individual holdings and market segments. The price to pay to achieve this objective would seem to be rather high in terms of employment as well as in terms of socio-economic and regional imbalances. For these and other reasons, the cultivation of non-food products on set-aside land should be encouraged.

5.3. Stockfarming

- a) It is striking that there is no reference here to regional particularities. The Commission proposes, in parallel with other measures, additional incentives for extensive stockfarming [defined as a stocking rate below 1,4 livestock units (LU) per hectare in less favoured areas and 2 LU per hectare elsewhere].

In certain cases intensive stockfarming is inevitable since farm size imposes constraints which cannot easily be overcome. In this situation, for most stock-

farmers, extensification would not only signify a radical change of direction but would be objectively impossible to accomplish given the conditions prevailing in the market for farmland.

- b) It is argued that the reduction in beef, veal and milk prices is justified by lower production costs resulting from decreases in the price of cereals and concentrates. The Committee would stress here that the reduction in the price of concentrates is by no means automatic so that adverse effects on incomes might lead to a crisis situation in intensive stockfarming.

5.4. *Accompanying measures*

5.4.1. Like the foregoing measures, the accompanying measures proposed by the Commission are not fully consistent with the stated basic aims:

- to make agriculture competitive,
- to retain an appropriate number of farmers.

5.4.2. The accompanying measures too are designed to control supply and increase the average size of holdings.

5.4.2.1. The two programmes (agri-environmental action, afforestation of agricultural land) are tailored to the first aim.

5.4.2.2. An early retirement scheme has been devised to further both of the two aims.

5.4.3. The agri-environmental action programme appears to treat agriculture as an activity which is largely at odds with improving the quality of life.

5.4.3.1. In other words, environment policy is enlisted almost exclusively to give cultural and ideological substance to supply controls.

5.4.3.2. The programme gives only marginal consideration (maintenance of the landscape) to the present and/or potential positive effects directly linked with the production of foodstuffs.

5.4.3.3. Two examples will suffice: there is no incentive to produce higher quality products, particularly from a health/hygiene viewpoint. There is no aid policy for agritourism and thus for the typical local products which are in many ways a mainstay of agritourism.

5.4.4. Hence, although the Commission's approach has some positive points, it fails to grasp environment policy's full potential for supporting the production of high quality foodstuffs and agritourism, and by implication the development of the most disadvantaged rural areas.

5.4.5. In conclusion, while the forestry and early retirement schemes have some generally positive points, the Committee considers that the approach taken by the agri-environment programme needs to be significantly reviewed.

6. **Suggestions for a different type of reform**

6.1. Basically, the above analyses and comments reveal a deep gulf between the objectives of the reform proposed in doc. COM(91) 100 final and the actions, measures and guidelines laid down in doc. COM(91) 258 final.

6.1.1. In essence, although it is possible to agree about the objectives of the reform, and particularly about the need to rebalance aid between regions and farms, the serious discrepancy between the opportunities offered to Community agriculture by the practical measures proposed on the one hand, and the significant negative elements of the proposal on the other, lead the Committee to call for a radical rethink of the proposal and of the mechanisms to be introduced.

6.2. The Committee believes that there are two basic approaches to the badly needed reform of the CAP:

- a) accepting continuation of the slow-moving reform process which obtained throughout the 1980;
- b) accepting the challenge of a radical change of policy, to be devised with the active participation of all those concerned, together with the Community institutions, in the spirit of a 'second Stresa'.

6.2.1. The first approach does not measure up to the complexity of the present situation, as one can see from the events of the last few years and the dissatisfaction of the various categories concerned (farmers, consumers, industrial workers).

6.2.1.1. The budget guidelines laid down in 1988 have also proved inadequate to the changing situation. The cost of the CAP has been pushed up by the vicious circle of prices, market and storage, although the increase is also partly the result of factors which are quite outside farmers' control.

6.2.2. As far as the second alternative (b) is concerned, the Committee believes that a carefully-honed

approach is needed to identify a set of basic policy components which, whilst still geared to reform of the CAP, would be more in line with the overall objectives of the Commission and with the principles enshrined in the Treaty of Rome.

6.2.3. These fundamental policy components, which call for concrete proposals, can be summarized as follows:

6.3. *Redistribution of aid*

6.3.1. The redistribution of aid is an indication of a change in policy; without it no reform of CAP would be acceptable.

6.3.2. Redistribution should operate on a regional basis and between the various components of 'agri-business' as well as between different types of farms.

6.3.3. A second point (qualifying the first) would be to identify the destination of redistributed aid in terms of the use to which it is put.

6.3.4. It is not enough to affirm that aid should be redistributed in the way set out in the Commission's proposal.

6.3.5. The Committee therefore urges the Commission to present an effective structural and regional programme to help reduce the most blatant income imbalances.

6.4. *Income guarantees*

6.4.1. Income guarantees for potentially viable farms (direct aid) should in some way be tied to their medium and long term ability to produce competitively.

6.4.2. Accordingly the Committee cannot accept in any form the widespread penalization of intensive production, which is necessitated by environmental, social and technological factors in the various rural areas of the Community. An intensive farm is often the fruit of major investments which have not been fully amortized. From this point of view the adoption of a linear set-aside scheme not only lacks coherence but will severely disrupt the fragile socio-economic equilibria of the various geographical areas and types of farm. In such cases, set-aside could discourage tenant farming by creating problems for farmers who do not own their own land.

6.4.3. Achievement of the above objective, as a strategy to protect the livelihood of a widerange of professional producers, will also serve to further a third policy component: safeguarding the economic and social development of rural areas.

6.4.4. One way of protecting farmers' incomes would be to establish a Community Agricultural Insurance Scheme which would receive financial support from the EC budget and would not distort GATT agreements. Such schemes have proved to be effective in countries both inside and outside the EC (e.g. Canada) where they already operate.

6.5. *Safeguarding of the economic and social development of rural areas*

6.5.1. No-one can really believe that the development of agriculture, which accounts for roughly half of the Community's total area and provides work for a large part of its population, can be based on (a) a workforce of pensioners and 'guardians of the countryside' and (b) an exiguous range of efficient, competitive farms.

6.5.2. Aid redistribution and production capacity factors imply safeguarding agricultural employment (both for farmers and their families, and for farmworkers). However, the Commission proposals overlook the fact that a considerable proportion of agricultural work is carried out by permanent and casual labourers and that neither of these categories will in any way be protected against the consequences of the new CAP. Similarly, there is no mention of the many people employed in the food industry, particularly in cooperatives whose prospects are closely linked to those of farms. Nor should it be forgotten that the cost of creating alternative jobs is extremely high nowadays, and that the EC's social and regional policies have had only modest success in tackling present levels of unemployment.

6.5.3. An appropriate reform of the CAP will have to be backed by Community legislation which paves the way for the adoption of effective social measures to cushion the effects of restructuring. These should cover:

- a) the creation of jobs outside the farm sector;
- b) public action to help farmworkers find jobs, and the setting-up of 'environmental workshops' to provide temporary work for temporarily unemployed farmworkers;

- c) vocational skilling and specialization for young people;
- d) steps to ensure that older farmworkers have a real, discretionary possibility to take early retirement;
- e) more flexibility in the employment of seasonal workers, with the use of training courses and linkage of the various periods of agricultural and non-agricultural employment;
- f) financial support for holdings wishing to switch to non-agricultural activities while maintaining existing employment levels.

6.6. Promotion of product quality

6.6.1. The Committee thinks that the Community should promote product quality rather than use drastic price cuts as an instrument for reducing surpluses. The adoption of virtually identical prices for a whole group of products does not encourage the farmer to improve quality.

6.6.2. The Commission has not given sufficient consideration to the possibility that a reasonable differentiation between high and low quality products in the annual price-fixing could reduce production without having to resort to compensatory mechanisms which are of doubtful effectiveness, complicated and costly to apply, and difficult to manage as regards monitoring.

6.7. An overall view of Community policies

6.7.1. A last factor is the need to design accompanying policies so that they complement productive activities, rather than replacing or stopping them. The reform therefore cannot ignore the need to review accompanying policies (environment, taxation, and so on).

Done at Brussels, 27 November 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDLIN

APPENDIX I

to the Opinion of the Economic and Social Committee

The following members, present or represented, voted in favour of the Opinion:

Mr/Mrs/Miss: Abejon Resa, Amato, Andrade, Arena, Ataíde Ferreira, Bagliano, Barbagli, Beltrami, Bento Gonçalves, Bernabei, Bleser, Bonvicini, Bottazzi, Bredima-Savopoulou, Burnel, Vasco Cal, Cassina, Cavaleiro Brandão, Ceballos Herrero, Chevalier, Christie, Colombo, Van Dam, von der Decken, d'Elia, van Dijk, Donck, Draijer, Dunkel, Elstner, Engelen-Kefer, Etty, Forgas i Cabrera, Frandi, Gafo Fernandez, Germozzi, Giatras, Gomez Martinez, Gottero, Gredal, Groben, Hovgaard Jakobsen, Jenkins, Kazazis, de Knegt, Korfiatis, Laca Martin, Landaburu De Silva, Lappas, Larsen, Laur, Liverani, Lyons, Machado Von Tschusi, Maddocks, Mantovani, Margalef Masia, Masucci, Mayayo Bello, McGarry, Merce Juste, Mercier, Morales, Morize, Morris, Muñoz Guardado, Nielsen B., Nielsen P., Noordwal, Ovide Etienne, Panero Flores, Pardon, Pasquali, Pellarini, Pelletier Ch., Pelletier R., Perrin-Pelletier, Pompen, Quevedo Rojo, Ramaekers, Rangoni Machiavelli, Rebuffel, Saitis, Santillan Cabeza, Sauwens, Schade-Poulsen, Schnieders, Scully, Spyroudis, Theonas, Tiemann, Velasco Mancebo, Verboven, Wagenmans, Waldack, Wick.

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

Mr/Mrs/Miss: Barrow, Beale, Carroll, Connellan, Freeman, Gardner, Green, Hilken, Kaaris, Little, Mobbs, Moreland, Pearson, Pricolo, Proumens, Rea, Robinson, Rodriguez Garcia-Caro, Roseingrave, Sala, Slipman, Stokkers, Strauss, Tukker, Tyrie, Whitworth.

The following members, present or represented, abstained:

Mr/Mrs/Miss: Bell, Decaillon, Gaffron, Hagen, Kafka, Löw, Meyer-Horn, Petersen, Romoli, Solari, Tixier.

APPENDIX II

to the Opinion of the Economic and Social Committee

The following amendments were defeated in the course of the debate:

Point 5.3

At the end of paragraph b), add the following:

'As well as pricing measures, quota measures must therefore be kept in force for the time being.'

Voting

For: 48, against: 81, abstentions: 8.

Points 6.2.2 and 6.2.3

Amend to read as follows:

'As far as the second alternative (b) is concerned, a carefully-honed approach is needed first and foremost. The general premise for the abovementioned radical reform of the CAP must be that the relevant provisions of the EEC Treaty should aim to allow agriculture to develop into a healthy and efficient economic sector, with prices being mainly determined by market factors (interplay of supply and demand).

Production surpluses could then become a thing of the past, and it would no longer be necessary to support sales to third countries with substantial export subsidies.

Alongside this general premise, the following points also deserve attention in the context of CAP reform.'

Reasons

The proposed addition to 6.2.2 is necessary in order to clarify the direction which the 'radical reform' put forward in 6.2 should take. The reform should firstly ensure that agriculture remains and/or becomes a healthy economic sector able to secure itself a place on the market and to operate as far as possible without the help of subsidies. Not until that has been made clear can one start to discuss such matters as the redistribution of aid, income guarantees and the problems of rural society.

Voting

For: 35, against: 106, abstentions: 4.

New Point 6.2.2.1

Insert the following new Point 6.2.2.1 immediately after 6.2.2 to read as follows:

'6.2.2.1. In accepting the challenge of a radical change of policy reflected in 6.2(b) above, and in the spirit of a « Second Stresa », the Committee requests that the Commission examine an alternative strategy which would also:

- a) contain the EC budget cost of the CAP;
- b) control surplus production;
- c) protect the environment;
- d) safeguard farm incomes;
- e) promote economic and social cohesion.

The objective is to achieve this in a manner which maximizes the benefits to all citizens and overcomes international disputes arising from structural surpluses, and avoids the fossilization of EC agriculture.

As far as farmers are concerned, an adapted CAP should provide an adequate income to viable and professional producers while ensuring that the less viable farmers can continue to live on and work the land.

The Committee therefore proposes that the Commission explore the possibility of CAP reform which would be based on:

- a system of physical on-farm production controls whose purpose would be to ensure that food production is limited to cover the Community's internal food and feed requirements plus commercially viable exports,
- farm prices then being fixed to provide producers with an adequate income,
- a gradual phasing-out on a multinational basis of export subsidies which will no longer be required as production is reined back to cover internal demand and commercially viable sales to third countries,
- a greater element of import control without which it would not be meaningful to introduce wide ranging production controls.

The Committee believes that, by accepting the gradual phasing-out of export subsidies, the EC will be able to negotiate more effective import controls.

In parallel with these proposals, the Commission should introduce a more effective regional policy to recognize more clearly the vital role which farmers play in the social, political and economic life of the disadvantaged and peripheral regions of the Community.'

Reasons

1. Guarantee the long term viability of family farms through properly managed market and price structures in conjunction with coherent internal and external policies which fully respect Community preference and maintain prices based on objective criteria at a level that ensures a fair standard of living for family farms.
2. Ensure that higher environmental production and quality standards of EC agriculture are fully taken account of in Community preference.
3. Ensure the viability and competitiveness of EC agriculture as a commercial sector through a comprehensive EC-funded structure programme which will promote the continuous improvement of production methods, technology and quality and ensure the continued access of young trained farmers to all sectors.
4. Promote economic and social cohesion and reduce the disparity of income between regions of the Community by taking full account of the regional importance of agriculture in different Member States.
5. Provide an integral programme to alleviate and solve the problem of low incomes among farm families.

Those objectives can best be achieved by a CAP Reform based on the principles of:

1. Community preference;
2. Supply management;
3. A fair standard of living for the agricultural Community;
4. Due treatment of agriculture-dependent regions, taking full account of the need to reduce the disparity in income between regions and as required by the Single European Act.

Voting

For: 28, against: 89, abstentions: 13.

Opinion on the Mediterranean policy of the European Community

(92/C 40/19)

On 23 April 1991 the Economic and Social Committee, acting under the fourth paragraph of Article 20 of its Rules of Procedure, decided to draw up an Opinion on the Mediterranean policy of the European Community.

The Section for External Relations, Trade and Development Policy, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 22 October 1991. The Rapporteur was Mr Amato.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee adopted the following Opinion by a majority vote in favour and 13 votes against, with 14 abstentions.

1. ESC Opinions and subsequent developments in Mediterranean policy

1.1. On 26 April 1990 the Committee adopted an Additional Opinion on the Mediterranean policy of the European Community⁽¹⁾. The Opinion supplemented the Own-initiative Opinion issued on 12 July 1989⁽²⁾ [accompanied by a Report drawn up by the Section for External Relations, Trade and Development Policy⁽³⁾].

1.1.1. The Additional Opinion emphasized the need for the European Community to formulate a new Mediterranean policy, and assessed the Commission's Communication of 23 November 1989 entitled 'Redirecting the Community's Mediterranean Policy'⁽⁴⁾. The Committee was particularly pleased that the Commission had recognized the need for a new Mediterranean policy. While the Committee was at pains to highlight various points of agreement with its own proposals, it also stressed the inadequacy of some of the Commission proposals. Above all, it criticized the absence of an overall strategy. The Opinion also made specific recommendations concerning individual points.

1.2. During the debate on the Additional Opinion at the plenary session of 26 April 1990, Commissioner Matutes broadly endorsed the guidelines and comments contained in the Opinion [with differences of emphasis on just three points: a global convention with the Mediterranean nations, a regional financial protocol with the Arab Maghreb Union (AMU), and the Mediterranean nations' external debt]. Mr Matutes also stated that the Additional Opinion would be extremely useful when the Commission was drafting proposals on the implementation of the revamped Mediterranean policy.

1.2.1. The Commission subsequently incorporated the definitive proposals in a further Communication

on Redirecting the Community's Mediterranean Policy (1992-1996), which it forwarded to the Council on 1 June 1990⁽⁵⁾.

1.3. After discussing the latter Communication, the Council took a package decision on the various aspects of the renewed Mediterranean policy at its meeting of 18-19 December 1990. The Council:

- fixed the financial resources for the renewed Mediterranean policy for the period 1992-1996: ECU 4 405 million, of which 2 375 for the fourth financial protocols with the Maghreb and Mashreq countries and Israel (Malta, Cyprus, Yugoslavia and Turkey being treated separately) and 2 030 for horizontal financial cooperation,

- adopted the directives for negotiations on the above protocols,

- adopted a Resolution on horizontal financial cooperation with the Mediterranean countries, and guidelines for the Commission to draft the corresponding Regulation,

- adopted a Council and Commission Resolution on trade with the Mediterranean countries,

- issued two Declarations, on the promotion of democracy and on hazardous waste.

1.4. In implementation of the overall Council Decision, the Commission:

- opened negotiations with the Maghreb and Mashreq countries and with Israel on the respective financial protocols,

- tabled a draft Council Regulation⁽⁶⁾ on 19 February 1991 on financial cooperation in respect of all the Mediterranean non-member countries,

⁽¹⁾ OJ No C 168, 10. 7. 1990, p. 22.

⁽²⁾ OJ No C 221, 28. 8. 1989, p. 16.

⁽³⁾ Doc. ESC 386/89 final.

⁽⁴⁾ Doc. SEC(89) 1961.

⁽⁵⁾ Doc. SEC(90) 812 final.

⁽⁶⁾ Doc. COM(91) 48 final.

- on 3 May 1991 submitted Recommendations for Council Decisions⁽¹⁾ on the conclusion of already initialled protocols, viz. protocols on financial and technical cooperation with Egypt, Algeria, Morocco and Tunisia, and a protocol on financial cooperation with Israel,
- on 22 May 1991 submitted a Communication⁽²⁾ to the Council on the implementation of measures in respect of trade within the framework of the renewed Mediterranean policy, accompanied by a draft Council Regulation amending the import arrangements for certain agricultural products from the Mediterranean countries (excluding Turkey).

2. Objectives of the present Opinion

2.1. On the basis of the above developments in Community Mediterranean policy, the present Opinion seeks:

- to gauge the follow-up to the Committee's proposals, both in the Commission Communication and in the Council Decisions (also stressing the difference between the two texts),
- to undertake a general assessment of the thrust of the financial protocols,
- to assess the proposals for horizontal financial cooperation and trade,
- to make concrete recommendations on the implementation of the revamped Mediterranean policy.

3. Commission Communication 'Redirecting the Community's Mediterranean Policy'

3.1. General assessment

3.1.1. While retaining the same basic structure as the earlier Communication, the new Commission proposal has undergone a number of major improvements, partly reflecting comments and proposals made by the Committee.

3.1.2. Definite progress has been made regarding the overall approach advocated by the Committee. While still believing the establishment of a comprehensive agreement between the Community and all the Mediterranean non-member countries (MNC) to be premature, the Commission does not oppose the idea: indeed, it considers that 'it deserves further consideration in the light of future political and economic events in the Community and its partners in the Mediterranean'. It is disappointing that the Commission fails, in the wake of this declaration, to pursue the intermediate measures pending an overall agreement as suggested by the Committee (Mediterranean Cooperation Council, Forum,

etc.). A particularly important step in this direction, as suggested by the Committee, would have been to propose the drawing up of financial protocols not with the individual Maghreb countries, but on a collective basis with the Arab Maghreb Union, while providing for national guideline programmes. Such a step would, of course, require normalization of EC relations with Libya, for which the time does not yet seem ripe. However, the most significant progress actually made by the Commission towards an overall approach is its proposal for financial cooperation extending to all the MNC, as discussed below.

3.1.3. The Communication's central proposal of establishing continuous dialogue between the Community and the MNC is another point of major political importance. Discussion would be all-embracing: economic matters (general, monetary, financial, agricultural and industrial, transport), social issues (migration, demographics, etc.) and cultural affairs, and political questions of common interest. The proposal for a new departure for cooperation, information exchange with the MNC, is equally important. The Committee welcomes such proposals which reflect the aims and objectives of the Mediterranean Forum it has advocated, which might constitute the organizational focus for the Euro-Mediterranean dialogue.

3.1.4. The Commission's commitment to a quantitative leap forward in funding of Mediterranean policy is also to be welcomed, in spite of the constraints imposed by the Community budget. Nevertheless, the proposed 130 % increase in EEC budget appropriations, compared with previous protocols, is not enough to constitute the critical mass required to make a real impact on the pace of MNC development: indeed, as Commissioner Matutes himself points out in the Financial Schedule accompanying the Communication, these amounts are less than those set aside for other areas of cooperation. The funds proposed by the Commission for the eight Southern and Eastern Mediterranean MNC (SEM except for Malta, Cyprus, Yugoslavia and Turkey) amount to ECU 2,4 per inhabitant per annum, as against ECU 4,7 for the African, Caribbean and Pacific States (ACP) and ECU 6,8 for the Central and Eastern European nations. The European Investment Bank (EIB) funds requested for the financial protocols (40 % higher than for the previous protocols for the eight SEM countries) are also inadequate.

3.1.4.1. The Commission itself admits that Community financial support accounted for only 3 % of total net official aid to the MNC between 1979 and

⁽¹⁾ Doc. SEC(91) 814 final.

⁽²⁾ Doc. COM(91) 179 final.

1987, but it fails to draw the appropriate conclusions. Above all, it does not share the aim of increasing the total amount of Community (EC plus Member States) aid to the MNC [the Committee recommended that this should be increased from the current figure of 0,14% to 0,25% of EC Gross Domestic Product (GDP)].

3.1.4.2. Lastly, it should be noted that the Commission does not rule out the idea of a specifically Mediterranean financial institution to ensure an adequate flow of finance to the MNC, as advocated by the Committee, but regards it as worthy of further study.

3.1.5. However, despite these improvements, this Communication, like the first, shows no sign of the change in the underlying strategy of Mediterranean policy which the Committee has been advocating for a number of years. We note with regret that the Commission has not yet taken on board the four key elements for a strategic revision as proposed by the Committee:

- a new slant to Community Mediterranean policy as a Euro-Mediterranean policy of co-development, aiming at complementarity as a means to integration,
- review of the global approach, including consideration of problems in the Community's Mediterranean regions and the consequent need to review Community policies,
- choice of development agreements as the basic instrument for co-development, through which the various cooperation activities should be channelled,
- adoption by the Community of a coordinating role for both bilateral and multilateral Mediterranean cooperation policies implemented by Member States.

3.2. *Foreign debt and structural adjustment*

3.2.1. The Communication marks a major step forward on Community action on the MNC foreign debt, adopting the Committee's proposal that the Community coordinate Member State action. The Commission does not mention coordination, but talks of 'consultations', 'in the appropriate Community framework', to be held in the event of MNC debt crises. These consultations should take place to discuss 'measures which could be taken at national level (maintaining or resuming commercial bank lending, reducing the debt servicing burden, rescheduling

arrangements), at Community level (possible support for reforms) and at multilateral level. Such consultations, which would be complementary to and precede the meetings of the Paris and London Clubs, could be requested either by the Commission or by a Member State'. Such machinery, even though only not embodying all the relevant Committee proposals, would undoubtedly represent substantial progress in dealing with MNC debt.

3.2.1.1. On the political approach to MNC debt, however, the Commission pursues the conventional line laid down by the international financial bodies—for which it has been roundly criticized by the Committee—failing to take account of the latest experiences and thinking [the Brady Plan, the new guidelines of the International Monetary Fund (IMF) of 23 May 1989, as applied in Mexico, the Craxi UN report, etc.] In particular, the Commission has not corrected its approach in two major respects, as requested by the Committee:

- the urgent need to reduce indebtedness applies equally to countries which have honoured their debts without rescheduling, when the cost of debt servicing reaches intolerable levels (e.g. Algeria),
- reductions should cover not only debt servicing but also capital.

3.2.2. In the sphere of structural adjustment too, a distinction needs to be made between specific proposals and the general political approach covering them. The Commission has, in line with ESC criticism, made a number of corrections to these proposals. Mention is no longer made, in discussion of Community aid to back-up programmes for economic structural reform carried out by the MNC, of measures to curb their social impact; the Committee's proposal to concentrate on job creation programmes has been accepted.

3.2.3. In contrast, the Commission's general political approach to the structural reform programmes ignores the substantial criticisms made by the Committee, i.e. that the Community must not simply implement complementary measures to offset the damage caused by the IMF's structural reform programmes without any genuine discussion of the thinking behind them, on the basis of results which the Committee, among others, has clearly shown to be negative. The Commission

takes no note of the arguments put forward in this respect by the Additional Opinion of April 1990 or the alternative proposals it contained; it repeats that the Member States must continue to support the action of the international financial institutions in this area. This stance not only remains unacceptable to the Committee, but also differs from the far more reasoned position adopted by the Commission vis-à-vis the Bretton Woods institutions in respect of structural reform programmes in the ACP States.

3.3. *Trade cooperation*

3.3.1. It is noted that the Commission has at least partly adopted two Committee suggestions concerning general measures to boost the volume of MNC exports: firstly, to work towards market access—including the European Free Trade Association (EFTA) and other European countries—for MNC goods (although what the Community should actually do is not spelt out: the Committee had suggested experimenting with tripartite EC-MNC-Eastern/Central Europe agreements); secondly to reduce the pressing MNC need to earn foreign currency from exports, by setting up free trade areas between the MNC.

3.3.1.1. The Communication does not, however, repeat the Commission's previous suggestion concerning technical support for the improvement of MNC export capacity, which was welcomed by the Committee. The Committee had proposed setting up an agency, managed by the Community and the MNC, to promote trade in all Mediterranean products (including those from EC Mediterranean regions).

3.3.2. The Communication merely repeats its commitment to continuing traditional export flows, in line with the stages set out in the 1987/1988 additional protocols on access to the EC market for MNC agricultural produce. Detailed assessment of the situation is put off until 1994, with a view to new proposals. The Commission does however accept that at the request of certain Mediterranean partners, some changes could

already be made involving increases in quotas or ceilings, extended time schedules and the inclusion of new products.

3.3.2.1. Once again, the Commission fails to take account of the Committee's criticism of the implicit meaning of 'continuance of traditional export flows', which fails to meet the requirements of the MNC and preserves a state of competition with EC Mediterranean regions. Neither does it mention the only viable solution to the problem, that of incorporating trade policy into joint development policy, as advocated for some time by the Committee.

3.3.3. The Committee endorses the Commission's comment that 'the time has come to include textiles in the free access arrangements provided for under the cooperation or association agreements concluded with the MNC in the 1970s and 1980s'. It should be noted, however, that this is contingent on a positive outcome to the Uruguay Round textile negotiations: the Commission has ignored the Committee's proposal for a Community/MNC agreement pending, or in the absence of a GATT solution. On the other hand, the Committee endorses the proposal to introduce rules granting cumulative origin for manufactured goods (particularly textiles) to groups of MNC, so as to foster synergy and industrial complementarity between them.

3.4. *Financial cooperation concerning all the MNC*

3.4.1. The Committee has already voiced its support for a strengthening of horizontal cooperation in order to advance the global approach of Community policy. The Communication proposes that such cooperation should focus on a number of priority areas: support for regional cooperation, development of the business sector and promotion of private European investment, the environment, development of human resources and EIB involvement.

3.4.1.1. Regional cooperation and the environment are discussed below, in connection with the proposed implementing regulation.

3.4.2. In order to develop the business sector and promote private European investment, the Commission

proposes increasing 'Cheysson facility' budget allocations, extending its scope to upstream investment activities (consultancy, research, contacting partners, etc.). The Committee has already endorsed these proposals: it therefore welcomes the proposal to use this budget item to encourage immigrants to set up businesses in their countries of origin, thereby taking over an idea put forward in the past by the Committee⁽¹⁾.

3.4.3. The proposals to finance horizontal cooperation in the development of human resources are of major significance. Indeed, Community effort to this end, extending beyond the financial protocols, seem to be a decisive factor in successfully backing—with training programmes, know-how transfer, etc.—the economic and structural reforms which the MNC must carry out. Proposals for cooperation on cultural development are of similar importance, particularly with regard to information. The Committee had already referred to all these points in earlier Opinions, and therefore lends them its full support; it does likewise for the new, interesting proposals on horizontal cooperation for audiovisual policy.

3.4.3.1. The Committee welcomes the specific proposals on cooperation in the field of demographic policy, but repeats that this can only be fully valid and effective as part of a joint development policy.

3.4.4. The Committee agrees with the areas earmarked for EIB involvement (environment, energy, transport, telecommunications and the audiovisual sector), but stresses the need—which does not apply to Mediterranean policy alone—to review institutional procedures and institutional competences in selecting projects to be financed, reinforcing coordination between the Commission and the EIB.

3.4.5. While generally supporting the proposals for horizontal financial cooperation, we feel that attention needs to be drawn to the insufficient number of areas for using EEC budget funds. The Committee is of the view that financial cooperation should primarily be directed to other sectors where there is a clear need for a global approach: research and development (R&D),

energy, transport, telecommunications, tourism. These sectors are indeed covered by the proposal on regional cooperation, but it is restricted to support, complementary and EIB operations; these are not accorded their proper importance, unlike the environment, for instance. It should also be pointed out that in the two Annexes concerning energy and science/technology, the Commission repeats its proposal—already approved by the Committee—to extend a number of relevant Community programmes to the MNC, but not to use financial resources proposed for the new Mediterranean policy.

3.4.6. Secondly, social policy—and in particular, the labour market, unemployment and social conditions—should be a central concern of horizontal cooperation. Migration policy should have received far greater attention than it does in the section on human resources.

3.4.7. Lastly, horizontal cooperation should finance joint action with the MNC to discuss and define general guidelines for reshaping production in all sectors, throughout the Mediterranean, so as to provide solid bases for framework sectoral agreements between the Community and the MNC.

3.5. *Guidelines for renewing the financial protocols*

3.5.1. The Committee supports the general approach of distinguishing between 'programmable' portions (defined under the terms of each bilateral protocol), intended for conventional forms of cooperation, and 'non-programmable' portions (defined for all MNC), reserved for support for economic reform.

3.5.2. The proposal on the programmable bilateral financial protocols and support for economic reform in the SEM will be discussed in greater detail later, together with the Council Directives of 19-20 December 1990 and the protocols already initialled.

4. The decisions of the European Council of 18-19 December 1990

4.1. *General assessment*

4.1.1. The new Mediterranean policy, enshrined in the December 1990 Council Decisions, falls significantly short of the Commission's proposals: as has already been seen, these were themselves deemed insufficient, despite some important areas of progress.

⁽¹⁾ OJ No C 221, 28. 8. 1989, p. 16, paragraph 9.2.

4.1.2. The first shortcoming lies in the level of funding. The overall amount set by the Council is some 35% less than the Commission proposal (ECU 4 405 as opposed to ECU 6 745 million). The cutback hits both finance from the Community budget, falling from ECU 1 845 to ECU 1 305 million (29% less) and EIB loans, cut from ECU 6 745 to ECU 4 405 million (37% less⁽¹⁾).

4.1.3. Within the Council, the views of those governments who have always seen Community Mediterranean policy in terms of opening up Community markets to MNC goods prevailed, coupled with a reluctance to assume any important budget commitment for cooperation. The opposing position, held by a number of governments who wish to preserve a substantial degree of protectionism and advocate a purely financial solution, failed to make an impact. Until these two positions are superseded by new thinking which combines trade policy with economic and financial policy, as part of a joint development policy—of mutual, Euro-Mediterranean interest—the only common ground will remain the purely negative position of not strengthening Community Mediterranean policy, leaving the bulk of cooperation work in the Mediterranean Basin to the Member States.

4.1.4. This Council's minimalist approach is also reflected in terms of content. It has not endorsed the

Commission Communication as a whole; none of the more important proposals are echoed in its decisions, while those which have been accepted have been considerably downgraded.

4.1.5. The failure to heed the proposal to establish a permanent economic, social and cultural dialogue (partnership, information exchange, etc.) is to be deplored. This is a point to which the Committee attaches particular importance (see 3.1.3 above). Certain initiatives of this kind could be achieved under horizontal financial cooperation, but there is no specific reference framework: the Council's underrating of the central political importance of this is quite unacceptable.

4.1.6. Another Commission proposal which, while modest, was of considerable political significance—and totally ignored by the Council—concerned the Community's role in lightening the MNC external debt burden. This matter is largely ignored, apart from a reference to it as constituting an incentive and a condition for support for economic reform (structural adjustment). At a time when initiatives, some from Member States, to reduce the external debts of certain MNC are multiplying, the Council's conduct can only be described as lacking in political sensitivity and signalling an intention to minimize the Community's role.

4.1.7. Only two of the Commission's innovative proposals have been accepted by the Council: horizontal cooperation and support for economic reform in the MNC—although they have been watered down.

⁽¹⁾ The overall amount for the financial protocols is 16% down on the Commission proposals (ECU 2 375 instead of ECU 2 825 million), broken down as follows:

- a slight reduction (6%) in appropriations under the bilateral financial protocols, from ECU 825 to ECU 775 million,
- a net halving of overall finance for support for economic reform (structural adjustment): ECU 600 to ECU 300 million, although the negotiating directives for the protocols provide that recipient countries for this type of action may use a maximum of 10% of protocol funds to this end,
- a reduction of ECU 100 million (7%) in EIB loans.

The Council cuts in the area of horizontal financial cooperation are far more swinging. The overall reduction is 48% (ECU 3 920 to ECU 2 030 million); as follows:

- a savage cut (45%) in appropriations, falling from ECU 420 (320 for the environment and other horizontal operations plus 100 for support for Community investment) to ECU 230 million,
- a virtual halving (49%) of EIB non-protocol loans, falling from ECU 3 500 to ECU 1 800 million; although provision is made for an extra appropriation of ECU 200 million, if proposed by the Council.

4.2. *The Council decision on the opening of negotiations for the new protocols*

4.2.1. This Council Decision authorized the Commission to open negotiations with Israel, the Maghreb (Algeria, Morocco and Tunisia) and Mashreq countries (Egypt, Jordan, Lebanon and Syria), for the new financial and technical cooperation protocols, on the basis of the negotiating directives appended to the Decision. These directives reflect the Commission proposal to use an overall appropriation (for the Maghreb and Mashreq only) to top up allocations under each of the bilateral protocols, for support for economic reform (structural adjustment). The importance of the directives goes beyond the drafting of the protocol texts, since the whole operation of

the protocols is to be based on them, beginning with the indicative programmes.

4.2.2. Directives for the bilateral protocols

4.2.2.1. Here the Council has accepted the Commission's proposals with minor amendments. It has to be said, however, that these proposals did not display any great degree of innovation compared with the earlier protocols. The only significant novelty in the Commission proposal was the inclusion of the environment among sectoral priorities. The Council accepted this proposal, which is fully endorsed by the Committee. The latter has coupled support (at the partner countries' request) for demographic programmes to the environment, since demographic growth has an adverse impact on it. The Council has thus lent legitimacy—although questionable because of its partiality—to action in this area. Moreover, it has placed support for demographic policies within the framework of strictly bilateral cooperation, whereas the Commission had, more appropriately, included it under horizontal cooperation.

4.2.2.2. Lastly, the Committee would repeat its general criticism of the bilateral protocol system which, by establishing a pre-set financial allocation for each MNC, in fact provokes pointless and damaging competition between them, quite apart from the system's rigidity—delaying application of funds with red tape—when compared with a system in which per country distribution is not determined in advance. The Committee notes with satisfaction that the Court of Auditors has reached the same conclusion in its report of 18 July 1991 on financial and technical cooperation with the MNC⁽¹⁾. The Committee does not, however, believe—as might be argued on the basis of the Court's report—that abolishing pre-set amounts for each country should be accompanied by abolition of all advance planning of operations. Experience with the Lomé Convention shows that the two are not mutually incompatible.

4.2.2.3. This broad degree of continuity of approach with respect to the previous protocols obliges the Committee to reiterate the criticism expressed in previous Opinions. This is not primarily levelled at the choice of priority sectors—although the oil, mineral and agricultural processing sectors were also suggested—or at the individual types of operation selected (contributions to formation of risk capital, joint ventures, small and medium-sized enterprises, training, etc.), which we have already endorsed.

4.2.2.4. Committee criticism is aimed, in the first instance, at the way the protocols are to be implemented, based on the project-by-project funding model used by the World Bank. The negative impact of this method on development has been amply illustrated. Moreover, this approach has been dropped by the Community in connection with structural fund aid: here funding for individual projects has been replaced by preferably integrated development programmes. It has been acknowledged that while this type of vertical intervention may have some impact in advanced, dynamic economies, it is totally ineffective in backward, unstructured economies like those in the more disadvantaged regions. If this holds true for Sicily of Andalusia, then it applies all the more to the non-Community countries of the Mediterranean Basin.

4.2.2.5. A second criticism concerns the absence of any socially-orientated conditions (social clauses). The protocols ought to contain safeguard measures designed to prevent the investment generated from creating working conditions tantamount to social dumping in relation to Community employment, or from placing obstacles in the path of improved MNC social conditions. To this end, the Committee had suggested drawing up joint arrangements to guarantee and monitor the implementation of conventions of the International Labour Organization (ILO) on workers' rights in the MNC.

4.2.2.6. Thirdly, the Committee notes with regret that the participation of economic and social interest groups in implementing the protocols has once again been disregarded. Such participation is necessary not only to promote the development of democracy in the MNC: as pointed out in earlier Opinions, this constitutes a precondition for the success of development initiatives. Moreover, participation by MNC economic and social interest groups could more profitably be achieved with the support and cooperation of the Community social partners, within a Euro-Mediterranean economic and social dialogue. The protocols must therefore contain the appropriate measures, beginning with mandatory consultation of economic and social interest groups (of the individual MNC involved and of the Community) on the indicative programmes to implement the protocols (pending the establishment of genuine integrated development programmes).

4.2.3. Support for economic reform

4.2.3.1. The way in which the Council has adopted the proposal for an overall financial allocation for struc-

⁽¹⁾ Special report No 3/91 on financial and technical cooperation with Mediterranean non-member countries.

tural adjustment in those Maghreb and Mashreq countries which request it is ultimately damaging to the political approach enshrined in the Commission proposal. It has already been commented that the Commission draft failed to take as its necessary starting point the criticism of the underlying philosophy of IMF and World Bank structural adjustment programmes. The Council directives go even further, making Community action dependent upon structural adjustment, as defined by the Bretton Woods bodies.

4.2.3.2. The Commission indicated the efficiency of macro-economic or sectoral reforms, together with the national economic situation, as eligibility criteria, leaving the Community to assess them — only subsequently adding that 'countries undertaking reform programmes supported by major multilateral donors [...] are considered to satisfy the conditions': the Council restricts Community action to countries which are to undertake reform programmes approved by the Bretton Woods institutions or recognized as similar, in consultation with these bodies, but not necessarily supported by them, depending on the macro-economic scale and efficiency of the reforms. The economic situation of the country concerned is seen as an additional factor and subsequently selective. It is clear that since the entire operation is subject to the monetarist approach of the international financial institutions, even reference to the sectoral efficacy of reforms is invalidated, leaving only the macro-economic consideration. The Committee regrets that the Council has refrained from entrusting the Community with an autonomous role and a real capacity to bargain with the Bretton Woods institutions.

4.2.3.3. This basic option determined the subsequent decision not to allow the countries concerned any margin of freedom to tailor structural adjustment to their particular socio-economic situation or to develop any negotiating capacity with the international financial institutions. This is in line with the fundamentally authoritarian approach of such institutions, which takes no account of the individual circumstances of the countries embarking upon structural reform. The international financial bodies thus oblige developing countries to tailor their economies to an international economic and

monetary pattern which is frequently at the root of their initial problems: the reason for this lies in the significant role of official and, above all, private debt collector gradually being assumed by these bodies. The Council has thus excluded the principle mooted by the Commission that Community adjustment support 'must be provided within the framework of the political and economic model adopted by the State concerned'. And the Council has thus dismissed the Commission proposal which, albeit in vague terms, embodied the Committee's suggestion that technical assistance should be provided to the MNC in order to boost their negotiating capacity with the main donors, as per the provision of the Fourth EEC-ACP Convention.

4.2.3.4. A further major failing in the directives on structural adjustment—already present in the Commission proposal—is the absence of any reference to the regional dimension of adjustment, to which the Community attached decisive importance in Lomé IV.

4.2.3.5. Lastly, with regard to the projects to be financed, the Committee would express its concern—not totally absent in the Council text—that planned projects (import programmes and social use of counterpart funds) should be designed to alleviate social crises and not contribute directly to the process of structural adjustment in the MNC.

4.3. *The Council Resolution and the guidelines for horizontal financial cooperation*

4.3.1. The Council's acceptance of the Commission's proposal to reinforce horizontal financial cooperation is undeniably of major significance. As has been said, it represents a significant step towards a global Mediterranean approach, providing an opportunity for action which the MNC, often faced with primary needs, cannot readily integrate into programmes under the financial protocols. Nevertheless, it is disappointing to see the Commission's proposals scaled down and curtailed by the Council.

4.3.2. The first such cutback concerns funding, which has been virtually halved, receiving far more savage treatment than the financial protocols (see footnote 1, p. 72). The ratio between the level of the two types of funding has thus been unfavourably altered. Appropriations for horizontal cooperation have actually fallen below those for the protocols (46% of total allocations): in the Commission proposal they were greater (58% of the total), clearly signalling a shift away from the traditional bilateral approach.

4.3.2.1. The Committee does not, of course, view such a shift as entirely replacing the financial protocols with horizontal cooperation, which still consists of unilateral Community action with the MNC not sharing in decision-making: it therefore remains a far cry from a policy of co-development. Neither do the bilateral cooperation agreements, on the basis of which the protocols are drawn up, conform to the co-development model. This—together with the well-known limitations of the bilateral approach—is why the cooperation agreements should be replaced with a comprehensive co-development convention (or treaty).

4.3.3. The Commission proposal has also been severely curtailed by restricting the scope of horizontal cooperation—already too narrow (see 3.4.5 above)—to measures of regional or environmental interest. The Committee does not accept the exclusion from both horizontal cooperation and decisions concerning the new Mediterranean policy of development of human resources, scientific and technological cooperation and support for Community energy investment. The claim made in the Council guidelines that these matters do not require decisions to be taken under the 'Mediterranean' heading is quite groundless.

4.3.3.1. For scientific and technological cooperation, energy and investment, the Council refers to examination of the Commission's proposals on action and policies lying outside the scope of Mediterranean policy. Development of human resources, however, the importance of which has already been underlined (see 3.4.3 above), has quite simply been removed. Action in the area of demographic policy has been included in the protocols (albeit dropping the regional dimension to the question) and training and know-how transfer operations may (at least in part) be retained under initiatives of regional or sub-regional interest; but the Council guidelines make no mention of extending Community training, information or culture programmes to the MNC. The decision to dismiss entirely the Commission's proposals for cooperation in the audiovisual sector, information and culture in general is particularly serious, displaying a failure to comprehend their importance, particularly at a time when culture is becoming a vital factor in coping with immigration-related problems, as well as in reaching a clearer understanding of the Mediterranean situation.

4.3.4. The Committee likewise disagrees with the reference to other decision-making authorities in relation to scientific and technological cooperation and

energy, primarily because there is no acknowledgement of the urgent need to make up the considerable accumulated delay in scientific and technological cooperation with the Mediterranean countries. The Commission admitted to these delays in its recent communication on scientific and technological cooperation with third countries⁽¹⁾: among other points, it stressed that more coherent scientific cooperation policy was sorely needed in the region under review.

4.3.4.1. Disagreement stems secondly from the fact that sectoral cooperation policies (research, energy, etc.) thus remain divorced from Mediterranean policy. Scientific and technological cooperation policy coordination is a particularly complex matter given that cooperation needs to operate on various levels:

- a) enabling MNC to participate in the research programmes under the Community's framework programme, but arranging for them not to pay the same 'subscription fee' as industrialized third countries;
- b) extending scientific and technological cooperation programmes with third—particularly developing—countries to all the MNC and stepping up their participation in them, as suggested by the Commission;
- c) implementing specific scientific and research programmes for the Mediterranean which (i) take account of the region's particular characteristics from the use of resources onwards (ii) bring the MNC and the Community's Mediterranean regions together in a synergetic manner, and (iii) break through the barrier represented by lack of competitiveness in order to have a more immediate impact on economic activity;
- d) implementing cooperation programmes for technological innovation in the MNC, starting with the Commission's suggestion for information technology. Programmes such as those outlined in c) above cannot come under individual financial protocols. Experience shows that only MNC which already possess a relatively developed productive structure (e.g. Israel or Yugoslavia) have benefitted from this type of cooperation. These programmes must instead be run on a horizontal basis, with a strong Community impetus.

⁽¹⁾ Doc. COM(90) 256 final.

4.3.4.2. This list highlights the need to set up machinery to coordinate not only action under the framework programme and the scientific and technological cooperation programmes (general or specifically Mediterranean)—as the European Parliament has also asked⁽¹⁾—but more particularly to coordinate (i) all research activity and the technological innovation programmes relating to the various sectoral policies with (ii) the objectives and initiatives of Mediterranean policy.

4.3.4.3. The Committee therefore considers that a more effective policy of scientific and technological cooperation with MNC should be seen not as a secondary, or optional aspect of development policy, but as the first link in the wealth-creation process. It should not have been dissociated from decisions on the new Mediterranean policy and, in particular, those on horizontal cooperation.

4.3.5. The Committee notes the Council's decision to postpone approval of the Commission's proposal to refinance the Mediterranean part of the 'EC-International Investment Partners' (EC-IIP) financial instrument (Cheysson facility), to the tune of ECU 100 million, until a more general proposal on the entire instrument (which also covers Latin America and Asia) is discussed. The Committee will comment on the draft Regulation⁽²⁾, presented by the Commission on 7 March 1991, and on the adequacy of the financial appropriations for the Mediterranean, in a separate Opinion. Nevertheless, strong reservations must be expressed at this stage as to the separation of EC-IIP action from the overall running of Mediterranean policy. For the same reasons, the Committee does not accept the authority invested by the Council in the EIB to direct ECU 25 million of budget funds, earmarked for horizontal cooperation, to intervention identical to that under EC-IIP. The Committee therefore calls on the budgetary authority to review this decision.

⁽¹⁾ Report on scientific and technological cooperation with non-European countries and organizations, by the European Parliament Committee on Energy, Research and Technology (Rapporteur: Ms Annemarie Goedmakers), 19. 7. 1991, and the subsequent Resolution adopted by Parliament at the first October 1991 Session.

⁽²⁾ Doc. COM(90) 575 final.

4.4. *The Council and Commission Resolution on trade with the MNC*

4.4.1. The Committee will comment on the Resolution later, when examining the communication and draft Regulation presented by the Commission in implementation of the Resolution.

4.5. *The two Council Declarations on adopting decisions on the new Mediterranean policy*

4.5.1. The first Declaration refers to respect for human rights and the development of democracy in Mediterranean third countries. The Committee supports the expressed aim of embodying these principles in the Mediterranean policy, strengthening Community support for political and economic reform in the MNC and fostering the development of human capacities and the role of women in the development process. To this end, the Committee calls upon the Council to take appropriate steps concerning the violation of human rights in certain MNC, repeatedly condemned by international bodies and the European Parliament.

4.5.1.1. The Committee notes, nevertheless, that these declarations of intent may remain largely theoretical, since the ensuing consequences for political decisions are not fully drawn. The time may indeed have come for cooperation policy to incorporate these aspects, but this cannot be done unilaterally by the Community. No significant progress can be made in this direction without unreservedly adopting the method of permanent economic, social and cultural dialogue with our partners. The Council's decisions on the new Mediterranean policy demonstrate that it has not understood this political requirement.

4.5.1.2. On the other hand, the Commission, in its recent communication on human rights, democracy and development cooperation policy⁽³⁾, stated the need for the Community to foster positive action to realize this new dimension to cooperation, and raised the question of the relationship between economic democracy and human rights. Special mention was made of the role that economic and social groups and intermediate associations—with particular emphasis on women—could play in developing democracy. This is a crucial element of development cooperation policy, without which the laudable reference to the market economy in the Declaration could remain purely symbolic.

4.5.1.3. The Commission points to the promotion and support of this intermediate socio-economic

⁽³⁾ Doc. SEC(91) 61 final, 25. 3. 1991.

fabric as one of the main aims of cooperation, partly in order to avoid centralized and exclusive relations with State structures. The Committee has consistently supported this view and is confident that it can, if offered the opportunity, make a meaningful contribution to this end.

4.5.2. The second Declaration expresses the intention to adopt provisions on transport and the processing of hazardous waste for the Mediterranean, and to ask partner countries to sign/ratify the Bale Convention. The Committee is in full agreement.

5. The draft Council Regulation concerning financial cooperation in respect of all the Mediterranean non-Member countries

5.1. General assessment

5.1.1. The Proposal for a Regulation⁽¹⁾, presented by the Commission on 19 February 1991, bears the negative mark of the restrictions imposed by the Council guidelines, which specifically instructed the Commission to adhere to them in drafting the proposal. The criticism relating to the Council decisions (see 4.3) and to the original Commission proposal (see 3.4.5) consequently applies equally to the present proposal.

5.1.2. The Committee accordingly calls on the Council to adopt the Regulation as soon as possible, amending it to take account of the comments and suggestions made in the present Opinion.

5.2. Criteria for receipt of funding (Art. 1)

5.2.1. The application of horizontal financial cooperation only to 'countries with which the Community has concluded association or cooperation agreements' is a severe restriction upon the support that such cooperation is intended to lend to subregional integration processes involving other countries which do not fit into this category, as in the case of the Arab Maghreb Union. The criteria laid down would exclude two AMU countries—Mauritania (not Mediterranean) and Libya (no agreements with the Community).

5.2.1.1. The Regulation should explicitly provide for Mauritania to be eligible, at least for action of regional and subregional scope. There is no apparent reason why such action should not, in theory or in law, be

considered as supplementary to Community funding under the Lomé Convention, in the same way as Article 1 of the draft Regulation describes horizontal cooperation as supplementing measures financed under the financial protocols with the MNC.

5.2.1.2. The Committee considers that the time is ripe to conclude real, substantive agreements with Albania. The migratory surge from that country towards the Community makes its inclusion in Community Mediterranean policy all the more urgent. The Council is therefore invited to take urgent steps to this end.

5.2.2. The Committee disagrees with the statement contained in the Council guidelines—although not repeated in the draft Regulation—that countries benefiting from the Phare programme should be excluded from horizontal cooperation. The Committee does share the view that the nature and scope of Phare are such that no overlapping or duplication of efforts should occur, but since the Council makes an exception for environmental protection projects in the Mediterranean basin, it is hard to see why it does not do so for regional action—a sphere in which the absence of certain countries would be equally counterproductive.

5.2.3. The Committee welcomes the clarification, contained in the abovementioned statement, that horizontal financial cooperation applies to the occupied Palestinian territories.

5.3. Scope of horizontal cooperation [Art. 2(1)]

5.3.1. The scope of horizontal cooperation is, chiefly because of the restrictions imposed by the Council, limited to operations of regional or environmental interest.

5.3.1.1. The Committee therefore asks the Council to review its position and to amend the draft Regulation, reinstating, for the reasons set out above, the following aspects:

- economic, social and cultural dialogue (see 4.1.5), with specific tasks assigned to the ESC,
- development of human resources (see 4.3.3),
- scientific and technological cooperation (see 4.3.4),
- energy (see 4.3.4),
- support for Community investment, including measures under EC-IIP within Mediterranean policy

⁽¹⁾ Doc. COM(91) 48 final.

(see 4.3.5). In this respect, the Committee calls upon the Council to accept the Commission proposal to extend such measures to encourage the establishment of businesses by immigrants in their countries of origin.

5.3.2. In addition, the scope of horizontal cooperation should also encompass other measures (as set out in 3.4.5):

- restructuring production throughout the Mediterranean,
- other sectors where a global approach is essential: transport, telecommunications, tourism,
- informing the MNC on the completion of the Single European market and providing technical assistance for the up-grading they must carry out in important areas such as product standards, patents, movement of goods, transport, banking, insurance, etc.,
- social policy: employment, the employment market, social conditions and workers' rights,
- immigration policy.

5.3.3. Extension of the scope of horizontal cooperation clearly requires financial resources significantly larger than those planned—which, as already pointed out, are already inadequate and should be increased. The Committee would request the Council to review its Decision of 18-19 December 1990 in this sense.

5.4. *Operations of regional interest [Art. 2(2)]*

5.4.1. The Committee repeats its satisfaction at the reinforcement of this area of horizontal cooperation. The draft Regulation provides for two types of measure:

- a) support for regional cooperation action;
- b) feasibility studies for regional infrastructure projects.

The Committee endorses this approach, subject to the following comments and suggested amendments.

5.4.2. The description of support for regional cooperation measures [Art. 2(2), first indent] is not sufficiently clear. There should be a more explicit explanation of the three types of operation of regional interest, which the Committee endorses, as indicated in the Council guidelines:

- support for regional integration processes, starting with the AMU. The Committee is surprised that the Commission's text makes no mention of it, even in

the preamble recitals, whereas the Council Resolution of December 1990 reiterated the importance which the Community attaches to the establishment of the Arab Maghreb Union. While the results so far achieved are clearly not enough, it should be acknowledged that the AMU constitutes the only genuine process, in institutional form, towards regional integration between MNC and consequently merits the Community's clear and enthusiastic support,

- support for operations of interest to all or some of the MNC,
- support for operations involving one or more of the MNC and the Community. The Community draws special attention to the importance of this type of activity, which may enable significant progress to be made towards the goal of Euro-Mediterranean complementarity. Priority should be given to operations with this aim involving one or more MNC and one or more Mediterranean regions of the Community.

5.4.3. The Committee feels that the impact of the whole horizontal cooperation system is dramatically reduced by the restriction of the specific operations—to be funded from the Community budget—in implementation of the support measures outlined in 5.4.2 to technical cooperation, training, seminars, studies and missions. A closer look reveals that the Council guidelines—and, consequently, the draft Regulation—would restrict regional cooperation as a whole to, firstly, technical cooperation and, secondly, infrastructure measures. The most important element of any regional-type intervention—support for economic and productive programmes integrated on a regional or sub-regional scale, as repeatedly proposed by the Committee—is entirely lacking. Such programmes should seek to further complementarity and integration between the MNC themselves and between them and the Community: they should assume the form of integrated regional or sectoral programmes, which necessarily require different kinds of action. This would certainly include infrastructure and technical cooperation, but would primarily mean investment in agriculture, industry and services, covering the wealth creation process, from R&D to training. Funding would not be based exclusively on Community contributions, but would be stimulated by them. The Committee therefore asks the Council to include this type of operation in

the Regulation, at least in the form of pilot programmes, as previously suggested by the Committee.

5.4.4. The Committee lends its full support to the application of the budget funds allocated to horizontal cooperation to feasibility studies for regional infrastructure programmes which would be funded from EIB own-resources, outside the framework of the financial protocols.

5.4.4.1. However, it needs to be made clear, in connection with the feasibility studies, that the EIB should be committed to examine projects whose feasibility has been checked by the Commission. Once again, the Committee must express strong reservations in relation to a procedure which leaves the EIB—often more concerned with the financial solvability of the countries involved than with the wider value of projects—substantially free to decide on whether to provide funds.

5.4.5. Although not covered by the Regulation under discussion (which relates only to the use of Community budget funds), the Committee would take this opportunity to comment on EIB participation in financing the infrastructure projects.

5.4.5.1. While agreeing with the priority action areas indicated (energy, transport and telecommunications), we feel that water should be explicitly added. The importance for the MNC of transnational water infrastructures is unquestionable—while avoiding financial support for costly but largely redundant large-scale prestige projects—since such structures must lend themselves to a wide range of use (environmental, energy, irrigation, industrial and domestic) and to integrated water management.

5.4.5.2. The Committee does not, however, agree with the suggestion that projects must be of direct or indirect interest to the Community: indeed, this gives ground for serious concern. Such a formula might appear redundant, since according to the underlying principles of Mediterranean policy everything contributing to the development of the MNC is in the Community's interest, but it could provide a pretext for quite unjustified discrimination between projects to be funded.

5.4.5.3. Turning to the priorities governing funding of infrastructure projects, the Committee would, by way of example, point to the importance of making full use of energy production by upgrading existing networks (e.g. the Algeria-Tunisia gas pipeline) or maximize potential by interconnecting electricity grids,

possibly with Member States (e.g. between Greece and Turkey). A more general criterion should be that of extending European networks—development of which is currently under discussion in the Community institutions⁽¹⁾—into the Mediterranean basin. The ESC has issued an Opinion on this matter⁽²⁾. In the field of transport and telecommunications, preference should be given to infrastructures intended to strengthen communications both within subregional integration zones (starting with the AMU) and along the East-West axis along the Mediterranean basin, where they are currently sorely lacking.

5.4.5.4. Lastly, we would repeat that the level of the EIB loans to be directed to infrastructure projects under the Council guidelines, amounting to ECU 1 500 million over 5 years, is woefully inadequate.

5.4.6. The Committee considers that the use of budget funds to finance 3% interest-rate subsidies on EIB loans—restricted by the draft Regulation to environment-orientated investment—should be formally extended to infrastructure projects, given that a Commission/Council declaration on the December 1990 guidelines suggested this.

5.5. *Cooperation on the environment*

5.5.1. The Committee endorses the importance assigned to environmental action within the framework of horizontal cooperation, as expressed initially by the Communication from the Commission of 1 June 1990 and then repeated in the Council Resolution and guidelines and, consequently, the draft Regulation under examination.

5.5.2. Since the Regulation is chiefly concerned with financial questions, the proposal makes no mention of broader objectives or priorities. The Committee approves the decision, expressed in the Commission Communication, to adopt the well-established multilateral initiatives (Action Plan for the Mediterranean, Blue Plan, Metap) together with the guidelines produced at the April 1990 Nicosia Conference, to which the Council added those emerging from the subsequent Conference on Security and Cooperation in Europe (CSCE) on the Mediterranean held in Palma de Mallorca, as references for the strategic objectives and priority

⁽¹⁾ Doc. COM(90) 585 final.

⁽²⁾ Doc. ESC 1262/91.

options. The fields for action listed by the Commission are therefore to be welcomed: integrated management of coastal areas, particularly natural coastlines, and of rapidly-expanding urban areas, nature conservation, integrated water management, handling of plant-cover, waste management, continuous surveillance of ecosystems, closer monitoring of maritime traffic, energy management, and more intensive interchange of experiences. The Committee recommends that this list be completed with measures to combat desertification, which concerns many of the MNC and certain Community regions. Overall priority must clearly be granted to water resources (scarcity, pollution, integrated management).

5.5.3. These types of operation themselves point to the need for preventive, not merely curative, environmental action in the Mediterranean. It should be borne in mind, in this respect, that achievement of completely safe nuclear energy generation and nuclear disarmament (a process already under way) must be included among the main aims of ecological conservation in the Mediterranean basin. Most importantly, no effective upstream action on the mediterranean environment would be credible without addressing the question of development planning in the two critical aspects: the reshaping of production and regional planning—both of them from the viewpoint of safeguarding and improving the environment.

5.5.3.1. In connection with reshaping production, the Committee's insistence on the importance of establishing a new intra-regional division/union of labour within the Mediterranean basin is well-known. This aim is closely tied in with the environmental one. The Committee recommends that Mediterranean policy be implemented in such a way that, firstly, the ecological soundness of development operations is systematically checked and, secondly, that ecological action takes due account of profitable use of environmental resources.

5.5.3.2. The importance of the second aspect, regional planning, as a link between the environment and development is unquestionable: as is, consequently, the need for direct intervention in this area. Mediterranean policy, *inter alia*, should state that its view of regional planning is based on the environmental situation of the region in question, transferring environmental impact criteria as currently applied to individual projects onto a regional scale. An enormous know-how gap exists in the MNC in this respect: horizontal cooperation could fill it. The Commission's recent Communication on the future of regional planning in

the Community⁽¹⁾ [see relevant Committee Opinion⁽²⁾] could constitute a bench-mark in this sphere. The Committee therefore calls upon the Council to replace 'Cooperation on the environment' with 'Cooperation on the environment and regional planning', together with the concomitant effect on the identification of operations and priorities.

5.5.4. Apart from this call to include regional planning with environmental cooperation, the Committee supports the Commission's decision to use Community budget funds for two types of measure: (a) measures having a 'knock on' effect, such as pilot or demonstration projects and training schemes; and (b) 3% interest rate subsidies on EIB own-resource loans for investment purposes, granted outside the framework of the financial protocols. It also supports the proposal contained in the abovementioned Commission Communication, and repeated in the Council guidelines, to assign responsibility for funding feasibility studies and technical assistance operations, including the implementation of legislative, administrative and supervisory instruments, to the Medspa programme, in liaison with other multilateral instruments (e.g. METAP). The Committee recommends that the comments on this question made in its Opinion on the Medspa programme⁽³⁾ be taken into account.

5.5.5. EIB loans do not figure in the Regulation, but constitute the second aspect of horizontal cooperation on the environment. The resources allocated (ECU 300 million over five years) may be derisory, but the priorities for action set out by the Commission in its Communication of June 1990 and repeated in the Council guidelines cannot be faulted: water purification, recycling of used water, industrial and municipal waste. This downstream action is both essential and urgently needed. The Committee consequently appeals to the Council to provide the EIB with far greater resources in order to take action of more ambitious scope.

5.6. Implementation procedures (Art. 4, 5 and 6)

5.6.1. The draft Regulation makes the Commission responsible for making decisions on funding, but its options are subject to a procedure largely based on the well-known Council Decision of 13 July 1987 on comitology⁽⁴⁾. As well as repeating its disapproval of

(1) Doc. COM(90) 547 final.

(2) Doc. ESC 1127/91.

(3) OJ No C 332, 31. 12. 1990.

(4) OJ No L 197, 18. 7. 1987.

a procedure which essentially authorizes a committee of national civil servants to take executive powers away from the Commission and give them to the Council, the Committee expresses strong reservations concerning the lack of real involvement by the Parliament and Economic and Social Committee in the choices for horizontal financial cooperation.

5.6.1.1. This does not mean that such involvement should stand in the way of flexible and speedy management by the Commission, or that its executive powers should be further restricted. Our demand is simply that the Community's democratically representative and consultative bodies should have an official part to play in defining objectives and programmes for horizontal financial cooperation, which makes up nearly a half of all Community Mediterranean policy.

5.6.1.2. In addition to the information which, under Article 6 of the draft Regulation, the Commission must give annually to the European Parliament and the Council—and on which we insist the Committee should be consulted—the Council is therefore asked to arrange for the Commission to draw up a five-year indicative programme, accompanied by the appropriate financial powers, to be submitted to the Parliament and the ESC.

6. The recommendations for Council decisions on the conclusion of certain financial protocols

6.1. On 3 May 1991 the Commission presented two recommendations for Council Decisions⁽¹⁾, one on the conclusion of the protocols on financial and technical cooperation between the European Economic Community and the Arab Republic of Egypt, the People's Democratic Republic of Algeria, the Kingdom of Morocco and the Republic of Tunisia, and the other on the conclusion of the protocol on financial cooperation with the State of Israel⁽²⁾. The five protocols have already been initialled.

6.2. The initialled protocols adhere strictly to the directives laid down by the Council on 18-19 December 1990: the critical comments made in 4.2.2 also apply here. The text of the protocols is identical to that of 1988, with only a few variations. Changes to the protocols with the Maghreb countries and Egypt cover level

of funding, introduction of environmental cooperation, removal of regional cooperation (transferred to horizontal cooperation) and the introduction of a new article on support for economic reform which reproduces the wording of the Council directives. The only change to the text of the third protocol with Israel is in the amount of funding provided through EIB loans.

6.3. The amount of Community finance earmarked for the five protocols⁽³⁾ reflects the cutbacks contained in the Council decisions of 118-19 December 1990 (see 4.1). The increase over the 1988 protocols, for the Maghreb countries and Egypt together, is 33% (from ECU 1 236 to 1 640 million⁽⁴⁾). The 1988 increase over the previous protocols for the same countries was 61%. While this time the emphasis has been on horizontal cooperation, the present increase is without doubt insufficient even to retain at present levels per capita assistance in relation to population growth. An even grimmer picture emerges when this 33% increase is compared with the increases of 37% in EIB loans (from ECU 714 to 978 million) and 27% in Community budget funds (from ECU 522 to 622 million).

6.4. Under allocations via budget funds under the protocols with the Maghreb countries and Egypt, non-repayable aid has only been increased by 20% (ECU 490 to 588 million), whereas contributions to the formation of risk capital have risen by 130% (ECU 32 to 74 million). The Committee, in principle, agrees with stepping up this type of operation, but a critical forward assessment by the EIB of this relatively new measure, only introduced with the 1988 protocols, would have been advisable. The Committee repeats its earlier request for this to be done, and calls upon the EIB and the Commission to submit a report on the use of funding for this purpose and its impact on production in the countries concerned. Furthermore, the Committee reiterates its proposal to set up a rotating fund to grant and manage such contributions.

6.5. A degree of readjustment has occurred in the distribution of funds between the four abovementioned

⁽¹⁾ Doc. SEC(91) 814 final.

⁽²⁾ Two distinct Decisions are required for these protocols, that with Israel differing in nature from the others. As in the past, the protocol with Israel provides for financial cooperation only, exclusively through EIB loans. It should be pointed out, however, that the Community has for some time been carrying out significant industrial, technical and scientific cooperation activities with Israel, on the basis of the 1975 Cooperation Agreement, although Israel receives no Community funding for this purpose.

⁽³⁾ The total amounts in ECU millions for the five protocols are as follows: Egypt 568, Algeria 350, Morocco 438, Tunisia 284, Israel 82.

⁽⁴⁾ For Israel, the increase in comparison with the preceding protocol is 30%.

countries to the advantage of Algeria⁽¹⁾, which was to a degree penalized in the previous protocol. This relative redistribution has been effected, however, by a larger increase in contributions to the formation of risk capital⁽²⁾ and EIB loans⁽³⁾ rather than non-repayable aid—for which, despite inflation, the same amount has been set aside as under the third protocol (ECU 52 million)⁽⁴⁾. Of the four countries, Algeria continues to receive the smallest share of Community budget funds (i.e. non-repayable aid plus contributions to formation of risk capital)⁽⁵⁾.

6.6. The Committee would take this opportunity to urge that the protocols be implemented in a more timely, flexible and effective manner than their predecessors, reflecting the criticism made by the Court of Auditors in its abovementioned report. In particular, the Committee shares the Court's opinion on the inadequacy of monitoring and assessment of Commission operations, and calls upon the Committee to take the appropriate steps. The monitoring, supervisory and assessment arrangements applicable to aid from the Community's structural funds can serve as a suitable model, for instance as regards involvement of the social partners.

7. The Commission Communication on trade arrangements and the draft regulation on import of certain agricultural products

7.1. On 22 May 1991 the Commission presented its Communication to the Council on the implementation of trade arrangements under the new Mediterranean policy⁽⁶⁾.

7.1.1. The Proposal for a Council Regulation (EEC) amending the arrangements for import into the Com-

munity of certain agricultural products originating in Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Syria, Tunisia and Yugoslavia was attached to the Communication.

7.1.2. The Communication embodies the content of the Council and Commission Resolution on the matter, adopted on 18-19 December 1990. It addresses three questions:

- a) the import of agricultural products, fleshing out the draft Regulation (EEC);
- b) the import of textile products;
- c) origin rules.

7.2. *The draft Regulation (EEC) on the import of certain agricultural products*

7.2.1. The purpose of the draft Regulation (EEC) is to improve, independently, the preferential arrangements for the import of agricultural products set up under the 1987 protocols, which accompanied the association or cooperation agreements with the MNC. Under the terms of the abovementioned Resolution, this improve is to be achieved with two types of measure:

- a) the bringing forward of tariff dismantling, scheduled for 31 December 1995 at the latest, to 1 January 1993;
- b) an increase of 5% (or 3% for certain sensitive products) for each year between 1992 and 1995 in the tariff quotas and reference quotas.

7.2.1.1. The proposed measures apply to all MNC except Turkey, which already benefits from full tariff exemption, as the customs union with the Community provided for in the additional protocol of 23 November 1970 is already in force.

7.2.2. The Committee notes, firstly, that the measures indicated by the Council go beyond the proposals contained in the Commission communication of 1 June 1990, which simply reaffirmed the importance attached to the maintenance of traditional trade flows in accordance with the steps set out in the additional protocols and stated that 'The Commission does not consider it advisable to make any new proposals in the immediate future.' It also undertook to submit a detailed assessment of the matter to the Council by the end of 1994. The Commission did not rule out the possibility of making a number of minor changes in the meantime, but only at the request of the MNC.

7.2.3. The Committee would raise an objection of principle to the measures indicated by the Council, and formally proposed by the Commission in its proposal for a Regulation, emphasizing its opposition to a Mediterranean policy approach which concentrates on the opening up of Community markets without a serious effort, financial and otherwise, to implement a real policy of co-development. The Committee has already stated on previous occasions its objections to the total dismantling of barriers to imports of MNC

⁽¹⁾ The increase in total funding under the fourth protocol with Algeria is of 46%, compared with 35% for Morocco, 27% for Tunisia and 26% for Egypt. However, Algeria still receives a lower level of funding (21% of the total for the four countries) than Egypt (35%) and Morocco (27%).

⁽²⁾ Contributions to the formation of risk capital for Algeria have more than quadrupled, rising from ECU 4 to 18 million. It is worth pointing out that in the previous protocols, under the same item, Tunisia received ECU 6 million (now up to 15 million), Morocco ECU 11 million (now 25) and Egypt ECU 11 million (now 16).

⁽³⁾ Egypt and Algeria continue to receive the largest shares of EIB loan funds: Egypt ECU 568 million (representing 32% of the total for the four countries), Algeria ECU 280 million (29%), Morocco ECU 220 million (22%) and Tunisia ECU 168 million (17%).

⁽⁴⁾ While Tunisia and Morocco retain virtually unaltered shares of non-repayable aid for the four countries (17% and 33% respectively), Egypt's share has increased (up from 39 to 41%) and Algeria's has fallen (down from 11 to 9%).

⁽⁵⁾ Budget funds are distributed as follows: Egypt ECU 258 million, Algeria ECU 70 million, Morocco ECU 218 million, Tunisia ECU 116 million. The percentage share of each of the four countries remains virtually the same as in 1988.

⁽⁶⁾ Doc. COM(91) 179 final.

agricultural products. This opposition is not prompted by blind protectionism but by the awareness that, without a commitment to reshaping agriculture and industry on a Mediterranean-wide scale and without parallel reform of the CAP, to press ahead with a purely mechanical policy of progressively permitting the import of agricultural products from the MNC will only exacerbate the existing competition with the Community's Mediterranean regions, while still failing to satisfy fully the MNC's export demands.

7.2.4. While the Committee's stance is one of principle, it notes that the proposed measures would in practice have little significant effect in terms of actual opening up of Community markets. Despite introducing a further dismantling of customs barriers, they would not substantially change existing levels of Community protection. This emerges clearly from careful examination of the two types of measure proposed.

7.2.5. The acceleration of tariff dismantling will have a negligible impact on the market situation, for two reasons:

- a) the dismantling process already under way, in parallel with that concerning Spain and Portugal, itself started out from considerable tariff reductions. By 1993, consequently, tariff quotas will be so low as to be virtually meaningless⁽¹⁾;
- b) the customs system is of only symbolic importance in determining the actual conditions of entry into Community markets.

7.2.6. For the same reasons, the second type of measure, increased tariff quotas and reference quantities, cannot have a major impact⁽²⁾.

7.2.6.1. In support of this analysis, it may be pointed out that the quantities of most of the products in questions exported under preferential arrangements fall well below the tariff quotas and reference quantities.

7.2.6.1.1. This also applies to the majority of sensitive products, where greater concern exists over competition with Community products: early potatoes, tomatoes, mandarines, tangerines and wine⁽³⁾. It is certainly not true, however, of oranges, orange juice and cut flowers, where imports often exceed tariff quotas⁽⁴⁾. Nevertheless, the tariff quotas for these products, calculated on the basis of 1980-1984 imports, are actually quite low. For oranges and orange juice, we would refer to the comments made in the report on Mediterranean policy accompanying the 1989 ESC Opinion (paragraph 5.2): the years taken as the basis for determining the traditional export flows were marked, for various reasons, by a slowing down of exports. The tariff quotas for flowers, calculated on the basis of 1980-1989 exports, reflect export volumes determined according to the ordinary customs system, because flowers were only covered by the preferential arrangements from the 1987/1988 additional protocols onwards.

7.2.6.2. It thus clearly emerges that the proposed measures should not cause excessive concern over their impact on sales of the corresponding Community agricultural produce. In fact, the amounts of MNC agricultural produce effectively entering the Community under the preferential arrangements are not currently such as to represent serious competition for Community Mediterranean agricultural produce. Such concerns would be better directed elsewhere in light of the fact, for example, that the United States and Brazil export to our markets quantities of oranges and orange juice equivalent to the Community's entire orange crop.

7.2.6.3. The Committee must, however, point out that the Commission has not thus far clearly and effect-

⁽¹⁾ Even before the additional protocol, the MNC enjoyed significant tariff reductions: e.g. 80% for citrus fruit and 60% for tomatoes from the Maghreb countries. Since the relevant Community tariffs [Common Customs Tariffs (CCT)] are 20% and 11% respectively, dismantling pertains to a customs tariff of 4% for citrus fruit and 4,4% for tomatoes.

⁽²⁾ Examples of MNC agricultural produce, the import of which under the preferential arrangement is restricted by tariff quotas and seasonal restrictions: early potatoes, Morocco, Tunisia, Egypt—1 January to 31 March; tomatoes, Morocco—1 January to 30 April; carrots, Cyprus—1 April to 15 May; artichokes, Egypt and Cyprus—1 October to 31 December; kiwis, Morocco, Israel, Cyprus—1 January to 30 April.

⁽³⁾ Some examples of imports over the 1988/1989/1990 period: early potatoes, Egypt—Tariff quota 98 000 tonnes; imports 47 854, 53 531, 86 940 tonnes. Tomatoes, Morocco—tariff quota 86 000 tonnes; imports 50 205, 64 487, 59 000 tonnes. Mandarines and tangerines, Morocco—tariff quota 110 000; imports 78 696, 64 515, 75 666 tonnes. Bottled wines, Algeria—tariff quota 200 000 hl; imports (1989) 63 538 hl. Unbottled wine, Tunisia—tariff quota 160 000 hl; imports (1988) 6 961 hl.

⁽⁴⁾ E.g. oranges, Morocco—tariff quota 265 000 tonnes; imports 912 476, 337 184, 251 560. Orange juice, Israel—tariff quota 82 700 (translator's note: unit missing); imports 112 246, 124 542, 134 397. Flowers, Israel—tariff quota 17 000 tonnes; imports 19 723, 18 666, 20 786.

ively acknowledged the aim of helping farmers and industrialists, together with other interested parties (in marketing, R & D, etc.), from Community Mediterranean regions to benefit from the preferential arrangements granted to the MNC, by promoting initiatives designed to enhance Euro-Mediterranean complementarity in the agricultural and industrial sectors.

7.2.6.4. In the light of the above comments, the Committee—while maintaining its reservations as to the principle as explained in 7.2.3—support the adoption of the draft Regulation under examination.

7.3. *Import of textile products*

7.3.1. The Resolution of 18-19 December laid down that the gradual return to a free access system for textile products from Morocco, Tunisia and Egypt would have to be negotiated by the Commission in line with the outcome of the Uruguay Round talks, thereby adopting the proposal included by the Commission in its communication of 1 June (which, however, concerned all the MNC). The present Communication of 22 May 1991, basing itself on the Resolution, notes that the negotiations of the General Agreement on Tariffs and Trade (GATT) are not yet complete and concludes that it cannot yet make any relevant proposals, postponing any initiative to restore full access until the Uruguay Round has been concluded.

7.3.2. The Committee does not agree with this stance, which could be interpreted as a figleaf. There is in fact no apparent major obstacle to negotiating a new import system, independently of Uruguay Round progress, under which a progressive return to full access would be counterbalanced by binding guarantees by the MNC with regard to dumping, export credits, counterfeiting, social dumping etc., as proposed by the Committee in its 1989 Opinion (see 9.13)—particularly since the Council and the Commission point to independent negotiations for Turkey, Malta and Yugoslavia.

7.3.3. The Committee therefore asks the Commission to launch negotiations with the MNC concerned for a progressive restoration of free access to the Community for their textile products.

7.4. *Origin rules*

7.4.1. The Committee notes the progress made by the Commission in improving regulations and procedures for origin rules, and awaits the final results of the examination being carried out by the Commission on this question.

8. Conclusions

8.1. The Committee's consideration of the preparation, decision and launching of the new Mediterranean policy firstly leads it to disagree with the method applied in this process.

8.1.1. The proposals for regulations constituting and implementing the new Mediterranean policy (examined in paragraphs 5, 6 and 7 of this Opinion) reflect the fact that the Commission has had to follow the Council's guidelines to the letter. It should be stressed that these were not simply policy framework guidelines: what the Council actually did was to issue the Commission with binding, detailed orders on the proposal which it was to present. This way of operating would appear to be damaging to the Commission's institutional role as proposer.

8.1.2. It is true that these Council guidelines were negotiated down to the last detail within the Council's group on the Mediterranean (in which the Commission is represented), on the basis of the Commission's Communication of 1 June. The question then arises, however, as to whether this way of putting forward concrete political proposals through communications, rather than directly by means of proposals for regulations, does not restrict discussion to two institutions only, the Council and the Commission, thereby excluding the democratic representative and consultative organs represented by the European Parliament and the Economic and Social Committee. Here lies our second reservation concerning the methods employed: the European Parliament and the ESC have been completely left out of the entire process of preparing, finalizing and deciding upon Mediterranean policy.

8.1.3. The Committee is obliged to express its great displeasure that, despite its repeated requests to the Commission and the Council, in earlier Opinions, to be involved, it was not consulted on either the Communication from the Commission or the proposals for regulations (EEC) recently submitted to the Council. How long does the Council intend to carry on as if development cooperation questions in connection with third countries—particularly those which are the Community's neighbours—have nothing to do with the Community's economic and social life, and therefore can ignore the opinion of the body which represents the Community's economic and social interest groups? When will the Council understand that if it wishes to support the growth of democracy in the MNC, without overlooking the question of economic democracy, it must take account of the role of the Community's economic and social forces—and first and foremost the institution which gives voice to them.

8.2. The present Opinion makes many critical comments and suggestions for changes to the draft regulations presented by the Commission. The Committee asks the Council to accept them, making substantial changes to the Commission proposals (or, to be more precise, the Council guidelines on which the proposals have been drawn up).

8.3. Independently of the requested review of Council decisions on funding for horizontal cooperation, the Committee calls upon the budgetary authority to take account of the observations made in this Opinion and to increase these amounts significantly when deciding upon non-obligatory expenditure under the Community's annual budget.

8.4. In addition to the points made in the above paragraphs, the Committee wishes to highlight a number of factors to which it attaches particular importance concerning the implementation of the new Mediterranean policy.

8.4.1. Structural adjustment

8.4.1.1. Even within the tight limits established by Article 4 of the bilateral financial protocols with the Maghreb and Mashreq countries, the Committee considers that the Commission could provide support for economic reform which is less dependent on the Bretton Woods institutions, and calls upon it to do all it can in this direction. Within the Commission, activities could perhaps be better coordinated and resources rationalized for operations in this area; for example by setting up a joint DG I and DG VIII task force, the latter being more involved in structural adjustment for the ACP States.

8.4.2. MNC external debt

8.4.2.1. The Committee strongly urges the Commission and the Council to fill the void left by the absence of any proposals on this question in the context of the new Mediterranean policy. Firstly, we would repeat the proposal made in the 1990 ESC Additional Opinion, concerning an international plan for regulating debt and structural adjustment in the MNC, to be discussed at the various international bodies, centred on an IMF programme and geared to the special needs and features of each country, but basically designed for the MNC in general. Secondly, the Community should coordinate strategy between Member States in the international bodies where the debt problem is discussed.

With regard to the question of official credits—starting with those from Member States—the Committee supports the proposal made by the Tunisian Government for reconversion into social, environmental and human resource development expenditure, accompanied by counterpart funds in national currency. Thirdly, the Community could extend to MNC experiencing grave difficulties some of the measures already tested in some Central and East European countries, consisting of guaranteed loans to support the balance of payments. These are measures which could not be applied across the board, and whose impact on the Community budget would have to be kept under strict supervision.

8.4.3. Development agreements

8.4.3.1. The Committee considers that an opportunity now exists, regarding both the bilateral protocols and horizontal financial cooperation, to conclude a number of cooperation agreements—at least on an experimental basis—along the lines proposed for some time by the Committee. The Commission is therefore invited to take the appropriate steps. Such agreements—which would be concluded between the Community and one or more MNC, plus other public (Community, national and local) and private bodies on each side—should be designed to implement action in the framework of development programmes providing for a coherent series of development project (possibly integrated, extending to both MNC and Community countries) of commercial and financial scope, starting with training and technical assistance.

8.4.4. The social dimension

8.4.4.1. The Committee strongly recommends the Commission to commit itself to developing the social dimension of the new Mediterranean policy. This aim, which could be pursued even within the limits of Mediterranean policy as described in the present Opinion, should set out to:

- place employment at the centre of economic and production policy,
- emphasize enhancement of human resources, particularly through training,
- prevent disparities in social and working conditions from exceeding the thresholds represented by the fundamental social rights of workers. To this end, the Commission is asked to draw up a social proto-

col, applicable to all MNC, embodying the social principles referred to in 4.2.2.5 above,

- view migration from the MNC to the Community as a phenomenon which must be accepted for a considerable period of time, and therefore to develop appropriate policies to that end. The time seems ripe to call for the conclusion of an agreement between the Community and all MNC setting out joint undertakings to curb migration pressure and regulate and control flows,
- build up a modern labour relations system throughout the Mediterranean basin,
- promote the involvement of social and economic interest groups in the implementation of Mediterranean policy at all levels: local, regional, national and Community.

8.4.5. Social and economic dialogue

8.4.5.1. In order to achieve the objectives set out in 8.4.4 above and to support the creation of real economic democracy in the MNC, the Commission should promote an ambitious action programme to establish and foster a permanent dialogue between MNC and Community economic and social interest groups, using available horizontal cooperation resources. It should also make a determined effort to achieve the objective set out in its Communication of 1 June 1990, to place exchange of information and dialogue on economic, social, cultural and political questions of common interest at the centre of cooperation with the MNC. Moves could also be made, in this context, to set up the Mediterranean Forum, long advocated by the Committee. The Committee reaffirms its willingness to perform a leading part in establishing such a dialogue.

8.4.6. New institutions

8.4.6.1. The Committee—renewing its requests to the Commission and the Council to take specific steps to prepare the way for an overall convention (or treaty) with all the MNC—recommends that the European Parliament take urgent measures to set up a Mediter-

anean Cooperation Council (or a similar body), the basis for which has already been laid down by Parliament in previous years.

8.5. Lastly, the Committee is aware of the need to incorporate Mediterranean policy appropriately into a new EC external policy taking account of changes on the international scene and the more dynamic role required of the Community in this context. However, it warns against any strategy that would downplay the Community's role in the Mediterranean area on account of its indisputable new responsibilities to Central and Eastern Europe.

8.5.1. The transformed situation in Eastern Europe does not detract from the importance of the Mediterranean question for the Community, which has a vital interest in balanced economic and social development in that area. First and foremost, priority must be given to ensuring peace, political stability and democracy in the Mediterranean and dispelling the economic and social tensions which continue to make it one of the world's most turbulent regions.

8.5.2. Secondly, the Community is as concerned as ever to reduce MNC immigration, which cannot be obscured by the equally heavy pressure from Eastern Europe.

8.5.3. Failure to take instant steps to tackle the Mediterranean problem could result in the build-up of many different problems that would impede the Community from playing a positive role in assisting Eastern Europe.

8.5.4. The only realistic approach to the problems generated by the new international scene is not to view the Community's commitments to the East and to the South as incompatible but to frame a comprehensive strategy enabling the South to contribute towards the determination of a new international economic order. The Mediterranean Basin cannot remain apart but must participate fully in the epic venture on which the Community is embarking for the development and stabilization of the Eastern European countries.

Done at Brussels, 27 October 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDELIN

Opinion on:

- the proposal for a Council Directive amending Directive 80/217/EEC introducing Community measures for the control of classical swine fever,
- the proposal for a Council Decision amending Directive 80/1095/EEC and Decision 80/1096/EEC as regards certain measures relating to classical swine fever,
- the proposal for a Council Directive amending Directives 64/432/EEC, 72/461/EEC and 80/215/EEC as regards certain measures relating to classical swine fever, and
- the proposal for a Council Directive amending Directive 72/462/EEC on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat or meat products from third countries⁽¹⁾

(92/C 40/20)

On 2 September 1991 the Council of the European Communities decided to consult the Economic and Social Committee, under Article 198 of the EEC Treaty, on the abovementioned proposals.

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

At its 291st plenary session (meeting of 28 November 1991), the Economic and Social Committee adopted the following Opinion unanimously.

1. General comments

1.1. Subject to the following comments, the Economic and Social Committee endorses the above proposals as a logical adjustment of veterinary legislation to the Single Market:

- The proposed control and eradication measures are appropriate, provided that they are fully implemented and observed.
- For this area, Regulations (rather than Directives) would be an appropriate solution in future.
- In view of the success of previous classical swine fever eradication and control programmes, they must be pursued and endowed with the appropriate resources. The Committee would like the Commission and the Standing Veterinary Committee to examine the causes of the flare-up in the number of cases in two Member States in 1990, despite already existing measures.
- Feral pigs and wild boar, along with use of undisinfected swill for pigfood, are particular hazards which must be curbed.
- For both EC consumers and trade with non-EC countries, it is important to ensure that EC veterinary regulations are constantly improved.

- The 1 January 1992 deadline is unrealistic.

2. Specific comments (amendment to Directive 80/217/EEC regarding the control of classical swine fever)

2.1. Article 2(d): The term 'undue' must be clarified. Pigs should not normally be kept at a slaughterhouse for more than eight hours before slaughter.

2.2. New Article 6(a)(1): In the event of an outbreak the prescribed control and eradication measures must be implemented immediately—by the competent local authorities—without waiting for Commission approval of the eradication plan [*cf.* Art. 6(a)(3)].

2.3. New Article 6(a)(2)(d): The disinfection methods and procedures should be determined by the competent veterinary authority.

2.4. New Article 6(a)(5)(a) first indent (geographical distribution): add 'spread and frequency'.

2.5. New Article 6(a)(5)(e): hunting licences: Amend to read: 'increased hunting and the issue of the requisite licences'.

⁽¹⁾ OJ No C 226, 31. 8. 1991, p. 6, 19, 20.

2.6. Article 8(2): Reference should be made to the existing rules which require infected pigs to be transported in closed, sealed vehicles.

2.7. Article 9(4)(a): The deadline should be tightened up. Amend to read: 'These holdings shall be visited by a veterinary official as soon as possible, within seven days at the latest.'

2.8. Article 9(4)(f)(i): It must be clearly stated who is responsible for the prescribed inspections, e.g. the competent veterinary authority.

2.9. Article 14: Add the following:

'Breeding animals for export should preferably be vaccinated in the country of purchase. The Standing Veterinary Committee may however grant dispensations in special cases.'

2.10. Article 14(1)(b): The laboratories indicated must be approved by the veterinary authorities.

3. **Specific comments** (amendment to Directive 72/462/EEC)

3.1. **New Article 6(6):** Why are the requirements in respect of meat and pigs from non-EC countries more lenient? Non-EC imports should be subject to the same rules as EC products.

Done at Brussels, 28 November 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDLIN

Opinion on the proposal for a Council Recommendation on Child care⁽¹⁾

(92/C 40/21)

On 10 September 1991 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Social, Family, Educational and Cultural Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 14 November 1991. The Rapporteur was Mrs Guillaume.

At its 291st plenary session (meeting of 28 November 1991) the Economic and Social Committee adopted the following Opinion by a majority vote with one abstention.

The Committee fully endorses the Recommendation on Childcare as a means of increasing equality of opportunity between women and men in employment.

1. General comments

1.1. The Committee believes that the adequate provision of good quality childcare is an essential prerequi-

site for achieving greater equality of opportunity between women and men in employment. 'Good quality childcare' must mean that which is conducive to the welfare and development of the child. Throughout the Member States women currently bear the principal responsibility for the care and upbringing of children, with serious long-term consequences for their position in the labour market relative to men, in terms of the likelihood of their being in employment, their occupational status and their lifetime earnings.

⁽¹⁾ OJ No C 242, 17. 9. 1991, p. 3.

1.2. The Committee believes that the restriction of women's employment opportunities because of a lack of adequate childcare provision results in a serious underutilization of women's skills and abilities, with detrimental consequences to individual women, their families and to national economies. Better childcare provision would enable skilled and experienced employees to remain in employment. Inequalities between levels of childcare provision between Member States may also restrict mobility of labour within the EC after 1992.

1.3. Demographic pressures, as well as women's own wish and need to undertake paid work, have resulted in an increase in mothers' employment during the 1980s, but their opportunities within the labour market are seriously restricted by the lack of adequate childcare facilities. Two demographic trends indicate that there is likely to be increasing pressure on women with children to undertake paid employment. The first is the fall in the birth rate, which has happened to varying extents in all Member States, and is resulting in labour shortages, albeit temporarily offset by the current economic recession. The second is the increase in marital breakdown and the increase in the number of families headed by lone parents, the overwhelming majority of whom are lone mothers.

1.4. While the Committee believes that parents should be free to choose whether to care for their children themselves at home or enter paid employment, the current lack of childcare provision is such as to create substantial obstacles to women re-entering paid employment after having a child and choice is therefore weighted against maternal employment. The Committee wishes to record its recognition of the value to children and parents of parental care during the early years of a child's life, and restate its commitment to the provision of appropriate leave arrangements, in order that parents taking a break from employment for this purpose do not suffer any detriment in the labour market⁽¹⁾.

1.5. There is clear evidence from a variety of sources that in all Member States the demand for childcare provision, in its broadest sense, including both services and leave provision substantially exceeds supply.

1.6. There is a substantial body of research evidence to show that good quality group care for young children provides them with positive educational and social advantages and it is therefore beneficial to children as well as increasing women's employment and training opportunities.

1.7. The Committee endorses the Recommendation's broad approach to childcare, encompassing both the provision of services and the provision of leave and flexible working arrangements to enable parents to fulfil their wish to care for their children themselves.

1.8. The Committee wishes to emphasize that, because of the mismatch between working hours and school hours, an increase in good quality out-of-school provision is as important as increasing good quality pre-school provision, in terms of improving women's opportunities in the labour market. Children who have to be left unsupervised outside school hours are at risk in a variety of ways and anxiety about out-of-school arrangements places working parents under considerable stress.

1.9. The Committee welcomes the Recommendation's emphasis on the necessity for, and desirability of, a diversity of forms of provision of pre-school and out-of-school care. The variety of current arrangements for childcare in the Member States has been documented, as comprehensively as existing sources of information allow, by the EC Childcare network⁽²⁾.

1.10. The Committee sees the issue of the quality of childcare services as of fundamental importance, if an expansion of services is to increase women's access to employment. The question of quality of services has already been the subject of a seminar of the EC Childcare Network⁽³⁾, as a result of which it was recommended that further work should be undertaken in this area. It was also recommended that where structural funds are used for funding childcare services or related projects in pursuit of the fund's objectives, quality should be an essential criterion. The Committee supports both these proposals.

2. Specific comments

2.1. The Committee wishes to amend Article 2.1 to read 'care for children up to at least the age of 10 while parents...'

2.2. Article 3(a)

2.2.1. The Committee endorses the conditions specified as a requirement for ensuring equal access to all

⁽²⁾ See, for example, Moss, Peter (1988), *Childcare and Equality of Opportunity*, Brussels, Commission of the European Communities; Moss, Peter (1990), 'Childcare in the European Communities 1985-1990', *Women of Europe Supplement* No 31, Brussels, Commission of the European Communities.

⁽³⁾ European Commission Childcare Network, 1990, *Quality in Childcare Services: Report on an EC Childcare Technical Seminar*, Brussels, Commission of the European Communities.

⁽¹⁾ OJ No C 206, 6. 8. 1984, point 2.5.

parents, and in particular the approach to childcare which sees care and education as joint functions of any provision. It believes that the needs of children of migrant and ethnic minority families should be given explicit consideration in Article 3(a), but in a way which does not lead to further isolation of minority groups.

2.3. Article 3(b)

2.3.1. The Committee would like to see greater emphasis given to the need for a comprehensive and coherent national policy for service provision. While flexibility and diversity are to be encouraged, an overall national perspective and national structures are needed in order to ensure coherence of services and regional equality.

2.4. Article 3(e)

2.4.1. The Committee fully supports the Recommendation's insistence on the essential role of public funding in the provision of childcare services. Childcare is necessarily highly labour intensive, particularly for the youngest age-groups of children. It is, therefore, expensive if childcare workers receive a level of remuneration commensurate with the importance of the work they are doing, with the result that it is beyond the means of most individual employees. Public funding in Member States currently takes a variety of forms, including both tax relief for childcare and direct public subsidy of provision. While in some Member States workplace nurseries may have a role to play, this is clearly only an option for larger enterprises. For the majority of employees who work in small and medium-sized enterprises, other forms of provision need to be developed. Lone parents and individuals undertaking vocational education or training/re-training prior to taking up employment, are particularly disadvantaged where the level of public funding for provision is low.

2.5. The Committee would like to add to Article 3:

'(f) examine the question of quality of services both within public and private (market) provision, with the objective of defining a minimum standard of care, covering issues such as staffing ratios, training requirements for childcare workers and health and safety standards. The implementation and monitoring of these standards should be the responsibility of public authorities.'

2.6. Article 5(b)

2.6.1. The Committee recognizes that the employment conditions of workers in childcare services make an essential contribution to the quality of the service. It therefore believes that it is very important that, where necessary, employment conditions in childcare occupations are improved and that the status of these occupations is raised, thereby giving recognition to the social importance of the work. Childcare occupations are currently predominantly female, and tend to be regarded as relatively unskilled.

2.7. Article 6

2.7.1. The Committee emphasizes the importance of ensuring that measures designed to facilitate working parents caring for their own children are in practice accessible to men as well as to women. The Committee recognizes the importance of increased participation by men in caring for their children and sees this primarily as a cultural problem which will be resolved by education and changing attitudes, helped perhaps by the removal of financial disincentives.

2.8. Article 7

2.8.1. The Committee wishes to see added at the end:

'The Commission's report on the measures taken shall be passed to the Economic and Social Committee and to the European Parliament.'

2.9. The reports of the EC Childcare Network, which have provided a wealth of extremely valuable information on the situation in Member States, make it clear that there are major gaps in the information available in the Member States on childcare services and their use. The Committee would like to see the addition of an Article as follows:

'It is recommended that Member States take action to improve the information available on childcare provision, both public and private, and the use of services by children and parents.'

2.9.1. The Committee would also like to see questions on childcare arrangements and the use of childcare facilities introduced into the European Labour Force Survey to facilitate the regular gathering of information on this subject across all Member States.

3. Conclusions

3.1. The Committee fully endorses the Recommendation, subject to the proposed minor amendments. It welcomes the proposal in the Third Action Programme on Equal Opportunities that the Recommendation should be followed by the development of a Code of Good Practice on Childcare. The review of measures

taken by Member States to give effect to the Recommendation will provide a valuable opportunity to consider what further action at a Community level is necessary. The Committee would like to see adequate funding made available for further research into the situation in the Member States, so that the review of measures taken is conducted with the benefit of adequate information.

Done at Brussels, 28 November 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDLIN

Opinion on the proposal for a Council Recommendation on the convergence of social protection objectives and policies

(92/C 40/22)

On 12 August 1991 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Social, Family, Educational and Cultural Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 14 November 1991. The Rapporteur was Mr Pasquali.

At its 291st plenary session (meeting of 28 November 1991), the Economic and Social Committee adopted the following Opinion by a majority vote, with 12 abstentions.

1. Introduction

1.1. Understanding of the term 'social protection', encompassing social security, is not uniform: there is no single definition either internationally or within the Community⁽¹⁾.

1.2. Deeply rooted and distinctive historical and cultural traditions, together with financial, economic and administrative structures which vary from country to country, have militated against the development of a single approach to the question.

1.3. Established Community practice, however, based on the prevailing concept of 'Sozial Versicherung und Versorgungssysteme' (social security and social protection systems) is to consider social protection synonymous with social security in the broad sense⁽²⁾.

1.4. Social security should be interpreted as 'social cover' based on the principle of social cohesion and extended to any person, legally resident in the Community, when in need and justifiably requiring protection against certain risks.

⁽¹⁾ D. Pieters, *Introduction to the Social Security Law of the Member States of the European Community* (Pub. Bruylant, Brussels): '... The reader will know that even within his own system there is no general consensus of opinion with regard to the social security concept.'

⁽²⁾ See *Eur. Heft* 1989, p. 306—F. Ruland (in German).

1.5. Such protection, provided in the event of sickness, accident, maternity, unemployment, incapacity for work, old age and family problems, guarantees the resources required to maintain an adequate standard of living in order to prevent the social exclusion of those in question.

1.6. Social protection is intended to offset the risks set out above, and has been shaped by various international and Community agreements and Opinions⁽¹⁾.

1.7. Thus identified, social protection may be included among the elements of what is known as 'social policy', understood as 'the totality of measures for improving working and living conditions'⁽²⁾, set out in Articles 117 and 118 of the Treaty of Rome.

1.8. An inadequate legal basis⁽³⁾ is common to the areas covered by social policy, effective legislative action by the Community consequently proving impossible.

1.9. Within the framework of current primary Community law, the fact that social protection is not directly germane to the establishment of the Single Market—even though costs differ from Member State to Member State⁽⁴⁾—has pushed it to the margins of the European integration process.

1.10. It is this prevailing assessment⁽⁵⁾ which explains the wording of Articles 117 and 100 of the Treaty of Rome, preserving Member States' competence in this field⁽⁶⁾⁽⁷⁾.

⁽¹⁾ See, *inter alia*, International Labour Organization (ILO) Convention No 102; the Charter of the Fundamental Social Rights of Workers, adopted at Strasbourg on 9 December 1989; and the ESC Opinion of 22 February 1989 on fundamental rights.

⁽²⁾ A. Bleckmann, *Europarecht*, Teil III, p. 72, Pub. C. Heymanns.

⁽³⁾ *Inter alia* *ibid*, p. 730.

⁽⁴⁾ See H. Deleecq, 'La sécurité sociale face à l'Europe '92' *Droit social* No 2, February 1991.

⁽⁵⁾ Countered by another, identifying differing social charges as a factor of unfair competition among companies operating in the Single Market.

⁽⁶⁾ *EWGV Kommentar*, Jansen, 1, Grdlfg., XII/83: Comment (in German) on the Treaties establishing the European Communities: 'The result of the compromise is that Article 117, on its own, does not give the Community competence.'

⁽⁷⁾ The only binding EEC regulations concern those aspects of social security which impinge directly on the completion of the Single Market—Regulations (EEC) Nos 1408/71, 574/72 and 1612/68 on migrant workers and their families. Directives on equality of treatment between women and men, 75/117/EEC, 76/207/EEC, 79/7/EEC, 86/378/EEC and 86/613/EEC, are a separate matter.

2. Summary of the proposal

2.1. The proposed recommendation is based on a correct conception of social protection, understood in its broad sense of social security.

2.2. The proposal is for a recommendation, based on the principle of solidarity and intended to meet the need—growing with the run-up to the internal market—to provide social cover for persons legally resident in Community countries.

2.3. The level of diversity, which is a feature of social protection systems in the various countries, is such as to prevent the Commission introducing harmonization measures at this stage⁽⁸⁾.

2.4. Assuming a substantial degree of similarity in social protection problems in the various countries, the Commission proposes a suitably flexible and progressive convergence strategy, as part of a wider action programme implementing the Social Charter.

2.5. However, in view of the Treaty's failure to provide an adequate legal basis, the only instrument available to the Commission is a recommendation⁽⁹⁾.

2.6. The strategy, closely associated with economic policy developments in the Member States, provides for the definition of common objectives, subject to 'regular follow-up and evaluation'.

2.7. Each Member State, in the light of the evolution of its own economic and social problems, should ensure an adequate standard of living for the entire legally resident population, providing aid for those with insufficient resources, in order to avoid social exclusion and guarantee essential health care.

⁽⁸⁾ In support of this argument, see *inter alia* F. Ruland, *Eur Heft* 4-1989: (in German): '...that such a harmonization of the social security system is still neither desirable nor attainable...'

⁽⁹⁾ See *inter alia*: A. Beckmann, *ibid*: (in German): '...but the Member States remain responsible for social policy'; H. Deleecq, *ibid*: (in French): 'The Treaty does not provide a legal basis for Community intervention in the field of social security, except where directly related to economic integration'. As seen earlier, however, the latter possibility is ruled out by the wording of the Treaty of Rome's articles on social policy.

2.8. These social benefits must comply with the principles of equality of treatment and fairness.

2.9. More specifically, the Commission proposes the adoption of measures, particularly in the following areas: sickness, accident, maternity, unemployment, incapacity for work, old age and the family.

3. General comments

3.1. The Commission proposal, based on a most realistic overview of social policy, in the light of the Community's very limited scope and authority in this area, sets a minimum target.

3.2. A disparity between actual results and declarations of principle, in many cases couched in vague—if not contradictory—terms⁽¹⁾, has often characterized the Community's role in social questions.

3.3. The lack of proper legal instruments means that the Commission can do no more than make limited proposals, despite the importance of this area. The Committee has made its views abundantly clear on a number of occasions⁽²⁾.

4. Specific comments

4.1. While endorsing the declared principles, which seek to set common objectives in this field for the individual Member States, the Economic and Social Committee would point to the contradiction between certain of the statements made and the lack of specific indications of how to put them into practice.

4.2. In cases of sickness or accident (i.e. long-term incapacity for work) an allowance is proposed equal to a large part of previous earnings. Given that almost all the Member States already have a higher standard than this, it would be better to say: 'to provide workers who are off work because of illness or accident with an allowance in reasonable proportion to their previous

earnings, which shall at all events not be less than the minimum level of Social Welfare benefits laid down in the Member States'. The Recommendation should define the concept of incapacity for work more clearly. The definition should cover acquired incapacity, as well as congenital incapacity and existing invalidity and disablement.

4.2.1. In this context, it would be advisable to emphasize the need for appropriate social protection depending upon the risk involved, and to take proper account of the need for prevention.

4.3. With regard to maternity, the Committee feels it should be made clear that social protection should be interpreted as applying to necessary treatment at least before, during and after birth, for mothers⁽³⁾.

4.4. In emphasizing the importance of appropriate measures to guarantee social cover for the unemployed, the Economic and Social Committee would also stress that such persons must be able to receive vocational retraining and should also be covered for sickness and pension purposes.

4.5. It needs to be made clearer that the Section on 'Incapacity for work' is also meant to cover pre-existing invalidity or handicap, so as to avoid any overlap with 'Sickness or accident'.

4.6. The Committee feels that the Section entitled 'The elderly' should set a minimum pension level for the various Member States, kept in line with earnings trends or the cost of living.

4.6.1. The Commission's proposal to allow people to continue work beyond the minimum pensionable age if they wish is acceptable, but it must be implemented with every safeguard so as not to prejudice, in particular, young people seeking their first employment.

4.6.2. The Committee particularly welcomes the proposal contained in this paragraph to extend pension rights to those who have been obliged to give up work to take care of an elderly person or invalid or to bring up a child.

This measure accords due acknowledgement to those who carry out a useful social function, standing in for the State in the provision of the necessary care and associated costs.

Lastly, acquisition of retirement pension rights should be independent of the aim of 'eliminating obstacles to

⁽¹⁾ The terminology used in the well-established Community literature on the subject is inconsistent, using expressions such as social policy, security, protection, area, dialogue, cohesion, model, dimension, affairs, platform and base, to barely comprehensible effect.

⁽²⁾ In particular OJ No C 225, 10. 9. 1990, p. 44; OJ No C 191, 22. 7. 1991, p. 28; doc. ESC 270/89 on fundamental Community social rights; and Information Report ESC 225/87 on social aspects of the Internal Market.

⁽³⁾ OJ No C 41, 18. 2. 1991, p. 29.

mobility' as suggested in the text of the Commission proposal.

4.7. The proposals under the heading 'Family' should include measures to further children's education.

4.7.1. The expression 'most disadvantaged families' should be replaced by 'less advantaged families'.

4.7.2. The indents under this heading contain a number of phrases which, while in principle correct, are excessively vague and are unaccompanied by specific indications or measures.

5. Conclusions

5.1. The Economic and Social Committee endorses the proposal.

5.2. In particular, it endorses the overall strategy, based on a progressive programme, which seeks to bring the various Member State social protection policies in line with a set of common objectives.

5.3. The strategy appears, however, to be affected by a lack of dynamism, since insufficient account is taken of the rapid evolution of the Community and of the novel and far-reaching effects which Economic and Monetary Union and future political integration will have.

5.4. The forthcoming amendment of the Treaty should give greater prominence to social policy, and to social protection in particular. The Community institutions must be equipped with broader legal powers and more effective means with which to exercise them.

5.5. The Economic and Social Committee, which attaches great importance to this matter, calls for the necessary changes to be carried out swiftly, in furtherance of the objectives set by the Commission itself.

5.6. The number of migrant workers will probably increase once the internal market is completed⁽¹⁾.

5.7. The persistence of contrasting social protection systems may contribute to widespread distortion of competition.

5.8. The undeniably complex question of social protection must be viewed from a realistic and, most importantly, dynamic perspective, in line with the process of overall integration and without ruling out harmonization—in the sense of closer alignment of national schemes.

5.9. Otherwise, we will see the emergence of 'islands of national variation in a European legal area which is otherwise extensively harmonized'⁽²⁾.

5.10. This risk may be averted if social protection is seen not as a problem, a 'performance handicap' for Member States, but as an opportunity for a commitment to solidarity of all the Community countries.

⁽¹⁾ '... labour mobility is not hampered by the disparate impact of differing Member State policies with respect to social policy' (Vasso Papandreou).

⁽²⁾ See *Soziale Sicherheit in der EG*, Introduction, p. XVIII, Pub. C.H. Beck.

Done at Brussels, 28 November 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDLIN

Opinion on the communication from the Commission—The European electronics and information technology industry: state of play, issues at stake and proposals for action

(92/C 40/23)

On 30 May 1991 the Economic and Social Committee, acting under the fourth paragraph of Article 20 of its Rules of Procedure, decided to draw up an Opinion on the abovementioned communication.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 6 November 1991. The Rapporteur was Mr Flum.

At its 291st plenary session (meeting of 28 November 1991) the Economic and Social Committee adopted the following Opinion by a majority with three votes against and three abstentions.

1. Introduction

1.1. In the following recommendation for action in the field of industrial policy the Committee draws on the analysis of the situation of the European electronics and information technology industry contained in the Commission's communication of 3 April 1991. This Opinion is thus complementary to the Committee's Opinion on the Commission communication on general industrial policy⁽¹⁾.

1.2. In line with the concept of an industrial policy in an open and competitive environment⁽²⁾ established in November 1990, specific proposals for action are now being submitted for the Community information technology (IT) and electronics industry. The Committee welcomes the Commission's initiative and considers the proposals for action in this important economic sector to be a suitable basis for further development.

1.3. The spectacular developments of the recent past, the consumer electronics industry's loss of market shares to Far East competitors and current problems in the semiconductor and computer markets clearly signal the need for common European action in these industries.

2. Outline of the Commission proposals—the market position of the electronics and IT industry

2.1. The IT and electronics industry is of twofold importance for modern industrial structures: it is a considerable source of employment and production in its own right, but in addition—and this is what makes it interesting in terms of industrial strategy—it is the provider of the basic technologies used in the growth

industries of the 1990s, such as electronic manufacturing and automation technologies, service and consumer electronics, and above all the information and communications industry. With a turnover of ECU 175 billion and more than 800 000 employees in nearly 13 000 firms in Europe, this industry is a major economic sector and a fast-growing market which accounts for nearly 5 % of GDP.

2.2. The 'IT and electronics industry' covers the following areas of production (based on the definition contained in the Commission Report): components, which are the basic elements of any electronic equipment or system, hardware and software, office communications systems, industrial automation and consumer electronics. The term covers EC firms, too. The Committee feels that the telecommunications industry should also be considered. The document submitted barely touches on this industry, however. The Committee notes with considerable interest that the Commission is at present working on a separate analysis of the European telecommunications industry. It is therefore expected that separate policy proposals will be drawn up for this area, too, as soon as possible.

2.3. The market for IT and electronic products can be expected to grow much faster over the coming decade than other industrial markets. European demand, which in 1984 absorbed a quarter of world-wide production, increased this share to one third by 1989. The establishment of the internal market will give a further impetus to the growth of the European market. Analysts forecast for the year 2000, a sharp increase in demand for components (+ 11 %), information technology (+ 11 %) and consumer electronics (+ 4 %). To this can be added the above-average growth expected in the telecommunications industry.

2.4. This growing demand for the products and services of the IT and electronics industry in Europe is out of step with the limited supply. Europe's IT and

⁽¹⁾ See Committee Opinion on the Commission communication 'Industrial policy in an open and competitive environment' (doc. ESC 1384/91).

⁽²⁾ See doc. COM(90) 556 final.

electronics production covers about 75 % of consumption. The corresponding figure for Japan is 140 %. Behind this imbalance lie widely divergent trade balances. Whilst Europe's trade balance in electronic products is in deficit, Japan's is in surplus. The components, IT and consumer electronics sectors are mainly responsible for Europe's deficit. This should not blind us to the fact however that parts of Europe's IT and electronics industry are highly competitive. One striking example is the electronic investment goods sector, especially industrial automation, control and measurement engineering, telecommunications and communications engineering. Considerable strides have been made in the last few years in software.

2.5. Nonetheless, traditional strengths and technological potential cannot alter the fact that the EC's IT and electronics industry has considerable weaknesses and shortcomings. This is true in particular of semiconductors, peripherals, information technology (computers) and consumer electronics.

— Japan accounts for 49,5 % of semiconductor production, the USA for 36,5 % and Europe for 8,5 %,

— computer peripherals (hard disks, printers, screens, etc.) are manufactured mainly in Japan (40 % of world production) or to a lesser extent in the USA (25 %). Europe's share amounts to only about 15 %,

— only two thirds of European demand for information technology (computers) is met by European production and nearly 60 % of this comes from US-owned firms. Recently this sector has lost ground in Europe.

2.6. The Community telecommunications industry has been traditionally strong. Alcatel and Siemens are dominant producers. And yet it is telecommunications which clearly show how fragmented the European market still is. This makes economies of scale from mass production substantially more difficult.

2.7. With firms like Siemens, Comau-Fiat, Renault, GEC, etc, Europe has a number of major trump cards in the field of industrial automation. It also has a considerable number of efficient small and medium-sized firms.

2.8. Serious weaknesses and shortcomings are apparent above all in the strategic semiconductor, information technology and consumer electronics sectors. Japanese firms dominate the semiconductor market, with nearly 90 % of the world's production of high-capacity memories, whilst the microprocessor market is dominated by US manufacturers, with over 80 % of world production. On the other hand, European indus-

try has a strong position in custom logic chips (ASIC). The European chip manufacturers Philips, SGS-Thomson and Siemens however rank only 10th, 12th and 14th respectively in the world. The critical threshold of 5 % of the world market has still not been reached by these European companies.

2.9. US firms lead in information technology (computer) products. Recently, however, Japanese industry has been more active in this area. An active takeover policy, e.g. the purchase of ICL by Fujitsu, is clear evidence of Japanese industry's intention of gaining a firmer foothold in the IT market. European companies are not only facing cyclical difficulties, they are also grappling with structural problems, i.e. not only dramatic changes in product ranges (mainframes, mini-computers, PCs, workstations and laptops) but also the problems currently being experienced at major firms.

2.10. Unlike the manufacturers of computers and peripherals, European software firms have a relatively solid production structure. However, the European software industry is lagging well behind the USA, and there are signs that Japan is stepping up its efforts in this area.

2.11. In consumer electronics there are still two major European companies with a large number of subsidiaries, Philips and Thomson. Otherwise the market is dominated by Japanese and Korean firms. In the consumer electronics sector the television market in particular is about to undergo technological change. Experts estimate that high definition television (HDTV) will open up a market worth more than ECU 100 billion over the next few decades. But apart from this, the consumers electronics market is a strategic area for the whole electronics industry, mainly because it is the end-user of a large proportion of components and semiconductors. It is this vertical integration of the stages of production which the European electronics industry—unlike the Japanese—lacks. Loss of the consumer electronics sector would have a damaging effect on other areas of the electronics industry.

2.12. The problems of Europe's IT and electronics industry outlined here are not so much cyclical as structural:

— *Demand factors*

In comparison with the other large markets in the USA and Japan, the European market is, for historical

reasons, very fragmented. This means that economies of scale can be exploited only to a limited extent. And this in turn mean higher unit costs.

— *Production structure*

There is less vertical integration in Europe's electronics firms than in US and particularly Japanese firms. This applies both to the vertical integration of the different stages of production referred to above and to the structure of production as regards relations between manufacturers and users.

— *Corporate strategy*

Whilst European companies have highly developed technological skills, they do not put enough innovative products on the market quickly enough. With regard to innovation and production, European firms have not made as much use as they might have done of the opportunities for cooperation offered by the Community's major technology programmes, nor have they been able to implement long-term global strategies early enough. The question arises as to whether research and development (R&D) policy at the precompetitive stage has not been too limited.

— *National and Community R&D management*

Both Japan and the USA have a tradition of long-term promotion of R&D by the State. In Japan this is done by the Ministry of International Trade and Industry (MITI), and in the USA the electronics industry receives heavy backing from the Pentagon. In Europe R&D programmes continue to be fragmented along national lines. Only in the mid-1980s was the importance of R&D recognized at EC level and translated into joint projects. The coordination of national and EC research programmes and the efficiency with which research funds are used still leave much to be desired.

— *Distorsions of competition*

The United States and Japan have adopted a number of political measures to promote domestic industry. The measures taken in the USA include the large-scale award of contracts by the Department of Defense. In Japan foreign firms are almost completely excluded from public procurement contracts. In addition, there are measures to provide finance on favourable terms and to cover the risks inherent in long-term projects and operations. In Europe too there have been various national support measures which have distorted competition. But with completion of the internal market the conditions of competition between hitherto national markets will be brought into line, while at the same time the market will be opened up more to non-Community countries.

In the light of this background and analysis the Commission has drawn up a five-point action plan. This is based on the premise that the measures needed to improve the competitiveness of the IT and electronics industry should primarily be left to the initiative and responsibility of the firms themselves. The Community activities, which are intended to complement initiatives by firms, cover the following areas:

(i) *Demand*

The aim here is to set up computerized telecommunications links between public administrations as quickly as possible and achieve a high level of interoperability of information systems. The emphasis will be on infrastructure projects.

(ii) *Technology*

Here the Commission launches the idea of a second generation of research and technological development (R&TD) projects. These should range from precompetitive basic research to projects geared more closely to the market.

(iii) *Training*

Training measures are the objective here. They would be targeted mainly at training staff and staff engaged in production and management in firms. The Commission has already submitted specific proposals on this question in its communication to the Council on Trans-European Networks⁽¹⁾. The Committee is preparing an Opinion on this communication.

(iv) *External relations*

Here the Commission is concerned in particular with the still incomplete General Agreement on Tariffs and Trade (GATT) Uruguay Round. The Commission would like to ensure equal conditions of competition and of access to third markets.

(v) *Business environment*

The objective here is the creation of a more favourable business environment, in particular: by improving financing conditions (internal and external); coordinating standards; involving electronics and IT development more closely in structural policies; stepping up the dialogue between parties involved, particularly small and medium-sized enterprises.

⁽¹⁾ Towards Trans-European Networks for a Community Action Programme [doc. COM(90) 585 final].

3. The Committee's opinions on a basis for industrial policy activities

3.1. The Committee thinks that suitable industrial policy measures are needed to provide the European IT and electronics industry with competitive structures and good job prospects offering good working conditions. At a time when the major world markets of the USA, Japan and Europe are being reshaped, action only at national level would be inadequate. Coordinated EC-level action, agreed between the various social groups, is needed to secure the competitive future of an independent European IT and electronics industry. The essential aim is to give the current policy of establishing a single European internal market a solid foundation by means of specific industrial policy measures to improve the strategic environment for firms and the sector as a whole. For the electronics industry and its workforce these strategically important conditions need to be met in the following areas: research and technology, infrastructure, optimizing productive capacity, training and skills. But what is also needed is improved opportunities for cooperation between firms both within the Community and in third countries. In this respect it is striking that employment policy and the socially and environmentally acceptable use of technology are barely mentioned in the Commissions five-point action plan (see point 2.12 above). The Committee feels therefore that action should be taken in the following problem areas.

3.2. Trade policy

3.2.1. The Committee feels that trade policy measures should seek a balance between the interests of consumers and producers.

3.2.2. The analysis of the problems of the electronics sector and practical experience in, for example, the USA, make it clear that relying on trade policy measures alone would be insufficient and short-sighted. Such measures, whilst important, should be part of a broader policy embracing demand, production and technology. The following trade policy principles should in particular be applied:

— Anti-dumping

In those areas where the price policy of competitors (particularly Japan and the South-East Asian countries) clearly distorts competition, the existing anti-dumping measures must be applied and, if necessary, intensified with due consideration for GATT rules. Procedures and anti-dumping decisions should be made more transparent and checks and the monitoring of sanctions in

the event of dumping stepped up. Dumping cannot be a form of competition.

— Reciprocity

This demand is aimed particularly at the Japanese. Conditions have to be created on the Japanese market which are at least equivalent to the conditions which Japanese exporters and producers encounter on the European market. This applies in particular to the conditions governing access to technology, investment, finance and distribution networks.

— Local content

Rules governing local content are useful from two points of view. First there is the competition aspect. Anti-dumping rules are circumvented again and again via direct investments in 'screwdriver factories' instead of full production facilities. In other words only assembly operations are being carried out. This does not solve the competition problem. Moreover on the employment front the problem is twofold: Firstly the quantitative aspect—fewer staff are needed for assembly than for full manufacture. Secondly the qualitative aspect: skill requirements are not so high in a pure assembly plant. For these reasons it would be worthwhile requiring a high percentage of added value in the Community in the long term, with due regard for the particular situation of disadvantaged regions.

— GATT rules

The Community must also press for application of the general GATT rules.

3.2.3. The Committee is aware that these trade policy initiatives are not adequate for tackling the sector's problems in the long term and are significant only as secondary measures.

3.3. Stabilization of long-term demand

3.3.1. The infrastructure and public procurement policies of the European countries and their public-sector institutions must do more to stabilize the long-term demand for IT and electronics products. The development of Europe's internal market makes improving Europe's infrastructure a matter of urgency. Harmonization of telecommunications will be an important part of this. Here there is potential future demand. Within the framework of a public procurement system open to all European producers, infrastructure projects in the fields of telecommunications networks, transport, health, environmental improvement, education and culture must make a major contribution to securing markets for European industry. The aim of securing equivalent material living conditions in

Europe's various regions requires that particular attention and support be given to regional development in the allocation of such projects⁽¹⁾.

3.4. *Firms and production*

3.4.1. European IT and electronics firms need more efficient corporate and production structures. This should be achieved via measures designed to:

- improve vertical cooperation between IT and electronics firms. Closer relationships between small, medium-sized and large firms are needed. The innovative strengths of small and medium-sized enterprises should be encouraged,
- develop links between producers and users. Examples of this are relations between software and hardware producers and the manufacture of custom logic chips,
- promote cooperation on new product development and the use of existing technology programmes,
- accelerate international standardization,
- establish optimum development and production capacities whilst maintaining social standards. This is important for the capital-intensive electronics manufacturing sector as it enables competitive cost structures to be established. Worthwhile cooperation, e.g. on semiconductors and HDTV, should therefore be encouraged,
- improve financing conditions (internal and external), another requirement if the sector is to overcome its problems. This would include a banking system willing and able to facilitate access to bank loans and to finance high-risk investments in the future on favourable terms. This is of particular importance for innovative small and medium-sized enterprises.

4. Technology and innovation policy

4.1. Rapid product innovation is a feature of the IT and electronics industry. Between 60 and 70% of products currently on the market were developed in the last ten years. Moreover, competition and price considerations make a strategy of innovation essential in this sector. The short life cycle of many products

in this industry requires competitors to follow new products into the market as quickly as possible with their own competitive products. In this way, pricing can be used more easily to achieve sufficient sales revenue to amortize investment and leave an appropriate profit margin. Such market problems cannot however be solved by protectionist trade policy measures. What is required is, rather, a new product policy, and thus R&D policy and product innovation. But here much greater weight must be given than in the past to the social, ecological and communication interests of society. The following specific factors are involved.

- Although European firms have technological skills, they lack rapid product innovation and efficient marketing. Customized development is of primary importance. This is a challenge to firms and their existing organizational methods (systems management). Available resources and development potential (see also point 6) need to be exploited and attention paid to a regional balance of development capacity in the context of cross-border mergers and activities.
- It must be the aim of research and especially development policy to ensure that the national and European levels complement each other and that there are more cooperative projects in Europe. Research management at EC level has to become more efficient. Unproductive duplication of support (national and EC funding) has to be prevented by coordinating national and EC projects more closely.
- The semiconductor sector is a touchstone for a coordinated European R&D policy. Semiconductors are a basic component in a large proportion of manufactured capital and consumer goods. Long-term EC research projects should be expanded in order to strengthen the European market position and make good Europe's technological lag. Broadened alliances and technological cooperation should be encouraged.
- The impact of technology should also be considered to ensure that R&D results are not only a commercial success but also socially and environmentally acceptable. This is particularly urgent in a sector whose products have far-reaching effects on the working conditions of employees, the environment (energy) and the communication interests of society.

⁽¹⁾ See Opinion: Europe 2000: Outlook for the development of the Community's territory, doc. ESC 1127/91, 25. 9. 1991.

— Workers and their trade unions must be actively involved in R&D policy. Only in this way will it

be possible to ensure that options for handling technology are kept open and given due consideration.

5. Demands on EC policy

5.1. The EC is urged to develop and make further use of sectoral and industrial policy instruments. The Member States should base their national policies on the industrial policy concept formulated here, and ensure coordination. The social interest groups must be involved. The action needed is outlined below on the basis of the sector's problems:

- harmonization of infrastructure⁽¹⁾ in the regions. In this way potential demand can be activated by public procurement,
- greater coordination in establishing common standards,
- defence of common interests in trade with non-Community countries,
- the Community should not only consider a second R&D generation but actually set up a new programme. The coordination of national R&D measures is needed in order to prevent unnecessary duplication of effort and distortions of competition between the Member States. Emphasis should be placed on the strategically important areas,
- the promotion of common development and application platforms for software. The Commission's proposal for a European software institute open to manufacturers, software houses, research institutions, etc. should be followed up,
- promotion of regional development and balance in the allocation of R&D funds (geographical location to be considered in allocating research funds!),
- coordination of training and employment policy activities.

6. Employment and training policy

6.1. New and technologically demanding products, product quality and process innovations are dependent

to a high degree on the participation and motivation of workers. A forward-looking training and employment policy is therefore essential. For example, we now know that introduction of digital technology for the manufacture of information technology systems cuts manufacturing costs by 50 to 70%, whilst increasing development costs tenfold with software costs rising to approx. 70% of total development costs. Such changes will mean a clear shift in employment structures and skill profiles. Both firms and general vocational training need to adapt to these changes in advance. This is a challenge to firms, as well as to EC and national institutions, in particular as regards:

- further in-service vocational training but also promotion of use of external training facilities. In this way vocational skills can be improved and a contribution made to securing jobs. In the context of a long-term policy for improving skills, particular attention should be paid to engineering and higher educational training,
- the need for a forward-looking employment policy in the sector. This includes not only the planning of skill potential referred to above but also ensuring a regional employment balance. Current production changes in the IT and electronics industry show women being particularly affected by changes in the structure of employment; targeted measures must therefore be adopted to promote female employment,
- the central strategic importance of R&D for the future of the sector makes it essential that, in addition to the industry, workers and their organizations be also involved and enabled to participate in EC research projects,
- where there is cross-border cooperation between firms, workers should be informed of, consulted on and involved in certain decisions by firms—at least to the extent advocated by the Committee in connection with the European Company,
- detailed discussion between representatives of industry, workers and the Commission on future employment and production trends in this sector of the economy and their consequences. An obvious solution would be to set up a European-wide working party for this purpose.

⁽¹⁾ See doc. COM(90) 585 final. Commission Communication—Towards Trans-European Networks for a Community Action Programme.

6.2. Common coordinated measures must be adopted as soon as possible to safeguard the future of the European IT and electronics industry. The

Committee considers that the EC and the Member States should, as a matter of urgency, adopt these

proposals and apply them in establishing the environment for the activity of firms.

Done at Brussels, 28 November 1991.

The Chairman
of the Economic and Social Committee
François STAEDLIN

Opinion on the proposal for a Council Directive on the adoption of standards for satellite broadcasting of television signals

(92/C 40/24)

On 30 July 1991 the Council decided to consult the Economic and Social Committee, under Article 100 A of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 6 November 1991, in the light of the Report by Mr Noordwal.

At its 291st plenary session (meeting of 28 November 1991) the Economic and Social Committee adopted the following Opinion by a large majority vote in favour and 2 votes against, with 9 abstentions.

1. Introductory remarks

1.1. The draft Directive is put forward to provide continuity after the expiry on 31 December 1991 of the EC Directive which is currently valid—86/529/EEC⁽¹⁾. This previous Directive, adopted under Article 100 of the Treaty, i.e. by unanimous vote of Member States in the Council—and approved by a positive and unanimous Opinion of the Committee⁽²⁾—required Member States to ensure use of the MAC Packet family as the only standard permitted in the Community for direct operational satellite television broadcasting.

1.2. The present draft Directive seeks both to take the place of the previous one for the next ten years and to extend it to cover not only high-power Direct Broadcasting Satellites (DBS) as before but also low-power Fixed Service Satellites (FSS) which were left aside in the earlier Directive because at the time these satellites were thought to have insufficient power to

provide direct home reception. In doing so it provides, however, (Art. 3) that existing satellite services using D-MAC, PAL or SECAM standards for the habitual 625 line 4:3 format transmissions may continue indefinitely.

1.3. The MAC Packet family of standards has been developed in Europe to allow for the introduction of High Definition TV (HDTV)—viz. 1 250 lines, 16:9 format—in the future while allowing for the maximum possible degree of compatibility e.g. so as to avoid necessarily replacing all existing television sets and equipment. As such the Committee has expressed in the past⁽³⁾ its 'strong support for the development of European standards in HDTV' and in particular for the Eureka EU 95 Project as the 'standard capable of introducing HDTV without making existing sets and equipment obsolete'.

⁽¹⁾ OJ No L 311, 6. 11. 1986.

⁽²⁾ OJ No C 189, 28. 7. 1986.

⁽³⁾ ESC Opinion on the Proposal for a Council Decision on High Definition Television (OJ No C 159, 26. 6. 1989, p. 34).

2. General comments

2.1. The Committee, mindful of its many Opinions on matters related to new technologies, welcomes such new techniques in the field of HDTV which aim at meeting consumer demand for more programmes and increased cultural variety, on condition that consumers conserve their freedom of choice. As it stated in September 1990 'European television set manufacturers must, via coordinated technology-based and competition-oriented production policies, help ensure that the new breadth of choice can be exploited' ⁽¹⁾.

2.2. For this process to succeed it is most important for the three main partners involved in the audio-visual industry—viz. the programme producers, the broadcasters and re-distributors and the equipment manufacturers and suppliers—to work together and to inform their customers fully and truthfully on the technical and commercial characteristics of their products. The cost to the consumer in this field is not just a matter of the purchase price in the shop but also of service and repair costs, of additional supplementary equipment, of license fees or other forms of payment for viewing, compared in each case to the status quo or other technical solutions.

2.3. Compatibility

2.3.1. Whether between old and new equipment or between different systems, e.g. D-MAC, PAL and SECAM, compatibility is at the heart of the debate on the usefulness of the MAC Packet route to HDTV. Consumer choice clearly sets great store and value on compatibility; it is also a matter of general and industrial interest, though not necessarily that of particular producers or users. Unlike both the Japanese MUSE system and, in all likelihood the US digital system currently in development, D2-MAC and HD-MAC are designed to be compatible in the broadest sense; that is to say they are, in the first place, compatible between themselves (D2-MAC as the earlier current phase of technology followed later by HD-MAC with full high definition); in the second place, by adding a decoder, these can be received on sets currently existing in Europe.

2.3.1.1. However, on current published technology, MAC cannot provide a compatible path for medium powered satellites since these have insufficient power for HD-MAC reception by normal domestic dish antennae. Also it is not compatible with terrestrial broadcasting.

2.3.1.2. Further a completely new TV set will be needed both to receive and to reproduce programmes in HDTV.

2.3.2. The decoder required for such compatibility does represent an additional cost. The cost involved depends in any case on the scale of production and should go down as output goes up.

2.3.3. In view of the above considerations, convinced of the over-riding importance for all concerned of both aiming for and achieving compatibility and conscious that no other existing route to HDTV provides for that, the Committee renews its support for a set of standards which have, in its eyes, the great merits of being compatible with existing systems and home equipment, available now or in the near future and, not least, European in conception and ownership.

2.4. In his 1989 Opinion ⁽²⁾ on the proposal for a Council Decision on High Definition Television the Committee 'lays the greatest possible stress on the vital importance of the economic and social issues at stake and calls on the Community to mobilize all its forces unreservedly and with the utmost vigour in support of the efforts pursued by European industry in this field'. The Committee on that occasion also emphasised the need for the widest consultation. It now reconfirms the position it took by an overwhelming vote in favour in 1989 but, in the light of a number of reservations regarding the Commission draft expressed by interested parties, can only approve the proposal subject to the following comments and changes.

3. Specific comments

3.1. Article 1

This Article repeats the injunction on Member States from the 1986 Directive, albeit in weaker language; e.g. 'to ensure' in 1986 is changed to 'promote and support' in 1991. The language versions also differ marginally; in French the Member States are enjoined to 'facilitate' HD-MAC. The Committee considers this very general injunction to be necessary and the least one could ask for.

3.2. Article 2

The Committee agrees with Article 2.1. HD-MAC should be the only HDTV standard. 2.2 however has to be made optional by deleting the word 'only'.

⁽¹⁾ OJ No C 332, 31. 12. 1990, p. 174.

⁽²⁾ OJ No C 159, 26. 6. 1989, p. 36.

Making MAC compulsory for new non-HDTV services is anti-competitive—it would reduce growth in the satellite market and entrench the position of existing operators and increase cost to the consumer.

3.3. Article 4

The object of this Article is to provide the consumer with a wider choice of programmes of higher image quality. This will probably entail a slight increase in the cost of bigger domestic TV sets, at least until the stage of mass production of the necessary additional equipment has been attained. What is important however is the success of the D2-MAC standard, which alone can in the long run guarantee consumer freedom by increasing the number of services available without the need to buy new equipment.

3.3.1. It might appear however that this Article goes too far in requiring all sets with screens bigger than 52 cm to have a D2-MAC decoder. The D2-MAC decoder should only be required on sets capable of receiving satellite transmissions, whether directly or via hyperband or cable. Thus, only consumers opting for sets enabling them to watch satellite transmissions would pay for a D2-MAC decoder. Such a provision would leave consumers the choice between the traditional and new satellite services.

3.4. Article 5

3.4.1. First indent: this is not clearly drafted and sets out in too great detail to prescribe matters best left to commercial management.

With current technology, the existing proposal would limit the number of channels which cable operators could offer. The Article therefore should be made optional so that operators can take advantage of the new MAC developments when the market is right.

3.4.2. Second indent: this, like the previous indent, is poorly drafted. It should state quite simply that existing standards can be used as before but that where D2-MAC and HD-MAC are received they can be con-

verted to PAL or SECAM for re-distribution only if the option to receive them simultaneously in the original D2-MAC/HD-MAC (Simulcast) is also provided.

3.5. Article 6

The provisions of Article 8 cover the date of entry into force of the Directive in all respects, including this Article. There is therefore no need to introduce in this Article additional time constraints, constraints which could moreover prevent adaptation to technical progress in the field of conditional access systems and which represent a wrong approach in principle. The words 'by the date of implementation of this Directive' should therefore be deleted. This change would permit improved compatible access systems with a standard interface, manufactured according to a recognized European standard, to be used even if such standard be approved by a European standardization organization after the date of implementation of the Directive.

3.6. Article 7

The Committee is satisfied that the biannual Commission Reports on the application of the Directive will be sent to it. This is important not only as a means of keeping the socioprofessional groups represented on the Committee informed of progress with the introduction of this new technology in the world of mass communications but also of allowing the Committee to follow closely and express its views on the adaptation of the Directive to match rapid developments in this field. Having in mind that these adaptations are provided for within the proposed arrangements, and that it will itself be involved, the Committee also endorses the Ten-year period of validity proposed.

3.7. Other business

3.7.1. This possibility of abuse in matters of intellectual property in respect of encryption systems, as well as the D2-MAC and HD-MAC systems in general, needs to be addressed in some way (for example in a recital to the Directive). There needs to be an open licensing regime for manufacture, use and compatibility testing, in order to ensure a free and competitive market. This would be in line with the Commission's Communication on industrial policy in an open and competitive environment [doc. COM(90) 556 final].

Done at Brussels, 28 November 1991.

The Chairman
of the Economic and Social Committee
François STAEDLIN

Opinion on Immigration Policy

(92/C 40/25)

On 31 January 1991 the Economic and Social Committee, acting under the fourth paragraph of Article 20 of its Rules of Procedure, decided to draw up an Opinion on Immigration Policy.

The Section for External Relations, Trade and Development Policy, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 15 November 1991. The Rapporteur was Mr Roseingrave, the Co-Rapporteur Mr Mourgues.

At its 291st plenary session (meeting of 28 November 1991), the Economic and Social Committee adopted the following Opinion by a majority vote, with 7 abstentions.

1. Preliminary remarks

1.1. The objective of the Committee's Own-initiative Opinion is to suggest policies on immigration into the European Community which attempt on the one hand to tackle the causes of undue emigration from the countries of origin and on the other hand to utilize migration flows to the advantage both of the country of origin and the host country. These policies have to take into account the external relations of the Community and to respect the universal and indivisible nature of human rights and fundamental freedoms. The policies must be expressly seen in the context of the views expressed by the Committee earlier this year in two Opinions on the status of migrant workers from third countries⁽¹⁾.

1.2. These policies must be carried out in the context of:

- a) the elimination of the EC's internal frontiers and the creation of the European Economic Area (EEA) by 1 January 1993 and the consequences of this for the formulation and implementation of an EC common policy on immigration;
- b) existing international conventions, protocols and inter-governmental initiatives on migration and security as for example 'Trevi', 'Schengen' and the 'Ad hoc Group on Immigration';
- c) the need to distinguish immigration caused by unfavourable economic and social conditions in countries of origin and that arising from political or other causes which necessitate the granting of refugee status and the right of asylum in the host countries;
- d) the need to distinguish between long- and short-

term policies, as urgent and acute pressures are being felt and are expected to increase;

e) the present and above all potential economic and social capacity of the EC to absorb the immigration flows from third countries, while maintaining the economic progress of the Community.

1.3. Community immigration policy must achieve the difficult task of finding balances between competing objectives and in its operation to be flexible and adaptable to changing circumstances both inside and outside the Community.

1.4. The existence of common Community-wide entry criteria is an essential corollary to the policy of giving legally admitted immigrants rights consistent with those of Community citizens.

1.5. Policies on access to the national territories should not be permitted to endanger the objective of free circulation of persons inside the Community and the abolition of frontier controls envisaged for 1993. Despite national reticence and in view of the situation in recent years, the Committee contends that there is a need for a Community immigration policy, one which involves an expansion of Community powers in this field. These are detailed in sections 5 and 6. The Committee considers that the representatives of the Heads of State and Government of the Member States should work to this end, within the framework of the Intergovernmental Conference on Political Union.

2. Historical Background and Perspectives

2.1. Migration is not something new to Europe—it has always been a cross-roads of migratory patterns.

⁽¹⁾ OJ No C 159, 17. 6. 1991, p. 12 and doc. ESC 1122/91.

What is new, however, is two essential new factors of change; firstly the establishment and development of the European Community into a Single Market by 1 January 1993 and its consequential increasing attraction as an economic magnet for immigrants from third countries.

2.2. This factor is further complicated and intensified by the second major factor namely the political changes, the collapse of the command economies and the move towards a transition to market economies of the Central and Eastern European countries, leading to potentially greater migration flows from these countries into the EC.

2.3. *Diversity of Experiences and Traditions*

2.3.1. Virtually every country of the European Community has had diverse experiences with, if not a tradition of, migration—either of immigration or of emigration and sometimes of both. In most cases this was not exclusively with other Community countries but had involved Third countries: emigration to the New World (North and South America, Australasia) and southern Africa and, more recently, immigration from countries with ex-colonial ties and/or geographic proximity.

2.3.2. Historically, Europe's own experiences with migration—both immigration and emigration—were bound up with 'safe haven' for refugees, with intolerance, discrimination and persecution of minorities (based on religion, nationality, ethnicity and language), with war, with demographics and with economic development, particularly industrial development, which needed increased supply of manpower.

2.3.3. These European experiences and traditions are diverse compared with other countries of the Organization for Economic Cooperation and Development (OECD); for example, with those of USA, Canada, Australia, New Zealand or Japan, or even with the Gulf States. Such rich diversity must of necessity influence the elaboration of a Community external policy on immigration.

2.4. *Migration from Eastern to Western Europe*

2.4.1. Immigration from Eastern to Western Europe has occurred in three waves. Immediately after the first World War and the Bolshevik revolution in Russia, a first wave of refugees came for political reasons or because they feared they would not fit into the new society which was taking shape. As their numbers were

relatively small, they were absorbed without too much difficulty.

2.4.1.1. After World War II, in the years 1945-1948 with the installation of Communist regimes in Central Europe, refugees managed to move to the West, in 1956 from Hungary, in 1968 from Czechoslovakia and in 1981 from Poland. In addition the shortage of manpower in some Member States (notably Germany) led to a huge influx of Yugoslav immigrants, many of whom settled down permanently in the host countries.

2.4.1.2. Finally, in the last two years, a historic watershed has triggered a new phase of immigration to the more industrialized countries by workers from the former Communist nations. Their numbers may increase considerably in the next few years, but we have no evidence yet that this will happen. A certain number of emigrants from Central and Eastern Europe consider that they are in transit, and hope to settle further afield in the United States, Canada or Australia. Many others intend to settle and work in the Community.

2.4.2. The move from the old regime to the new, from a centrally planned economy to a free market, and from a monolithic system to democracy, will not be easy to realize and may well be uncertain in its outcome. Living standards have already dropped in several Central and Eastern European countries and unemployment is rising increasingly.

2.4.2.1. The new Central and Eastern European governments have limited resources and expertise which restrict their ability to adopt measures to help the unemployed, or to provide retraining and social assistance. This is even more serious if the heavy debt burden of these countries is taken into account which is not favouring social flanking policies. These governments are ill-prepared to tackle the long-term unemployment caused by privatization. The rate of transition from the old failed system to a new one must take this factor into account, particularly regarding employment and the absorbing of young people into the labour market. This feature of the transition to a market economy is of direct relevance to the G 24 countries' immigration policies; therefore, the G 24 must help fashion and cushion the industrial restructuring so as to minimise the migratory pressures.

2.4.2.2. Alongside social assistance measures (which remain insufficient because of the lack of resources), these countries' first task must be to improve the training of workers and managerial staff, equipping them to meet the needs of their economic development.

2.4.2.3. Training in the countries concerned should pay particular attention and support to people wishing to promote or develop small businesses and cooperatives.

2.4.2.4. The fundamental conception of help and cooperation has absolutely to include flanking policies to keep the economic and social equilibrium of these countries in transition.

2.4.3. However, despite these and other possible measures by the relevant governments, it is clear that once workers have the right to emigrate, emigration will offer one way of mitigating the pressures generated by the high economic and social costs implicit in the changes outlined above.

2.4.3.1. Migration to the industrialized countries is difficult to predict with accuracy, as it will depend on a number of imponderables such as the economic deterioration and political tensions in Eastern Europe, unemployment levels, ethnic conflicts, and expulsions.

2.4.3.2. At the conference organized by the Council of Europe in Vienna in January 1991, three types of emigration were pinpointed:

- a) ethnic migration by scattered minorities—a phenomenon which has occurred before (e.g. ethnic Germans in Poland and Romania, Jews and Armenians in other Eastern European countries);
- b) political exoduses by persecuted dissidents or following mass ethnic killings;
- c) economic migration for reasons of survival, to which could be added the objective of improving conditions of living, which has some points in common with South-North population movements.

2.4.4. Economic migrants pose serious international cooperation problems. In the common interest, there is a need for (i) foreign aid to help Central and Eastern European countries facilitate restructuring and development and thus curb migratory pressures, and (ii) a coordinated immigration policy between the European Community and the countries of origin so as to protect the interests of the countries concerned. This coordinated policy should also include possibilities for re-emigration in the future.

2.5. *Migration from developing countries to Western Europe*

2.5.1. Since World War II, by far the largest number of immigrants are of non-European (Maghreb, British

Commonwealth), and Turkish origins—not from 'Eastern Europe'. These migrants were mostly from newly-independent nations seeking work in the former colonial country. Thus, colonial ties more than geographic proximity were the main feature of the home/host country relationship.

2.5.2. The immigration pull factors in the 1950s and 1960s were strong: Western Europe was experiencing sustained rates of economic growth and increasingly labour markets were characterized by full employment. Immigration was seen by some as a relatively quick method of increasing labour supply, especially for low paid, unsocial and unskilled jobs.

2.5.3. As economic growth slowed in the mid-1970s, due to inflationary pressures arising from the Vietnam War and especially from the oil price rise of the Organization of the Petroleum Exporting Countries (OPEC), unemployment rates in the European Community started to rise and unemployment duration became longer. Unemployment in the European Community has now been above 8% for over a decade, although economic growth had picked up in recent years. Migration pull factors reduced sharply; however, migration push factors increased, due especially to the interaction of economic problems and population pressures in developing countries.

2.5.4. Most European Community States responded by enacting legislation restricting new immigration other than for family reunion purposes. Such purposes are understandable from the standpoint of the joy of living as a family and to ensure effective parental responsibilities. Even this flow of family members was subject to administrative controls. Although tighter controls deterred some migrants, it simply turned others into illegal immigrants thereby exacerbating the problem of their integration.

2.5.5. Although immigration laws are more restrictive, nevertheless family reunions are still a source of continuing legal immigration in addition to the unknown amount of clandestine immigration. In any event, immigration push is likely to intensify both from traditional countries of origin and from countries with geographic proximity because of economic and population reasons. Immigration pull, on the other hand, would probably be restricted either to specific skills or to normal characteristics such as low wages and un-

social 'flexible' jobs (seasonal workers, domestic workers, temporary/part-time/shift workers).

2.5.6. To help to lower migratory pressure caused by the huge differences in the standards of living between developing countries and the European Community it is not only necessary to increase considerably the amount of development aid but also to increase this aid especially in the countries and regions where the greatest potential of immigrants exists.

3. Principal problems to be tackled by immigration policy

3.1. *Implications of the freedom of movement principle*

3.1.1. The principle of freedom of movement (that is, the right of residence in any Member State, not only the freedom to travel) raises problems of access into the Community's area of free circulation and the control of illicit migration therein. It requires a common policy by all Member States.

a) The diverse national situations and specific problems on immigration have implications for the basic Community principle of economic and social cohesion. A balance will have to be struck between the rights of Community citizens and those from third countries⁽¹⁾.

b) Member States' national policies will have to be harmonized to prevent them from acting as barriers to cooperative procedures and common EC systems regarding the entry and movement of nationals from third countries wishing to emigrate into the EC.

c) EC legal competence should extend beyond simply providing a guarantee of cooperation among the Member States 'to promote the free movement of persons' regarding the entry, movement and residence of nationals of third countries. The EC institutions should be granted competences on immigration matters for at least the establishment of Community criteria, which should be observed by the Member States.

d) Without such a common policy the criteria for immigration admissions will vary from one Member State to another; this could give rise to reluctance on the part of certain Member States to dismantle their internal frontier controls.

e) Frontier controls are not in themselves appropriate to protect labour markets. Therefore sanctions defined by the EC have to be inflicted on employers engaging workers without work permits.

3.2. *Push and Pull factors affecting immigration into the EC*

a) The demand for labour in excess of that which can be supplied from within the EC should be forecast as far as possible to allow an assessment to be made of the appropriate labour requirements in regard to the specific demand to be met by third country workers.

b) Clandestine migrants (many destined for the 'black' economy) are a factor of instability which makes the position of legal migrants more difficult and uncertain. This is exacerbated by the reprehensible human traffic in illegal migrants conducted by organised crime, exploiting and abusing these migrants' plight. Steps should be taken to pinpoint and eliminate such cases with, if possible, the help of the authorities in the countries of origin. The search for employment is possibly the greatest single cause for emigration from the countries of origin, although other political and cultural factors also exert a push.

c) The mass media, especially television, can give a distorted, idyllic image of life and conditions in the EC. Such is a powerful magnet to migrants if not counterbalanced by the dissemination of comprehensive information to would-be migrants on the realities of immigrants' many adverse conditions, the difficulties of employment and social integration in the host countries.

d) Demographic pressure on poor countries is an important factor in emigration and is likely to increase significantly over the next few decades.

e) New and specific patterns of immigration are emerging for Central and Eastern European countries, including countries where emigration was forcibly prevented, such as Albania.

4. Reducing the causes of immigration push

4.1. Many countries of origin see emigration as a short-term solution to a long-term problem: it reduces population pressures on scarce resources and contrib-

⁽¹⁾ OJ No C 159, 17. 6. 1991, p. 12 and doc. ESC 1122/91.

utes to foreign exchange earnings through workers' remittances. Negative effects, such as brain drain and the loss of young, ambitious and enterprising people from the economy are often wrongly discounted. Individual reasons for emigrating tend to be the realization that there is no longer any hope of economic advantage in staying in one's own country: emigration is the better of two evils.

4.2. Under the principle of national self-determination, changing demographic trends and improving economic performance are, above all, the responsibility of the countries of origin themselves. Results can only be expected in the medium- to long-term.

4.3. The Community can help to ensure that the preconditions for reducing migration push are established. This is not solely an issue of greater financial resources, loans, credits, aid for even investments: without them it would be hard to make a credible impact. It is moreover a question of coherence of approach in different areas of policy and technical assistance. The Community should initiate a constructive dialogue with countries of origin to identify key areas and means and to formulate an enabling framework for policy cooperation based upon specific economic and social objectives.

4.4. First, the political infrastructure: governments of countries of origin must become responsive to their own citizens' expressions through forms of democratic accountability and social institutions. While pluralist democracy, within which socio-professional organisations can play their role, is not a guarantee of economic development or an end to emigration (witness Eastern Europe now), it is a *sine qua non*. The Community and Member States should apply agreed 'liberty conditions' in their external relations with countries of origin. The Community can voice such concerns with greater effect in fora such as the International Monetary Fund (IMF), the World Bank, the International Labour Organization (ILO), the Council of Europe and the United Nations or directly in the Community's bilateral aid programme and Generalized System of Preferences. In the case of Eastern Europe, the G 24 and the European Bank for Reconstruction and Development (EBRD) would clearly be involved. Conversely, where a country of origin does meet such conditions and, as an incentive to do so, as much as possible should be done by way of assistance and access. The EC should ensure that aid from Member States should be conditional upon its use for peaceful and human development and should accordingly be granted the necessary authority to ensure that this is done. If the

ratio of the military budget to Gross National Product (GNP) in the recipient country exceeds the Member States of the EC average, in certain circumstances the reason for this should be investigated before a decision is taken on the level of aid granted. Similarly, donor governments should guard against aid that would release funds for military purchases. These measures could come under the decisions of the Intergovernmental Conference on common security and defence policy and on cooperation.

4.5. Second, the social infrastructure, of which there are three aspects:

- a) the need to raise public consciousness in the area of demographic development requires in particular the commitment of government, educational authorities and opinion-formers;
- b) provision for basic social needs, including social insurance, health, housing and education;
- c) the creation of a climate of hope or *état d'esprit* by means of a bold initiative such as, for example, the Marshall Plan which was as important for its socio-psychological impact as for the direct economic developments that it produced.

4.6.1. Third, the economic infrastructure: priority going to measures which would create jobs now and in the future, lead to balanced economic development of the country of origin. Economic stabilization programmes which create mass unemployment and reduce output are not conducive to keeping would-be migrants in their countries, nor of providing them with any hope of contributing to economic progress—other than the ultimate personal sacrifice of being one of the unemployed! A climate of economic development and the creation of sustainable employment must be fostered. For this reason, transition to a market economy in Central and Eastern Europe has to be carefully carried out.

4.6.2. An alternative to this 'short, sharp economic shock-treatment' has to be found and greater resources are required to support structural changes and the transition process to viable economic development. Forms of tripartitism, collective bargaining and worker participation—a functioning industrial relations system—should also be encouraged as crucial means of involving people in their economic destiny and in

mediating everyday problems and conflicts. This requires trained people who are equipped to operate the institutions of such a system.

4.6.3. Furthermore, countries of origin should be encouraged to develop greater economic links and cooperation amongst themselves, thereby reorientating and diversifying their economies away from such an exclusive dependence upon the European economy (this is currently the case with North Africa, and is rapidly becoming the case with Eastern Europe). The Community has rich experience in all these fields and can do much itself as well as supporting the ILO to realize labour market programmes which are a credible alternative to emigration. At the same time, the Community could negotiate greater market access for exports of particular interest to the countries of origin provided that greater market access went hand-in-hand with alternative job-opportunities in the Community for displaced workers.

4.7. The Community's overall objective must be to assist the countries of origin to successfully 'integrate' their total labour force—with due rights, access, hopes, education and training, etc.—in their own country instead of leaving them to be marginalized either at home or abroad. To the extent that this costs money, it would be money well spent by helping to reduce migration and unemployment and benefiting from their economic growth through increased exports. The Community may be able to galvanize the political will of its Member States more effectively for this task than any single Member State could.

4.8. In the interim and until a coherent and cooperative strategy is adopted, the prevention of illegal immigration as well as the fixing of quotas for the control and management of legal immigration may well be a very difficult and frustrating task of the Community's external relations. It is important, therefore, that for this interim period the EC develops principles or guidelines as an aid to a consistent and coherent approach by the Member States.

4.9. The industrial nations and international bodies are already giving aid to Eastern Europe in the form of inward investment, opening of trade outlets, joint ventures, supply of know-how, financing, and aid for training.

4.9.1. A number of initiatives have led to the setting-up of microprojects, with the corresponding technical back-up. Special attention has been devoted to help for advanced training programmes, the development of small industrial firms, youth exchanges, and help for emigrants wishing to return home.

4.10. The right of asylum for political refugees who are subjected to physical and moral discrimination is a most important democratic and freedom protecting right. International and national laws and conventions guaranteeing this right of asylum are the basis for the protection of political refugees, whose status should be strictly reserved to such persons and not be extended to those whose sole motive for migration is economic.

4.10.1. In the area of administration there has to be made a clear-cut distinction between political refugees and economic migrants. Economic migration must be subject to careful regulation as the task of identifying motives is not easy for the authorities. Legal remedies should be available to third country nationals to appeal against administrative decisions.

4.11. Remittances from migrants working in countries with a strong currency can provide an important source of aid for the economies of their countries of origin, particularly in the case of temporary migrants.

4.12. When they return home, temporary migrants can also supply technical know-how and new areas of expertise, and can help spread a spirit of enterprise.

4.13. Taken together, these different types of assistance should gradually reduce the number of would-be migrants. But to ensure the maximum effect, this assistance must be stepped up and targeted on the population groups and areas where the pressure to emigrate appears greatest.

4.14. At all events, the many bilateral and multilateral initiatives will have to be co-ordinated.

4.15. Furthermore, representatives of all the relevant governments agree that studies should be made of information on emigration, both to provide information for the authorities and to pinpoint ways of disseminating information to the individuals concerned. The studies should also identify outstanding problems and propose appropriate measures. The Committee endorses this approach.

5. Arguments for Community competences on immigration policy

5.1. Immigration policy is closely linked with Community policies, in particular those on the achievement of the single market, which must respect the basic principles of economic and social cohesion. If immigration policy were to remain exclusively or basically the prerogative of the Member States, it could constitute a difficulty or create contradictions in Community policies which have already been laid down. Furthermore it would be in contradiction to the principle of subsidiarity. But given the diversity of European experiences, cultures and traditions, any claim to competence by the Community's external relations over immigration policy must be well founded. The following are some arguments.

5.2. It is recognized that immigration policy is high on the political agenda in both countries of origin and host countries. The Community's reputation in the world (as well as that of the 12 Member States) depends, amongst other things, on how the sensitive issue of immigration from non-Member countries is handled. Insofar as the Community wishes to have economic and diplomatic relations with countries of origin on other aspects, immigration policy can neither be avoided nor treated in isolation as only a 'technical' matter of, for example, migrants' flow control.

5.3. It is recognized that for the Community immigration raises difficult domestic problems which have international implications; for example, being seen by countries of origin to be actively promoting multiculturalism, non-discrimination and freedom of movement of migrants from Third countries on the same basis as for Community nationals.

5.4. It is recognized that the Community shares in common with other OECD countries a moral duty and economic self-interest to promote the balanced development of countries of origin's economies, as 'economic migration' is a symptom of comparative underdevelopment and low *per capita* living standards. Treating the causes of emigration requires concerted efforts by all OECD countries together and the EC should use its position to promote OECD-wide concertation on this issue. While avoiding a *de facto* partition of the world into zones of responsibility and influence, it is recognised that the EC does have a special duty to put in place a policy of close cooperation with Central and Eastern Europe and North Africa, given their geographical proximity, and with other countries of origin given their historic ties. A deepening

EC commitment to realising the economic development aims of countries of origin implies, conversely, a necessary reinforcement of recipient countries' obligation to pluralist democracy so that intensified cooperation can help to make possible improved living standards for the whole population.

5.5. It is recognized that both geographic proximity and historical (ex-colonial) ties bind the Community as well as the 12 Member States into a 'special relationship' of expectations with Third countries, regardless of formal governmental agreements between countries of origin and host countries.

5.6. It is recognized that in certain circumstances some Member States are currently subjected to pressures from specific interest groups to liberalise their immigration policies. If such pressures became widespread this could give rise to a flow of immigrants into the Community which would be incompatible with the available economic and social capacity.

5.7. It is recognized that international institutions to which the Community and/or the Member States belong and to which they are committed have already developed a body of opinion on migration questions which needs to be built upon by the Community.

5.8. It is recognized that in some cases the voice of the Community may be greater than the sum of the Member States individually, and that the Community should promote a dialogue with countries of origin to agree on a framework of aims, rights, responsibilities and actions on migration questions (including how to reduce migratory pressures) within which individual Member States can operate their own immigration policy.

5.9. It is recognized that common policies, including the Internal Market, implicate each Member State in the immigration decisions of others, thereby pushing the Twelve to some degree of collective, harmonized or convergent handling of immigration from Third countries.

5.10. It is recognized that there is merit in simplicity, coherence and consistency and that, wherever possible, rules be applied to would-be immigrants from all Third countries.

5.11. It is recognized that Community competences in trade (plus trade in services) and aid policy could

directly influence immigration from Third countries and that Member States' policies (e.g. economic and labour market) could indirectly influence it.

5.12. It is recognized that the Community should be interested in promoting pluralist democracy, the rule of law, religious tolerance and rapprochement, civil institutions, human and trade union rights, etc. in its external relations (as we expect within the Community) as a contribution to world peace and prosperity and as a specific contribution to reducing migration pressures.

6. Guidelines for immigration policies

6.1. The policy of each Member State will have effects on the policies of other Member States of the EC and on the EC as a whole. If major problems are not to arise—from the inevitable and increasing flow of immigrants—for the Community in terms of unemployment, conditions of hygiene and safety and social security measures, housing, education facilities and so on, then steps must be taken at the EC level to bring about effective cooperation towards harmonizing the approaches in the different Member States' national immigration policies. A way may be found towards establishing the legal EC competency for such cooperation in the revision to the Treaty emanating from the Inter-governmental Conference. The responsibilities of intergovernmental agencies should be transferred to Community competence, involving all EC institutional bodies and thus allow for democratic scrutiny and openness, as coordination, coherence and harmonization are needed, especially on the external relations aspects. Meanwhile the Committee would wish to see the control of immigration at the outer frontiers of the Community to be both efficient and effective.

6.2. The overall EC policy on immigration should be to prevent, control or stem immigration by helping the countries of origin to bring about economic growth and a better quality of life in their own countries.

6.3. Persons, who have immigrated legally or who have been living legally for a long time in the Community, should have the opportunity to acquire the basic rights of EC citizens, with the exception of certain political rights. EC social minimum standards should be applied to legal immigrants from third countries in accordance with ILO- and UN-conventions. The Community must guarantee the principle of equal rights and opportunities for EC and non-EC legal residents, as stated in two earlier Committee Opinions on the

status of migrant workers, which should serve as a reference for all matters relating to the rights and voluntary repatriation of immigrants⁽¹⁾.

6.4. Most people do not emigrate because they are 'looking for paradise'; they would prefer to live in their own countries. But if people are living on 'the threshold of misery' then a major influx in immigration is likely to occur. Where immigration has occurred then every effort, consistent with human rights and fundamental freedoms, should be made by the host country in a policy of re-emigration to enable people to go back to their own countries if they so wish.

6.5. Within the multilateral framework and negotiations of the General Agreement on Tariffs and Trade (GATT) as well as in the frame of bilateral agreements, the EC should carefully review its policies which would create trade barriers that could lead to immigration because the emigrants cannot earn a living in their own countries.

6.6. As an immediate policy the EC should provide training programmes and investment incentives for immigrants aimed at enabling them to return home equipped with basic skills and management expertise.

6.7. Through investment in economic development and the provision of training courses the EC should make a major contribution to prevent the brain-drain from the Central and Eastern European countries. Such a brain-drain is adverse to the chances of these countries recovering economically in the transition stages from a command economic system to a market economy (though not necessarily the Adam Smith model). Such a failure would lead to increased unemployment and this would in turn only make the unemployed become potential emigrants. The aim of EC policy generally ought to be to help to create stable political and socio-economic conditions in the countries of potential emigration.

6.8. The Committee stresses the fact that immigration is not only a single-person problem for the host country—it is also a family problem for which the host country has to provide for not only the immigrant himself but for his wife/husband and children also. This wider dimension of the problem means that extra appropriate provision has to be made in the area of public expenditure for education, housing, health and social security—all of which constitute a heavy budgetary cost on immigration to be borne by the host country.

⁽¹⁾ OJ No C 159, 17. 6. 1991, p. 12 and doc. ESC 1122/91.

6.9. A few principles underpinning a joint immigration policy specifically in relation to temporary migration could usefully be established in line with the discussions at the Prague meeting of European Employment Ministers in April 1991.

6.9.1. Neither Central and Eastern Europe nor the Mediterranean third countries want to become a recruiting ground for the underground economy, and Western Europe does not want to attract more job-

seekers than it has vacancies for. The Committee underlines that negotiations and agreements are therefore needed. For the present these could even be bilateral until the EC or other supranational bodies acquire a remit for immigration matters.

6.10. The aim of EC policies should be to help the countries of origin to enable them in future to help themselves in the development of their own resources for their economic and social progress.

Done at Brussels, 28 November 1991.

*The Chairman
of the Economic and Social Committee*

François STAEDLIN

Opinion on the proposal for a Council Directive on the landfill of waste⁽¹⁾

(92/C 40/26)

On 5 June 1991 the Council decided to consult the Economic and Social Committee, under Article 100 A of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for Committee's preparing the work on the subject, adopted its Opinion on 5 November 1991. The Rapporteur was Mr Colombo.

At its 291st plenary session (meeting of 27 November 1991), the Economic and Social Committee adopted the following Opinion unanimously.

Subject to the comments made below, the Committee approves the proposal for a directive, which reflects the best international experiences in planning, implementing and running environment-friendly landfill operations.

1. Introduction

1.1. This proposal derives from the Council Resolution of 7 May 1990⁽²⁾ establishing guidelines for an overall Community strategy for waste management. In past Opinions, the Committee has repeatedly stressed the urgent need for such an approach, and it welcomes the intention to take further steps in harmonizing stan-

dards, thereby securing a high level of environmental protection, on the basis of Article 100 A (3) of the Treaty.

1.2. Reference should be made to the Opinion on the amendments to the Directive on waste and the Opinions on the Directives on the incineration of municipal waste and on civil liability for damage caused by waste⁽³⁾, which emphasize prevention at source as a means of reducing the amount of waste for disposal.

1.3. This preventive approach requires action at every stage of the process of production, distribution and consumption—'from cradle to grave'—with

⁽¹⁾ OJ No C 190, 22. 7. 1991, p. 1.

⁽²⁾ OJ No C 122, 18. 5. 1990, p. 2.

⁽³⁾ OJ No C 56, 6. 3. 1989; OJ No C 318, 12. 12. 1988 and OJ No C 112, 7. 5. 1990 respectively.

economic and fiscal incentives⁽¹⁾ for the use of reusable materials, less packaging, and pre-treatment of waste in order to reduce its quantity and toxicity.

1.4. As the Committee has pointed out on several occasions, in addition to a positive commitment by the authorities, prevention also implies the active involvement of consumers, with a thorough-going programme of education for selective waste collection and ecologically-aware consumption. Ecological labelling of products should provide a major step forward in this direction.

1.5. Lastly, the Committee recalls the need, expressed in earlier Opinions, for a network of waste disposal installations, fairly distributed on a geographical basis, in order to reduce transport of waste to a minimum. Collection and landfill disposal areas should be as close as possible, subject to the existence of suitable hydrogeological conditions.

2. Preliminary observations

2.1. Based on the overall preventive approach referred to in the Introduction, comprehensive 'cradle to grave' waste measures need to be adopted incorporating proposals to regulate individual 'end of pipe' technologies for disposal.

2.2. While calling upon the Commission to reconsider this requirement for the future, the Committee also wishes to express its appreciation of the Explanatory Memorandum to the Proposal, particularly in its emphasis on the primary goal of developing strategies for prevention and recycling, with a view to reducing the amount of waste for disposal by landfill.

2.3. On the basis of Dutch and Austrian experiences, the Committee calls on the Commission to consider whether prevention policies might not be strengthened by a clearer statement of reduction deadlines and targets at the source of the problem and by progressive dissemination of recovery and recycling technologies. This approach is clearly applicable to both municipal and industrial waste. The promotion of differentiated collection is essential for municipal waste in order to separate substances such as solvents, medicines, glass, electric batteries, etc.

2.4. The Committee stresses the need for rapid harmonization of waste classification procedures between all Member States, together with more reliable information on the volumes and types of waste produced, and on actual disposal capacity within the Community. To this end, the obligation on Member States to submit an annual report to the Commission, laid down in Article 19, can help considerably.

2.5. Point 5 of the abovementioned Council Resolution is worth mentioning in this respect, as it recognizes the need for Community-wide data on the volume and type of waste produced in the Community, the availability of approved disposal facilities and the methods of treatment and final disposal. The Council was relying upon the European Environment Agency to help collate such data. The regrettable and basically unjustifiable delay in setting up the Agency has certainly made itself felt in this area. It must therefore be clearly stated what information Member States should forward to the Commission.

2.6. The Committee calls upon the Commission to take urgent steps to draw up a complete list of illicit landfill sites within the Community, so as more accurately to assess needs, including the financial resources required to deal with them, with a view to future economic and tax measures and better identification of measures to prevent any spread of this practice. Effective supervisory machinery is essential in order to prevent even the strictest regulations on landfill being evaded, increasing illicit activity. Adequate penalties should be available.

2.7. A further aspect meriting attention is the state of research and technical progress in this field. In the United States of America, for example, the state of knowledge on landfill and the decomposition processes involved is being expanded with contributions from a new discipline, 'landfill archaeology'.

2.8. The Committee regrets that the proposal makes no mention of initial and in-service training of landfill personnel: competent, qualified management is an essential element in the protection of the environment from the risks which may arise from this activity.

2.9. Lastly, the Committee considers it essential to set up public information and consultation machinery,

⁽¹⁾ Interpreted as broadly as possible as described in the Own-initiative Opinion ESC 1052/90 (OJ No C 332, 31. 12. 1990).

respecting the principle of freedom of environmental information, and especially in view of the concerns over harmful effects frequently voiced by local residents directly affected by landfill sites.

3. Specific comments

3.1. Article 3

3.1.1. The Committee recommends clarifying the definition given in (j) by replacing the word 'water' with 'liquid'.

3.2. Articles 6, 7, 8 and 9

3.2.1. The Committee considers the procedures for permission and notification of waste not acceptable for landfill to be adequate; nevertheless, it recommends that appeal procedures against decisions made by the appropriate authorities be provided.

3.3. Article 9

3.3.1. A landfill should be seen as a disposal plant, the centre of which may be portrayed as a biological reactor which must be carefully controlled lest it become not entirely predictable.

3.3.2. This would lead the Committee to agree with the Commission's proposed ban on liquid waste to sites for the joint disposal of various types of waste, except where absolutely necessary depending primarily on meteorological conditions and the continuation of proper on-site decomposition processes. The Committee stresses the need for strict observance of the compatibility criteria referred to in Annex 4.

3.3.3. The Committee also urges that special attention be paid to measures to collect and remove rainwater. The purpose is to reduce percolate to a minimum at source: its collection and subsequent treatment represent one of the heaviest operating costs, but are necessary in order to reduce the risk of pollution to groundwater.

3.3.4. The Committee also welcomes the exclusion of infectious waste, which could give rise in wastefills to the growth of pathogenic micro-organisms, despite the reducing environment.

3.4. Article 10

3.4.1. More generally, the Committee would ask the Commission to examine in the greatest detail authorization to mix different types of waste, given the environmental risks presented by this practice; the appropriate authorities should strictly enforce the compatibility criteria set out in Annex 3.6.

3.4.2. The acceptance procedures described in Article 11 merit endorsement: however, it should be specified in 2.b) that staff carrying out inspection and control functions must be properly qualified, by adding 'by staff qualified for these tasks'. The control procedures in operation and aftercare phases (Art. 12) and the closure procedures (Art. 13) are likewise endorsed.

3.5. Article 13

3.5.1. In 1.b), the term 'site operator' is suggested instead of 'owner of the site'.

3.5.2. Similarly, in point 5, the phrase 'the operator shall be in charge' should be clarified by inserting 'or the person who takes over the closed site from the operator' between 'operator' and 'shall be in charge of'.

3.6. Article 14

3.6.1. The Committee recommends that the civil liability of the operator be kept strictly in line with the draft directive on civil liability for damage caused by waste, currently in course of adoption⁽¹⁾.

3.7. Article 15

3.7.1. The Committee is pleased to note that Article 15(2) and (3) provides existing landfill sites with a transitional period to meet standards, but asks that the wording of Article 15(1) be made more clear and coherent.

3.8. Article 16

3.8.1. The Committee acknowledges the impossibility of achieving Europe-wide harmonization of costs, in view of the widely-differing geological conditions among Member States. It believes, nevertheless, that harmonization of environmental protection standards and their effective implementation will help to reduce divergences in disposal costs. The Commission is called

⁽¹⁾ ESC Opinion in OJ No C 112, 7. 5. 1990.

upon to collect aggregate national data, using the annual reports, on disposal costs and on disposal costs per tonne for each landfill operation, so as to build up a detailed statistical picture.

3.9. *Articles 17 and 18*

3.9.1. Articles 17 and 18 raise the serious and controversial matter of the financial guarantee or equivalent which the operator is required to provide to cover closure and aftercare operations, any site maintenance and repairs required following closure, or unforeseeable operating problems during a site's active life. Article 18 provides for the establishment of national Landfill Aftercare Funds. The Committee also urges that thought be given to directing adequate funds to operator training and public information.

3.9.2. The Committee believes that a differential scale of operator charges should be indicated, depending on the type of waste disposed of at the landfill site.

3.9.3. However, landfill site management should never pursue economic efficiency objectives at the expense of the primary aim of shielding the environment and health factors from pollution.

3.10. *Article 19*

3.10.1. In the light of the needs referred to in points 2.4 and 2.5 above, the Committee calls for the information Member States are to forward in their annual

reports to be spelled out. The following items in particular should be included:

- specific data on each landfill operation (location, types and amount of waste, disposal cost per tonne, catchment area, etc.),
- aggregate national data (types and amount of waste disposed of, overall cost),
- plans for new landfill sites,
- closed landfills,
- technical and financial activities of the Landfill Aftercare Fund.

4. **Comments on the Annexes**

4.1. *Annex 1, 6.3*

The Committee suggests introducing night-time supervision of landfills for hazardous waste, but also for landfill risks in general.

4.2. *Annex 3*

The Committee calls for the formulation of specific criteria for underground and cave deposits to be considered.

4.3. *Annex 4, 4*

The Committee fails to understand why municipal waste has been excluded from the control procedures on eluate criteria.

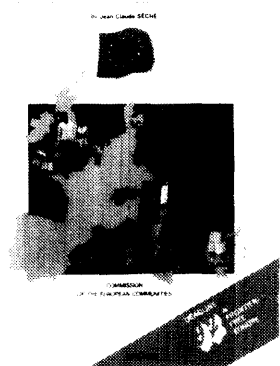
Done at Brussels, 27 November 1991.

The Chairman
of the Economic and Social Committee
François STAEDLIN



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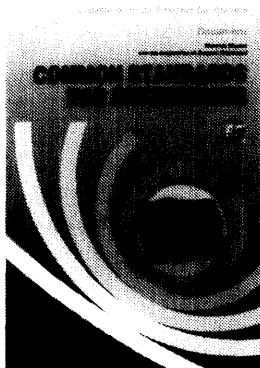
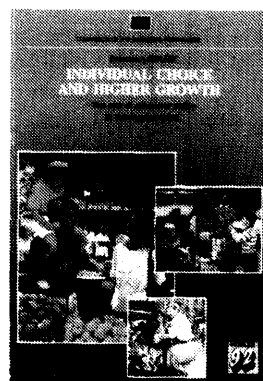
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