Official Journal of the European Communities

ISSN 0378-6986

C 195

Volume 37

18 July 1994

English edition

Information and Notices

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Price: 23 ECU

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II

(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion on the proposal for a Council Regulation on Community action in the field of statistics [1]

(94/C 195/01)

On 30 March 1994 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 12 April 1994. The Rapporteur was Mr Meyer-Horn.

At its 315th Plenary Session (meeting of 27 April 1994), the Economic and Social Committee adopted the following Opinion unanimously.

1. Legal basis of the Regulation

1.1. The European Commission has submitted a proposal for a Council Regulation [COM(94) 78 final] concerning Community action in the field of statistics.

1.2. The legal basis for the Regulation is Article 213 of the Treaty establishing the European Union, and it will be passed once the Economic and Social Committee, the European Parliament and the European Monetary Institute have given their Opinions.

1.3. The proposed Regulation was drawn up in consultation with the Statistical Programme Committee, the Committee on Monetary, Financial and Balance of Payments Statistics and the European Advisory Committee for Statistical Information in the Economic and Social Spheres.

1.4. Article 23 states that the Regulation is to come into effect 20 days after publication in the Official Journal of the EU and then has immediate legal force in every Member State.

2. Purpose of the Regulation

2.1. For decisions to be made, the European Union requires Community statistics which are up-to-date, reliable, meaningful and comparable from one country to another. Community statistics are particularly essential for the following purposes:

2.1.1. To prepare and achieve Economic and Monetary Union (e.g. financial and monetary indicators for convergence criteria; national accounts, purchasing power parities, consumer-price indices, balance of payments, banking, interest-rate and monetary statistics for the European Monetary Institute).

2.1.2. To promote economic and social cohesion (e.g. GDPs of the regions, unemployment rates, regional indicators on active population and employment in order to assess eligibility for Structural and Cohesion Fund assistance, REGIO database).

2.1.3. To create a European financial area (e.g. capital market statistics, including data on ecu bond issues, databank on all ecu statistics).

2.2. In its Final Report of the Statistical Programme 1989-1992 [COM(93) 454 final], the Commission points to the progress already made in these areas of statistics (chapter I B 1 to I B 4, I C 1). In particular, work done over ten years has brought the European System of Integrated Economic Accounts (ESA) into line with that of the United Nations (SNA) and the methods used by the IMF to measure balance of payments. Within the ESA, collection of the now largely comparable data has been speeded up and provision made for the subsequent inclusion of Austria, Switzerland, Sweden and Finland.

[1] OJ No C 106, 14. 4. 1994, p. 22.

2.3. Community statistics are based on the data supplied by statistical offices in the Member States. This is in line with the subsidiarity principle, which, particularly in the field of statistics, has been proving its worth for some time now. However, subsidiarity also involves the following requirements:

2.3.1. There must be a clearly defined division of responsibilities between the Statistical Office of the European Union (Eurostat) and the statistical authorities of Member States.

2.3.2. Member States must ensure that data passed on from their own authorities to the European Commission conform to principles agreed upon at Community level.

2.3.3. Confidential statistical data must be protected in equal measure at all levels to maintain the confidence of those required to provide information.

2.3.4. Arrangements must be made to ensure that non-confidential Community statistics are accessible to all citizens of the EU and not just to a small group of immediate users.

2.3.5. In response to the particular needs and the responsibility which the European Monetary Institute (EMI) or, at a later stage, the European Central Bank will have for certain statistics, a special form of cooperation must be agreed upon between the various statistical authorities at national and Community level, taking full account of the independent status of the European Central Bank and the EMI.

2.4. The proposed Regulation implements the measures necessary to meet the requirements set out in point 2.3. The ESC therefore endorses it while making the comments set out in paragraphs 3 and 4 below.

3. General Comments

3.1. The 23 Articles of the proposed Regulation lay down unified standards and harmonized methods for the preparation, collection, storage, processing, compilation, analysis and dissemination of Community statistics. Multi-year statistical programmes, periodically updated if necessary, are to be set up together with guidelines and objectives, on the basis of annual work programmes.

3.1.1. The Committee welcomes the fact that the proposed Regulation also takes account of both financial constraints at national and Community level and the relevance of Community legal provisions governing such actions (Article 4). In this connection, the ESC particularly approves of the following principles [Article 9(2) points 3 and 4]:

3.1.1.1. The financial burden on respondents is minimized.

3.1.1.2. The amount of work and the cost involved in the production of Community statistics must be in proportion to the importance of the results/benefits sought.

3.1.2. In view of the extent and importance of the statistical programmes, the ESC thinks it right to consult the committee specifically set up for this purpose within Eurostat (the Statistical Programme Committee), the European Monetary Institute and, where appropriate, the Committee for Statistical Information in the Economic and Social Spheres and the Committee on Monetary, Financial and Balance of Payments Statistics [Article 3(2) and (3)].

3.1.3. According to Article 3(2), the Commission is to take the statistical requirements of the European Monetary Institute into consideration 'as far as possible'. The ESC feels that this qualification is inappropriate given the importance of the statistics which will presumably be required when laying the foundations of the common monetary policy, adjusting instruments of monetary policy and promoting closer cooperation between central banks.

3.2. Article 9 of the proposed Regulation states that Community statistics shall be produced in an objective manner, uninfluenced by political or other interest groups. In view of the importance of statistics in the process of completing economic and monetary union (cf. points 2.1.1 and 2.1.2), the ESC endorses this principle, as well as the detailed rules on statistical confidentiality and protection against unauthorized disclosure (Articles 13 to 19). On this point, the ESC feels that suppliers of statistical data should be informed about the protective measures taken as well as about the legal basis and purpose of the statistics.

3.3. With the implementation of convergence and recovery programmes and plans for closer coordination of national economic policies under multilateral supervision, it is essential that the relevant economic and social interest groups, especially the social partners, are kept informed. The ESC therefore welcomes the fact that the proposed Regulation guarantees impartial and therefore unhindered access to Community statistics which are not subject to statistical confidentiality (Articles 10 and 11).

3.4. The ESC is assuming that it will continue to be consulted on the multiannual Community statistical programmes referred to in Article 2(1) of the draft Regulation

4. Specific comments

4.1. Although national authorities are normally responsible for carrying out the work required under the statistical programme, Community statistics may also be produced by Eurostat with the agreement of these national authorities. The ESC feels that it makes sense to provide for this option (Article 7).

4.2. Article 11(4) states that the conditions of access for statistics' users shall be governed by the tariff policy of each authority and based on mutual information and cooperation between national and Community statistical authorities. This is in line with the principle of subsidiarity. However, the ESC is adamant that cooperation should produce a tariff policy which ensures that the citizens of one or other Member State do not have to pay considerably more than others for access to Community statistics.

4.3. Article 18 states that employees of national authorities will continue to be subject to the ruling on statistical confidentiality even after the cessation of their functions. The ESC welcomes this, but wonders how it can be incorporated into contracts of employment or civil service and criminal law at national and Community level.

4.4. Article 20 lays down the rules for consultation of the Statistical Programme Committee (SPC), particularly the voting and decision procedure for Commission measures which are not in accordance with the opinion of the SPC. The procedure is complicated, but the ESC feels it is indispensable if the decisions necessary for the production of Community statistics are to be taken without long delays. The same goes for rules laid down in Article 21 on the functioning of the Committee on Statistical Confidentiality established under Council Regulation No 1588/90 of 11 June 1990.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the proposal for a European Parliament and Council Regulation (EC) laying down a Community procedure for flavouring substances used in foodstuffs [1]

(94/C 195/02)

On 20 December 1993 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 5 April 1994. The Rapporteur was Mr Gardner.

At its 315th Plenary Session (meeting of 27 April 1994), the Economic and Social Committee adopted the following Opinion by a majority vote, with one abstention.

1. Introduction

Directive 88/388/EEC regulates flavouring substances used in food. It divides these substances into:

— Natural

— Nature identical

— Artificial.

Vanillin is an example of the first two and ethyl vanillin of the third.

This proposal sets out a mechanism for establishing a detailed list of these flavouring substances.

2. General comments

The Committee endorses the over-riding need for protecting the health and safety of consumers in the context of flavouring substances.

There are around 3,500 flavouring substances in normal use in the EU, most of them natural and nature identical. The great majority of these is present in foods such as plants, spices, animal products and other materials which have been consumed since time immemorial. The main part of flavour intake will continue to come from these items.

Any list therefore should start with a Community evaluation of artificial flavours and proceed to others only where necessary.

Subject to that and the comments below, the Committee approves this proposal.

3. Detailed comments

3.1. *Article 1.1*

The general approach is very sensible. However the seventh indent (smoke flavours) should also be covered as these are the ones most likely to present health risks if wrongly produced. Since these are often mixtures of variable chemical composition they have to be evaluated by different methods. Therefore the Committee urges the Commission to issue a separate proposal to deal with these.

3.2. *Article 2.2*

The requirement for necessity in 2 above needs specifying.

Also in certain cases conditions of use must be laid down to safeguard the consumers' health. Therefore Article 2.2. should be amended as follows:

> 'Where necessary a list of flavouring substances, the use of which is authorized to the exclusion of all others will be laid down. This list may be drawn up in stages.
>
> This list shall be adopted in accordance with the procedure in Article 4 and may include conditions under which flavouring substances may be added if these are considered necessary for health reasons.'

3.3. *Article 7*

The date is obviously fictitious.

[1] OJ No C 1, 4. 1. 1994, p. 22.

3.4. *Annex I.1 — first indent*

The tests required by the SCF must be based on the need to safeguard the health and safety of consumers.

3.5. *Annex I.1 — second indent*

It is difficult to use flavours to disguise the effects of faulty raw materials or of undesirable manufacturing practice to mislead the consumer. This indent should be strengthened to read simply:

'— and their use does not mislead the consumer.'

3.6. *Annex I.3*

The Committee stresses the importance of the final part of the sentence and is strongly in favour of constant re-evaluation, particularly in the case of new substances.

3.7. *Financial impact*

No impact statements are given either on financial implications or effects on SMEs and 'craftsmen'.

A 90-day study for each flavouring substance would cost around ECU 100,000 to 150,000 and the testing of all 3,500 flavours would tie up the toxicological testing facilities in the Community for decades. This is another reason for a selective approach.

3.8. *Confidentiality*

There needs to be a confidentiality clause covering the information that has to be disclosed for a positive list. Such a clause is necessary if flavour research in the EU is to continue. Perhaps this could be handled in a manner similar to pharmaceuticals.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the proposal for a European Parliament and Council Decision establishing a procedure for the exchange of information on national measures derogating from the principle of the free movement of goods within the Community [1]

(94/C 195/03)

On 18 January 1994 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European 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 15 April 1994. The Rapporteur was Mr Connellan.

As its 315th Plenary Session (meeting of 27 April 1994), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. In its Resolution on making the Single Market work [2], the Council undertook to work in partnership with all the Community Institutions and Member States to ensure that the Single Market worked effectively and to act speedily if new barriers were found which could jeopardize its operation. It also invited the Commission to propose any practical arrangements to help ensure the smooth running of the Single Market.

1.2. This proposal, which follows on from the Commission Communication on the management of the mutual recognition of national rules after 1992, is aimed specifically at establishing a simple procedure for the exchange of information between Member States and the Commission that will enable the Community to manage transparently and pragmatically the mutual recognition of national laws which have not been harmonized at Community level.

1.3. The Committee has taken account of its Opinions of 27 May 1993 [3] on the Commission Communication on the operation of the Community's Internal Market after 1992 — Follow-up to the Sutherland Report and also of its Opinion of 22 September 1993 [4] on the Working Document of the Commission on a Strategic Programme on the Internal Market.

1.4. The Committee attaches great importance to ensuring the transparent functioning of the Internal Market, and welcomes this further step in ensuring the greatest consistency possible in the application of the rules.

2. General remarks

2.1. This is the first opportunity that the Community has had to scrutinize the drafting of the new Internal Market legislation along the lines recommended in the Sutherland Report, which recommended that all proposed legislation should be examined against the five criteria of need, effectiveness, proportionality, consistency and communication.

2.2. The Member States are allowed to make an exception to the principle of free movement of goods if it is justified under Article 36 of the Treaty or the case law of the Court of Justice relating to Article 30. Article 36 allows Member States to restrict imports from other Member States on the grounds of public morality, public policy or security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Reasons of public interest for the purposes of a mandatory requirement accepted by the Court under its case-law relating to Article 30 of the Treaty include consumer protection, improvement of working conditions, fair terms of trade, effective tax control and environment protection. Such prohibitions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States. Further, they must be necessary, viz they must be pertinent (there must be a causal link between the measure adopted and the desired aim) and no alternative must exist which would place fewer restrictions on free movement of goods. Lastly, such measures must be commensurate with the desired aim or practical effects of the prohibition.

2.3. *Need*

At present Member States may invoke the criteria listed in point 2.2 to introduce new laws or retain existing ones, even if this may restrict the free movement of

[1] OJ No C 18, 21. 1. 1994, p. 13.
[2] OJ No C 334, 18. 12. 1992.
[3] OJ No C 201, 26. 7. 1993.
[4] OJ No C 304, 10. 11. 1993.

goods. However, they have no obligation to notify other Member States formally of these actions. There is clearly a need for the other Member States to be aware of the grounds, e.g. those referred to above, on which free circulation is restricted.

2.4. *Effectiveness*

The proposal recommends that Member States wishing to derogate from free movement of goods must notify all other Member States and the Commission of the measures taken. The Committee considers that this procedure will highlight barriers to the Internal Market, and meet the desired criterion of effectiveness.

2.5. *Proportionality*

The proposal recommends that the information should be provided on a one-page form. The Committee considers that this does not represent an undue burden on Member States and, therefore, meets the criterion of proportionality.

2.6. *Consistency*

The availability to the Commission and to Member States of information on a form will (i) make it easier to compare national legislation deviating from the free movement of goods and products and (ii) make for more consistent control of the application of the texts, which would not have been the case without these new provisions. (sic)

2.7. *Communication*

While not expressly provided for in the proposed Decision, it is understood that general information regarding the number of notifications and their nature will be published annually in the Commission's Report on the operation of the Internal Market.

To ensure that the Internal Market operates smoothly the Committee considers a more frequent system of communication to be desirable.

2.8. *Summary*

The Committee considers that the proposal's implementation will be particularly beneficial for SMEs who may not otherwise be aware of the reasons and justification for restricting access for their products to another Member State. The Committee notes that traded services are not within the scope of the proposed Decision, and recommends that a similar equivalent proposal be prepared for such services.

3. **Specific remarks**

3.1. *Need*

3.1.1. Since the completion of the Internal Market on 31 December 1992, border controls have been eliminated and there has been an increased need for coordination of policy in all areas involving mutual recognition.

3.1.2. This applies to particular cases not already covered by draft technical regulations already notified under Directive 83/189/EEC [1] or by Decision 89/45/EEC where a general ban has been imposed on a particular product on the grounds of hazard to the health and safety of consumers. There are many products such as industrial components which are not covered by either of these instruments.

3.1.3. The proposed notification procedure will increase the confidence of consumers, workers and entrepreneurs in the Community legislative process.

3.2. *Effectiveness*

3.2.1. Article 1 outlines the requirement that a Member State shall inform the Commission and other Member States of its decision to restrict, ban or withdraw products from the market.

3.2.2. The Committee is concerned to ensure that no ambiguity should exist in the interpretation of the words 'goods' and 'products'. Both terms are used in this article. 'Products' may be interpreted to include certain services. On the other hand, a recent ruling of the Court of Justice has drawn a distinction between goods and the conditions under which they are sold, e.g. hallmarks or reselling at a loss. The Court ruled that certain sale conditions are outside the scope of Article 30. For these reasons it is essential that the coverage of 'goods' and 'products' in the article be clearly defined, without however closing the door on subsequent developments in the case law of the Court of Justice.

Furthermore, it is essential that the scope of the proposed Decision should be clearly defined. Obstacles to the free movement of goods which may not be deemed by the Court to fall within the scope of Article 30 should be considered.

3.2.3. It is possible that not all restrictions on free movement of goods will be notified by Member States. All individuals and groups have the right to bring market restrictions to the attention of the Commission. It is essential that the Commission be provided with comprehensive information of conditions in practice.

[1] OJ No L 109, 26. 4. 1983.

The Committee considers that individual traders, consumers or associations should be encouraged to submit information to the Commission where Member States are perceived as infringing the principle of the free movement of goods either through legislative or administrative practices.

The Euro Info Centres and the ESC have a role to play in this respect.

3.2.4. In addition the Committee proposes to incorporate the examination of national measures derogating from the principle of the free movement of goods within the Community in the process of hearings on the operation of the Internal Market described in the ESC Opinion of 22 September 1993 [1].

3.3. *Proportionality*

3.3.1. Article 4 states that the information required shall comprise:

— a copy of the decision taken by the national authority, and

— an information sheet containing particulars presented on a form

to be communicated within 30 days of the decision by the Member State concerned.

3.3.2. The Committee welcomes the pragmatic approach which requires only essential information. Experience in relation to the notifications of draft technical regulations under Directive 83/189 EEC shows that between 300 and 400 notifications per annum are submitted. Since the proposed Decision requires notification of exceptions to a harmonized framework under Article 36 of the Treaty it could be expected that the number of notifications will be somewhat lower in this instance.

3.3.3. While the principle of proportionality must be respected it should not become a refuge which encourages infringement of the wider principle of the free movement of goods.

Therefore where Member States fail to implement the simple procedures proposed in this Decision it should be made clear that they will be subject to Court Referral.

3.4. *Consistency*

3.4.1. The main objective of the notification procedure is to ensure that the principle of mutual recognition is being applied, with rare exceptions, across the Community. Where exceptions occur, it will be a matter for the Member States to accept the situation, to resolve the disputes on a bilateral basis, or for the Community Institutions to intervene. It is recommended that a conciliation procedure be established at Community level.

3.4.2. The aim should be to find practical solutions and to resolve disputes as quickly as possible. It is essential that clear, simple, fast, and efficient procedures are implemented by the Commission to deal with the examination of actions requiring conciliation between Member States. A decision should be reached not later than 6 months after notification of the derogation by a Member State.

3.4.3. The powers of the Commission in this area emanate from its role as guardian of the Treaty as specified in Article 155. Based on the case-law of the European Court of Justice it may therefore alert Member States where necessary of the risk of referral to the Court under Article 169.

3.5. *Communication*

3.5.1. Article 6 states that Member States and the Commission are not required to disclose information which is by its nature covered by professional secrecy except where safety or health issues are concerned.

3.5.2. Article 8 requires the Commission to publish a report within two years of the Decision. It is understood that this report will comprise a general assessment of the operation of the Decision.

3.5.3. The Committee notes the provision in Article 8 that within two years of the date of notification of the Decision the Commission will report to the Council and the Parliament on its implementation and shall propose any amendment it deems appropriate. The Committee insists that the Economic and Social Committee be included in this reporting process.

3.5.4. In addition the Commission will include a report on national measures notified under the Decision in its Annual Report on the Internal Market. An analysis of obstacles to the free movement of goods should be included in this report. The Committee also recommends that a cumulative list of all measures notified, and still in operation, should be included in subsequent annual reports. In this context, it is essential that when a notified derogation is no longer in force it should be removed from the list.

3.5.5. The Committee recommends that there should be a more regular, say quarterly, publication by the Commission or Member States of all measures notified under the Decision. It is essential that such important commercial information is available to traders and consumers at the earliest opportunity.

[1] OJ No C 304, 10. 11. 1993.

4. **Conclusion**

The Committee strongly welcomes the proposal, and considers that it fills an important gap in ensuring that the Single Market is operated in a consistent and transparent manner. It considers, subject to the modifications proposed above, that the notification procedures meet the essential requirements of need, effectiveness, proportionality, consistency and communication.

Done at Brussels, 27 April 1994.

The Chairman
of the Economic and Social Committee
Susanne TIEMANN

Opinion on the proposal for a European Parliament and Council Directive on textile names [1]

(94/C 195/04)

On 17 February 1994 the Council decided to consult the Economic and Social Committee, under Article 100A of the Treaty establishing the European 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 15 April 1994. The Rapporteur was Mr Smith.

At its 315th Plenary Session (meeting of 27 April 1994) the Economic and Social Committee adopted the following Opinion unanimously.

1. The proposal serves the purpose of consolidating in one single text all legislative instruments adopted since 1971 concerning textile names.

2. The Committee considers it most useful to have all texts assembled in one Directive. It has been assured that this consolidated compilation contains no material changes and serves the only purpose of rendering Community law clear and transparent. The Committee fully endorses this objective and, having received the abovementioned assurance, welcomes the proposal.

Done at Brussels, 27 April 1994.

The Chairman
of the Economic and Social Committee
Susanne TIEMANN

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[1] OJ No C 96, 6. 4. 1994, p. 1.

Opinion on the proposal for a European Parliament and Council Directive on certain methods for the quantitative analysis of binary textile fibre mixtures [1]

(94/C 195/05)

On 17 February 1994 the Council decided to consult the Economic and Social Committee, under Article 100A of the Treaty establishing the European 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 15 April 1994. The Rapporteur was Mr Smith.

At its 315th Plenary Session (meeting of 27 April 1994) the Economic and Social Committee adopted the following Opinion unanimously.

1. The proposal serves the purpose of consolidating in one single text all legislative instruments adopted since 1972 concerning certain methods for the quantitative analysis of binary textile fibre mixtures.

2. The Committee considers it most useful to have all texts assembled in one Directive. It has been assured that this consolidated compilation contains no material changes and serves the only purpose of rendering Community law clear and transparent. The Committee fully endorses this objective and, having received the abovementioned assurance, welcomes the proposal.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

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[1] OJ No C 26, 6. 4. 1994, p. 20.

Opinion on the fourth annual report from the Commission on the implementation of the Reform of the Structural Funds — 1992

(94/C 195/06)

On 29 November 1993 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the Fourth annual report from the Commission on the implementation of the Reform of the Structural Funds — 1992.

The Section for Regional Development and Town and Country Planning, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 19 April 1994. The Rapporteur was Mr Little.

At its 315th Plenary Session (meeting of 27 April 1994), the Economic and Social Committee unanimously adopted the following Opinion.

1. Introduction

1.1. The Commission has submitted its fourth Annual Report as required by Council Regulations (EEC) No 2052/88 (Article 16) and No 4253/88 (Article 31).

1.2. Following the reform of the Structural Funds in 1988, the Commission has previously submitted three Annual Reports and a 'Mid-Term Review' [COM(92) 84 of 18 March 1992] on all of which the Committee issued Opinions.

1.3. The Commission's report on 1992 follows the general pattern established but is able, with the efflux of time, to deal more fully with assessment of the impact of Structural Funds' operations. Implementation, in terms of types of assistance approved and of budget funds committed, generally receives less emphasis and is dealt with in less detail than in previous reports, reflecting the satisfactory progress made by the end of the penultimate year of the programming period.

2. Implementation of the Reform in 1992

Certain features of implementation in 1992, as described in the Commission's Report, are set out briefly in the following sub-sections.

2.1. *Financial Aspects*

The amount of commitment appropriations executed during 1992 was MECU 16,925 for the Structural Funds' objectives as determined in 1988, together with MECU 1,046 for the New Länder. In accordance with the 1988 'Framework Regulation', commitment appropriations should double in real terms by 1993 compared with 1987 and they are on schedule so to do.

Payment appropriations executed were MECU 15,816 plus MECU 1,237 for the New Länder. After the first four years of the 1989-93 programming period, just over three-quarters of the total 5-year spending level proposed in the CSFs has been executed. This rate of spending is also in line with the 1988 Framework Regulation.

2.1.1. Objective 1

The countries and regions covered by Objective 1 took action so that it should be possible to take up all the assistance originally allocated and available: the last operational programmes were presented and subsequently adopted and necessary modifications were made to timetables. However, problems remain in Italy where the implementation of the CSF still met with difficulties in 1992, particularly as regards payments.

The additional programmes adopted in 1991 for the New Länder and East Berlin have for the most part run smoothly. Indeed, the scale of the applications for aid required payments scheduled for later years to be brought forward to 1992.

The targeted progression set out in the 1988 Framework Regulation, to double in real terms the 1987 Objective 1 commitment appropriations by 1992, has been comfortably achieved.

2.1.2. Objective 2

For operations approved during the first programming phase (1989-91), the level of commitments was close to 100 % by 31 December 1992 and the majority of related final payments was expected to be made during 1993.

For the CSFs adopted for the second programming phase, the majority of the corresponding operational programmes was presented by the Member States by the beginning of 1992. Commitment appropriations were executed during the year to the extent of MECU 1,620 which is 49 % of the assistance planned under the CSF's for the 2-year phase.

2.1.3. Objectives 3 and 4

By the end of 1992, the implementation of the CSFs for the first phase (1990-92) was completed in terms of payment commitments.

Nine CSFs for 1993 were established on 6 November 1992 in respect of Objectives 3 and 4 in areas outside the Objective 1 regions. The new CSFs, involving assistance of MECU 2.1, feature the same priorities as before but also introduce greater flexibility to cover persons unemployed for less than 12 months.

2.1.4. Objective 5(a)

Measures under Objective 5(a) underwent no substantial changes in 1992. Compensatory allowances related to the efficiency of agricultural structures continued to account for the largest single portion of aid committed.

2.1.5. Objective 5(b)

The final seven operating programmes were approved in 1992. Under the 73 programmes ultimately approved, Community assistance of MECU 2,607 (at 1989 prices) is available for the period 1989-93. The programme implementation rate accelerated during the year but remains variable by region.

2.1.6. Community Initiatives

The operational phases of the twelve Community Initiatives adopted in 1990 and 1991 were all launched by December 1992. A new Initiative, 'Retex', intended to accelerate the diversification of economic activities in regions heavily dependent on textiles and clothing manufacture, was adopted in May 1992. Expenditure of MECU 1,970 was committed during 1992 for those Initiatives.

2.2. *Implementation of the Principles of the 1988 Reform*

Previous Commission reports painted a generally positive picture of the implementation of the principles of programming, concentration and partnership whereas verification of the principle of additionality proved to be a difficult task. The Commission states that there was no new evidence in 1992 to indicate a change in that assessment.

2.3. *Assessment of the impact of Community assistance*

The methods of assessing the impact of Structural Funds' intervention were developed considerably during 1992, in particular by the use of thematic evaluations which are described quite extensively in the Report. The Commission acknowledges that the quality of the results, in terms of estimating the impact of Community assistance, has not always come up to expectations but it claims that thematic evaluations have contributed to guiding future priorities for assistance.

3. General Comments

3.1. *Overall Assessment*

The Committee welcomes the Commission's report which provides an extensive commentary and very useful data on the implementation of Structural Funds' operations during 1992 and on the cumulative position following the 1988 reform.

The Committee is pleased to note that the financial aspects of Structural Funds' operations are on target and acknowledges that progress is being made towards implementing the principles of the 1988 reform.

3.2. *Timing of Issue of Report*

Following a recent major review of the Structural Funds, final decisions were taken in July 1993 on the legal and administrative framework within which the Structural Funds will operate during the period 1994-1999. The Committee notes with regret that the 1992 Report was not available in time to be given consideration before the new Structural Funds' Regulations were adopted and entered into force.

3.3. *Previous Committee Opinions*

It is pleasing to note that several of the points raised by the Committee in its Opinion on the 1991 Report [Rapporteur: Mr Quevedo Rojo([1])] have been accepted by the Commission. However, the Committee is disappointed by the Commission's response regarding the involvement of economic and social partners: further reference is made to this point in section 4.1.

3.4. *Pointers for the 1993 Report*

3.4.1. The Commission's report on 1993, the final year of the phase following the 1988 reform, provides an opportunity to address the issue of implications of past experience for 1994 onwards. With this prospect in mind and conscious of the revised regulations which are now in force, the Committee suggests that the final year's report should have sections which try to draw together issues such as:

— the degree of co-ordination achieved between the regional policies of individual Member States and the Community's regional policies, including, for example, information on the degree of convergence

([1]) OJ No C 161, 14. 6. 1993, pp. 46-50.

of geographic areas designated as eligible for regional support from each State and from Community funds.

— the relationship of regional policies of the Community to other Community policies: reference to the overall impact on economic and social cohesion is made in Section 4.4.

— the environmental consequences of Structural Funds' policies.

Information on such issues should enable the ESC and others to review them in greater detail as has been done with issues such as the implementation of the principles of reform dealt with in Chapter III of the 1992 Report.

3.4.2. It is put forward that the inclusion of sections dealing with issue-related matters should not be at the expense of the parts of the report dealing with impact evaluation and with additionality, both of which are considered to be of particular interest. This proposition is felt not to be in conflict with the Commission's stated desire to achieve some reduction in the total length of the report and which aspiration is backed by the Committee.

3.4.3. The Committee welcomes the Commission's initial positive response to its proposal that it should participate in dialogue with the Commission on the structure and presentation of future reports.

3.4.4. Some of the other points which are dealt with in more detail in section 4 below also have implications for the 1993 and future reports.

4. Specific Comments

4.1. *Partnership and the involvement of the economic and social partners*

4.1.1. Over a number of years, the Committee has drawn attention to the constructive role which could be played by the economic and social partners in all aspects of Structural Funds' operations. The Committee is disappointed in the brevity of the report under this heading (chapter 3.3) particularly in the light of the specific request made in the Committee's Opinion on the preceding Report([1]) that an assessment should be provided of the practical involvement of socio-economic partners since 1989 within the various Member States. Such an assessment has, in fact, been carried out on behalf of the Committee itself and is described in a recent Opinion([2]). Useful as it is, that assessment is no substitute for the independent and more comprehensive survey that could be undertaken by the Commission.

4.1.2. Very recently, the Committee issued an Own-Initiative Opinion (Rapporteur: Mr Masucci)([2]) on the wider topic of Involvement in Community Regional Policy. In addition to developing, at some length, the positive contribution which can be made by the economic and social interest groups, the Opinion also makes it clear that they do not seek, in so doing, to usurp the decision-making powers of elected authorities.

4.1.3. The future involvement of the economic and social partners within the 'partnership' responsible for the operations of Community Structural Funds is prescribed in Article 4 of the new Framework Regulation [EEC No 2081/93]. It is made clear that the partnership has to cover the preparation of Community support frameworks as well as the appraisal, monitoring and evaluation of the operations. The wording of Article 4 represents a compromise reached by the Council on the Commission's proposal in this regard and which was more explicit and closer to the previously expressed wishes of the Committee.

4.1.4. The definitive wording of Article 4 is, nevertheless, interpreted by the Committee([2]) as making mandatory the involvement of the socio-economic operators within the close consultations of the partnership, albeit 'within the framework of each Member State's national rules and practices'. The Committee,having drawn attention to the present unsatisfactory situation throughout the Community, has welcomed the new Article 4([2]). However, at this time it is not known how the new rules will be applied in all Member States and preliminary indications are that, in at least one Member State (Ireland), the extent of participation appears to have lessened under the new arrangements. The Commission is called upon to monitor the application of the new partnership legislation.

4.1.5. In the course of preparing this Opinion, the Study Group visited Scotland and was able to gain some first-hand knowledge of Structural Funds operations there including the form of partnership arrangements. During the discussions which took place, it was ascertained that the partnership arrangements which applied in the 1989-1993 programming period were concerned primarily with project selection and implementation. It was acknowledged by all parties that those arrangements had been over-bureaucratic and unwieldy.

From direct discussions with central government representatives, it became clear that the UK Government does not intend to designate, as formal 'partners', either employers' organizations at national or regional level or trade unions generally, i.e. they will not be invited to participate in the working committees of the new CSFs. [It is understood to be the UK Government's view that the detailed work of the various committees requires representation to be drawn from implementing agencies that have appropriate detailed knowledge and experience of economic development in the various local areas (there will be seven CSFs for Scotland alone in the new phase)]. On the other hand, it was made known that the UK Government has already entered into discussions with national/regional employers' organizations and trade unions- within a wider informal arrangement — on aspects of Structural Funds oper-

([1]) OJ No C 161, 14. 6. 1993, pp. 46-50.
([2]) OJ No C 127, 7. 5. 1994.

ation and, in particular at this point in the cycle, on the preparation of new regional plans.

The new arrangements represent a major advance on the previous practice in providing a procedure which may, indeed, be suitable for consultation on strategic issues and for monitoring. Nevertheless, in the Committee's view, those wider arrangements fall short of the involvement specified in Article 4 and the formal partnership committees remain insufficiently independent.

4.1.6. The Committee calls for the Commission to provide a fuller explanation of its concept of Partnership and to include in annual reports, as soon as practicable, a description of how Partnership is applied in each Member State and an assessment of conformity with the new Article 4.

4.2. *Additionality*

4.2.1. Under the Coordination Regulation, as amended in July 1993, the rules to determine additionality have been revised in the expectation that the practical problems of verification will be reduced. Of particular benefit should be the requirements that the arrangements for verification will be agreed and base financial data will be provided by the Member State before any Community support framework is established.

4.2.2. The additionality principle is a vital prerequisite for the success of the European Union's Structural Fund measures. The Committee believes it to be vital to ensure compliance with the rule laid down in the Structural Fund Regulations that Member States are to maintain their public structural expenditure, in the whole of the territory concerned, at the same level as in the previous programming period. In addition, care should be taken to ensure that the Structural Funds' priorities tally by and large with each Member State's structural expenditure.

4.2.3. In embracing the arrangements to apply in future, the Committee trusts that the past period is not overlooked and that the co-operation now being given by Member States will lead to satisfactory verification being achieved ultimately in all cases.

4.3. *Concentration*

The Committee has consistently supported the principle of concentration of resources under the 1988 reform and, more recently, under the new Structural Funds regulations and other initiatives. In view of the importance of this aspect, it is felt to be inadequate for the Commission to deal with it so very briefly in the 1992 report. It would be of interest, for example, to know if concentration and other principles are maintained when switching of support from one to some other measure takes place at short notice.

4.4. *Assessment of the impact of Structural Funds operations*

The extensive section of the report (chapter III.2) describing the evaluation of the impact made by Community assistance is commended by the Committee. Given the near impossibility of quantifying the effectiveness in pure economic terms, the examples of thematic evaluations and other technical assessments are decidedly useful in illustrating the effects. The Committee would encourage the Commission to undertake further case studies so that the impact may be illustrated over a wider spectrum. In the long-term, the most persuasive evidence of the impact of Structural Funds operations would be the eventual elimination of need of such assistance.

4.5. *Impact of other policies*

4.5.1. The Committee is very pleased to note that under the new Coordination Regulation and in accordance with the Maastricht Treaty, the Commission will be required to submit a report at three-yearly intervals on the progress made towards the fundamental aim of the Structural Funds viz. the strengthening of the Community's economic and social cohesion. The report is to deal with the contribution made by the Structural Funds and is to be accompanied by appropriate proposals regarding other Community policies affecting cohesion. The Committee assumes that it will be consulted on its reaction to the new report in due course.

4.5.2. As the Committee has stated before — regional policy may concentrate on regional development but it is not the case that regional development is solely dependent on regional policy. Thus, this initiative should meet an oft-stated request and is strongly embraced.

4.6. *Impact on regions within Member States*

4.6.1. The Committee has drawn attention previously to widening economic gaps between regions within Member States and it is disappointing that the report gives no indication of whether this situation has improved as a result of Community policy or has deteriorated further.

4.6.2. In cases of both improvement and deterioration, the degree to which Community policies are coordinated with, regional and other policies of individual Member States may well be an important factor but such information is not given in the Report. The Committee calls on the Commission to provide data on the regional incidence within Member States of Community spending on regional policies. A comparison of the pattern of such spending with that by each member state would be even more useful.

4.7. *Take-up of aid for investment under Objective 5(a)*

4.7.1. The Committee notes that the award of compensatory allowances for farmers in less-favoured regions continues to be the most important Objective 5a measure in financial terms.

4.7.2. The limited take-up of aid for investment appears to be due to uncertainty surrounding the CAP reform and the outcome of the GATT negotiations. The Committee trusts that investment will be able to play a more dynamic and effective role in the future.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the Commission proposal for a Council Directive on the approximation of the laws of Member States with regard to the transport of dangerous goods by road [1]

(94/C 195/07)

On 20 December 1993 the Council decided to consult the Economic and Social Committee, under Article 75 of the Treaty establishing the European 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 6 April 1994. The Rapporteur was Mr Giesecke.

At its 315th Plenary Session (meeting of 27 April 1994) the Economic and Social Committee adopted the following Opinion with no votes against and one abstention.

1. Introduction

1.1. The globalization of international and particularly European markets furthers competition. Science and research are leading to a rapid expansion of the volume and range of goods classified as dangerous. Accordingly, the volume and proportion of dangerous goods shipments is rising rapidly. This is particularly true of dangerous goods shipments by road.

1.2. After a number of well-publicized accidents, the general public has become much more aware of the risks to mankind and the environment of dangerous goods shipments, with the result that governments have acted to lessen such risks. Some of the steps taken by them have been drastic.

1.3. These government measures are frequently based on the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), although this Agreement applies only to the cross-border transport of dangerous goods.

1.4. National rules and regulations in this area vary considerably in some cases, thereby hindering the free movement of dangerous goods within the European Union and the European Economic Area.

1.5. There is therefore a good case for harmonization at the highest possible level of safety.

1.6. When a new, harmonized set of regulations is drawn up, consideration should also be given to the rapid increase in the shipment of goods, including dangerous goods by road to and from the countries of central and eastern Europe.

2. The Commission proposal

2.1. The EU, acting on the basis of the responsibilities it shares with the Member States in accordance with Article 75(1)(c) of the Maastricht Treaty, has submitted this proposal for a Directive with the intention of achieving the necessary harmonization.

2.2. In doing so, the EU has based its proposal on international ADR and UN regulations. With the exception of Ireland, all Members States of the Community are contracting parties to the ADR.

2.3. It is not the intention of this proposal for a Directive, in harmonizing existing legislation in Mem-

[1] OJ No C 17, 20. 1. 1994, p. 6.

ber States throughout the Community, to lower the level of safety required for the transport of dangerous goods. Such safety should be maintained at as high a level as possible and this will be achieved by adopting amendments agreed in the regular updating of the ADR and United Nations Recommendations on the Transport of Dangerous Goods, which aim to reach the highest possible acceptable levels of safety.

2.4. Furthermore, given the special nature of this transport, Member States should be allowed to introduce additional non-safety-related provisions concerning aspects of dangerous goods shipments — e.g. provisions relating to the environment or national security.

This proposal does not address the issue of controls, which the Commission intends to cover in a separate Community instrument.

3. General comments of the Committee

3.1. The Committee welcomes the proposal to harmonize diverging national regulations governing the transport of dangerous goods at as high a level as possible.

3.2. The Committee also welcomes the proposal that the ADR's provisions should regulate the transport of dangerous goods within national frontiers.

3.3. As a general principle, the Committee believes that the provisions governing the transport of dangerous goods in the Member States should be as homogenous as possible. Such provisions should cover all modes of transport and be based on international regulations and agreements.

3.4. The Committee believes, however, that the safety gain would be considerable if the Directive contained a dynamic reference to whatever ADR Agreement was currently in force, rather than being brought into line with successive ADR Agreements, as envisaged.

3.5. This approach would not only enhance the effectiveness and transparency of the measure; it would above all make the definitions and terms clearer and easier to understand.

3.6. This would obviate the danger of highly dangerous misunderstandings and misinterpretations resulting from the simultaneous application of three different sets of rules, viz:

a) the ADR

b) the EU Directive based on the ADR

c) national provisions.

Staff working in what are often small or very small transport firms have grown accustomed to the ADR — at least as far as the cross-border transport of dangerous goods is concerned. Training and instruction are also geared to the ADR.

3.7. A dynamic reference to the ADR Agreement would also facilitate dangerous goods shipments to and from Eastern Europe and so achieve a higher level of safety.

3.8. A dynamic reference to the ADR Agreement is possible under EU law insofar as original texts are published and accessible to all citizens.

3.9. In the case of a dynamic reference, the Commission would merely have to make sure that changes in the ADR Agreement were published in good time in the other Member State languages.

3.10. Should there be legal objections to a dynamic reference of this sort, the effects this might have on the proposed Directive's implementation (dealt with in points 3.5 and 3.6) would have to be re-examined.

3.11. Should there be objections to the substance of the changes to the ADR Agreement — objections which are an argument against a dynamic reference — then the Committee can only assume that the representatives of the EU and EEA, who have at least 18 votes in the constituent bodies of the 23 Member State ADR, will be able to exercise a considerable influence over the future tenor of the ADR.

3.12. In the context of a dynamic reference to the ADR Agreement, the EU reserves the right to introduce more restrictive provisions than those laid down in the ADR. If it does so, it will immediately campaign within the ADR to have these more restrictive provisions incorporated swiftly into the ADR Agreement.

4. Specific comments

4.1. *Article 1*

Member States should be free to decide whether or not vehicles of the armed forces should be subject to this Directive. The Committee recommends that Member States should regulate the question of the inclusion of vehicles of the armed forces under their own general national regulations. Postal consignments should be covered by the Directive since the state monopolies with regard to postal services have either been broken up or are to be broken up in the future.

4.2. *Article 2*

The definitions should be taken over from the ADR Agreement in the interests of the greatest possible clarity. If this is done, Article 1(2) can also be left out.

4.3. *Article 3*

For safety reasons, the transport of dangerous goods within the meaning of this Directive should not only include their conveyance from one place to another, but also the receipt and delivery of the goods, their temporary storage during the transport operation, and their preparatory and final handling (packing and unpacking, loading and unloading), even if such operations are not effected by the carrier.

4.4. *Article 4*

The provisions contained herein are designed solely to protect the existing body of laws; no new laws may be introduced.

4.5. *Article 5(2)*

Article 5(2) should make it clear that special provisions may be introduced in the Member States at national, regional and local levels. Such measures shall apply without discrimination to all those involved in dangerous goods shipments within the territory concerned.

4.6. *Article 5(3)*

Article 5(3) should make it clear that special and traditional national, regional and local provisions (e.g. those on markings) may continue to apply only to a country's own vehicles.

4.7. *Article 6*

Article 6(1): This should be reviewed since it is inconsistent with the ADR Agreement. It is nevertheless proposed that an application be made to have the provision included in the ADR Agreement.

Article 6(2): For clarity's sake a third sentence should be added reading as follows:

> 'This shall apply in particular to the national language of the Member State in question.'

Article 6(7): The Committee proposes that existing national derogations for small quantities (domestic needs) should as far as possible be harmonized by the Committee set up under the provisions of Article 8.

Article 6(8): The Committee considers that the imposition of a maximum period for derogations should be reviewed. Limiting Member State derogations to a period of four years without any possibility of extension is in many cases insufficient. In view of the fact that the ADR Agreement is more or less aligned on UN recommendations, the corresponding UN recommendation often has to be amended before amendments can be made to the ADR Agreement. Four years are rarely long enough for this purpose.

Article 6(10): The Committee recommends that bilateral and multilateral agreements concerning cross-border transport and permitted by the ADR Agreement should remain in force indefinitely.

4.8. *Article 8*

The Committee is concerned lest the 'Committee' referred to in Article 8 will be overburdened with work. It therefore calls on the Commission to ensure that this 'Committee' will be capable of operating efficiently.

Work on adaptation could be dispensed with if there is a dynamic reference to the ADR Agreement.

One important task which the 'Committee' could be given is to discuss the general provisions governing derogations.

4.9. *Article 9*

The industry concerned should be involved in the work of the 'Committee' via trade and industrial associations.

4.10. *Annexes A and B*

Since the text already exists officially in French and English, and has by now been unofficially translated into German by a Drafting Group on which Germany, Austria and Switzerland are represented, it should be translated and published by the Commission only in those official Community languages in which it is not yet available.

This is to avoid the possibility of diverging translations of a specialized legal text leading to different interpretations.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the Commission proposal for a Council Directive on uniform procedures for checks on the transport of dangerous goods by road [1]

(94/C 195/08)

On 18 January 1994 the Council decided to consult the Economic and Social Committee, under Article 75 of the Treaty establishing the European 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 6 April 1994. The Rapporteur was Mr Giesecke.

At its 315th Plenary Session (meeting of 27 April 1994) the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. Approximately 20 % of all goods carried by road are dangerous goods. Ordinary members of the public, politicians and administrations are becoming more and more aware, both nationally and internationally, of the risks involved; hence the steady rise in the number of regulations in this area. The number of 'dangerous' goods being transported today is increasing almost daily even though no overall picture is available. As the volume of dangerous goods transported increases, so too do the dangers. The number of undertakings transporting dangerous goods is also increasing, as is the volume of traffic as a whole, which will continue to expand with the opening of EC borders. The amount of dangerous goods produced will also continue to rise because of scientific, technical and economic progress. The more or less logical consequence of this is that the transport of dangerous goods will pose an increasing threat unless further measures are taken to reduce the danger.

1.2. Industry itself is becoming more and more interested in ensuring that the transport of dangerous goods is made as safe as possible. As a result of international agreements and internationally recorded accidents involving dangerous goods, increasing numbers of laws, regulations and directives on the daily problems of transporting such goods are being adopted.

1.3. Harmonized national and international regulations alone, however, are not sufficient; checks also need to be made to ensure that they are complied with whilst the undertakings and vehicles concerned need to be kept under surveillance.

1.4. Member State procedures for carrying out checks also need to be harmonized in the interests of greater safety and to avoid possible discrimination which might distort competition.

2. The Commission proposal

2.1. The Commission proposal for a Council Directive on uniform procedures for checks on the transport of dangerous goods by road is designed to meet this need.

2.2. Checks on the transport of dangerous goods by road at the Community's internal borders were abolished under Regulations (EEC) No 4060/89 and 3912/92 as part of the moves towards completion of the Single European Market. In the absence of Community or international regulations, Member States are obliged to apply their own generally differing criteria when assessing dangerous goods transportation. Depending on the number and type of checks, this can result in a proliferation of roadside controls.

2.3. This means the continuing presence of those very barriers whose removal was one of the main objectives of the abovementioned Regulations. Now that checks at the Community's internal borders have been abolished, it is absolutely essential to introduce a system of roadside checks on the transport of dangerous goods which is as uniform as possible.

2.4. The proposed Directive sets out to achieve, in particular, the following objectives:

— to enable checks on the transport of dangerous goods within the Community to take place throughout the territory of the Member States, provided that they are carried out within the framework of normal checks, and without discrimination based on a) the nationality of the driver or b) the country in which the vehicle is registered. The same applies to the transport of dangerous goods coming from third countries, in that checks need not necessarily take place at the external border of the Member State where the consignments in question enter the Community;

— to create a uniform and adequate basis for meeting safety standards by drawing up a list of the minimum points to be checked and specifying the infringements to be penalized;

— to apply this uniform list also to consignments transported by vehicles registered in a third country, or allowed to operate in a third country, whether or not that country is a contracting party to the European Agreement for the International Carriage of Dangerous Goods by Road (ADR);

— to provide the driver with a copy of the results of the checks carried out on the basis of the uniform procedure, in order to avoid wherever possible a succession of checks during a journey.

[1] OJ No C 26, 29. 1. 1994, p. 10.

3. **General comments of the Committee**

3.1. The Committee welcomes the content of the Commission proposal.

3.2. The Committee would nevertheless point out that there are significant differences between Annex II of the Commission proposal and the corresponding ADR provisions. These might give rise to dangerous misunderstandings. In the ADR Annexes all infringements have already been spelt out in detail.

In its Opinion on Draft Directive (COM) 548/93, the Committee is therefore proposing that the Commission make dynamic, automatically updated, references to the ADR Agreement rather than drawing up its own legislative provisions.

3.3. The Committee believes that the reporting requirements laid down in Article 9 and Annex III are excessively detailed. It questions whether the Commission could effectively deal with details of each and every check carried out in all the Member States — which could amount to more than 100,000 per annum — and whether such information (which would be costly to collect and to collate) would serve any useful purpose. Member States should report in summary form only.

3.4. The Committee wonders whether the legal instrument should not take the form of a Regulation to ensure the rapid, uniform implementation of minimum standards. Member States should also be able to swiftly introduce more stringent checks along the lines of the proposed model. By doing so, the advantages of uniform procedures for carrying out checks would be turned to good effect more rapidly.

3.5. The Committee notes that no Fiche d'Impact is appended to the Draft Directive and would wish to be reassured that the level of costs will not be excessive.

4. **Specific comments**

4.1. The reference to Directive 79/116/EEC in the preliminary remarks of the Explanatory Memorandum (Section A) could be deleted. The Directive in question concerns minimum requirements for ships and is of no relevance to road transport.

4.2. It could be made clearer in Section C of the Explanatory Memorandum of the proposal for a Directive that spot-checks at the very least will still need to be carried out at the Community's external borders on vehicles entering the Community with dangerous goods. Although full checks at external borders will hardly be possible, the wording chosen suggests that such checks will be a rare, isolated occurrence.

4.3. The penultimate recital and Article 6 speak of checks being carried out on the premises of undertakings. The possibility of being able to carry out checks before the transport operation actually gets under way, is warmly welcomed. The penultimate recital and Article 2 should not however speak of undertakings storing dangerous goods, but of undertakings in which dangerous goods are temporarily stored in the course of a transport operation ('intermediate, transport-related storage'). Since temporary storage may also entail risks, the undertakings concerned should likewise be subject to checks.

4.4. Under the second paragraph of Article 1, Member States cannot extend the Directive to cover 'vehicles belonging to the armed forces'. In some countries checks similar to those provided for in the Directive are also carried out on vehicles of the armed forces, which are being used more and more in accordance with Annexes A and B of the ADR Agreement. It would be a good thing if vehicles belonging to the armed forces could also be subjected to the checks.

4.5. The same is true of the proposal to exclude postal consignments from the scope of the Directive (also second paragraph of Article 1). Such an exclusion can no longer be justified given that the state monopoly with regard to postal services has already been broken up or is to be broken up in some cases.

4.6. The ADR Agreement and the proposed ADR Framework Directive should both be drawn on in defining 'dangerous goods' (Article 2), just as they are used for the purpose of defining 'vehicle' (also Article 2).

4.7. Article 3 does not state explicitly that a representative proportion of the total volume of dangerous goods must be checked in every Member State. The Committee believes that the Commission should make this obligatory and lay down uniform criteria for the practical fulfilment of this obligation by the Member States. A proposal to this effect should be submitted to the Council by the Commission.

4.8. The phrase 'provided such checks are not carried out at the internal frontiers of the Community' (also in Article 3) would seem to be misleading. Checks on consignments of dangerous goods have been abolished at the Community's internal frontiers, but they must still be carried out at the Community's external frontiers.

4.9. Article 5 states that when infringements of safety standards have been established, journeys may be continued only after the safety standards have been complied with. The Committee assumes that other appropriate measures will be taken if the infringements and defects are of a petty nature.

4.10. The reporting procedure set out in Article 9 would involve the authorities in a disproportionately large amount of work since the procedure is clearly designed to ensure that reports are submitted on the results of all checks. The Committee considers that such action is neither advisable nor necessary and would also pose a number of problems relating to the laws on data protection. The Directive should merely lay down the points to be covered by the Member States in their summary reports to the Commission on the checks ondangerous goods carried out within their territories

over a calendar year. Furthermore, the Commission should process all the Member States' reports on a regular basis (e.g. every three years) and forward a synopsis thereof to the Council of the European Union.

4.11. It is imperative that the checklist in Annex I makes a specific reference to checks carried out on the basis of other legal provisions (e.g. road traffic law, social legislation, etc.).

4.12. The Directive/Regulation should also contain an Article stipulating that equivalent penalties (including time limits) should be imposed in all Member States in the event of infringements.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the Draft Commission Regulation on the Application of Article 85(3) of the EC Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) [1]

(94/C 195/09)

On 2 December 1993 the Commission decided to consult the Economic and Social Committee on the Draft Commission Regulation on the Application of Article 85(3) of the EC Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia).

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Additional Opinion on 6 April 1994. The Rapporteur was Mr Whitworth.

At its 315th Plenary Session (meeting of 27 April 1994) the Economic and Social Committee adopted the following Opinion with no votes against and one abstention.

1. Introduction

1.1. On 25 February 1992 the Council adopted enabling Regulation 479/92 [2] which empowered the Commission to apply Article 85(3) of the Treaty by Regulation to exempt the joint operation of liner consortia from the anti-competitive prohibition contained in Article 85(1) — (the Competition Rules).

1.2. Prior to this, the Commission had submitted to the Council a document of general observations on conditions and obligations which the Commission envisaged attaching to the benefit of the block exemption [3]. The Commission agreed to take utmost account of these guidelines in drawing up its implementing Regulation.

1.3. The Economic and Social Committee considered the enabling Regulation in draft form and adopted on 30 January 1991 its Opinion on the Commission's proposals in this respect [4].

1.4. It noted at that time that there had been widespread recognition of the value and usefulness of consortia as tools of rationalization in the container age and endorsed the findings of the Commission that 'The Community shipping industry needs to attain the necessary economies of scale to compete on the world liner shipping market' and that 'consortia can help to

[1] OJ No C 63, 1. 3. 1994, p. 8.
[2] OJ No L 55, 29. 2. 1992, p. 3.
[3] Document 10280/91 (MAR 40 RC 11).
[4] OJ No C 69, 18. 3. 1991, p. 16.

provide the necessary means for improving the productivity of liner shipping services and promoting technical and economic progress'.

1.5. Having noted that a block exemption from the Competition Rules had already been granted in respect of liner conferences by Council Regulation 4056/86 [1], the Committee reached the conclusion that a regulatory regime for liner consortia was necessary to replace the current legal vacuum by a climate of legal security for commercial undertakings. However, the Committee expressed the view that in implementing any new independent Regulation granting block exemption, 'the Commission should spell out more clearly the lines along which it intends to proceed concerning the terms and conditions of the exemption'. In its opinion, 'such conditions should safeguard free competition at three levels: within the consortium, within the conference and within the trade, as well as ensuring transparency'.

1.6. Accordingly, the publication of this draft Commission Regulation and the consultation procedure accord with the general conclusions of the Committee's earlier Opinion.

2. Value of consortia

2.1. EC shipping played a leading role in pioneering the development of consortia. The value of consortia to the economic and technological progress of the shipping industry through facilitating and encouraging the development and utilization of containers and the modernization of liner transport is widely understood. Containerization has allowed the development of multimodal through transport systems which have played a large part in the increased efficiency of industry generally in recent years to the extent that companies can make use of global resources and distribute world-wide relying on prompt and efficient delivery.

2.2. In seeking to grant a block exemption to consortia, the Commission fully recognizes their value. Consortia agreements are seen as offering advantages to the participating shipping companies through cost reductions derived from higher levels of capacity utilization and economies of scale. They can also benefit users by ensuring more regular and higher-quality transport services.

3. Objective of the Regulation

3.1. The objective of this Regulation, as stated by the Commission, is 'to create a balanced and flexible legal framework to allow shipowners to operate within a framework of agreements which are restrictive of competition while guaranteeing that shippers retain a fair share of the benefit which results'.

3.2. To meet this objective, the Commission recognized in its 1991 document that the 'conditions which will enable consortia to operate in compliance with Community competition law, will obviously vary in nature and will have to reflect technical and commercial realities'.

3.3. The Committee supports this broad objective and in examining the draft Regulation has sought to determine whether its specific provisions provide sufficient protection for shippers and users of the services of liner consortia on the one hand and allow liner consortia sufficient freedom to carry out their business on the other. The importance of safeguarding the competitive position of non-consortia lines has also been borne in mind.

3.4. The Committee has also tried to distinguish between different types of consortia agreements by noting that some are designed solely to achieve technical improvement or cooperation (e.g. the joint use of transport equipment or facilities) and as such may not fall under the prohibition in Article 85(1) since they do not, as a general rule, restrict competition.

4. General comments

4.1. *Background to consortia and their development*

4.1.1. Containerization has been one of the major technological innovations in transport in recent years. Containerization's immediate impact on liner shipping was to cut radically both shippers' and owners' expenses in terms of labour cargo handling costs which had been an increasingly significant factor up to that time. It has also altered the type of skills necessary to the industry. Rapid and highly mechanized handling with very little manual labour has enabled port calls to be much shorter, giving improved vessel efficiency. Larger vessels, tighter schedules and the use of computers for load planning and container tracking have provided great benefits for shipper and shipowner alike.

4.1.2. The changes illustrated led to the replacement of a labour-intensive industry by one which is now highly capital intensive. Competition in liner shipping since containerization (from the 1970s onwards) has

[1] OJ No L 378, 31. 12. 1986, p. 4.

therefore been based primarily on lowest operating costs. This requires use of the largest, thereby most cost-effective, ship sizes. The degree of investment in such vessels, their containers and specialized handling equipment is immense and far more than small and medium-sized companies can afford independently.

4.2. *Definition of consortia*

4.2.1. Consortia are one element in the organization of the modern liner shipping industry. Consortia often — but not always — work under the umbrella of a liner conference. A conference is a group of two or more shipping lines which provide international services on a particular route with specified geographical limits according to a published schedule and which have agreed to charge the same rates of freight. A conference may also fix trade shares enabling the adjustment of capacity to demand.

4.2.2. Consortia do not have a rate-fixing role. The various types of cooperative agreement covered by the term liner consortia are illustrated by the Commission in the Draft Regulation with reference to specific activities undertaken. These are categorized as either technical, operational or commercial.

4.2.3. In its earlier Opinion, the Committee considered that liner consortia can broadly be defined as 'cooperative ventures in the liner sector in which the lines involved engage in a range of activities on a joint basis in order to achieve the necessary advantages of economy of scale and of service rationalization in a particular trade, thus combining the concepts of vessel cost sharing and cargo pooling'. The Commission's definition in Article 1 of the draft largely accords with the Committee's.

4.3. *Current trends in consortia*

4.3.1. The changing and dynamic nature of consortia was recognized in the Council's enabling Regulation. The scope of the activities of both established and newly formed consortia have evolved and changed in response to the needs of their users. These needs mirror the developments in containerization outlined in section 4.1 above. When consortia were first conceived they were generally of a fairly integrated nature with complex freight-pooling arrangements with mechanisms to provide for the sharing of participants' freight earnings in pre-agreed proportions. Some consortia have found the degree of work and investigation necessary to identify and assess vessel operation and cargo-related costs to be enormously expensive in time and money. There has been a consequent trend towards much simpler accords such as technical agreements between carriers to form e.g. slot swaps and vessel sharing agreements.

4.3.2. Whereas previously partners might have undertaken joint marketing and made far-reaching financial commitments, the new type of accord will, in many instances, cover ocean and landside equipment and other facilities but the level of financial integration will be limited simply to accounting for services used and services given.

4.3.3. An indication of the form of consortia agreements currently in operation in trades to and from the Community is given in matrix form by the European Community Shipowners' Associations (ECSA). The Section for Transport and Communications has examined this matrix. Although not a totally comprehensive analysis — other agreements may exist: and not completely up-to-date — because of the dynamic nature of the industry — the matrix can be taken as indicative of the broad variety of consortium agreements. It can be seen that well over half the agreements listed are limited to technical aspects of fleet and terminal operation and do not include commercial provisions for pooling or marketing.

5. Specific comments on the Draft Regulation

5.1. Against the background in section 4 above and the Commission's own stated objective (3.1) the Committee, in an Article-by-Article analysis of the Draft Regulation, highlighted the following issues of particular concern about its impact on the effective operation of liner consortia, and suggested areas where the Commission might reconsider its current position:

5.2. *Definition (Article 1)*

5.2.1. The Committee is broadly in agreement with the definition of consortia in Article 1. However, for the sake of legal certainty, it would like clarification of the implications of the phrase 'chiefly by container'. Where liner services offered jointly are mixed container/non-container do they fall within the definition of consortia and therefore within the scope of the Regulation?

5.2.2. The Committee would like to see an additional definition included to explain the terminology 'independent rate action' currently used in Article 5 without explanation.

5.3. *Scope (Article 2)*

5.3.1. The new Regulation, Regulation 479/92 and Regulation 4056/86 apply to liner shipping; however, the interaction between their respective scopes is not clear. It is noted that Regulation 4056/86 is restricted to international maritime transport services only whereas the scope of the proposed new Regulation is not so defined. The definition of consortium, on the other hand, quite clearly restricts member line agreements to international liner services. This ambiguity needs removing. The Committee wonders whether the scope is understood to cover the short sea feeder services, including those between the ports of a single Member State, which are a vital adjunct to the efficient operation of deep sea liner services. The Committee points out that short sea services are currently the focus of widespread promotion by the Commission in terms of their environmental and other benefits to the Community transport network. Clarification of the precise coverage of the new Regulation is required.

5.3.2. Most individual consortia lines offer multimodal services, i.e. also supply land transport as part of the package for moving a container from point A to point B. Although the Commission originally intended the Regulation to cover multi-modal, the draft relates solely to maritime transport. Given the importance of multi-modalism, the Committee would like to see early clarification of its position under the competition rules. However, the question of the joint use of containers inland must be addressed. Consortium lines operating in the same trades sometimes have agreements to use each other's boxes. The Commission should consider granting a block exemption by means of another Regulation to cover this particular activity.

5.4. *Technical agreements (Article 3)*

5.4.1. Establishing legal clarity in regard to whether all consortia activities — technical, operational and commercial — are to be covered by the conditions and obligations of the Regulation is essential. As the draft is currently written the Commission includes purely technical agreements (e.g. joint schedules, space/slot exchange, equipment pool) within the Regulation's ambit. There is a clear precedent in maritime Regulation 4056/86 (Article 2.1) for excluding from the prohibition in Article 85(1) of the Treaty agreements whose sole object and effect is to achieve technical improvement. The Committee questions whether, where consortia agreements are of a purely technical nature and act to facilitate efficiency and productivity in the industry, they should fall within the scope of the Regulation at all. The Commission should re-examine this issue with a view to greater clarity and with reference to the earlier maritime Regulation.

5.5. *Capacity Management (Article 3.3)*

5.5.1. The Committee notes that trade imbalances and the large costs involved in handling and re-positioning empty containers make capacity management a vital part of running a successful liner operation. As currently drafted, the Regulation will remove the block exemption from a consortium when either the consortium or its members are parties to arrangements which 'significantly' limit or reduce capacity. This provision will affect not only consortia but also conferences — where consortia members also operate in conferences. However, Article 3.3 goes on to permit capacity management when carried out by all members in response to 'seasonal' or 'cyclical' changes in demand, or in the use of 'more efficient' vessels.

5.5.2. The Committee considers the terminology used in this provision to be very imprecise: it seeks an explanation of how the Commission would differentiate between the permissible and non-permissible forms of capacity management. Further, with reference to Regulation 4056/86 governing liner conferences which permits capacity management [Article 3(d)], it questions how the Commission foresees the interaction of the two Regulations.

5.6. *Article 5*

5.6.1. The Committee endorses the provisions of Article 5 as meeting the objective in the sixth preambular paragraph: to produce 'sufficient competition in the trades in which consortia operate' — a prerequisite for allowing 'users of the shipping services provided by consortia to obtain a fair share of the benefits resulting from the improvements of productivity and service quality which they bring about'.

5.7. *Market share (Articles 6 and 7)*

5.7.1. The Committee notes that one of the subsidiary conditions to be fulfilled if exemption is to apply provides for specific limitations on market share depending on the particular nature of the consortium, of 30%, 35% or 50% of the direct trade in respect of the ranges of ports it covers. The Commission has made

clear that in its estimation only some 6/7 agreements will fall outside these limits and that the option of individual exemption will be open to them. It is noted that the ultimate preambular paragraph on page 6 of the draft provides for individual exemption. However, there seems to be no directly corresponding provision in the draft articles and the Committee questions this omission. It is reassuring that the Commission has to some degree been willing to take into account the particular commercial circumstances of different trades where market share is, for sound economic reasons, presently higher than in others which are subject to greater actual competition.

5.7.2. The Committee sees the selection of the market share figures as arbitrary and in particular can find no justification for a limit on the number of participating lines in a consortium where market share is calculated between 30/35 % - 50 %. Indeed, it might be considered that such market share provisions may be superfluous as the conditions imposed in other Articles are sufficient to ensure adequate competition.

5.7.3. The very concept of market-share conflicts with the earlier Regulation 4056/86 which had no market-share requirements. In the same way, there were no limitations on the number of lines which could participate in a conference. Neither limits on market share nor on number of lines are imposed by any of the EC's major OECD trading partners.

5.7.4. The Committee seeks clarification of the Commission's method for defining market share and is concerned in particular by the imprecise use of the phrases 'ranges of ports' and 'direct trade'. It is not clear whether the Commission intends to make an assessment of market share on the basis of the actual ports of call or is willing to take into account other ports which serve the same trade. There is also ambiguity over the use of 'direct' trade and whether or not the Commission intends to consider trans-shipment within its market share equation. To provide legal certainty and avoid future litigation, the Commission should spell out more clearly how it intends to assess and implement its market-share provisions.

5.8. *Initial notice period (Article 8)*

5.8.1. The Committee notes that in its 1991 document the Commission expressed itself willing to be guided by the practices already developed in agreements of this type. In particular it was recognized that a notice period regime which varied according to the degree of investment might be appropriate. As already noted, the degree of investment in a particular consortium may be of a very high order and in such cases, the 18/24 months proposed by the Commission would be too short to be commercially viable. The issue is one of commercial choice between co-operating partners and should be left to their judgment. Moreover, longer notice periods would provide a greater degree of certainty to users about the availability of particular services.

5.9. *Consultation with shippers (Article 9)*

5.9.1. The Committee considers this to be an important Article in terms of taking account of users' requirements. However, the Commission makes clear in its 1991 guidelines that the object of such consultations must be confined to the activities carried out by the consortia themselves without duplicating the consultation procedures provided for in Regulation 4056/86. These precepts should be followed. Essentially such consultation should be carried out as the article provides — on a face-to-face basis between the consortium and its component lines and their customers.

5.10. *Entry into force (Article 13)*

5.10.1. For the sake of clarity, the Committee would like to see re-drafting of Article 13 in regard to the particular treatment of those consortia agreements which exceed trade share and limits on participating lines. As currently drafted, it is unclear whether these will be required to adjust themselves within a six-month period during which time they will be protected by the block exemption, or whether they will be permitted to 'grandfather' their existing conditions until expiry of the relevant consortia agreements.

6. Summary and conclusions

6.1. The Committee welcomes the publication of this draft Commission Regulation and notes that it largely accords with the general conclusions of the Committee's earlier Opinion on the subject.

6.2. The Committee recognises that it is necessary to achieve a balance between providing sufficient protection for shippers and users of the services of liner consortia whilst allowing the consortia sufficient freedom to carry out their businesses and safeguarding the competitive position of non-consortia members.

6.3. Account needs to be taken of the fact that current consortium agreements vary considerably in scope

and detail and that they must remain flexible to respond to the needs of their users.

6.4. The Draft Regulation contains a number of inconsistencies with the provisions of Council Regulation 4056/86 dealing with liner conferences and Regulation 479/92. These inconsistencies should, as far as possible, be eliminated.

6.5. A number of terms used in the draft Regulation require more precise definition in the interests of greater clarity and legal certainty.

6.6. The Commission should re-examine the following specific points in the light of the views expressed:

— whether purely technical agreements should be excluded from the scope of the Regulation as is the case with Regulation 4056/86 (Article 3);

— whether the proposed restrictions on capacity management (which will also conflict with Regulation 4056/86) may not prove to be unduly inhibiting to the provision of cost-effective services (Article 3);

— whether the proposed criteria for the definition of market share are correct and capable of application with any degree of precision, and whether the adoption of purely arbitrary percentage limits in this context is appropriate (Articles 6 and 7);

— whether the proposed limitations on the length of initial notice period are adequate to cater for the high levels of capital investment which may be involved (Article 8).

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the Green Paper on the European dimension of education

(94/C 195/10)

On 18 October 1993, the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty, on the Green Paper on the European dimension of education.

The Section for Social, Family, Educational and Cultural Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 14 April 1994. The Rapporteur was Mr Pasquali.

At its 315th Plenary Session (meeting of 27 April 1994), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. The Treaty of Maastricht gives the Community new responsibilities in the field of education. For the first time, a legal framework now exists which allows the Community to propose cooperative activities in the field of education, particularly at school level. By presenting a Green Paper, the Commission hopes to spark off a debate about the possibilities and thrust of Community action in the field of education.

1.2. Such a debate cannot be isolated from the wider context of the Single Market (with its repercussions on education and training) and the new human resource requirements generated by technological and social changes. The debate should also take into consideration the contribution vocational and in-service training can make (i) to giving young people a better understanding of their socio-economic context and ii) to facilitating their transition to working life and their integration in European society [1]. The development of education systems should be regarded as a major factor in making action on education compatible with the new economic, social and cultural environment.

1.3. Respect for national identities, together with the adequate preparation of young people for more effective integration into European society and working life, are the fundamental principles on which this Green Paper is based.

1.4. Up to the present time the Community has done no more than support limited pilot projects at school level.

2. The European dimension of education

2.1. *General objectives*

The general objectives of schools include contributing towards equality of opportunity for everyone, inculcating in all young people a sense of their responsibilities in an interdependent society; developing their pupils' ability to act autonomously, to make judgements, to assess matters critically and to make and adapt to innovations; and giving their pupils training and qualifications which will facilitate their transition to working life.

2.2. *Specific objectives*

Moving on from general objectives, it is important to draw up specific objectives and, through these, achieve 'added value' by Community action which would:

— contribute to European citizenship;

— create opportunities for improving the quality of education;

— prepare pupils for better social integration and a better transition to working life.

2.3. *Strategies*

The school is one of the main focal points for educational activity within the Member States; the same should therefore hold good for Community action. The school is a place for developing dynamic relationships which could be based on the following:

a) cooperation through mobility and exchanges;

b) the training of teachers and others involved in education;

c) the development of language teaching;

d) distance learning;

e) the promotion of innovation in teaching;

f) the exchange of information and experience.

[1] OJ No C 148, 30. 5. 1994.

3. General comments

3.1. Article 126 [1] is the legal basis for Community action in the field of education; the same Article also adheres to the principle of subsidiarity to ensure that no attempt is made to harmonize education systems in Europe. However, to achieve any of the stated objectives, particularly where the Member States themselves do not take any initiatives, the Committee feels that there is a need for close cooperation based on the desire for a convergence of national systems and after consultation with the social partners.

3.2. The Committee feels that a paradoxical situation has arisen, because between 18 October 1993, when the Commission submitted the Green Paper, and the present time, there have been rapid advances with other projects (such as Socrates, Leonardo, Youth for Europe), thus preempting the Green Paper's role as a precursor. We should also note that the European dimension of education has already been considered in Chapter 7 of the White Paper on Growth, Competitiveness and Employment, and in Chapter II of the Community Action Programme Socrates.

3.3. The Committee regrets the fact that the Green Paper makes no reference to culture, which is a fundamental part of European identity, and that education and vocational training are used to instil European values rather than starting with culture itself. The fact is that culture is the real cornerstone of European integration, bringing together the norms of democracy and constitutional government, citizenship, traditions and mentalities, as well as an intense, historico-cultural diversity. It is this conception of the continent which gives Europe its creative strength, and this creative strength should be nurtured if we are to overcome the crisis of values affecting society and sowing the seeds of revolt.

3.4. The Committee feels that the Commission is not entirely clear about what it sees as the 'European dimension of education'. In the Committee's view, the European dimension should comprise the following concepts:

— promoting awareness of the various European cultures;

— humanism should be the common denominator;

— knowledge of other Community languages is a key requirement for cultural, economic, technical and scientific cooperation aimed at creating a Citizens' Europe and completing the internal market;

— knowledge of European affairs taught in schools;

— creating a system whereby individuals can realise their potential, making it easier for them to fit into a more competitive world, and

— developing basic and applied research into education.

3.4.1. One function of education must be to instill European and multicultural democratic values and knowledge of the various European cultures. It must provide high-calibre basic instruction which will enable young people to adapt to changes in economic and social life.

3.4.2. Education must be based on a pan-European view, enabling every citizen to realize that, beyond national and individual specifics, he/she is firmly rooted in the civilization of our continent.

3.5. As the family has a natural part to play in education, the Committee would like to see parents more actively involved in order to promote an open-minded attitude on a European scale.

3.6. As is the case with most initiatives, the budget appropriation will be a major factor determining the success of Community action. The Committee would remind the Commission that the budget allocated must be enough to achieve the objectives.

3.7. The Committee stresses that this is a step towards developing quality education for some 67 million pupils and 3.7 million teachers in the EU, figures which will increase as the Union is enlarged further.

4. Specific comments

4.1. The Committee welcomes the Green Paper on the European dimension of education. However, it feels mention should be made of the considerable role which teaching can play, from primary education through to the higher-education level, in promoting European citizenship. European citizenship should be re-evaluated in the context of the Greater Europe which will be created by future enlargement.

4.2. The Committee would emphasize the very close link between quality education and the ability to achieve economic objectives and therefore competitiveness, for it is clear that quality education will lead to 'a quality Europe' where expertise, creativity and dynamism are encouraged; education boosts the economy and provides young people with the new knowledge they need

[1] '1. The Community shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organization of education systems and their cultural and linguistic diversity.'

to adapt to the changing demands of European companies. But the Committee would ask this: how can we motivate all the players involved?

4.3. The Committee feels that the Community should find ways to encourage mobility among students, teachers and other education staff. The main objectives here are to increase the number of students following a supplementary course of study in another Member State and to increase the number of teacher exchanges, thus improving the quality of teaching and training.

4.4. The Committee also points to the urgent need to promote mutual academic recognition of diplomas, qualifications and courses of study, as, without this, mobility is meaningless. In particular, action by Member States should be coordinated in order to remove the chief obstacles to mobility.

4.5. On the development of exchanges of young people and educators, the Committee would refer to its Opinions on Youth in Europe and the Socrates action programme, prepared by the Rapporteur, Mr van Dijk.

4.6. Distance learning is an important area of activity. The term 'distance learning' covers any form of study which is not directly and permanently supervised by the head of an educational establishment, yet which benefits from the organization and advice of an educational body, as well as from the teaching it provides. Heads of educational establishments must have a degree of autonomy with regard to their functions and, of course, their contractual obligations which corresponds to the degree of responsibility they have for ensuring an effective school service. On this point, the Committee feels that no form of technology can replace human contact.

4.6.1. Distance learning could be a way of adding a European dimension to the education of students who are unable to follow a course of study abroad. Mutual recognition of qualifications obtained in this way will also be essential if this system is to succeed, especially bearing in mind the international nature of the market.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the proposal for a European Parliament and Council Decision establishing the Community action programme Socrates [1]

(94/C 195/11)

On 21 February 1994 the Council decided to consult the Economic and Social Committee, under Articles 126 and 127 of the Treaty establishing the European Union, on the proposal for a European Parliament and Council Decision establishing the Community action programme Socrates.

The Section for Social, Family, Educational and Cultural Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 14 April 1994. The Rapporteur was Mr van Dijk.

At its 315th Plenary Session (meeting of 27 April 1994) the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. Articles 126 and 127 of the Maastricht Treaty establish a general objective to contribute to the development of quality education and training.

1.2. It is now widely recognized that the development of human potential is a precondition for attaining the economic, social and quality of life objectives the Community has set. Education plays an important role in the development of human potential. It is also a key factor in combatting social exclusion and unemployment, a common political concern acknowledged in the White Paper on growth, competitiveness and employment.

1.2.1. The responsibilities of the higher education establishments as regards cooperation actions as a whole go hand-in-hand with economic growth measures.

1.2.2. Teaching establishments alone cannot issue vocational training certificates, but it is their responsibility to provide pupils and students with the necessary basis for their personal, general and professional development. In order to achieve this, it is normally necessary to work in companies, as part of a sandwich course.

1.3. Education and training have new roles to play in the process of economic and social change which Europe now faces. This will mean deep-seated changes in the education and training systems of the Member States.

1.4. The Socrates proposal is intended to ensure the continuation of Community action already undertaken, particularly under the Erasmus and Lingua programmes, to enable such action to rise to the challenges of the 1990s and to guarantee rationalization between the activities under Erasmus and Lingua as well as the other budget headings available for cooperation in education.

1.5. The programme covers three areas of activity:

— higher education;

— school education;

— horizontal actions to promote language learning, open and distance education and learning, information and exchanges of experience.

2. General comments

2.1. The action programme Socrates has to be seen in the light of Chapter 7 of the White Paper on growth, competitiveness and employment in which education is mentioned as a key instrument for combatting social exclusion and unemployment, racism and xenophobia.

2.1.1. After the ratification of the Maastricht Treaty, the Task Force for Human Resources of the Commission presented three new programmes on exchanges, i.e. Leonardo, Youth for Europe III and Socrates.

2.1.2. The Committee welcomes the integration and continuation of the former Erasmus and Lingua exchange programmes [2].

2.2. The Committee welcomes Socrates as an exchange programme, and considers it an efficient instrument for the promotion of the European Dimen-

[1] OJ No C 66, 3. 3. 1994, p. 3.

[2] OJ No C 139, 5. 6. 1989, p. 12.

sion in Education. In this connection the Committee would refer to the Opinion of the Study Group on the European Dimension in Education (Rapporteur: Mr Pasquali).

2.3. The Committee is in favour of the extension given in the programme to education at school level and notes with satisfaction the innovation of the programme. In fact, the Committee in the above-mentioned Opinion on Lingua [1] was already concerned with the fact that teaching of languages was limited to the higher education level.

3. Specific comments

3.1. Given the range of activities included in the Community action programme Socrates, and that they focus equally on education and training, especially at the level of higher education, the programme uses a dual legal base, namely Articles 126 and 127 of the Treaty. Article 126(4) states that: in order to contribute to the achievement of the objectives referred to in this Article, the Council:

— acting in accordance with the procedure referred to in Article 189b, after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt incentive measures, excluding any harmonization of the laws and regulations of the Member States;

— acting by a qualified majority on a proposal from the Commission, shall adopt recommendations.

In this case the Commission has opted for a binding instrument.

3.1.1. Article 127 stipulates that the Council shall adopt measures to contribute to the achievement of the objectives referred to, excluding any harmonization of the laws and regulations of the Member States. This implies that Article 127 empowers the Council to approve measures in order to achieve the objectives referred to in Article 127.

3.1.2. The Commission uses Article 127 for two reasons:

— the exchange of teachers forms part of their vocational and further training;

— in various rulings the Court of Justice has stipulated that higher education must be regarded as vocational training. By making use of Article 127 the Commission is safeguarding the 'acquis communautaire' in this field.

3.1.3. The decision process envisaged under Article 126 is based on the co-decision procedure, while decisions taken under Article 127 are on the basis of the cooperation procedure. In both cases, the Council acts by qualified majority.

3.2. The Commission anticipates a budget rising from ECU 169 million in 1995 to ECU 236 million in 1999, a total of ECU 1,005.6 million over five years.

3.2.1. Over the last five-year period (1989-1994), ECU 376.5 million was allocated to Erasmus, ECU 153 million to Lingua, and ECU 70.6 million to other actions, making a total of ECU 600.1 million over five years.

3.2.2. The enlargement of the budget is largely due to the extension of the programme. The budget allocated to the exchanges in higher education has been increased, but not to the same degree as the total budget. The Committee would question whether the funds are sufficient.

3.3. The Socrates programme introduces changes in the field of cooperation between the participating universities. In the past, university faculties cooperated with each other. Now the Commission proposes concluding an institutional contract with all the participating universities. It is not yet clear what sort of relationship there will be between the ICPs (inter-university cooperation programmes) and the institutional contracts, and therefore the Committee would urge the Commission to provide further information on this point.

3.3.1. The changes proposed in the form of cooperation between universities will have consequences on the supply of information. The Committee would draw the attention of the Commission to this specific matter.

3.3.2. Due to the highly decentralized execution of the programme, through national agencies, coordination of information might be a problem.

3.3.3. As the Committee has already stated in its Opinion on Youth for Europe III [2], the supply of information is one of the most important instruments for making a programme a success or a failure.

3.3.4. In the same Opinion [2], the Committee has asked for a proper coordination between the various exchange programmes of the Commission, i.e. Leonardo, Socrates and Youth for Europe III. The different national agencies should cooperate in an efficient way, as they have done in the past.

3.4. One of the most important objectives of Socrates is to develop a European dimension in education. For that reason, the instrument proposed by the Commission is to give priority to projects and activities relating to the teaching of the lesser used or lesser taught languages of the Community.

[1] OJ No C 139, 5. 6. 1989, p. 12.

[2] OJ No C 148, 30. 5. 1994.

3.4.1. The Committee is in favour of protecting the lesser used and lesser taught languages, but does not think that this instrument will contribute to the European dimension in education.

3.4.2. Referring to its previous Opinions [1], the Committee recommends that two Community languages be taught in addition to the national language.

3.5. The Committee is surprised that Socrates does not foresee any exchanges with third countries for the moment, although under Article 126 the possibility is given to the Commission to undertake such exchanges. The Committee would therefore urge the Commission to broaden its exchange programme in this context on the basis of supplementary funds.

3.6. The Economic and Social Committee firmly supports maintaining the advisory committee, which is composed of 12 representatives from European organizations; its observer members should be selected from really 'representative' organizations.

3.7. The Committee considers that Chapter II, Action 2, must also apply to the children of refugees and asylum-seekers.

[1] OJ No C 148, 30. 5. 1994.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the proposal for a Council Regulation (EC) amending Regulation (EEC) No 337/75 establishing a European Centre for the Development of Vocational Training [1]

(94/C 195/12)

On 9 March 1994, the Council of the European Union 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 April 1994. The Rapporteur, who worked without the assistance of a Study Group, was Mr Nierhaus.

At its 315th Plenary Session, held on 27 and 28 April 1994 (meeting of 27 April), the Committee adopted the following Opinion by a majority vote with one abstention.

1. The Committee notes that, in view of changed political circumstances, the Council decided on 29 October 1993 to transfer the seat of CEDEFOP from Berlin to Thessaloniki. The Committee is aware of the background to this decision: so far no European institution has been located in Greece, although she is clearly entitled to one.

2. In the Committee's view it is, however, wholly incomprehensible that the abovementioned political decision was apparently taken on the spur of the moment without prior notification or information, not to mention consultations with the staff of CEDEFOP and its governing board. The Committee wishes to express its disapproval in the strongest terms of such arbitrary behaviour on the part of the responsible authorities.

3. The Committee acknowledges 'the need to ensure consistency at Community level as regards the management of the staff of the different decentralized bodies'[2]. The Committee does nonetheless, consider that 'first generation' EC agencies (CEDEFOP or the European Foundation for the Improvement of Living Conditions, based in Dublin) which have been successfully in operation for nearly 20 years and which have involved the social partners directly from the outset, are by no means fully comparable with 'second generation' bodies, some of which are not yet in operation or are managed on a quite different basis.

4. The Committee consequently urges that the amendment to Article 13 of Regulation (EEC) No 337/75[3] take adequate account of the abovementioned factors. In particular, the Committee strongly urges the Commission to acknowledge the years of proven professional service of CEDEFOP employees and make it abundantly clear that there is no intention whatsoever of introducing less favourable terms of employment and working conditions for them or of downgrading these conditions.

5. The Committee would therefore consider it only fair and proper not to introduce a wholesale levelling of working conditions or to permit the conditions for appointing staff to be made less favourable in any way. Instead, solutions must be found which ensure that all employees secure equivalent or improved contractual conditions at the new place of work which are in line with the provisions applicable to EU employees, including the opportunity to acquire the full status of EU officials [see Article 1 of the Staff Regulations[4]] once they have provided evidence of their professional and specialist qualifications.

6. The Commission must also ensure that appropriate provisions for material assistance are set out in an agreement so as to preclude social hardship. These measures should include, where necessary, provisions in respect of: early retirement, staff transfers to other EC bodies, and appropriate reinforcements of staff numbers, for which the necessary funds must be made available.

7. Steps must also be taken to ensure that the entitlements acquired by employees under various social security schemes are not only maintained but also guaranteed in the long term.

8. Finally, the Committee trusts that the necessary premises, equipment and other requirements will be provided at the new seat of CEDEFOP to ensure that members of staff will still be able, as in the past, to carry out their skilled work under appropriate, decent and acceptable conditions.

9. In the Committee's view one of the particular achievements of CEDEFOP is its successful endeavour to involve the countries of northern, central and eastern Europe in its work, thereby paving the way for closer links between these states and the European Union. Every effort must be made to ensure that a new location will be equally as conducive to the performance of this

[1] OJ No C 66, 12. 3. 1994, p. 12.
[2] COM(94) 20 final, p. 3.
[3] OJ No L 39, 13. 2. 1975.
[4] OJ No L 157, 28. 6. 1977, p. 1.

essential work, which is vital to the future development of the Community.

10. The Committee trusts that once effective solutions have been found to the abovementioned problems, which concern not only the 76 persons currently employed by CEDEFOP but also their almost 300 dependants, it will be possible to transfer CEDEFOP from Berlin to Thessaloniki as smoothly as possible.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on:

— the Commission Communication to the European Parliament and the Council on Community guidelines on trans-European energy networks,

— the proposal for a European Parliament and Council Decision laying down a series of guidelines on trans-European energy networks, and

— the proposal for a Council Decision laying down a series of measures aimed at creating a more favourable context for the development of trans-European networks in the energy sector [1]

(94/C 195/13)

On 21 February 1994 the Council decided to consult the Economic and Social Committee, under Article 129 b, c and d of the Treaty establishing the European Economic Community, on the abovementioned proposals.

The Section for Energy, Nuclear Questions and Research, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 13 April 1994. The Rapporteur was Mr Gafo Fernández.

At its 315th Plenary Session (meeting of 27 April 1994), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. Trans-European energy networks (TEN) were acknowledged in the Treaty on European Union as forming the backbone of the internal market and contributing to economic and social cohesion.

1.2. Specifically, Article 129c states that the Community shall establish common guidelines, implement any measures necessary to ensure the inter-operability of the networks and the harmonization of technical standards, and may support projects of common interest financially.

1.3. The Committee has had the opportunity to express its views on the importance which it attaches to these trans-European networks in constructing an internal market in electricity and gas [2].

1.4. Although some of the planned measures have a national rather than a Community dimension, it is clear that integration of the energy systems means that a common approach is needed to such aspects as cost and security of supply, quality of service, quality of the environment, and economic and social cohesion. For this reason the Committee believes that such measures

[1] OJ No C 72, 10. 3. 1994, p. 10-15.

[2] OJ No C 73, 15. 3. 1993, p. 31.

are justified, although it recognizes that it is the responsibility of the Member States to approve their development and contribute to their funding.

1.5. The Committee considers that the transport of energy is only desirable if it fulfils the functions mentioned earlier; it is also aware that it entails substantial investment in infrastructure, loss of energy in transport and conversion, and harm to the environment. Hence the criteria governing the development of trans-European energy networks should aim to make the best overall use of the networks in order to achieve the aforementioned objectives, with the minimum necessary expansion of the networks and avoiding as far as possible any unnecessary flows of energy.

2. Summary

The Committee welcomes the draft Decisions, considering them to be a necessary step in developing the internal energy market, improving the quality and security of supply of electricity and natural gas, and making it possible for remote and island regions of the European Union to be provided with adequate supplies at reasonable prices.

The Committee feels that it would help if the present proposals were accompanied by an in-depth study of the global impact of these new networks, and an examination of their social implications, especially in the case of projects which are potentially eligible for support from the Structural Funds and should therefore receive priority.

3. General assessment of the proposals

3.1. Broadly speaking the Committee approves the draft Decisions presented by the Commission as a step forward in the implementation of the principles laid down in the EU Treaty.

3.2. The proposed legal framework is based on two separate but closely linked Decisions and on a Financial Regulation proposed by the Commission. The Committee wonders whether these legal arrangements are the most appropriate or whether it would be better to incorporate the Regulation in the second of the Decisions which refers to the specific measures to be adopted.

3.3. The Committee would in any event make the following comments:

3.3.1. General comments on the proposal for a Decision laying down a series of guidelines on trans-European energy networks

3.3.1.1. The Committee considers that the objectives defined in Article 3 are not entirely in accord with Article 4 in which the priorities are set. Specifically, the priorities for economic and social cohesion are missing since the list drawn up by the Commission concentrates, especially in the electricity sector, on the development of the internal energy market and improved security of supply.

3.3.1.2. The Committee does not endorse the criterion of 'economic viability' listed in the third indent of Article 6(1). Although this is defined more precisely in paragraph 6 of this Article, the key criterion for assessing projects likely to be eligible for financing from the EU Structural Funds should be 'economic and social viability'. This is further highlighted by the fact that Community action is subsidiary, especially as regards financing, to Member State action; it is for the latter to propose and approve projects and it is they who are best placed to assess their overall cost-effectiveness.

3.3.1.3. The 'economic and social' viability should become evident from a 'fiche d'impact' (statement on impact) which would catalogue all the implications of the creation of such networks, and be drawn up as far as possible in conjunction with the economic and social forces concerned.

3.3.1.4. The Committee also considers that the development of such networks must not be tied to the development of the internal market in these sectors, must not interfere with the activities of firms already operating in the electricity and natural gas sectors, and must not distort competition between these firms.

3.3.1.5. The ESC considers that the committee set up under Article 7 of the guidelines Decision (hereinafter referred to as the technical committee) should be confined under this Decision to approving the projects of common interest submitted by the Commission and/or the Member State concerned. It also regards the period of one month for the Council to take a different Decision where the Commission's opinion does not coincide with that of the technical committee as inadequate; it should be extended to three months.

3.3.1.6. The Committee further considers that Article 6(3) should be redrafted to stipulate that the prior approval of only one Member State is necessary where the project concerns this Member State alone. In the event that two or more Member States are involved and there is no agreement on the suitability of the project, the technical committee, acting on a proposal from the Commission, will have to submit to the Council its decision on the suitability or otherwise of the project.

3.3.1.7. The Committee welcomes the indicative list of projects of common interest appended to the Decision, all the more so as adequate procedures for extending or revising it have been provided.

3.3.2. General comments on the proposal for a Decision laying down a series of measures aimed at creating a more favourable context for the development of trans-European networks in the energy sector

3.3.2.1. The Committee approves this Decision although it regards it as suffering from a lack of precision with regard to the duration of the operation and the calculation of the total Community financial commitment.

3.3.2.2. This is all the more glaring as the financial statement appended to the proposal stipulates the period of application as 1994-1999, mentions the estimated total investment required to fund these networks and indicates the amount of the Community's contribution. The Committee considers that this information should be included in the legal body of these proposals and not solely in the relevant Financial Regulation. The Committee nevertheless considers that the funds provisionally proposed are insufficient.

3.3.2.3. The Committee approves all the measures provided for in Article 2 and would merely like to stress the importance of effective technical cooperation between network operators in the light of the new approach to the internal market in electricity and natural gas presented by the Commission, namely the proposed establishment of 'negotiated TPA' and a system of arbitration between parties as the core of the new proposals [1]. For this reason it considers that a prior assessment should be made of repercussions on the internal energy market before any specific cooperation projects are approved in this field.

3.3.2.4. The Committee only partially approves the proposed financial measures. It accepts the measures proposed in the first paragraph of Article 3 concerning general financial support, but considers that the second paragraph, which deals with intervention from other Community structural funds, should give greater emphasis and priority to the trans-European networks. This is because it is precisely those projects with a greater input to economic and social cohesion which may be less economical in cost-benefit terms and hence more difficult to carry through. The Committee hopes that the Commission and the Member States will take these comments into account when drawing up the Financial Regulation on the trans-European energy networks.

[1] COM(93) 643 final.

3.3.2.5. In the Committee's view the technical committee provided for in Article 4 should clearly define the operating rules laid down in the guidelines proposal commented on earlier.

3.3.2.6. The Committee welcomes the submission of a report every two years on the practical implementation of these Decisions.

4. Specific comments

4.1. *Specific comments on the proposal for a Decision laying down a series of guidelines on trans-European energy networks*

4.1.1. Sixth recital ('whereas') of the preamble

Replace 'potential economic viability' by 'economic and social viability'.

4.1.2. Article 2(1)

Add at the end of the first indent: 'projects with a voltage of less than 220 kV might, by way of exception, be acceptable, provided they are a part of isolated island systems'.

4.1.3. Article 4(1)

Add: 'and the development of networks in regions where there is an insufficient coverage'.

4.1.4. Article 6(1)

Amend the third indent to read as follows: 'it responds to a need and displays potential economic and, where appropriate, social viability to be confirmed'.

4.1.5. Article 6(3)

Add at the end: 'Where this is not the case, the Council, acting in accordance with the procedure laid down in Article 7, shall assess the suitability of its inclusion.'

4.1.6. Article 6(6)

Add at the end: 'This analysis shall be carried out by the Member States via a 'fiche d'impact' (statement

on impact) in which all the social and economic organizations concerned have their say.'

4.1.7. Article 7(2), second paragraph

Replace 'one month' by 'three months'.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

4.2. *Specific comments on the proposal for a Council Decision laying down a series of measures aimed at creating a more favourable context for the development of trans-European networks in the energy sector*

4.2.1. Article 3(2)

Replace 'shall take account of the projects of common interest ...' by 'give priority consideration to the projects of common interest ...'.

Opinion on the proposal for a Council Directive amending Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 66/403/EEC, 69/208/EEC, 70/457/EEC and 70/458/EEC on the marketing of beet seed, fodder plant seed, cereal seed, seed potatoes, seed of oil and fibre plants and vegetable seed and on the common catalogue of varieties of agricultural plant species [1]

(94/C 195/14)

On 20 December 1993 the Council decided to consult the Economic and Social Committee, under Articles 43 and 198 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 7 April 1994. The Rapporteur was Mr Bastian.

At its 315th Plenary Session (meeting of 27 April 1994), the Economic and Social Committee adopted the following Opinion by a substantial majority, with one vote against.

Subject to the reservations set out below, the Committee endorses the Commission proposal, which seeks to complete the harmonization of the legislation applying to the technical characteristics of seeds marketed in the European Union.

1. **Preliminary comments**

1.1. The draft Directive seeks to amend seven Directives adopted between 1966 and 1970. Each of those Directives has been amended many times over the past 20 to 25 years. Directive 66/403, for example, has been amended 23 times, and Directive 69/208 32 times. The Committee should therefore, in theory, refer to between 100 and 150 texts in order to draw up its Opinion.

1.1.1. The Committee would ask the Commission to assemble and coordinate all these texts in a single text as soon as the present draft Directive has been adopted.

1.2. The Committee wishes to be informed of the procedure envisaged for applying the Seeds Directives in the countries of the European Economic Area which will accede to the European Union.

2. **Subject of the Commission proposal**

2.1. *Regulatory context*

2.1.1. The general provisions on the marketing of agricultural and garden seeds have been harmonized

[1] OJ No C 29, 31. 1. 1994, p. 1.

mainly through Directives since 1966 — i.e. for about 27 years.

2.1.1.1. These Directives concern the two basic characteristics of seeds:

— the genetic nature of the variety as listed in the Catalogue Directives (457 and 458);

— the technological characteristics of the seeds (genetic, purity, germination, generation etc.) covered by the Marketing Directives (400-403, 208 and 458), which in fact also organize the official monitoring of these qualities.

2.1.1.2. These texts, which are very closely interlinked, have two objectives:

(a) to ensure the quality of seeds on the market (protecting the consumer, encouraging genetic progress and organizing the commercial seeds sector); and

(b) to make possible the free movement of these goods in the European Union, but also to facilitate trade with third countries which respect the standards and OECD system for seeds.

2.1.1.3. Up to now, these objectives have been achieved to a remarkable extent thanks to the consistency of the regulatory provisions and, probably, the flexibility allowed for application in the light of agro-climatic conditions and agricultural and administrative practice.

2.1.2. The Directives specific to seeds were supplemented in 1977 by the plant health rules, which apply both to seeds and to propagating material. Moreover, the European Union is extending its powers to cover the introduction of genetically modified organisms, new foodstuffs, questions relating to genetic resources and protection of breeders' rights.

2.1.2.1. These new texts, which have not yet all been enacted, do affect the seeds sector. Some consequences are already foreseeable, while others, which may be very important, are not as yet.

2.2. *The Commission's objectives*

2.2.1. The Commission is concerned about the operation of the internal market and about possible restrictions on free movement of these goods which still exist in the various Seeds Directives, despite more than twenty years of almost completely open frontiers between Member States; it therefore proposes a number of amendments in schematic form designed to prevent Member States adapting or derogating from general provisions, and transfers this task to the Standing Committee and itself.

2.2.2. The Commission also proposes to broaden the scope of these Directives, particularly in order to create legal links with the texts mentioned in point 2.1.2. above.

2.3. *Proposed amendments*

2.3.1. The proposed amendments can be divided into horizontal amendments, concerning all species of seeds, and specific amendments concerning only one species.

3. The Committee's comments

3.1. *General comments*

3.1.1. For the first objective (marketing in the European Union), the proposed measures generally appear to derive from the experience acquired and the equilibria arrived at between Member States and with the Commission.

In contrast, the consequences of the second objective (broadening the field of application and creating new legal bases) are less well defined. Moreover, the proposed provisions would entrust powers only to the Standing Committee and the Commission.

In its explanatory note, the Commission states that uniform regulation is necessary. Now, since the seeds in question are intended to produce plants throughout the territory of the European Union, there must be provision for adaptations to suit the agro-climatic conditions, current practice or constraints upon consumers or users in the different Member States or regions. These adaptations would be made on a proposal from the Standing Committee.

3.1.2. The Committee stresses the need for the Advisory Committee on Seeds to be consulted in good time, and for due account to be taken of the opinion and position of that Committee.

3.1.3. The explanatory note also states that the proposal would have little or no impact on small or medium-sized enterprises. This seems incorrect as regards certain questions which can indeed have very considerable effects on the organization of this economic sector, and particularly on relations between seed-producing farmers, producing companies, distributors and users (e.g. for the marketing of seed as grown).

Other points can have important effects on the funding of research (e.g. second-generation seeds — R2).

3.2. *Comments on the horizontal amendments*

3.2.1. Broadening of the scope of the Directives to cover 'production and, where appropriate, use'.

3.2.1.1. For use, the extension is qualified by the words 'where appropriate'. It is probably a matter of covering the regional aspects involved in the derogations on fodder plant seed mixtures, small quantities, or limitations on the marketing of certain varieties. But in this field the Commission should make its intentions clearer in the Directive or the preamble.

3.2.2. Broadening of the scope of the Directives to cover treatment of seeds, conservation of genetic resources, genetically modified organisms and new foodstuffs. The Committee issued an Opinion on new foodstuffs on 24 February 1993 [1].

3.2.2.1. This is simply a matter of establishing a legal basis to enable the Standing Committee and the Commission to coordinate the texts with the Directives on these questions.

3.2.2.2. The Committee wishes to be kept informed of developments concerning these general texts. It also wishes the socio-economic interest groups and the Advisory Committee on Seeds to be consulted before the provisions proposed by the Standing Committee and the Commission to implement the draft Directive are drawn up.

3.2.3. Number of generations authorized (first generation — R1, second generation — R2, etc.).

3.2.3.1. The Member States are no longer in a position to forbid the marketing of second-generation seeds for straw cereals and large-seed leguminous fodder plants, particularly peas.

3.2.3.2. But, in the case of cereals, it is possible to forbid the production of these second-generation seeds. Subject to authorization, only varieties listed in the national catalogue can be produced. However, these measures are not laid down for large-seed leguminous plants.

Different treatment for the two groups of species appears completely illogical: in every case they are autogamous plants for which the technical and commercial problems are comparable. It is desirable to avoid the disparity by extending the 'cereals system' to large-seed leguminous plants.

3.2.3.3. The obligation to allow two different generations of a species to be marketed simultaneously can have important economic consequences, thereby disorganizing production. (One's first thought is that second-generation seeds will cost less. However, this is not the case unless one assumes that the breeder would receive lower royalties for them, i.e. that funding of research on varieties would be reduced. Such consequences certainly go beyond the simple aim of removing restrictions on free marketing.)

3.2.3.4. Quality standards for second-generation seeds are lower in varietal purity: this is not progressive, as it adversely affects the final quality of the consumer products.

3.2.3.5. The varieties listed in the catalogue have been examined for the characteristics of first-generation, not second-generation seeds; this is important for species such as triticale or for certain varietal types which are not completely autogamous.

3.2.3.6. It would be preferable by far to limit marketing to the first generation, allowing enterprises in countries where there is still a second generation an adequate adaptation period.

3.2.4. Supplier's labelling

It is not clear from the text whether it is possible to require a supplier's label to be affixed. The drafting should be clarified to make labelling obligatory, to ensure that the consumer is well informed.

3.2.5. Errors or inexactitudes in the text

3.2.5.1. It is laid down that seeds as grown, intended to be certified, must be labelled, but that 'this provision shall not apply to the marketing of small quantities of such seed in the same local administrative area.'

As it is certainly not the Commission's intention to allow 'marketing' to the user of the seeds as grown,

[1] OJ No C 108, 19. 3. 1993, p. 8.

this paragraph is baffling. At all events, this provision must not be allowed to encourage abuses.

3.2.6. Progress in harmonizing the rules for listing of varieties

The existing Directives, and the proposed amendment, lay down some general principles for listing in the national catalogues, on which the Community catalogue is based. The varieties listed in the Community catalogue have freedom of movement throughout the European Union. Of course, cultivation techniques and utilization technology influence the listing rules in each Member State, and it seems difficult to draw up a single European technical regulation for listing. Nonetheless, this step forward, involving a certain harmonization of the rules for assessing the cultivation or utilization value, deserves to be welcomed.

3.3. *Specific amendments*

3.3.1. Beet seed (Article 1): none (but see 3.1)

3.3.2. Fodder plant seed (Article 2)

3.3.2.1. The obligation to allow the marketing of second-generation seeds is introduced. The text should include a measure to enable Member States to restrict production to first-generation seeds in the same conditions as those laid down for cereals (see point 3.1.3 above).

3.3.2.2. The obligation to monitor, in the commercial seed category, fodder species for which certification is not obligatory, has disappeared with the new wording of Article 3 of Directive 401 (point 9.10 of the current draft): this is a serious mistake.

3.3.2.3. Fodder plant seed mixtures: the marketing of such mixtures rightly remains forbidden. The system of derogations is maintained on a Member State basis for national producers, provided that it is used only in 'an area where the current agronomic practice would justify such use'. The concept of area here replaces that of country, and the concept of use replaces that of marketing: it is necessary to know exactly what the Commission means by this new wording.

3.3.3. Cereals (Article 3)

3.3.3.1. Second generation (see point 3.2.3 above)

3.3.3.2. In point 8, the provision making it possible to restrict the certification of production of oats seed, barley seed, rice seed and wheat seed to first-generation seeds must be extended to durum wheat, spelt and triticale.

3.3.3.3. Points 13 and 14 include the obligation to accept mixtures of cereal seeds. This would mean risking a serious technical setback at a time when the purity of the commercial product is of ever increasing importance on the consumer cereals market. The provision is thus out of date. It would be better to allow certain countries to authorize it — if they need to — by derogation, using the Standing Committee procedure.

3.3.4. Potato seed (Article 4): no comment (except horizontal points under 3.1 above).

3.3.5. Seed of oil and fibre plants (Article 5): no comment (except horizontal points under 3.1 above).

3.3.5.1. The obligation is introduced to allow the marketing of second-generation soya seed and oil-linseed. The text should include a measure allowing Member States to restrict production to first generation seed in the same conditions as are laid down for cereals (see 3.1.3 above).

3.3.6. Catalogue of agricultural plants: no comment (except horizontal points 3.2.2 and 3.2.6 above).

3.3.7. Garden seed (Article 6)

3.3.7.1. It must be by mistake that amendments 12 and 13 remove the obligation to certify industrial chicory seed.

3.3.7.2. The proposed wording under amendment 18 (at least in French) refers to mixtures of standard lettuce seed. The French wording should be 'mélanges de salades'.

3.3.7.3. The wording proposed under amendment 20 incorrectly omits standard seed, packets of which could thus no longer bear a weight indication. This would be regrettable from the point of view of consumer information.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the proposal for a Council Directive amending Council Directive 90/428/EEC of 26 June 1990 on trade in equidae intended for competitions and laying down the conditions for participation therein [1]

(94/C 195/15)

On 17 February 1994, the Council decided to consult the Economic and Social Committee, under Articles 43 and 198 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 7 April 1994. The Rapporteur was Mr Proumens.

At its 315th Plenary Session (meeting of 27 April 1994) the Economic and Social Committee adopted the following Opinion unanimously.

The Committee welcomes the proposal, subject to the following remarks:

1. **Background**

1.1. The key provisions of the basic Directive (90/428/EEC), which this proposal seeks to amend, are outlined below.

1.2. The main aim of the Directive, based on Articles 42 and 43 of the Treaty, was to promote the breeding of equidae and facilitate the equitable distribution of the percentages retained on prize money and profits accruing from competitions, seeking harmonization wherever possible.

1.3. The Directive acted to prevent discrimination by establishing the following basic rules for competitions:

— the requirements for entering the competition;

— the judging of the competition;

— the prize money or profits which may accrue.

1.4. However, derogations were permitted in the following cases:

— competitions reserved for equidae registered in a stud book;

— regional competitions for selecting equidae;

— historic or traditional events.

1.5. However, to avail themselves of derogations, Member States on whose territory such competitions are held must inform the Commission in advance.

1.6. Under Directive 90/428/EEC, Member States are authorized to reserve a certain percentage of the prize money or profits accrued, which is not to exceed 20 % from 1993 onwards.

[1] OJ No C 51, 19. 2. 1994, p. 6.

1.7. The reserved funds may be distributed in the Member State concerned after the Commission has been notified of the general criteria for distribution.

2. Specific comments on the background

2.1. The meaning of 'competition' should be clarified: 'any equestrian competition including horse racing, show-jumping, eventing, dressage, events reserved for horse-drawn vehicles and showing classes'.

2.2. The derogations mentioned in point 1.4. above are essentially aimed at encouraging the rearing of national breeds.

2.3. The prize money and profits concerned relate to those awarded to competition winners excluding, for instance, receipts from bets and race courses.

2.4. As of 1993, the annual overall percentage of this total prize money to be reserved may not exceed 20 %.

2.5. The reservation of this percentage is not mandatory for every competition.

2.6. Reservation shall be understood to denote provision for this 20 % in the total prize money and awards allocated.

3. General comments on the amending proposal

3.1. It appears from the review provided for in Directive 90/428/EEC, to be carried out before 31 December 1992, that three key points fall outside the scope of Articles 42 and 43 of the Treaty, the legal basis for the Directive.

3.2. These are:

— taxation of activities involving horses;

— rules on betting;

— intellectual ownership of racing results (see 4.2).

3.3. The Committee considers that the above three points, in particular taxation and betting rules, are liable to compromise the desired effects of non-discrimination in the distribution of reserved funds.

3.4. These two areas, in particular betting, are a potential source of funding for national breeds notably through horse-breeding promotion associations to which some mutual betting associations make official and regular contributions.

3.5. It is worth noting that total expenditure on betting in the European Union is in the region of ECU 15,000 million. In contrast, the overall value of awards and prizes is only ECU 300 million. It is from the latter sum that the 20 % referred to in the amendment to Directive 90/428/EEC is to be retained.

3.6. To tackle these problems, the Commission proposes only:

— that the percentage of the prize money and profits (...) be specified (i.e. 20 % ceiling),

— that the same percentage be retained in competitions which qualify for a derogation.

4. Comments on the principle of subsidiarity

4.1. The Committee wonders how far the provisions of the Directive and the amendment conflict with the principle of subsidiarity.

4.2. Member States are, in fact, if they so wish, entitled to retain a lower percentage than the 20 % specified in the draft Directive. This figure is already laid down by Directive 90/428/EEC and was agreed after discussions with representatives from the parties concerned and the competent authorities in the Member States.

4.3. Furthermore, as provided for in the amending proposal, a higher percentage may be retained in specific cases, following an advance request to the Commission.

4.4. The percentage of prize money and profits is retained by the competition organizers but funds are distributed by the competent authorities in the Member States among horse-breeders or associations for the rearing and improvement of national breeds, in line with the general criteria which have been forwarded to the Commission.

5. Specific comments

5.1. The Committee recommends that terminology be standardized to avoid any ambiguity: 'retain' or 'reserve'.

5.2. The expression 'intellectual ownership of racing results' is extremely vague and needs clarification (at least with an explanation in the preamble). It refers to the laying of bets or forecasts by mutual betting societies or bookmakers of one Member State, on competitions held in another Member State, thereby evading the payment of the usual charges on backers' winnings to that Member State or authorized bodies.

5.3. The Committee would like the Commission to specify that competitions reserved for equidae regis-

tered in a stud book refer to national breeds, reared principally if not solely in the Member State organizing the competition.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the proposal for a Council Regulation (EC) amending Regulation (EEC) No 1360/90 establishing a European Training Foundation [1]

(94/C 195/16)

On 9 March 1994, 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 External Relations, Trade and Development Policy, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 18 April 1994. The Rapporteur was Mr E. Müller.

At its 315th Plenary Session (meeting of 27 April 1994), the Economic and Social Committee unanimously adopted the following Opinion.

1. The Economic and Social Committee endorses this Council Regulation (EC), while raising a number of points for consideration.

2. **General comments**

2.1. Council Regulation (EEC) No 1360/90 of 7 May 1990 establishes and regulates the 'European Training Foundation' which was set up to contribute to the development of vocational training systems in the countries of central and eastern Europe (ESC Opinion of 25 April 1990 on the European Training Foundation) [2].

2.2. The Regulation specifies the Foundation's objectives, defines its sphere of action, its functions and internal bodies, and indicates how it is to cooperate with other Community bodies, particularly CEDEFOP, and with other Community actions, especially the Tempus programme.

2.3. The basic considerations which led to the establishment of the Foundation have proved to be particularly urgent. The reform process, launched under different conditions and to varying extents in the countries of central and eastern Europe, with the support of an array of Community and other programmes, will only be successful if backed up by actions providing a real response to the need for human resources development, of which vocational training constitutes a basic element.

2.4. Adopted by the Council on 7 May 1990, Regulation (EEC) No 1360/90 only entered into force on 30 October 1993, in the wake of a decision taken on 29 October 1993 by national Government representatives to locate the Foundation's headquarters in Turin.

2.5. The Committee notes with satisfaction that the Commission has lost no time in taking steps to get the Foundation up and running. It also considers that the parent Regulation should be amended forthwith in a number of areas to cater for developments which have taken place since 1990.

2.6. The Committee welcomes the provisions set out in Articles 5 and 7 of Regulation 1360/90 which provide for the Committee to receive 1) the annual report on

5.4. The Commission must obviously postpone the proposed date (1 January 1994) for the implementation of this amendment.

[1] OJ No C 82, 19. 3. 1994, p. 11.
[2] OJ No C 168, 10. 7. 1990, p. 13.

the Foundation's activities and 2) the report containing the results of the assessment of the experience gained in the course of these activities.

2.6.1. The Committee nevertheless feels that this is merely a preliminary step. Indeed it notes that these provisions do not allow the Commission to benefit from the considerable experience which ESC members have in the area of vocational training. Arrangements should be made to ensure that the Committee is fully involved in devising the vocational training policies to be implemented in the countries covered by the Foundation's programmes.

2.6.2. The Committee underlines that vocational training policy is a key factor in the economic and social development of the countries covered by Phare and Tacis, particularly in their transition to a market economy.

3. Specific comments

Thus the proposed amendments should pose no problems for the running of the Foundation:

3.1. It is proposed to extend the Foundation's responsibility for countries covered by the Phare programme [Regulation (EEC) No 3906/89] [1] to embrace Tacis programme beneficiaries [Regulation (EEC) No 2053/93] [2]. This is warranted both from a geographical viewpoint and also in terms of these programmes' objectives.

3.2. It is also proposed that the Foundation staff be covered by the rules and regulations applying to officials and other staff of the European Community. The Committee endorses this aim, which is designed to achieve greater consistency and a more unified approach to staff management in the decentralized organizations of the European Union, insofar as these staff regulations would facilitate attainment of the Foundation's goals. The Committee hopes moreover that these steps will promote greater mobility for established staff between the various European Union institutions.

3.3. The proposal to make the Commission financial controller responsible for the internal financial supervision of the 'satellite' organizations is warranted for practical and efficiency reasons. It is reasonable to assume that the proposed arrangements will make a considerable contribution to effective, flexible management of the budget and finances of these organizations and, in this case, of the Turin Foundation.

3.4. The proposed updating of points 7 and 9 of the proposal does not call for any comments.

4. Conclusion

4.1. In conclusion, the Committee endorses this draft Regulation and hopes that the Foundation will be a key element and valuable tool for development in the countries concerned.

[1] Countries currently covered by the Phare programme: Albania, Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Czech Republic, Slovakia, Slovenia.

[2] Countries currently covered by the Tacis programme: Armenia, Azerbaidjan, Belarus, Georgia, Kazakhstan, Kyrgystan, Moldova, Uzbekistan, Russian Federation, Tadjikistan, Turkmenistan, Ukraine and Mongolia.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the Annual Economic Report for 1994

(94/C 195/17)

On 6 April 1994 the Commission decided to consult the Economic and Social Committee on the Annual Economic Report for 1994.

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 12 April 1994. The Rapporteur was Mr Giacomelli.

At its 315th Plenary Session (meeting of 27 April 1994) the Economic and Social Committee adopted the following Opinion by a very large majority, with 16 abstentions.

1. The Commission's 1994 annual economic report — forecasts and recommendations

1.1. In the view of the Commission expressed in the 1994 annual economic report, the economic recession of the last few years is the most serious that Europe has experienced for 50 years. If account is taken of the new German Länder, three million jobs have been lost. However, the trough seems to have been reached and, barring policy mistakes (interest rates, budget deficits, wage trends, inflation), there is hope of a recovery. The White Paper on Growth, Competitiveness and Employment and the Council Recommendation of 23 December 1993 on broad economic policy guidelines for the Member States and the Community [1] (a document referred to in many places of the Commission's economic report) indicate a series of actions necessary to make the Community economy more competitive and dynamic and help halt and eventually bring down unemployment.

1.1.1. According to the Commission's economic report, 'a substantial reduction in unemployment requires that growth remains both strong and employment-creating for many years. This calls for determined structural adjustment efforts and careful macro-economic management. Structural adjustment needs to aim at making the labour market more effective and at modifying various aspects of the 'employment system' so as to make growth more employment-creating'. The White Paper holds out prospects of improvements in this respect. It considers for example that active labour market policies are necessary to prevent current cyclical unemployment from consolidating into structural unemployment, which is much more difficult to combat. Emphasis is accordingly placed on improving training in order to preserve and possibly improve the skills of those who have lost, are in the process of losing, or run the risk of losing their jobs.

1.2. Recovery should be underpinned by the restoration of confidence, which in turn will boost consumer demand and bring an upturn in investment. Investment should be boosted by the results of the Uruguay Round: although the effects will not be felt immediately, they can still play a part, whilst the renewed growth in the United States and Canada should also provide a stimulus. Further interest-rate cuts would also support the recovery.

1.3. However, other factors suggest that caution is needed, i.e. there is no guarantee that interest rates will continue to fall and the high level of unemployment is not set to tail off before 1996 at the earliest. There is also diffidence among the Member States who wish to participate in the final stage of EMU as they are afraid that they will not be able to meet the necessary criteria (budget deficit, inflation, public debt). According to the Commission's 1994 annual economic report, confirmation of the first signs of recovery is conditional in some countries on quelling inflation, and in all Member States on moderate wage settlements and on control and reduction of budget deficits.

1.4. The figures used in the Commission report are basically those issued in November 1993, although a slight upward adjustment has had to be made, notably in the case of unemployment. They also confirm that the modest growth envisaged will not bring down unemployment. At best, the deterioration may be stemmed in 1996.

Key indicators	1993	1994	1995
GDP	− 0.3	+ 1.3	+ 2.1
Private consumption	− 0.1	+ 0.3	+ 1.3
Unemployment (% economically active population)	10.6 (December 1993, 10.9)	11.2	11.3

1.5. As regards monetary policy, the Commission invites the central banks to promote a drop in short-term interest rates. It is vital that further progress be made towards eliminating the conflict between the objective of stability and wage and national budgetary

[1] OJ No L 7, 11. 1. 1994.

behaviour. If necessary, short-term rates could fall even further than anticipated.

1.6. This is all the more important as monetary policy in the Community has not yet been eased sufficiently to be compatible with a strong boost to growth, particularly if account is taken of the likelihood of a restrictive budgetary policy in several Member States in 1994 and after.

1.7. The Commission also notes that the significant drop in interest rates in Europe at the end of 1993 was due not only to falling inflation but also to the favourable prospects for medium-term budgetary consolidation.

1.8. The Commission notes that there is an interaction between interest-rate levels, budget deficits and growth prospects. A continued downward trend in interest rates and the improved growth possibilities which this would bring with it will help to reduce budget deficits in line with the broad economic policy guidelines and the convergence criteria.

2. The situation

2.1. Certain indicators of confidence published in mid-February show, by reference to a base of 100 in 1985, a rise between October and December 1993 from −23 to −19 for industrial output, from −44 to −38 for building and construction, and from 96.8 to 97.5 for the general economic climate. Consumption, however, has stagnated after a rise of two points in September.

2.2. The Commission often stresses the need to restore the confidence of economic operators so as to increase demand and bring about investment-led growth. Confidence however depends first and foremost on employment prospects. People who are afraid of losing their jobs will act with the utmost caution. In other words, everyone will tend to cut back expenditure on consumption and postpone investment. Businessmen will also react in the same way if they feel that sales prospects are unlikely to improve sufficiently to justify capital expenditure.

2.3. The ordinary citizen then takes refuge in saving as a hedge against a rainy day. This sector is dominated by public borrowing. To meet its funding requirements, the State in fact increases taxation and borrows from savings, whilst generally giving priority for political reasons to consumer expenditure rather than to stepping up investment. In all Member States, however, infrastructure requirements remain considerable.

2.4. As far as short-term economic trends are concerned, the figures currently available suggest a 1 % to 1.25 % growth rate in 1994 and a 2 % growth rate in 1995. As regards the economic policy followed to date by the Member States, current trends will have to be compared with the recommendations in the 'broad guidelines'. Although there are fears about inflation, current trends are rather favourable according to the Commission, which expects 2 %-3 % inflation for 1996, whilst wage growth has slowed since November 1993. However, the weakness in the economy has obviously had an effect on national budgets, with expenditure rising and no improvement in sight.

2.5. It is doubtless true that the incipient economic recovery will remain too weak to reduce unemployment. While the indicators suggest that the bottom of the trough was reached at the end of 1993, the heralded recovery will not generate growth rapidly enough to create jobs. According to some sources, unemployment, which was 10.9 % in January, may reach 12 % this year (the Commission's November 1993 forecasts indicate 11.5 % for mid-1995).

2.6. The White Paper suggests that the resumption of growth should enable at least the majority of Member States to cut their PSBR in 1996/1997 to the level foreseen by Maastricht.

2.7. If the expected recovery is the early confirmation of a sustained improvement, it should be used to consolidate the budget situation by bringing the PSBR down to 3 % as quickly as the economic situation permits. The Member States where the national debt is excessive should go further than this, and speed up their progress towards the target of a debt/GDP ratio of no more than 60 %.

2.7.1. Nevertheless it remains the case that, as a result of the deep recession in Europe, the 3 % budget deficit/GDP ratio has been exceeded in a number of Member States. The Commission report on convergence estimates the impact of the 1990-93 recession on budget deficits at 2.2 % of GDP. The Committee concludes from this that an economic policy aimed at making good lost growth and production might over, say, the next four years reduce European budget deficits by approximately the same percentage, i.e. from 6.4 % to 4-4.5 % of GDP. A growth policy of this kind might also make a major contribution to reversing the unemployment trend.

2.7.2. The Member States must also pay attention to the structural elements of the budget deficits. The benefits of efforts to trim in certain areas should be weighed up against the danger that attempting to bring down the deficit too fast might in the short term result in an uncertain or even faltering recovery.

2.8. The trade deficit of the European Union is shrinking. This can be attributed primarily to the reduction of imports because of the recession, but also to a certain improvement in European competitiveness as a result of the appreciation of the dollar and yen, as well as economic recovery in a number of third countries.

2.9. The Community's growth potential is too weak since it is based on an investment rate of 19 % of GDP, which can only lead to a 2 % growth rate; this is insufficient to significantly reduce or even mop up unemployment in the medium term. The White Paper states that the investment rate would have to be stepped up to 23-24 % of GDP by the year 2000 to produce a level of growth capable of bringing down unemployment. In the meantime it must be remembered that wage rises and the level of self-financing of investments depend on productivity gains. New investments must clearly be used for creating jobs, but they must also be expected to go into increasing the use of new technology so as to permit restructuring and rationalisation and hence competitiveness. With this in mind, an improvement in the jobs situation would be based on intensifying efforts in the fields of vocational and continuous training.

2.10. The Member States should generate sufficient savings to cover their investment requirements. The constant level of private savings should prompt the Member States (a) to reduce current public spending in favour of productive investment, (b) to contribute to the building-up of national savings and (c) to avoid recourse to foreign capital. Some cut in the proportion of GDP absorbed by public spending, which at around 50 % of GDP on average far exceeds the levels reached in the USA and Japan, would no doubt stimulate the competitiveness of the Community's economies. The privatization of systems of public and social expenditure must not be allowed to undermine the foundations and principles underlying social systems in Europe, although it is necessary to monitor the effectiveness and allocation of such expenditure.

2.11. Similarly, cutting the public sector's role in the European economy — which is due to over-rigid laws — will make businesses more competitive. And if the Recommendation of 22 December 1993 on the 'broad guidelines' is followed, the public sector's greater awareness of current problems will have a beneficial effect by shifting public finances towards promoting public investment.

2.12. The policy advocated by the White Paper is also based on implementation of the 'broad guidelines'. In this context the proposals on the major infrastructure networks are also important nationally, as much in terms of employment as of competitiveness.

2.12.1. It is a cause for regret that neither the Community programmes, nor consequently the national programmes, have as yet been approved, probably because of differences of view about funding in the ECOFIN Council. At a recent informal Council meeting the Ministers of Finance gave their approval to a selection of priority projects but failed to specify how they would be financed. The Committee hopes that the ECOFIN Council will find a practical solution to this financing problem in the short term.

3. The international environment

3.1. The fact that the Uruguay Round has been concluded on schedule is encouraging for the future of international trade. The international economy has therefore narrowly escaped the risk of a new wave of protectionism. Even though we should not expect a growth miracle to ensue following the GATT renegotiations, the dangers of a deterioration in the trade climate and a consequent adverse effect on the economic situation seem to be limited. The agreement remains vague for certain sectors but consolidates and reinforces existing rules. Solutions nevertheless still need to be found to certain contentious issues (United States/European financial services, 'textile' compensatory measures, etc.) as well as in certain excluded areas such as aeronautics and the audiovisual sector. Secretary-General Sutherland has himself recognized that it would have been unrealistic to assume a priori perfect harmony between the parties to the Agreement.

3.1.1. The Committee also urges that the Conventions of the ILO be applied in all relations with non-EU countries and invites those Member States which have not yet ratified the Conventions to do so with due diligence.

3.1.2. In this context — and this is a remark intended in particular for the countries of South-East Asia — the Committee regrets the absence of any social clause in the GATT agreements aimed at preventing unfair competition from countries offering goods produced by children or by workers not covered by proper welfare protection.

3.1.3. This leads the Committee to wonder whether the Community will be able to accept for much longer a situation where GATT provisions, and the rules on free competition underlying GATT, remain applicable to countries which do not respect human rights, which prevent or hamper the entry of goods and services from EU Member States, which do not have social security for workers, which do not apply minimum environmental standards, and where the strong economic growth caused by this behaviour does not lead to a significantly higher standard of living for their peoples.

3.1.4. GATT rules currently inhibit the application of ILO Conventions aimed at preventing unfair competition and are also an obstacle to the proper consideration of environmental and human rights demands. To remedy this, it is necessary to ensure, after the official signing of the Agreement in Marrakesh scheduled for 15 April 1994, that ecological, social and legal concerns are all among the priorities of the new World Trade Organization due to replace GATT from 1 January 1995.

3.2. Many stumbling blocks continue to exist between trading partners, and, even in areas which appear to have been settled, departures from agreements by one or other party may lead to an automatic response in kind by its trading partner. In particular, the recent clashes between the United States and Japan continue to give rise to fears that there may be a return to bilateral relations and a retreat to protectionism in certain fields. The USA is currently threatening to reintroduce 'super article 301' of its trading laws in trade with both Japan and the EU. As far as the European Union is concerned, the most important thing is to remain permanently vigilant to make sure that agreed principles are adhered to in the interests of the open European economy.

3.3. With the exception of the largely encouraging performance of the Czech Republic, Poland, Hungary and Slovenia, the countries of Central and Eastern Europe are having great difficulties in making their transition to market economies. Most of these countries are having to contend with negative growth rates. The Community itself has not been able to develop a strategy which allows it to play a more active role in the development of these countries. Even if one day it succeeds, the positive effects on the Community economy will not be felt immediately. Moreover, faced with the enormous needs and political uncertainties of Russia and the other countries of the former USSR, the Community cannot for the moment really contemplate doing any more than is already provided for under cooperation and association agreements, since it is itself going through a period of sharp recession and having to devote as many resources as possible to its own economic recovery. It is clear that the Community must open its borders to products from these countries, but it should not hesitate to avail itself of the appropriate trade instruments whenever specific Community industries are threatened by unfair competition.

3.4. Recent Community initiatives to finance projects in the countries of Central and Eastern Europe seem to show a willingness to take a step in the right direction. The Committee will return to discuss what appears to be the harbinger of new developments as soon as the early results have become better known.

3.5. The fact remains that financial aid is not the only type of aid to come into the reckoning. These countries also need advice and know-how in all areas (technical, administrative, social, educational, organisational, etc.) if they are to set up the structures necessary to support their transition to market economies. This task will be made easier by the high level of education and training to be found among large segments of the population in these countries.

3.6. Perhaps when the economic crisis has been overcome in Europe, the Community, Member States and private investors will eventually be able to make a more substantial contribution to bolstering the market economies of the countries of Central and Eastern Europe.

3.7. In the meantime we must face up to the fact that popular discontent may well sow the seeds for a return to a centrally controlled economy or even to totalitarianism (whatever its political persuasion).

3.8. While the entry into force on 1 January 1994 of the Agreement on the European Economic Area between EU Member States and EFTA countries (barring Switzerland) reinforces the free trade area which to all intents and purposes already exists between the two sides, it has not as yet produced the dynamic economic growth expected, especially in the light of the accession of some of these countries to the EU. Early signs of a recovery are however on the horizon, notably in Sweden.

3.9. As far as the industrialized countries are concerned, the United States is the only country currently enjoying a higher rate of growth. However, its trade deficit is still widening alarmingly as the economic recovery is sucking in imports, which have become dearer because of the relatively weak dollar.

3.10. The Japanese economy is merely trundling along, despite the many successive recovery programmes decided by the Government. On top of the effects of the appreciation of the yen, Japan is facing the most serious recession since 1975, with very weak growth (2.2 % drop in the annual rate).

3.11. The countries of South East Asia on the other hand are experiencing very strong growth. Even if Europe's declining share of international markets cannot be put down exclusively to competition from these countries, the vigour of their economic development is a reminder to the business community of the European Union that the competitiveness of our economies and companies is a challenge which cannot be ignored.

3.11.1. Without prejudice to its reservations expressed in points 3.1.1, 3.1.2 and 3.1.3, the Committee feels that it is worth giving thought to the fact that these countries of South East Asia have managed to achieve really high growth rates without development aid from the EU or its Member States. Despite many years of EU development aid, the economies of the African countries however have not taken off. Europe's development aid in Africa has therefore failed in its objective of stimulating growth in these countries and eventually creating markets for EU export industries. This is one reason why we should consider ways in which the European presence in Africa could be more effective, including the possibility of rechannelling financial aid into the technical and administrative assistance which these countries require.

4. The effects of Community and national policies

4.1. Initially, what seemed to be well-founded hopes were raised by the completion of the internal market, the initialling of the Maastricht Treaty and the prospect of transition to the second stage of Economic and Monetary Union. It was felt that the internal market's consolidation, in conjunction with solidarity in the new European Union, would strengthen public confidence and persuade people to invest, thus boosting growth rates to the benefit of all. To a large extent, these hopes have been dashed by the difficulties caused by the ratification of the Maastricht Treaty, and the realization that a lot of ground still has to be covered before the Community of Twelve is welded together in a real single market.

4.2. Furthermore, the Community's and Member States' economies and economic performances — far from converging as they are required to — have remained as they were if they have not actually started to move further apart. There is no doubt that the national economic indicators which serve as 'Maastricht criteria' are diverging. Thanks to the depressed state of the economy and low commodity prices (including oil), inflation is moving in the right direction (even though it is still a fairly long way away, on average, from the 2-3 % laid down in December 1993's 'broad guidelines'). However, all Member States' budget deficits have increased, and their growing debts have reduced the room for manoeuvre which macro-economic policymakers need in their pursuit of sustained, non-inflationary growth.

4.2.1. Although the divergences between Member States have not increased, the aims of Maastricht have been left behind by all members of the EU despite the fact that it was considered essential in all cases to meet the criteria set at Maastricht. Member States have performed satisfactorily if not brilliantly on the inflation front.

4.3. It is however conceivable that, within the limits of their room for manoeuvre, the Member States might be able to activate the automatic stabilizers in order to encourage growth and new jobs, although such a policy temporarily makes it more difficult to follow the budget-deficit convergence criterion even if such a criterion has not been cast aside. Very few policies of this kind have been pursued, and the lion's share of Member States' spending has not been channelled into the productive side of the economy.

4.4. In the field of exchange rates, 1993 was marked by upheavals of such intensity that it was necessary to extend the EMS's margin of fluctuation to 2 x 15 %. Afterwards, the exchange markets calmed down. Consequently one may well ask whether prompter action should not have been taken to stifle speculation.

4.5. The Committee thinks that, if it was deemed necessary to act urgently, it would have been better to tackle the deep-seated causes of the monetary disorder instead. The changes made in August 1993 were not solely a response to speculation, but were the result of ill-tuned economic policies. It was these that caused the pressures from which speculators profited. A realignment of certain exchange rates at the right moment, in the light of real economic performances, would undoubtedly have discouraged any large-scale speculation in good time.

4.6. The fact is, however, that no such realignment took place. This, plus the temptation to keep the EMS an area of stability and the fact that in some cases the Member States pursued conflicting objectives (some aiming for stability and others opting for economic recovery), were in all probability the main causes of the period of turbulence which the Community went through last year.

4.7. In this context, the position and policies of the central banks help to create a climate of uncertainty, and raise question marks about the pertinence of certain actions. Clearly, the Committee does not wish to challenge the principle of the independence of the central banks, which are the sole guarantor of monetary stability and an important element in the fight against inflation. The fact remains however that the actions of certain banks are sometimes difficult to understand, given their responsibility for contributing to the smooth development of their national economies.

4.7.1. It goes without saying that the Bundesbank, the bank most frequently cited, has had to handle the monetary aspects of German reunification and its caution is understandable. Nonetheless, the Committee thinks that as real rates remain too high in a period of falling inflation and cyclical depression, the Bundesbank could have acted more decisively in cutting its key rates. This would have helped businesses to finance

their working capital and reserves, and would have stimulated investment, growth and employment. The beneficial effect would also have been felt in other Member States, especially those whose central banks have felt obliged to follow the Bundesbank. Apart from political reasons, however, nothing should have stopped other central banks from pursuing monetary policies more favourable to investment and employment.

4.8. It is true that in the meantime, because of the fall in inflation and the bleak outlook for consumption and investment, the Bundesbank has made several, albeit small, reductions in its rates, even though the M3 money supply has risen well beyond the targets set. We must recognize that the discount rate and the Lombard rate have been brought down to 5 % and 6.5 % respectively but, above all, the repurchase rate, the third key rate, but the one covering two thirds of banks' refinancing needs, has been gradually reduced from 5.97 % to 5.7 % quite recently.

4.8.1. These reductions have been anticipated or followed in other Member States.

4.8.2. However, it is necessary to bear in mind that interest rates are only one of the components in the 'growth, competitiveness and employment' triangle.

4.9. Although the reduction in interest rates is currently just what businesses, workers and consumers want, and what the OECD is recommending to those countries which are cautious, it cannot be overlooked that during the first few months of 1994 fears about higher inflation have emerged following the surge in growth (4.5 % in the last quarter of 1993) and the upturn in US interest rates. Any anticipation of the recovery in Europe and the current fall in rates, despite the swelling money supply in Germany, could reverse the trend in European central banks' rates. The recent turbulence caused by a sharp and abnormal rise in the German money supply bears witness to the extreme fragility of the situation. Already, long-term rates have started to move upwards. Neither must one forget that a general economic recovery could trigger off a rise in commodity prices, which are currently very low because of the recession and an under-valued dollar.

4.9.1. There is no doubt that inflation in Europe is being further slowed down by the continuing effects of Europe's longest and deepest recession since the Second World War, i.e. high unemployment and very low levels of capacity utilization. If the recovery is sustained, the existing slack in production capacity will mean that there will initially be no supply bottlenecks in the face of rising demand, and therefore no new surge of inflation.

4.10. It is too early to make an appraisal, in employment terms, of the Commission's 1993 White Paper on growth, competitiveness and employment. However, it is fair to say that the measures agreed in Edinburgh and Copenhagen do not seem to be having their hoped-for effects. There are grounds for wondering whether the concept of Community funding for certain activities (research, education, direct investment in large-scale projects such as cross-border networks) should not be clarified to make things more coherent and more transparent. In this respect, the decisions of the ECOFIN Council in Athens contain specific proposals for the immediate future.

4.11. The Committee deplores the ECOFIN Council's and Member States' delay in implementing the investment programmes of the trans-European networks (transport and energy) as scheduled in the Conclusions of the Presidency of the European Council of 10 and 11 December 1993. This issue has been dealt with in detail in point 2.12.1, with Community and national authorities being urged to shortly begin implementing these programmes for the sake of the jobs they create.

4.12. The Committee would point out that the White Paper and the 'broad guidelines' adopted by the Council in December 1993 are medium and long-term instruments. Their effects will not be felt in the short term. Indeed, the Community as such does not have any short-term economic policy instruments. In the months ahead it is the economic climate worldwide which will decide whether the European Union and the Member States will feel the effects of the hoped-for modest recovery. The European Union and the Member States will have to foster and consolidate this recovery and transform it into sustained growth by applying the White Paper's recommendations jointly and coherently.

5. Medium-term prospects

5.1. The Committee hopes that the Community debate on the White Paper will continue at all Community levels. Eventually the Community economy will no doubt benefit from certain structural measures which are designed to achieve growth, competitiveness and employment side-by-side. One's thoughts turn first of all in this context to seeking more flexible production and labour markets. Recent examples may be seen in the car, metalworking, chemical and public service sectors in Germany where collective bargaining has led to agreements between management and employees

which trade off job guarantees against wage moderation and a redistribution of working time. For capital-intensive industries, improved use of production plant over time is an important factor in competitiveness.

5.2. The Committee believes that the Community must continue to fight for sustainable solidarity within the framework of a European social model which is marked by the quest for quality and safety in all areas (safety of products, health and safety at work, social welfare) as well as the encouragement of risk-taking and the entrepreneurial spirit. Enterprises, which create wealth through using labour and capital, and the trade union movement, will be the main pillars that guarantee this European social model.

5.3. Improving the investment climate through the optimal use of fiscal instruments and financial encouragement is still an important area for the Member States because of the principle of subsidiarity. However, the Community must retain a major role as a referee to prevent the Member States giving themselves over to excessive competition which would lead to a loss of tax revenue, which in turn would be detrimental to public investments and the continuity of welfare protection.

6. Institutional considerations

6.1. Earlier Committee Opinions on annual economic reports were drawn up at the request of the Council on the basis of Council Decision 90/141/EEC of 12 March 1990 on the attainment of progressive convergence of economic policies and performance during Stage One of Economic and Monetary Union.

6.2. The present Opinion, however, is being drawn up under a new procedure since the Community moved on to the second stage of EMU on 1 January 1994 and the Treaty on European Union came into force on 1 November 1993. The annual economic report is no longer sent to the Council for approval. But it is published by the Commission and the Council will be able to take note of it and discuss it. The Commission will draw on the Council's discussions when forwarding draft recommendations with a view to formulation of the 'broad economic policy guidelines' provided for under Article 103 of the Treaty on European Union. The function of the annual economic report has thus changed.

6.3. From the second stage of EMU onwards, coordination of the economic policies of the Member States falls within the remit of the Community; the aims themselves are mainly laid down by the Council. The Member States are responsible for implementing the measures needed to ensure the convergence of their economies. This flows not only from the principle of subsidiarity laid down by the EU Treaty but also from the Council recommendations of 22 December 1993 on 'The broad guidelines of the economic policies of the Member States and of the Community [1].

6.4. Article 103 of the Treaty on European Union allows the Council, acting under a proposal from the Commission, to forward confidential and public recommendations to Member States not complying with Community objectives. Article 103(5) states that detailed rules may be laid down for the multilateral surveillance procedure. The Commission as yet does not intend to put forward any proposals on the matter. It will wait until it has first gained experience of applying the new procedure. It should also be noted that, according to Article 103(2), the European Parliament is to be informed by the Council of the 'broad economic policy guidelines'. It is very regrettable however that Article 103 makes no mention of the Economic and Social Committee.

6.5. The new procedure faces the Committee with a legal problem which has fundamental political implications. It can be expressed as follows: if the Committee's Opinion is no longer compulsory, what will be the role of the socio-economic interests represented on the Committee in the formulation of policies which will affect them and which, under the first Council Recommendation of 22 December 1993 on the 'broad economic policy guidelines', call for their solidarity and cooperation, notably in respect of price stability, control of production costs, investment policy and job creation.

6.6. In this context the Committee welcomes the referral by the Commission of the annual economic report even if, as in the past, the deadline for drawing up what is destined to be a detailed Opinion remains extremely tight. The Committee realizes, however, that the most important problem is the limited role now to be played by the Commission in coordinating the economic policies of the Community and the Member States. Under the provisions of Article 103(2) this role is henceforth limited to the formulation of recommendations which the Council can always change, whereas previously the Commission had an exclusive right of initiative and presented proposals, after consulting Parliament and the Economic and Social Committee, which the Council could only amend on a unanimous vote. This new approach may well impair the effectiveness of the decisions taken. It also poses problems of transparency and calls into question the democratic nature of the Community's decision-making process.

[1] OJ No L 7, 11. 1. 1994.

7. Conclusions

7.1. Appropriate, concerted macro-economic policies must be drawn up by the Community and national authorities in order to curb unemployment but without abandoning medium and long-term pursuit of economic convergence. This presupposes close cooperation between governments and central banks. The European Monetary Institute could be gradually brought into play as a coordinator in this matter.

7.1.1. The Commission considers that there is a good chance of achieving 3% growth in 1996, and that unemployment should then start to fall. This presupposes a rise in exports and hence greater competitiveness and an increase in investor and consumer confidence. Wage moderation and State budgetary control are vital here. They must permit a balanced policy-mix, with low interest rates, support for confidence, and encouragement of public saving. All this presupposes continuation of the policy to maintain stability and control inflation.

7.2. The Committee considers that the Member States should make resolute efforts to start bringing their budgets back into balance, in particular by progressively cutting general current expenditure and encouraging productive public investment.

7.3. The Committee cannot however support an overall strategy of cutting real wages (a cause of deflation) and adopting a policy of ill-considered budgetary stringency: in our straitened economic circumstances this might exacerbate the problem of unemployment and put back economic growth. Given the existing record levels of unemployment, the additional unemployment which such an approach would cause is both unthinkable and unacceptable.

7.4. The Committee therefore advocates greater coordination of economic policies, with action to counter the danger in the form of an appropriate European investment initiative and substantial cuts in short-term interest rates, whilst keeping an eye on long-term interest rates which have started to creep up slowly.

7.5. Though recognizing the need for monetary stability, the Committee considers that it is important to avoid the mistakes of the past in view of the very high unemployment and relatively low inflation experienced at present. What is needed instead is an economic policy based on the adjustment of enterprises to new openings, thereby reversing the unemployment trend. The necessary adjunct to this is the achievement of strong, sustainable and non-inflationary growth.

7.6. The Committee would like to make it known that it will reflect in another context on the shape of tomorrow's society, especially as regards involvement in employment, job distribution and social protection.

7.7. In view of the institutional review of the Treaties in 1996 and the wider role which the economic and social interest groups are called upon to play, both in helping to implement the 'broad guidelines' laid down by the Council and their involvement in working out an incomes policy, the Economic and Social Committee urges that consultation of it be made compulsory in connection with the harmonisation of economic policies provided for in Article 103 of the EU Treaty. Furthermore, to make the procedure provided for in this Article more transparent and more democratic, the Commission's right of initiative should be restored and provision made for the involvement of the European Parliament in legislation as well as the consultation of the Committee of the Regions alongside the ESC.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the proposal for a European Parliament and Council Decision introducing a Community system of information on home and leisure accidents [1]

(94/C 195/18)

On 6 April 1994 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the abovementioned proposal.

The Economic and Social Committee instructed the Section for Protection of the Environment, Public Health and Consumer Affairs to prepare its work on the subject. In the course of its work, the Committee appointed Miss Maddocks as Rapporteur-General (Articles 18 and 46 of the Rules of Procedure).

At its 315th Plenary Session (meeting of 27 April 1994), the Economic and Social Committee unanimously adopted the following Opinion.

1. Introduction

1.1. Under Council decision 81/623/EEC of 23 July 1981 [2], a pilot experiment was instigated relating to a community system of information on accidents involving products outside the areas of occupational activities and road traffic.

1.2. Council decision 86/138/EEC of 22 April 1986 [3], established a demonstration project to exist for five years and under Council decision 90/534/EEC [4] the original decision was amended which, inter alia, extended the project from five to six years.

1.3. When the demonstration project was completed, an assessment was made based on reports from Member States. As a result of the information obtained, it was proposed that a new system be established for five years and re-examined before the end of 1994. In May 1993 [5], the Committee delivered its opinion on the proposal [6].

1.4. In October 1993, the proposal was adopted by the Council but 'due to specific reasons', only for one year. It is now proposed that there be a decision to cover four years.

2. General comments

2.1. Whilst accepting that the Community system of information on home and leisure accidents can only supply general indications for planning safety measures, the Committee welcomes the proposal to seek more coordinated national methodologies, so that the conclusions of member states have more relevance to each other and to any proposed Community initiatives.

2.2. However, it is still unclear how this objective can be achieved when the basis of the source of the information is not the same pattern in all 12 countries, i.e. in nine countries the main source of the information is hospitals, whilst in three countries it is household surveys.

2.3. There needs to be a strong cross-link established between the proposed system and the measures against dangerous products laid down by the Product Safety Directive, as this could improve consumer protection in the Community. It is to be regretted that Product Safety Committees, or their equivalent, do not exist in all Member States, and the Council is therefore requested to recommend that such Committees be established as soon as possible and that the situation be monitored.

3. Specific comments

3.1. *Article 1*

3.1.1. First paragraph

The Committee welcomes the proposal to extend the Community system of information on home and leisure accidents for a period of four years.

3.1.2. Annex 1

The Committee notes the objective of trying to improve coordination of methodologies between Member States' systems of collecting statistics on this subject, but still is of the opinion that the fact that in nine countries the system of obtaining data is based mainly on hospitals, whilst in three countries it is based on household surveys, would prevent the most effective use being made of the information available. This Committee is of the

[1] OJ No C 104, 12. 4. 1994, p. 15.
[2] OJ No L 229, 13. 8. 1981.
[3] OJ No L 109, 26. 4. 1986.
[4] OJ No L 296, 27. 10. 1990.
[5] OJ No C 201, 26. 7. 1993.
[6] OJ No C 59, 2. 3. 1993

view that the basis of the investigation should be in compliance with hospital data.

3.1.3. Second paragraph

The stated objective, i.e. promoting accident prevention, improving the safety of consumer products and informing and educating consumers, is supported; however, the Committee would stress again that this should serve to establish a minimum basis for appropriate action to be taken by Member States.

3.1.4. In its opinion on the proposal from the Commission to establish the 'system' (see paragraph 1.3), the Committee reiterated an earlier request that a more precise definition be formulated than the term 'consumer products', and this request is now repeated.

3.2. *Article 2*

3.2.1. First paragraph

The Committee supports the objectives of the Commission to make the best and most effective use of the information available, but there does not appear to be any indication on how action taken by Member States in relation to accident prevention will be monitored.

3.3. *Article 3*

3.3.1. Third paragraph

The Committee is pleased to learn of the emphasis now being placed on the dissemination of information on home and leisure accidents as widely as possible, particularly to consumers. But this Committee would also like to be reassured that professional associations and manufacturers would also be receiving this information.

3.4. *Article 5*

3.4.1. The Commission will be drawing up an assessment report on the operation of the system and, where appropriate, proposals to amend it in 1996, and a final report on the implementation and effectiveness of the system by 31 december 1997. Both reports will be submitted to this Committee.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the proposal for a Council Directive on integrated pollution prevention and control [1]

(94/C 195/19)

On 29 October 1993 the Council decided to consult the Economic and Social Committee, under Article 130s 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 April 1994. The Rapporteur was Mr Boisserée.

At its 315th Plenary Session (meeting of 27 April 1994) the Economic and Social Committee adopted the following Opinion by 116 votes to 7, with 9 abstentions.

1. Introduction

1.1. The legal basis of the Draft Directive under review is Article 130s of the EC Treaty, as amended by the Maastricht Treaty. The Draft Directive covers environmental aspects of the official licensing of various types of industrial installations in the following sectors:

— Energy industry

— Production and processing of metals

— Manufacture of non-metallic mineral products

— Chemical industry

— Waste management

— Other industries.

1.2. As distinct from previous EC Directives on environmental protection, the Draft Directive under review has an 'integrated approach', i.e. it covers all emissions to air, water and land, including waste, and other environmental problems (such as noise).

1.3. The purpose of the Draft Directive, namely to prevent and control pollution, is to be achieved by compliance with emission limit values and environmental quality targets. The Draft Directive does not, however, lay down these limit values and quality standards. Instead, it refers to other instruments of EC and Member State law, to local regulations, and to the guidelines recommended by the WHO.

1.4. The Draft Directive does, however, lay down very detailed rules on the licensing procedure, in particular permit applications and requirements.

Further procedural rules concern:

— participation of the public;

— coordination of the authorities involved;

— monitoring of installations, in particular the checking every ten years of all permits issued;

— exchange, between Member States and the Commission, of information on implementation of the Directive.

1.5. The Draft Directive explicitly refers to the Fifth Environmental Action Programme of the Community (see its 4.1).

2. Summary of the findings of the ESC Opinion

— The Committee welcomes the integrated approach although it has some serious misgivings about the Draft Directive and will be proposing a large number of amendments.

— The Committee proposes introduction of a general obligation to limit emissions, on the basis of best available techniques (BAT).

— The Committee considers that the Draft Directive should be combined with a mandate to the Commission to draw up proposals for the enactment of European emission limit values on the basis of environmental priorities. For the technical details, reference can be made to standards issued by European or international standards organizations.

— The Committee nevertheless believes that the Draft Directive could dispense with excessively detailed procedural rules.

— The provisions about the relationship between emission limit values and environmental quality standards give rise to concern.

3. General comments

3.1. The Economic and Social Committee welcomes the Draft Directive's strategy of tackling pollution at source (industrial installations), i.e. the integrated approach to pollution of air, water and land, including the release of noise. [see 4.2.3 of the Opinion on the Fifth Action Programme [2] ...]. Nevertheless the Committee does not consider that the Directive is ready to be adopted in its present form, since it is not in tune with the objectives of Article 130r of the EC Treaty, as amended by the Maastricht Treaty (prevention prin-

[1] OJ No C 311, 17. 11. 1993, p. 6.

[2] OJ No C 287, 4. 11. 1992.

ciple, high level of protection, combatting of environmental pollution at source).

3.2. The rules laid down in the Draft Directive are incomplete and some groups of emissions (e.g. vibrations, light and other forms of ray emissions) have been left out. A number of environmental media are also insufficiently protected (particularly protection against pollution of the land).

The integrated approach includes the following:

— the impact of industrial installations not only on the environmental media (air, water, land, etc.) but also on the consumption of natural resources (including energy resources);

— not only production installations and processes but also the environmental impact of the substances used and products manufactured;

— closed-circuit systems operating within plants, which can to a large extent prevent pollution of the environment by production processes.

The above aspects are dealt with to some extent in the Draft Directive but they are not regulated comprehensively. Some of the issues are tackled in other Directives which need to be brought into line with state-of-the-art technologies in order to satisfy the requirements for an integrated environmental policy (cf. Fifth Action Programme on environment-friendly and sustainable development).

3.3. Under the Draft Directive, the official licensing procedure is to be central to the integrated assessment of the environmental impact of industrial installations. The ESC considers that although this principle is correct, it has not been applied evenly in the Draft Directive.

3.3.1. According to Article 130r of the EEC Treaty, Community environmental law is based on the principles that preventive action should be taken to protect the environment and that the polluter should pay. It would be consonant with these principles to accordingly lay a basic obligation — based on BAT and covering all environmental media — on all establishments even those not subject to a licensing requirement. Compliance with this obligation, which would be independent of individual licensing procedures, would be the subject of appropriate monitoring by the authorities. Such an obligation forms the basis for the recently adopted Regulation allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme (Eco-Audit-Regulation No. 1836/93 of 29 June 1993) [1], and the two instruments — i.e. 'integrated environmental monitoring' and 'eco-audit' — could supplement each other in cases where the eco-audit Regulation is brought into play. The individual licensing obligation can then — as the Draft Directive correctly provides — be limited to relatively large industrial installations. These are the only ones which warrant the costs associated with the licensing procedure.

[1] OJ No L 168, 10. 7. 1993.

3.3.2. The Draft Directive correctly postulates that the licensing procedure cannot be implemented unless emission limit values are set. It would, however, be completely impracticable to establish these limit values solely for individual installations. This would make the licensing procedure unpredictable and inconsistent with the rule of law.

3.3.3. According to the Draft Directive these emission limit values are in principle to be established at local or national level; European-level emission limit values are to be the exception.

In contrast, the ESC considers that, in line with the environmental policy pursued by the Community to date, a clear mandate should be given to the Commission to lay before the Council European emission limit values.

— Such limit values, which should aim to achieve integrated environmental protection, can be worked out at Community level if they are based on BAT. The European Environmental Agency (which is starting work at last, now that its site has been decided) can, with the support of the appropriate Member-State agencies, do preliminary work on the fixing of European limit values. The exchange of information between Member States and the Commission, which is provided for by the Draft Directive, can further this process.

— The mandate for the establishment of limit values can be implemented in the medium term on the basis of environmental priorities. It can differentiate between sectors and, possibly, between sizes of installations, as has been the usual practice in EC legislation. To allow for the dynamic approach of BAT, emission limit values should be supplemented by target values phased in over time.

— To facilitate adjustment to technological development, it would be appropriate to use European and international standards — especially with respect to technical details — insofar as they exist and are recognized by the relevant official bodies (see 4.2.3 of the ESC Opinion on the Fifth Action Programme).

3.3.4. In making out its case for not establishing European limit values, the Commission refers among other points to the subsidiarity principle (Art. 3b of the Maastricht Treaty).

3.3.4.1. The ESC does not agree with the Commission's argument; it considers that the subsidiarity principle, properly understood, is not inconsistent with the establishment of limit values at European level.

— If the subsidiarity principle determines the level at which action is taken in the light of coherence and the importance of the issue for the single market, then the establishment of limit values at European level should be given top priority. The high level of protection in the Community called for in the EC Treaty can only be achieved if European limit values are set.

— The Maastricht Treaty states that the subsidiarity principle is not to be allowed to cause distortions of competition or hamper environmentally-compatible growth in the Community (Art. 2 — EC Treaty).

It is to be feared that both might occur in the absence of European limit values.

3.3.4.2. The subsidiarity principle must under no circumstances be allowed to give rise to any abandonment of the idea of introducing and applying uniform integrated environmental protection measures.

3.4. The Committee nevertheless feels that there is a case for not introducing a host of excessively detailed procedural rules insofar as such rules are not necessary to ensure a uniform, integrated approach to environmental protection. This is particularly the case if detailed rules:

— hamper incorporation of the new licensing procedure in the administrative procedures of the Member States, and in the rest of existing and therefore still applicable Community law (e.g. the environmental compatibility Directive and the eco-audit Regulation, which partly overlap in scope with the present Draft Directive);

— impair coordination with building and planning law, as well as with nature conservation law;

— unnecessary duplication of provisions or complicated administrative procedures impose a burden on application firms without achieving tangible improvements for the environment.

3.5. The ESC has serious doubts about the relationship between emission limit values on the one hand and environmental quality standards (emission values) on the other.

3.5.1. It is fundamentally correct to say that measures going beyond BAT should be required for emission limits if environmental quality standards are infringed. However, consideration should be given to applying such measures to existing installations, so as to make it easier for a larger number of firms to locate in conurbations, etc.

3.5.1.1. It is not clear who is to define environmental quality standards under the Draft Directive. The reference to WHO values is not enough on its own, especially as WHO does not lay down uniform environmental yardsticks.

The view of the ESC that European limit values and standards are necessary (see 3.3 of this Opinion) accordingly remains valid. Where necessary, existing quality standards should be improved immediately and regulatory loopholes closed.

3.5.2. The ESC rejects the provision, in Article 9(3) of the Draft Directive, that if environmental quality standards are met, the competent authority may allow more emissions than would result from the application of BAT.

— This provision clashes with the principle that preventive action should be taken to protect the environment (Art. 130r of the EEC Treaty). It will also create locational advantages which will distort industrial competition.

— Nor does the provision take into account the fact that emissions frequently have repercussions in regions other than where they originate, e.g. because of climatic, topographical or geological factors (Art. 16 of the Draft Directive does not make sufficient allowance for this).

— The provision is also economically irrational since plant licensed on such less-stringent conditions will eventually have to be upgraded. Compliance with BAT from the outset (construction and start-up of the plant) will always be technically simpler and less expensive than subsequent upgrading.

— If they are to be practicable, environmental quality standards could merely lay down minimum values. That does not mean, however, that low-pollution areas should be able to level down to 'an average level of pollution'. This would not promote the sustainable, environmentally-friendly growth called for by the Fifth Action Programme.

3.5.2.1. In view of the above, the ESC proposes that this problematic provision be deleted.

4. Comments on the individual provisions

4.1. *Article 2*

— Emissions due to 'light and vibrations' should be included in Article 2(2) and Article 2(4a).

— Article 2(5) should refer to the quantity of substances... (and not their mass). Moreover, limit values should not be defined in such a way that they can be circumvented by diluting waste gases and waste water.

— The definition of 'substantial change' in Article 2(9) (increase in emissions of 5 % or more) is too rigid. The crucial issue is whether modifications to an installation affect the criteria used when the permit was granted (e.g. dangerousness of emissions) or mean that permit requirements can no longer be satisfied or environmental quality standards met.

Finally, noise and heat emissions fail to be mentioned in discussing 'substantial changes'.

4.2. *Article 3*

The Draft Directive does not take into account the possibility of issuing limited permits (e.g. for trial runs).

It may also be necessary to introduce a simplified procedure for experimental installations. Such situations show that it is inappropriate for the Directive to be concerned with too many procedural details (see 3.4 of the Opinion).

4.3. *Article 4*

A blanket approach, issuing new permits for all existing installations is not necessary in many cases. Changes to licensing requirements should only be necessary if they can be justified on grounds of environmental protection, and particularly

— modifications to installations;

— improvements of available techniques to reduce emissions;

— need to improve the environment.

4.4. *Article 5*

— There is a danger that the Directive, coming on top of existing Community laws (which will continue to retain their validity) as well as Member State legislation, will lead to overregulation. We would refer here to point 3.4. of this Opinion. New provisions would nullify the efforts made by Member States to simplify the licensing procedure and make it transparent.

  The Directive should nevertheless stipulate that all relevant information and documents must accompany the permit application to make it possible to verify whether the new installation will comply with the emission limit values in force.

— The Committee has misgivings about asking the party applying for a permit to set down those options that 'have been considered and rejected' (Article 5(1) — ninth indent). This provision makes no sense. All that matters is compliance with emission limit values and environmental quality standards; the specific technologies needed to achieve such objectives are not laid down.

— Article 5(2) does not remove the danger of duplication. On the contrary, the inclusion of information from a variety of official procedures makes the licensing procedure even more complicated.

4.5. *Article 6*

The ESC recognizes the need to coordinate licensing procedures and administrative decisions. The provision designed to achieve this cannot however be implemented in all Member States (particularly those with a federal structure). In keeping with the objectives of the Directive, it is important above all that the authority responsible under national law for processing licensing applications carries out a comprehensive examination of all matters covered by the Directive and takes decisions thereon.

4.6. *Article 7*

The time allowed under Article 7(2) for processing applications (6 months) is not flexible enough. It should also be remembered that the legislation of some Member States and the environmental compatibility Directive (which has to be complied with in parallel to the present Draft Directive) make provision for widescale public involvement in the process.

Reference is once more made to point 3.4. of this Opinion.

4.7. *Article 8*

Article 8(6) is too restrictive. Under certain circumstances the issue of permits relating to environmental protection has to be tied in with procedures laid down under building, planning and nature conservation laws; in particular, licensing requirements often interact with measures affecting nature or the landscape. A particularly important role is also played by measures designed to ensure coordination with operating safety requirements and the control of pollution within plants.

Reference is likewise made to point 3.4. of this Opinion.

4.8. A new Article 8a should be inserted, possibly reading as follows:

> ' The Commission shall propose, in accordance with the procedure laid down in Article 130s of the Treaty, the adoption of emission limit values for the activities and processes set out in Annex I. The limit values shall be adopted in accordance with environmental priorities and based on best available techniques. As far as the technical details are concerned, reference may be made to recognized international or European standards; they may also contain targets which can be phased in over time.'

Reasons

See point 3.3.3 of this Opinion.

4.9. *Article 9*

— Article 9(1) should be worded as follows:

> ' Emission limit values adopted in accordance with Article 8a, and measures taken by Member States, shall aim to ensure that environmental quality standards are not breached.'

Reasons

The change is necessary to ensure consistency with the newly proposed Article 8(a).

— Article 9(3) should be deleted.

Reasons

See point 3.5.2 of the Opinion.

A new Article 9(3) might be inserted reading as follows:

' The Commission shall propose, in accordance with the procedure laid down in Article 130s, that decisions on environmental quality standards be based on environmental policy priorities. In drawing up environmental quality standards, account should be taken of the World Health Organization guidelines insofar as they are applicable and go far enough. The second and third sentences of Article 8a shall apply accordingly.'

Reasons

See point 3.5.1.1 of the Opinion.

4.10. *Article 12*

— Articles 12(2) and 12(3) are too schematic. Permits only need to be reconsidered if essential conditions change and adaptations have to be made to best available techniques. A full-scale repetition of the whole licensing process is not needed, especially in view of the fact that it is essential that the installation be monitored by the authorities even before the deadline specified in the Draft Directive.

— The Committee has reservations about Article 12(4). Allowing an operator to continue to operate for a further two years after his permit has run out cannot be justified, especially if there is the possibility of risk to the environment.

4.11. *Article 13*

An Article 13(a) should be inserted reading as follows:

' Member States shall take the necessary measures to ensure that emissions caused by activities and processes outside installations subject to a licensing requirement under Article 3, in conjunction with Annex I, are limited as far as possible by use of the best available techniques. Annexes III and IV shall apply accordingly.'

Reasons

See point 3.3.1 of the Opinion.

4.12. *Article 14*

Steps must be taken to ensure that Member State laws guaranteeing wider involvement of the public remain intact. This likewise applies to the involvement of workers and their representatives in the in-company preparation of the licensing procedure; reference has already been made in point 4.7 of this Opinion to the importance of operating safety and in-company pollution control.

4.13. *Article 17*

An addition needs to be made to Article 17(1) to make it clear that any decision to revise the Annexes, on a proposal from the Commission and after consultations with the 'Advisory Committee', shall be taken by the Council in cooperation with the Parliament and under the procedure laid down in Article 130s of the Treaty, i.e. with the participation of the Economic and Social Committee. The content of the Annexes in question is so important that a change in the normal Commission procedure cannot be justified, especially since various socio-economic groupings are keen on being involved.

4.14. *Article 19*

Article 19(4) should be deleted.

Reasons

See point 4.3 of this Opinion. From the point of view of environmental policy, it is unacceptable to allow plants hitherto covered by other EC Directives, and not listed in Annex I of the present Directive, to be fully exempted.

4.15. *Annexes I, II and III*

4.15.1. The categories of activities and processes listed in Annex I should be brought into line with the environmental compatibility Directive.

With regard to combustion installations exceeding 50MW (see Directive 88/609), the Committee stands by its view that allowing derogations for existing plants is unacceptable.

In subsequent discussion of the draft Directive, consideration should be given to whether, having regard to the nitrates Directive (91/677/EU), the inclusion of intensive livestock production and waste is necessary and practicable for the unit sizes covered. The proposal (new Article 13a) in 4.11 of this Opinion may make Appendix 1 (6.6) redundant.

4.15.2. Annex II should be brought into line with Article 19(3) of the Draft Directive.

Paragraph 8 of Annex II is particularly problematic. All existing municipal waste incineration plants must be

subject to the integrated licensing procedure as soon as possible and without exceptions.

4.15.3. Dioxin (PCDD) and furan (PCDF) should be added to the list in Annex III.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

APPENDIX I

to the Opinion of the Economic and Social Committee

(Vote by name on the Opinion)

The following members voted for the Opinion:

Mr/Mrs/Miss: ABEJON RESA, AMATO, ANDRADE, ARENA, ATAÍDE FERREIRA, BAGLIANO, BASTIAN, BELTRAMI, BENTO GONCALVES, BERNS, BLESER, BOISSEREE, BONVICINI, BORDES-PAGES, BOTTAZZI, BREDIMA-SAVOPOULOU, BRIESCH, van den BURG, BURNEL, CEBALLO HERRERO, CHRISTIE, COLOMBO, DAVISON, de KNEGT, DECAILLON, d'ELIA, van DIJK, DONCK, DOUVIS, DRAIJER, DRILLEAUD, ETTY, EULEN, FERNANDEZ, FLUM, FRANDI, FRERICHS, GAFO FERNANDEZ, GAUTIER, GERMOZZI, GIACOMELLI, GIESECKE, GIRON, GOMEZ MARTINEZ, GREDAL, GREEN, HAGEN, von HAUS, HOVGAARD JAKOBSEN, JANSSEN, JASCHICK, JENKINS, KAZAZIS, KIELMAN, KIENLE, KORFIATIS, KORYFIDIS, LACA MARTIN, LANDABURU, LAUR, LINSSEN, LIVERANI, LÖW, LYNCH, MADDOCKS, MANTOVANI, MARGALEF, MAYAYO BELLO, McGARRY, MERCE JUSTE, MERCIER, MEYER-HORN, MORALES, MORIZE, MORRIS, MOURGUES, MULLER E., MÜLLER R., MUNIZ GUARDADO, NIELSEN B., NIELSEN P., NIERHAUS, NOORDWAL, OVIDE ETIENNE, PANERO FLOREZ, PARDON, de PAUL de BARCHIFONTAINE, PAVLOPOULOS, PE, PELLARINI, PELLETIER C., PETERSEN, PETROPOULOS, PRICOLO, PROUMENS, QUEVEDO ROJO, RANGONI MACHIAVELLI, REBUFFEL, RODRIGUEZ GARCIA-CARO, ROMOLI, SALA, SANTIAGO, SANTILLAN CABEZA, SAUWENS, SCHLEYER, SEGUY, SILVA A., SOLARI, STOKKERS, STRAUSS, THEONAS, TIXIER, VANDERMEEREN, VASCO CAL, WICK, ZUFIAUR NARVAIZA.

The following members voted against the Opinion:

Mr: ASPINALL, BEALE, BELL, DUNKEL, GARDNER, GROBEN, PEARSON.

The following members abstained:

Mr/Mrs: ATTLEY, Dame Jocelyn BARROW, CARROLL, GHIGONIS, KAFKA, LITTLE, MOBBS, MORELAND, WHITWORTH.

APPENDIX II

to the Opinion of the Economic and Social Committee

The following proposed amendment (Counter-Opinion) was rejected by the Committee in the course of the debate (Amendment 1 — Mr Aspinall):

Delete paragraphs 2, 3 (3.1 to 3.5.2.1 inclusive) and 4 (4.1 to 4.15.3 inclusive) and replace by the following text:

'2. **Summary of the findings of the ESC Opinion**

— The Committee supports the integrated approach.

— The Committee believes that the Draft Directive could dispense with excessively detailed procedural rules.

— The Committee accepts the provisions about the relationship between emission limit values and environmental quality standards.

— The Committee supports the Draft Directive on the basis of the polluter principle.

— Considering that Member States are responsible for issuing licences, emission limits should be set under the subsidiarity principle at Member State level.

3. **General comments**

3.1. The Economic and Social Committee supports the Draft Directive's strategy of tackling pollution at source (industrial installations), i.e. the integrated approach to pollution of air, water and land. The ESC considers it can adopt the Draft Directive subject to the following comments, since it is in tune with the objectives of Article 130r of the EU Treaty, as amended by the Maastricht Treaty (prevention principle, high level of protection, combatting of environmental pollution at source) and in line with the Commission and Council definition of subsidiarity COM(93) 545.

3.2. The integrated approach includes the following:

— the impact of industrial installations not only on the environmental media (air, water, land, etc.) but also on the consumption of natural resources (including energy resources);

— not only production installations and processes but also the environmental impact of the substances used and products manufactured;

— closed-circuit systems operating within plants, which can to a large extent prevent pollution of the environment by production processes.

3.3. Under the Draft Directive, the official licensing procedure is to be central to the integrated assessment of the environmental impact of industrial installations. The ESC considers this principle is correct.

3.4. According to Article 130r of the EU Treaty, Community environmental law is based on the principles that preventive action should be taken to protect the environment and that the polluter should pay. It would be consonant with these principles to accordingly lay a basic obligation — based on BAT and covering all environmental media — on all establishments, even those not subject to a licensing requirement. Compliance with this obligation, using licensing procedures, would be subject to appropriate monitoring by the authorities.

3.5. The ESC considers that, in line with the environmental policy pursued by the Community to date, the Commission should coordinate Member States policies on emission limit values by the exchange of information between Member States and the Commission, which is provided for by the Draft Directive.

The limit values should be based on BAT and should take account of environmental circumstances to ensure the least impact on the environment as a whole.

The mandate for the establishment of limit values at Member State level can be implemented in the medium term on the basis of environmental priorities. It can differentiate between sectors and, possibly, between sizes of installations.

3.6. The Directive correctly postulates that the licensing procedure cannot be implemented unless emission limit values are set and established at local or national level. The Committee considers that the subsidiarity principle, properly understood, is consistent with the establishment of limit values at Member State level.

If the subsidiarity principle determines the level at which action is taken in the light of coherence and the importance of the issue for the single market, then the establishment of limit values at Member State level should be given top priority. The high level of protection in the Community called for in the EU Treaty can only be achieved if Member State limit values are set and implemented.

Only in this way can the aim of establishing truly integrated environmental protection measures be achieved.

3.7. The Committee agrees that there is a case for not introducing a host of excessively detailed procedural rules insofar as such rules are not necessary to ensure a uniform, integrated approach to environmental protection. This is particularly the case if detailed rules:

— hamper incorporation of the new licensing procedure in the administrative procedures of the Member States, and in the rest of existing and therefore still applicable Community law (e.g. the environmental compatibility Directive and the eco-audit Regulation, which partly overlap in scope with the present Directive);

— impair coordination with building and planning law, as well as with nature conservation law;

— result in unnecessary duplication of provisions or complicate the administrative procedure, without achieving tangible improvements for the environment, provided that under no circumstances is the use of general rules allowed to undermine the aim of achieving an integrated approach to environmental protection.

3.8. The ESC has serious doubts about the relationship between emission limit values on the one hand and environmental quality standards (emission values) on the other.

3.8.1. It is fundamentally correct to say that measures going beyond BAT should be required for emission limits if environmental quality standards are infringed. However, consideration should be given to applying such measures to existing installations, so as to make it easier for a larger number of firms to locate in conurbations, etc.

3.9. The ESC rejects the provision, in Article 9(3) of the Directive, that if environmental quality standards are met, the competent authority may allow more emissions than would result from the application of BAT.

— This provision clashes with the principle that preventive action should be taken to protect the environment (Article 130r of the EU Treaty). It will also create locational advantages which will distort industrial competition.

— Nor does the provision take into account the fact that emissions frequently have repercussions in regions other than where they originate, e.g. because of climatic, topographical or geological factors. (Article 16 of the Draft Directive does not make sufficient allowance for this).

— The provision is also economically irrational since plant licensed on such less-stringent conditions will eventually have to be upgraded. Compliance with BAT from the outset (construction and start-up of the plant) will always be technically simpler and less expensive than subsequent upgrading.

— If they are to be practicable, environmental quality standards could merely lay down minimum values. That does not mean, however, that low-pollution areas should be able to level down to 'an average level of pollution'. This would not promote the sustainable, environmentally-friendly growth called for by the Fifth Action Programme.

3.9.1. In view of the above, the ESC proposes that this problematic provision be deleted.

4. Comments on the individual provisions

4.1. *Article 2*

— Article 2(5) should refer to the quantity of substances ... (and not their mass). Moreover, limit values should not be defined in such a way that they can be circumvented by diluting waste gases and waste water.

— The definition of 'substantial change' in Article 2(9) (increase in emissions of 5 % or more) is too rigid. The crucial issue is whether, because of modifications to an installation, licensing requirements can no longer be satisfied or environmental quality standards no longer met.

4.2. *Article 3*

The Directive does not take into account the possibility of issuing limited permits (e.g. for trial runs). It may also be necessary to introduce a simplified procedure for experimental installations. Such situations show that it is inappropriate for the Directive to be concerned with too many procedural details (see 3.7 of the Opinion).

4.3. *Article 4*

A blanket approach, issuing new permits for all existing installations is not necessary in many cases. Changes to licensing requirements should only be necessary if they can be justified on grounds of environmental protection, and particularly

— modifications to installations;

— improvements of available techniques to reduce emissions;

— need to improve the environment.

4.4. *Article 5*

— The Directive should stipulate that all relevant information and documents must accompany the permit application to make it possible to verify whether the new installation will comply with the emission limit values in force.

— The Committee has misgivings about asking the party applying for a permit to set down those options that 'have been considered and rejected' (Article 5(1) — ninth indent). This provision makes no sense. All that matters is compliance with emission limit values and environmental quality standards; the specific technologies needed to achieve such objectives are not laid down.

4.5. *Article 6*

The ESC recognizes the need to coordinate licensing procedures and administrative decisions. The provision designed to achieve this must be implemented in all Member States (particularly those with a federal structure). In keeping with the objectives of the Directive, it is important above all that the authority or authorities responsible under national law for processing licensing applications carries out a comprehensive examination of all matters covered by the Directive and takes decisions thereon.

4.6. *Article 7*

The time allowed under Article 7(2) for processing applications (6 months) is not flexible enough. It should also be remembered that the legislation of some Member States and the environmental compatibility Directive (which has to be complied with in parallel to the present Directive) make provision for widescale public involvement in the process.

Reference is once more made to point 3.7 of this Opinion.

4.7. *Article 9*

— Article 9(1) should be worded as follows:

' Emission limit values and measures taken by Member States, shall aim to ensure that environmental quality standards are not breached'.

— Article 9(3) should be deleted.

4.8. *Article 12*

— Articles 12(2) and 12(3) are too schematic. Permits only need to be reconsidered if essential conditions change and adaptations have to be made to best available techniques. A full-scale repetition of the whole licensing process is not needed.

— The Committee has reservations about Article 12(4). Allowing an operator Reasons to continue to operate for a further two years after his permit has run out cannot be justified, especially if there is the possibility of risk to the environment.

4.9. *Article 14*

Steps must be taken to ensure that Member State laws guaranteeing wider involvement of the public remain intact. This likewise applies to the involvement of workers and their representatives in the in-company preparation of the licensing procedure.

4.10. *Article 17*

An addition needs to be made to Article 17(1) to make it clear that any decision to revise the Annexes, on a proposal from the Commission and after consultations with the 'Advisory Committee', shall be taken by the Council in cooperation with the Parliament and under the procedure laid down in Article 130s of the Treaty, i.e. after consulting the Economic and Social Committee. The content of the Annexes in question is so important that a change in the normal Commission procedure cannot be justified, especially since various socio-economic groupings are keen on being involved.

4.11. *Article 19*

Article 19(4) should be deleted.

Reasons

See point 4.3. of this Opinion. From the point of view of environmental policy, it is unacceptable to allow plants hitherto covered by other EC Directives, and not listed in Annex I of the present Directive, to be fully exempted.

4.12. *Annexes I, II and III*

4.12.1. The categories of activities and processes listed in Annex I should be brought into line with the environmental compatibility Directive.

With regard to combustion installations exceeding 50MW (see Directive 88/609), allowing derogations for existing plants is unacceptable.

4.12.2. Annex II should be brought into line with Article 19(3) of the Draft Directive.

Paragraph 8 of Annex II is particularly problematic. All existing municipal waste incineration plants must be subject to the integrated licensing procedure as soon as possible and without exceptions.

4.12.3. Dioxin (PCDD) and furan (PCDF) should be added to the list in Annex III.'

Reasons for the Counter-Opinion

The Section Opinion maintains that the Commission proposal under discussion is not satisfactory as it does not take sufficient account of the objectives of Article 130 R as amended by the Maastricht Treaty.

The Counter-Opinion maintains that the Commission's proposal is in fact satisfactory in its present form; it is in tune with the Maastricht Treaty and in line with the Council definition of subsidiarity, e.g. setting emission limits at Member State level.

Voting by name on Amendment 1

The following members voted for the Counter-Opinion:

Mr: ASPINALL, GARDNER, LITTLE, MERCE JUSTE, MOBBS, PANERO FLOREZ, RODRIGUEZ GARCIA-CARO, WHITWORTH.

The following members voted against the Counter-Opinion:

Mr/Mrs/Miss: ABEJON RESA, AMATO, ANDRADE, ARENA, ATAÍDE FERREIRA, ATTLEY, BAEZA, BAGLIANO, BASTIAN, BELTRAMI, BENTO GONÇALVES, BERNS, BLESER, BOISSEREE, BORDES-PAGES, BOTTAZZI, BRIESCH, BURNEL, CARROLL, CASSINA, CEBALLO HERRERO, CHRISTIE, COLOMBO, CUNHA, d'ELIA, DAVISON, de KNEGT, de PAUL de BARCHIFONTAINE, DECAILLON, DONCK, DRAIJER, DRILLEAUD, DUNKEL, ETTY, EULEN, FERNANDEZ, FLUM, FORGAS I CABRERA, FRANDI, FRERICHS, GAFO FERNANDEZ, GAUTIER, GERMOZZI, GIESECKE, GIRON, GOMEZ MARTINEZ, GREDAL, GREEN, GROBEN, HAGEN, HOVGAARD JAKOBSEN, JANSSEN, JASCHICK, JENKINS, KAZAZIS, KIELMAN, KIENLE, KORFIATIS, KORYFIDIS, LACA

MARTIN, LANDABURU, LAPPAS, LAUR, LINSSEN, LIVERANI, LÖW, LYNCH, MADDOCKS, MASUCCI, MAYAYO BELLO, McGARRY, MERCIER, MEYER-HORN, MORALES, MOLINA VALLEJO, MORIZE, MORRIS, MOURGUES, MULLER E., MÜLLER R., MUNIZ GUARDADO, NIELSEN B., NIELSEN P., NIERHAUS, NOORDWAL, OVIDE ETIENNE, PARDON, PE, PEARSON, PELLARINI, PELLETIER C., PETERSEN, PETROPOULOS, POMPEN, PRICOLO, PROUMENS, QUEVEDO ROJO, RAMAEKERS, RANGONI MACHIAVELLI, REA, REBUFFEL, SANTIAGO, SANTILLAN CABEZA, SAUWENS, SCHLEYER, SEGUY, SILVA A., SPYROUDIS, STOKKERS, THEONAS, TIXIER, van den BURG, van DIJK, VANDERMEEREN, VASCO CAL, von SCHWERIN, von HAUS, WICK, ZUFIAUR NARVAIZA.

The following members abstained:

Mr/Mrs: Dame Jocelyn BARROW, BERNABEI, GHIGONIS, GIACOMELLI, MORELAND, PELLETIER R., ROMOLI, SALA, SOLARI, STRAUSS.

Result of the voting

Votes for: 8, votes against: 118, abstentions: 10.

Opinion on young farmers and the problem of succession in agriculture

(94/C 195/20)

On 27 January 1994 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 young farmers and the problem of succession in agriculture.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 4 April 1994. The Rapporteur was Mr Morize.

At its 315th Plenary Session (meeting of 27 April 1994) the Economic and Social Committee adopted the following Opinion by a large majority, with 18 votes against and 8 abstentions.

1. Introduction

1.1. The EU Council of Agricultural Ministers, acting on a proposal from the Greek presidency, has decided to make a comprehensive assessment of the 'problem of succession in agriculture'.

1.2. The ageing workforce, the fall in farm incomes and the growing problems facing new entrants as a result of production constraints have undermined the agricultural community and make it more difficult for young people to start up in farming.

1.3. Matters are made worse by two important social factors — the negative image of farming in society at large, and the desertification which makes life unattractive in certain rural areas.

1.4. It is therefore necessary for the Union to adopt a comprehensive, dynamic policy which will restore the confidence of young farmers and offer them real prospects.

1.5. The Committee realizes that an evaluation of EU agriculture must take account of the fundamental structural disparities between EU regions.

1.6. The Committee considers that EU policy must seek to minimize these disparities.

2. General comments

2.1. The Committee welcomes the decision of the Agricultural Ministers to address at long last the problem of succession in agriculture. The difficulties encountered by the agricultural community call for an evaluation of how agriculture's future can be restored in Europe.

2.1.1. The Committee considers that this evaluation must cover all farmworkers. Improving the social situation of everybody who works in agriculture is one of the objectives of the agricultural provisions of the Rome Treaty.

2.1.2. The deficiencies of the legal provisions in this area have already been highlighted in the Committee's Own-initiative Opinion on the repercussions of the CAP on the social situation of farmworkers in the EEC. The Opinion points out that the prime objective of a revision of the CAP must be to create production structures and farm units which are viable in the long term and which offer secure employment and acceptable working conditions to farmworkers and wage-earners working in the initial processing stage.

2.1.2.1. The Committee proposed establishing a coherent system of social information designed to improve knowledge of agricultural working conditions and if possible reduce differences. The Committee also proposed Community programmes of social back-up measures and programmes for the expansion of non-seasonal employment.

2.1.2.2. These recommendations have lost none of their relevance and should be taken into account in the assessment to be made by the Agricultural Ministers.

2.2. The Committee stresses the key role of agriculture and its ancillary economic activities in safeguarding and creating jobs in the countryside, in the present context of urbanization, of increasing unemployment, and of changes in lifestyles and leisure activities.

2.3. Above all, European farmers must become competitive and have access to the markets. The CAP reform has brought about radical changes in production conditions and in the balance between sub-sectors; it has also introduced administrative constraints, and made farming more vulnerable. The policies to be implemented must take account of these aspects and seek to restore the confidence of an entire sector.

2.4. It is already clear that the generation which will leave farming between now and the end of the century is not certain to be replaced.

2.4.1. A number of points emerge from the latest EUROSTAT survey of farm structures (1987):

— there are some 8.6 million farms in the EU and 115 million hectares or so are devoted to agriculture. The size of the average farm varies considerably (from 4 to 65 hectares) and so do farm incomes;

— some 55 % of farmers are 55 or older (30.6 % aged between 55 and 65, 23.7 % older than 65). Many do not know if anybody will take over their farm when they retire. The situation is made worse by the substantial drop in the birth rate in the agricultural community;

— one in three farmers is a part-timer.

2.4.1.1. In the years ahead, the ageing of the farming community and the great variety of farm sizes are going to cause major upheavals.

2.4.1.2. Replacement ratios (i.e. the ratio between start-ups and cessations of activity) vary markedly from one EU region to another. When the Committee's Section for Agriculture and Fisheries heard oral evidence from young farmers from the twelve Member States, it transpired that start-up conditions were generally poor everywhere. The difficulties, which vary from one Member State to another, concern the size of holdings, the burden of death duties and other taxes and dues on transfer of ownership, financing, high interest rates and the difficulty of acquiring rights to premiums and quotas.

2.4.1.3. These factors rule out a laisser-faire policy, which would accelerate the exodus from and abandonment of certain disadvantaged areas. What is required are measures and conditions which will encourage young people to set up farms.

2.4.2. The policies to be established for helping the next generation to take over must, of course, focus in particular on the problems of setting up in farming. From the outset, the key aim of the common structural and start-up policies has been to establish viable farms. This aim has lost none of its importance.

2.4.3. However, it is necessary to adopt a regional approach to the demographic problems. In some areas newcomers have to be taken from other areas, but elsewhere they can be found within the region or area itself. It is necessary to encourage geographical and also social mobility, i.e. to enable young people from non-farming backgrounds to enter the sector.

2.4.4. The Committee has noted that there are major differences in the way the Member States apply policies on setting up in farming, due to the fact that these measures are optional. The Committee considers that start-up conditions should differ less.

2.4.5. The decision to become a farmer is risky in all regions because, in particular, of the financial commitments it entails. The financial risk varies according to the type of farm, the markets and the ability of the young farmer. But neither is the human risk the same

everywhere. It is a function of the environment (infrastructure, population density, economic fabric).

2.4.5.1. Hence the urgent need for a policy which takes greater account of the differing regional situations in the European Union.

2.4.6. Apart from this, the Committee stresses that Community and national rules and regulations are sometimes too stringent. As a result, many young people are excluded from start-up support.

2.5. The Committee particularly stresses the need for the status of farmers, their spouses and family partners to be recognized, and for account to be taken of their specific difficulties (family constraints, difficulty of doing training, age when they set up, unequal social security, etc.).

2.6. The Committee stresses the need to ensure a livable environment for individuals who set up in farming, i.e. to provide the necessary amenities (transport, services, schools, etc.).

2.7. The trends affecting the agricultural population pose a threat to farming but the policies to be formulated should use them as an opportunity to speed up the restructuring of farms into viable units and to bolster start-ups throughout the EU, and thus stop European agriculture from being undermined.

3. Instruments to be strengthened in the framework of a more coherent policy

3.1. The Committee considers that the Community should concentrate on adapting measures in four areas and ensuring that they are mutually consistent. These areas are training, start-ups, transfer of ownership and restructuring.

3.1.1. With respect to start-ups, the Committee feels that aid to young farmers should be granted throughout the EU. To this end, a procedure should be set up for evaluating start-up policies in each Member State.

3.1.2. The Committee considers that geographical and occupational mobility aid could be granted to farmers and farmworkers who set up as farmers outside their home region.

3.1.3. Apart from this, the present policies on start-up aids should be adjusted to the new context which has been charted for agriculture. It will doubtless be necessary to review and tone down certain conditions governing eligibility for these aids, though not the overriding requirement that farms must be viable: the age limit should be reviewed and greater allowance should be made for part-time farming.

3.2. The Committee considers that there should be a closer link between start-ups and training.

3.2.1. The work performed by farmers in a changing environment requires a high level of training and adaptability to change. Training should focus less on increasing production and more on cutting costs and boosting farmers' efficiency. For instance, it should encourage young people to become entrepreneurs and to find new sources of income in new fields of economic activity, such as agritourism and services.

3.2.2. Training must therefore be encouraged and equivalence ensured throughout the European Union. In addition, special arrangements must be made to ensure that courses can be attended by would-be farmers who have not had any previous training in agriculture.

3.2.3. The Committee stresses the importance of young trainees having practical experience in the sector of activity they have chosen. The European Union should encourage work-experience placements, which give trainees an opportunity to work out their plans in the light of differing realities and to gain experience outside their home regions or countries. The EU should provide financial support here. The training of farmworkers should also be promoted.

3.2.4. Steps should be taken to launch a EU-wide vocational guidance and counselling programme for young farmers which will keep them better informed about their situation in farming and about funding facilities and rural development schemes.

3.2.5. Much remains to be done on the provision of information to farmers. The EU should encourage the promotion of rural and agricultural trades. It could, for instance, part-finance a public opinion campaign to rehabilitate the image of rural trades.

3.3. As a direct adjunct of the policy on start-ups, the transfer of farm ownership should be facilitated.

The Committee considers that, when the occupier dies, this could be achieved by facilitating purchase by young farmers and by substantially reducing death duties on farms inherited by young people who wish to carry on the farm.

3.3.1. Transfer of ownership is a crucial stage in succession in agriculture, since it may lead to viable units disappearing or being broken up.

3.3.2. The fact that most young farmers cannot accumulate the necessary fixed and working capital makes it essential to find pragmatic economic, legal and tax-related solutions to the problem of financing fixed assets. In particular, the law should be amended to reduce the cost of ownership transfers.

3.3.3. Similarly, in the first years after they set up, young farmers should be eligible for a tax exemption or a development grant which will help them to develop their farms and ensure that ownership-transfer costs do not impose too heavy a burden. The financial position of young farmers who have just started up should be strengthened. The taxes levied on transfers of ownership are often disproportionate to the investment capital involved.

3.3.4. Incentives should be provided for the letting of land. This means eliminating the numerous constraints on the letting of land in the EU Member States.

3.4. The Committee also calls for progressive harmonization of the tax and social policies of the Member States.

3.4.1. The tax system should encourage early transfers of ownership to young farmers. For instance, there should be no tax on transfers by farmers aged sixty but thereafter the tax charged should increase with the age of the transferor.

3.4.2. The Committee notes that phased transfer of ownership can help to make such transfers a success and, for instance, facilitates establishment in the legal form of a company. Establishment of a company makes it possible to transfer capital over several years and to give the future owner a proper business status. Companies are also an excellent target for family capital.

3.4.3. The Committee would point to the advantage of amalgamations and establishment in the legal form of a company as a means of rationalizing investment and costs and improving work organization. Establishment in the legal form of a company can be an appropriate response to the increasing difficulties encountered by farmers.

3.4.4. However, at the moment most Community decisions pursuant to the CAP reform pay insufficient attention to the possibility of establishing companies and hamper the expansion of this type of farming.

3.5. Restructuring is a major component of policy on succession in agriculture. Its aim must be to prevent rural desertification without boosting production.

3.5.1. But restructuring schemes take five to ten years to put into effect and — in order to take account of the population trends in farming, economic realities and the new expectations of society at large — involve planning a whole range of actions to adapt agriculture to the new context.

3.5.2. Restructuring projects will thus have to be backed up by measures at Community, national and local level.

3.5.3. The Committee considers restructuring should be the main objective of early retirement schemes. It is therefore essential to ensure a link between the eligibility of farmers for early retirement and the transfer of their holdings.

3.5.4. In order to help start-ups in poor farming areas, early retirement could, for instance, be granted to occupiers who stop farming and transfer their holding to a person who does not already possess a farm, without requiring him to enlarge the holding (unless the holding is too small to be viable).

3.5.5. It is also necessary to coordinate all measures on cessation of farming or of a particular type of production (grants for grubbing up vines, milk premiums, etc.) and the requirements governing eligibility for early retirement, in order to ensure that they further structural changes rather than impede them.

3.6. The Committee has considered the problem of the allocation of quotas and rights to premiums as it affects young farmers. It thinks that the economic viability of farms taken over by young people should not be threatened by inadequate access to the market or by financial speculation on that access which leaves them worse off than other farmers. EU rules and regulations should provide that at least some of the quotas freed by market forces or released from national reserves should go to young farmers.

3.7. Succession in agriculture requires effective tools within the framework of global policies. The Committee stresses the vital need to avoid clashes between the policies pursued and between the various levels of intervention (Community, national, local).

4. Proposed adaptation of Community policies offering farmers a future

4.1. There is a consensus that agriculture has two major functions:

— an economic function, namely to supply food and non-food products and to provide services for the rest of society;

— protection of the environment and safeguarding the countryside.

4.1.1. The two functions are perceived in different ways in the European Union, depending on the region and the type of farming. But it is universally agreed that the two functions are complementary.

4.2. Agricultural policy must focus on improving the competitiveness of European farming.

The reform of support arrangements and production control make market access the key to the evolution of agriculture.

4.2.1. The rules for the allocation of support must therefore avoid the risk of the relocation of production. It must be possible for specific products to maintain their links with specific areas; location should not be dictated solely by the economic logic of the production and marketing chains which are competitive at a particular moment.

4.2.2. But this linking of products to certain areas should not rigidify or freeze production patterns in individual holdings.

4.2.3. Finally, start-up projects must have adequate access to the market.

4.2.4. The importance attached to agriculture's function of safeguarding the countryside is being boosted by the contraction of the farm workforce and rising general concern about the environment. Increasing urbanization and unemployment make it essential to manage the land better and inject fresh vigour into rural society.

4.2.5. It is certainly true that schemes for management of the environment, upkeep of agricultural land and afforestation can be funded from the agri-environmental programme of the CAP reform. New measures must be taken under this programme, and its funding appropriation must be increased.

4.2.6. The Committee considers that Community action can be stepped up, in particular, through:

— supporting concerted, collective schemes for the agri-environmental management of the countryside;

— giving preference to local contractual agreements, which are the only way to cater properly for the diversity of local situations.

4.2.7. Socio-economic organizations have a role to play in publicizing, promoting and coordinating such schemes.

4.2.8. Finally, the European Union should do more to foster service activities.

4.2.9. The Committee has looked at a number of these new tasks for agriculture. It is aware of the difficulty at the present juncture of gauging all the various needs and possibilities. The European Union should focus on making better use of natural resources, upgrading the countryside, supporting diversification, and developing rural tourism and environmental occupations.

4.3. The Committee has also considered the question of part-time farming. An increasing number of EU farmers are part-timers with a second gainful occupation. The expansion of part-time farming bears witness to the creativity and flexibility of the agricultural community but is increasingly taking its members away from agriculture in the strict sense.

4.3.1. It is therefore necessary, as a first step, to establish a legal framework for 'diversified rural enterprises' pursuing related activities.

4.3.2. Tax and social obstacles and other rules and regulations which hamper part-time farming must be abolished. Our EU and national legal systems are ill-suited to the real rural world, where the 'frontiers' between the various types of economic activity are showing a tendency to fade away.

5. Conclusions

5.1. The Committee is convinced that there is an urgent need for a comprehensive assessment of the future of agriculture, and in particular of the problem

of succession. The policies to be established should focus above all on promoting start-ups in farming.

5.1.1. It is essential to face up to the demographic problem at a time when the balance of the countryside is under threat in many EU regions. A laisser-faire policy will lead to a dramatic concentration of farming activities and dramatically undermine the rural world.

5.2. The Committee considers that Community policies must take account of the radical changes in agriculture, the new profiles of would-be farmers, the steady rise in farm sizes and investment capital, the development of new farm-based economic activities and the need for a new approach to part-time farming.

5.3. The Committee is convinced that agriculture can play a major role in rural employment, since a decision to take over a farm or establish a new farm has a knock-on effect both upstream and downstream of the sector. It is consequently necessary, given the low population density in the countryside and changes in the lifestyles and aspirations of countrymen and women, to consider ways of improving services and creating the infrastructure needed by rural dwellers.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the proposal for a Council Directive concerning the placing of biocidal products on the market

(94/C 195/21)

On 18 August 1993 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 5 April 1994. The Rapporteur was Mr Proumens, replacing Mr Kafka.

At its 315th Plenary Session (meeting of 28 April 1994), the Economic and Social Committee adopted the following Opinion unanimously.

The Committee approves the Draft Directive, which is designed to protect human and animal health and safeguard the environment, subject to the following observations.

Nevertheless, the Committee, while aware of the complexity of the questions raised, would have preferred the texts to be clearer and more precise. If they are not amended, supplemented or explained, the Committee fears they may be interpreted differently by the relevant Member State authorities and by manufacturers, users and importers.

1. Background

1.1. During preparation of Directive 91/414/EEC concerning the placing on the market of plant protection products [1], it was felt that another Directive should be drafted dealing specifically with non-agricultural pesticides. However, it was pointed out that these products should be grouped together with others under the heading of biologically active products for use in non-agricultural applications. It was then found that the nature and the applications of these products made them very different from pesticides, and so the term 'biocides' was selected.

1.2. Biocides can be used both on microscopic organisms, such as viruses, bacteria, moulds and yeasts, and on larger organisms, such as insects, small rodents (rats, mice etc.), molluscs, algae, and even some birds.

1.3. All of these organisms can harm human and animal health, damage natural or manufactured products and attack materials, such as masonry, wood and paints. They can also cause pollution in sanitary and air-conditioning systems, and can weaken, if not undermine, dykes.

This list is far from exhaustive.

It is, of course, clear that while biocides can prevent such damage, care must be taken to ensure that their improper or inexpert use does not result in damage to humans and/or animals in particular.

2. General comments

2.1. It is clear from the above that there is a wide range of biocides with a variety of applications and targets, and that many of these have little in common with the plant protection products covered by Directive 91/414/EEC. Estimates put the number of biocides at several thousand (e.g. there are around 200 different household disinfectants alone).

2.2. In view of this diversity and the existence of national provisions in some areas, the Commission felt there was a need to draw up a Directive on the basis of Article 100a with the aim of harmonizing legislation without disregarding the impact which such products can have on the environment.

2.3. In order to determine which active substances are used in biocides, the Commission, working on the principle of subsidiarity, has proposed that the national authorities of Member States draw up a list of these substances, which will then be progressively centralized at Community level and put on the as yet non-existent list in Annex I. Apart from its importance in applying the proposed Directive, this list will make documentation work easier for companies in this field.

2.4. Secondly, companies placing biocidal products on the market would have to compile technical dossiers containing the information stipulated in the annexes to this proposal, that is:

— a dossier for active substances used in biocidal products;

— a dossier for the biocidal products themselves.

[1] OJ No C 56, 7. 3. 1990.

2.5. Accordingly, the Commission has proposed that the authorizations for biocidal products provided for in the Directive be granted by individual Member States and that an authorization granted in one Member State be recognized by the other Member States.

3. General remarks

3.1. The Committee shares the Commission's concern to protect human and animal health and the environment.

3.2. The Committee agrees entirely with the proposed compiling of information on active substances by the national authorities, not only because this procedure follows the subsidiarity principle, but also because, owing to geographical and climatic differences in particular, active substances which may be used in one Member State may not necessarily be used in another.

3.3. The Committee endorses the principle of mutual recognition of dossiers as already exists for other products such as agricultural pesticides or medicines derived from biotechnology. The Committee is, however, concerned that the Commission's acceptance of the possibility of exceptions might jeopardize this principle.

3.4. Without going into the question of overall estimates of the costs involved in compiling dossiers, the Committee is concerned at the estimated cost per dossier, which could be as much as ECU 120 000 for each authorization. This amount would generally be much higher for dossiers on active substances.

3.5. With such a large number of products being categorized as biocides and requiring dossiers, and with each product having a dossier in each Member State which requires a copy or a translation, the amount of paperwork involved would be difficult to handle. The Commission should assess the complexity of this administrative process in collaboration with the Member States, even where the dossiers take the form of summaries.

The Committee asks the Commission to insist that Member States ensure that the relevant authorities responsible for examining summarized dossiers accept the information contained in them without carrying out further tests and thus duplicating work already done.

3.6. The Commission itself acknowledges that implementation of the authorization scheme will take several years. A ten-year transitional period will be needed to clear biocides placed on the market before the present Directive's entry-into-force.

3.7. This scenario and the administrative consequences involved will be particularly onerous for small and medium-sized enterprises and industries, which abound in the various sectors of activity affected, as listed in Annex V to the proposed Directive.

3.8. The Committee is aware that the two main measures proposed, namely the positive list of active substances and the dossier on finished products, will have differing (financial and/or material) implications. Companies manufacturing and/or marketing the active substances will not be affected in the same way as companies using these active substances to make finished products for which they must supply a dossier.

3.9. The Committee wonders about the impact of the list of active substances to be drawn up in Annex I of the present proposal in relation to the list of dangerous substances drawn up in accordance with the provisions of Council Directive 67/548 and the subsequent amendments thereto.

3.10. On this matter, the Commission intends to dispense with the obligation to register products on Directive 67/548's list of dangerous substances as the information to be included in this proposal's active substance dossiers is more detailed than that required under Directive 67/548.

3.11. This means that in cases where active 'biocidal' substances are considered 'dangerous' under the terms of Directive 67/548, information about this will have to be included in the dossier required for Annex I.

3.12. On a different matter, the Committee would like the Commission to work on rules concerning the impact which these biocidal products may have on surface and ground water.

4. Specific comments

4.1. *Article 2*

4.1.1. The Committee wonders to what extent the very general definition of biocidal products may cause difficulties, if not disputes, when applied in one or other of the Member States.

4.1.2. Admittedly, the list of product types given in Annex V of the proposal provides some clarification, but it still leaves room for broad interpretations which could hardly be justified.

4.1.3. Accordingly, the Committee suggests that the definition be amended by adding 'exclusively or mainly' after '... intended', unless Annex V is made clearer and more explicit.

4.2. *Article 3*

4.2.1. The Committee feels that the term 'reasonable period' in Article 3(2) may give rise to delays which could prejudice businesses and users. It therefore proposes that the text read 'no later than 12 months after the date on which the full dossier is submitted'.

However, in the case of finished products, a shorter period of, say, six months could be laid down.

4.3. *Article 5*

4.3.1. While the Committee appreciates the need to review authorizations in the light of new information necessitating such a review, it nevertheless feels that a review should be undertaken only when there are specific reasons for doing so. Such a review should remain the exception.

4.4. *Article 6(4)*

4.4.1. The Committee feels that allowing the bodies responsible for granting authorizations to determine the manner of use or amounts used could easily lead to excesses.

It is important that any such procedure should be laid down in consultation with the industries concerned and on the basis of information contained in both the active substance dossier and the finished product dossier.

4.5. *Article 7*

4.5.1. This Article appears to be saying that the person responsible for placing a product on the market in the EU will only have to refer to existing information on active substances, as set out in Annex I, in the dossier which he is required to submit to the competent authorities of the Member State where he is applying for authorization. This information would be supplied by another company which would have given permission for the data to be used.

4.5.2. It should be pointed out here that, in most cases, the company marketing the finished product is not the same as the company or companies which manufacture the active substance used in it.

4.5.3. Therefore, given that the finished product dossier must contain details taken from the active substance dossier, the company will only be able to get hold of this information if it is granted a 'letter of access' by the firm which submitted details of the active substance in question.

4.5.4. Obviously, the Committee is well aware that compiling this active substance dossier is very costly (as pointed out in point 3.4) and that, therefore, it is only fair that the company manufacturing the active substance should be allowed to charge the user a proportional amount for access to its dossier.

4.5.5. Such a charge is even more justified in the case of finished products imported from third countries requiring the obligatory active substance dossier, where no payment is made for the active substance that has been produced or marketed in the EU.

4.5.6. Furthermore, for the active substance dossier, the Commission allows several companies to conduct a certain number of tests jointly to avoid repetition, particularly those tests carried out *in vivo* on living organisms.

4.5.7. It should be clear that, just because the 'letter of access' is justified economically, it must not be allowed to lead to a sales monopoly being sanctioned by this administrative procedure.

4.5.8. It goes without saying that if several companies manufacture the same active substance, *mutatis mutandis,* this monopoly would be different, with competition playing a role (although not excluding the possibility of a tacit agreement), but a single producer could impose such high charges that manufacturers of finished biocidal products might be excluded from the market.

4.5.9. The Committee therefore invites the Commission to carefully examine the consequences of this process in collaboration with the companies concerned, who, in general, have expressed their satisfaction with the way the Community authorities have collaborated with them so far on this matter.

4.6. *Article 9*

4.6.1. The Committee has noted that details will have to be given in Annex I of the intended uses of the active substances.

4.6.2. However, dossiers will be required to include an indication of the concentrations used in biocides for different applications. If such information is to be given, it will have to be treated in part as confidential.

4.6.3. The Committee has also asked the Commission to explain what would happen in cases where a given active substance is put to new uses. In such cases it would not be necessary to submit a new dossier. The necessary information could be added to the existing one.

4.7. *Article 9(5)*

4.7.1. The Committee is reluctant to accept this point, even though it is in line with the Fifth Environment Programme, and feels that it should be amended if it is retained.

4.7.2. Firstly, the text should read '... may be reviewed and even refused after examination'.

4.7.3. Then a paragraph should be added saying: 'In the case of a refusal upon review, the company shall be given a maximum of five years to withdraw the active substance. However, this grace period may not extend the ten-year period stipulated in Article 9(4)'.

4.8. *Article 11*

4.8.1. Comments and suggestions on this Article have already been made in points 4.5.1 to 4.5.9.

4.9. *Article 12*

4.9.1. See also points 4.5.1 to 4.5.9.

4.9.2. As regards Article 12(2) on the use of vertebrate animals (b, 2nd paragraph), it is clear that some form of financial compensation should be envisaged. Can the Commission look into arrangements for this?

4.9.3. The Committee welcomes the procedure and provisions proposed by the Commission to avoid unnecessary repetition of tests on animals.

4.10. *Article 17*

4.10.1. In paragraph 3, confidentiality should apply to points (c) and (j).

4.11. *Article 20*

4.11.1. The Commission should clarify what it means by advertising. The Committee feels that the term should encompass not only media advertising (newspapers, magazines, TV, radio, leaflets, brochures, etc.) but also package labelling and notices at the point of sale.

4.12. *Article 24*

4.12.1. In Article 24(3) the words 'may be' should be replaced by 'shall be'.

5. **Annex V**

A number of questions arise in connection with the remarks made in Point 4.1 above and with Annex V, which could provide clearer definition:

5.1. For example, are disinfectants antiseptics and, if so, could they be classed as medical products?

At any rate, 'grey areas' should be eradicated in the wording of Annex V, as these may lead to confusion, if not disputes.

5.1.1. On this point, it is essential that the rules on labelling as set out in Article 18 should be clearly defined to avoid these 'grey areas'.

Done at Brussels, 28 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the proposal for a Council Regulation (EC) laying down general rules for the granting of Community financial aid in the field of trans-European networks [1]

(94/C 195/22)

On 28 March 1994 the Council decided to consult the Economic and Social Committee, under Article 129 D. 3 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Committee appointed Mr Vasco Cal to be Rapporteur-General and prepare the Committee's work on this subject (Articles 18 and 46 of the Rules of Procedure).

At its 315th Plenary Session (meeting of 28 April 1994), the Economic and Social Committee unanimously adopted the following Opinion.

1. Introduction

1.1. Title XII of the Treaty defines the Community's tasks and instruments for establishing and developing trans-European networks in transport, telecommunications and energy infrastructures.

Article 129 C of the Treaty stipulates inter alia that the Community shall 'establish a series of guidelines and identify projects of common interest; ensure interoperability of the networks; and support the financial efforts made by the Member States, particularly through feasibility studies, loan guarantees and interest-rate subsidies'.

1.2. The draft Council Regulation supplements the types of aid already decided on; their financial impact on the establishment of networks may be considerably greater: the aid involved is channelled through the ERDF and the Cohesion Funds.

Nevertheless the Commission proposal is important because it can make a decisive contribution to getting projects off the ground and creating the right conditions for financing projects.

1.3. The budgetary resources for the proposed actions come under the respective budget lines for the 1994-1999 financial perspective and total approximately MECU 400 per annum (MECU 2,395 at 1993 constant prices for the period 1994-1999).

2. General comments

2.1. In October 1991 the Economic and Social Committee adopted an Opinion [2] endorsing the global approach to trans-European networks. At that time the ESC considered (c.f. point 2.5.2) that 'as part of the review of the post-1992 financial perspective, the Community should ensure that it has the financial means necessary to provide significant momentum to the establishment and development of trans-European networks. It is vital that adequate funding be made available at EC level, and that close links are established with the European Investment Bank and private finance institutions. The establishment of a fund specifically for trans-European networks is therefore of crucial importance for implementing projects warranting Community support'.

In the same Opinion (point 2.5) the ESC recognized that 'the sums involved in the overall funding of trans-European networks are so large that the Community's contribution will always be subsidiary; it will, however, have an important role to play as catalyst and its contribution will be relatively higher in those Member States with fewer budgetary resources'.

2.2. Since then, the importance of trans-European networks has continued to grow: a new title has been introduced into the Treaty; a specific budgetary line for Community action in this area has been incorporated into the financial perspectives; several European Council meetings have called for swifter implementation of the trans-European networks (TENs); the White Paper on growth, competitiveness and employment has given a new impetus for implementation of the TENs; the Commission has already submitted all the proposals for guidelines in the areas of transport and energy and is preparing the remaining proposals on telecommunications; the Council has already approved a part of these guidelines and various projects are currently being implemented.

At the European Council in Corfu in June next, the entire range of political decisions on Community priorities, including information on motorways, will be taken, thus paving the way for completion of these networks.

[1] OJ No C 89, 26. 3. 1994, p. 8.
[2] OJ No C 14, 20. 1. 1992.

2.3. The Commission proposal is a horizontal one covering all three sectors, even though a distinction is made in the selection criteria for projects in the different sectors. This will allow a single legal instrument to be used and will speed up preparatory work for implementing the networks; problems may however arise in the final distribution of Community financial aid.

The financial statement appended to the proposal does in fact include indicative amounts for each of the sectors for the 1994-1999 period; these amounts will have to be up-dated on the basis of the new financial perspectives. In any case the financial aid granted under the present proposal must supplement assistance under the Structural Funds and must not be seen as an alternative means of financing.

2.4. The types of financial aid provided for (feasibility studies including preparatory studies and other technical support measures, contributions to premiums for loan guarantees, interest rate subsidies and, exceptionally, co-financing of investment projects) are implemented at various stages in the projects and require varying levels of financial contribution which, in any case, are modest in relation to overall needs (MECU 400,000).

The choice of type and amount of aid in each of the sectors should also take into account the specific contribution that they can make to the financial engineering needed to complete the project.

3. Specific comments

3.1. The Committee considers it necessary for all guidelines on trans-European data communications networks between administrations (IDA) [1], which are dealt with in a separate proposal, to be approved as soon as possible.

3.2. The Committee endorses the move to extend the concept of public body to firms whose activities meet a public service requirement.

3.3. On the other hand, in cases where guidelines have not yet been adopted by the Council, projects corresponding to the Treaty objectives should be eligible for funding even if they do not fall within the scope of the Commission proposal.

In any case, steps should be taken to lay down procedures which allow priorities to be up-dated in line with developments in the situation and new requirements. The Committee feels that studies carried out prior to up-dating these priorities should be eligible for funding under the proposal.

3.4. The concept of a 'project' as set out in Article 2(4) should be clarified. Does the term 'project' cover: 1) a coherent whole designed to fulfil an economic and technical function; or 2) a part of this whole which may be technically and/or financially independent?

The concept of a 'project' could apply equally well to a phase in completing actions to be financed; however, this does not seem to come within the scope of the present proposal.

3.5. In principle it is up to the Member States to undertake preparatory studies and feasibility studies. If the Commission should deem it necessary, it can nevertheless decide to take the initiative and provide up to 100 % funding. In this event, Commission activity should be coordinated with studies carried out by Member States.

Prior studies are vital for determining the feasibility of an action and can be more difficult to finance; the Commission should therefore pay more particular attention to this area.

3.6. As regards the common criteria for selecting projects, more details should be provided of the relative importance of the common criteria and the specific criteria, and likewise, within the common criteria of the relative importance of criteria for 1) the establishment and development of networks, 2) implementation of Community policies and 3) the economic and financial aspects of the project concerned.

As stressed by the Committee in 1991 [2], the relative importance of the criteria should be established 'taking account of a project's contribution to the coherence and completeness of the whole network, its respect for the environment and for user safety, its long-term prospects and contribution to the completion of the internal market, and considering the overall structural impact of the networks on the sectors involved and on the balanced development of the less-advantaged regions'.

[1] OJ No C 249, 13. 9. 1993.

[2] OJ No C 14, 20. 1. 1992, p. 4.

3.7. As regards the specific criteria it would be worthwhile a) to indicate clearly that the projects must be consistent with the pointers adopted under the respective sets of guidelines and b) not to rule out support for necessary and priority, internal inter-connection projects in each network.

3.8. The Committee has always advocated the involvement of economic and social partners in the dialogue between the Commission, the Member State and the competent authorities or bodies [1]. For this reason public and private economic operators involved in completing the projects submitted should be able to contribute to the assessment and identification of applications (Article 12). On the other hand, it is difficult to see what their role might be in implementing projects.

[1] OJ No C 201, 26. 7. 1993 and OJ No C 133, 16. 5. 1994, p. 42.

3.9. A deadline should be set for Commission decisions on granting financial aid, as in the Structural Fund and Cohesion Fund regulations.

3.10. The Committee endorses the Commission proposal regarding an initial advance payment and the final payment. Subsequent payments should be made in good time — a two month deadline as provided for in the Structural Funds could be envisaged — taking into consideration not only the stage reached in implementing the project, but also of the initial or revised financing plan for the action concerned.

3.11. Lastly, the Committee reaffirms the value and importance it attaches to the completion of trans-European networks and will certainly make its contribution to discussion on the activities report, which is to be forwarded to the Committee in accordance with Article 18 of the proposal.

Done at Brussels, 28 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the proposal for a European Parliament and Council Directive on certain components or characteristics of two or three-wheel motor vehicles

(94/C 195/23)

On 20 December 1993 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 15 April 1994. The Rapporteur was Mr Bagliano.

At its 315th Plenary Session (meeting of 28 April 1994) the Economic and Social Committee adopted the following Opinion with no votes against and five abstentions.

Foreword

This proposal contains an 'annex' made up of 12 'chapters', each of which deals with a vehicle component or characteristic subject to type approval.

Unlike its previous approach, when 12 separate directives were proposed, the Commission has opted for a simpler layout consisting of a single directive plus an 'annex' subdivided into the following 12 'chapters':

Chapter 1: Tyres for two or three-wheel motor vehicles;

Chapter 2: Lighting and light-signalling devices for two- or three-wheel motor vehicles;

Chapter 3: External projections from two- or three-wheel motor vehicles;

Chapter 4: Rear-view mirrors for two-or three-wheel motor vehicles;

Chapter 5: Measures to counter atmospheric pollution caused by two- or three-wheel motor vehicles;

Chapter 6: Fuel tanks for two- or three wheel motor vehicles;

Chapter 7: Measures to counter tampering with mopeds and motorcycles;

Chapter 8: Electromagnetic compatibility of two- or three-wheel motor vehicles;

Chapter 9: Permissible sound level and exhaust system of two- or three-wheel motor vehicles;

Chapter 10: Trailer coupling devices for two- or three-wheel motor vehicles and motorcycle side-car attachments;

Chapter 11: Safety belt anchorages and safety belts for bodied three-wheel mopeds, tricycles and quadricycles

Chapter 12: Glazing, windscreen wipers washers, de-icers and demisters for bodied three-wheel mopeds, tricycles and quadricycles.

1. General Comments

1.1. The Economic and Social Committee welcomes this proposal for a directive to implement Directive 92/61/EEC of 30 June 1992 on the type approval of two or three-wheel motor vehicles, although it would like to make some suggestions and criticisms.

1.2. The Committee recognizes first of all that the prime aim of such standards, as in the case of the preceding 12 directives is:

— to improve personal and traffic safety; and

— to harmonize technical standards and procedures so as to remove barriers to trade in a true single market.

The present proposal's provisions are particularly vital to achieving the aim of EU type approval for two or three-wheel motor vehicles. Such aims cannot be attained through national legislation and so the problem of 'subsidiarity' is resolved through consistency.

1.3. The ESC appreciates the fact that the Commission has taken full account of the provisions of the United Nations Economic Commission for Europe (UNO/ECE) in Geneva where these exist, which take the form of:

— ECE Regulations (No 75 on tyres; No 14 on the procedures for testing safety belt anchorages; No 16

on safety belts; Nos 37, 50, 56, 57, 72 and 82 on lighting and light-signalling devices); or

— ECE Recommendations (external projections on two-wheel vehicles).

For other matters the Commission has based itself on previous EEC Directives (80/780 on rear-view mirrors for two-wheel vehicles; 78/1015 and successive amendments on motorcycle noise) and on rules in force in some Member States, re-drafting them where appropriate and extending their scope to include all two or three-wheel vehicles.

1.4. The Commission has also stressed the particular importance of the chapters on emissions (chapter 5) and sound levels (chapter 9).

As regards noise and pollutants and their impact on environmental protection, it has been decided to adopt a gradualist approach (Article 7):

— the first stage will come into force with the directive in 1997;

— the second stage will start four years later, so as to allow industry time to adapt products to more stringent standards.

1.4.1. The Commission's strategy for protecting the environment from pollution and noise in fact seeks to:

— lay down realistic limits which can come into force as soon as possible; and

— at the same time begin a joint EU/industry research programme to propose future limits on the basis of the results obtained.

1.5. As regards the planned entry into force of the directive on 1 January 1997, (the date from which vehicles submitted for type approval must comply with the requirements of the directive) the ESC recommends that any prolongation of the discussions on some of the chapters in the annex should not hold up implementation of the standards in the other chapters.

1.6. The ESC therefore supports the planned possibility of granting 'tax incentives' for vehicles which comply with the new noise and pollution standards before the scheduled entry into force of the directive. It hopes that these incentives will not be limited to the moment of purchase only, but will be granted annually so that their effectiveness is more lasting.

1.7. As regards the amendments necessary to adapt the standards contained in the various chapters of the annex to technical progress, the ESC notes that the Commission refers (in Article 6) to the committee for adaptation to technical progress set up by Article 13 of Directive 70/156/EEC but with a different procedure which provides simply for the consultation of the Member States, without a vote being taken. The ESC, however, wishes to express once again its preference for the 'regulatory committee' which already exists in the motor vehicles and agricultural tractors sectors.

1.8. The ESC also draws the Commission's attention to the fact that at such a critical time for the world economy in general and the European economy in particular the laying down of limits, restrictions or regulations must generally be considered as a delicate operation involving great responsibility because of its impact on European industrial production and job levels in the Member States.

1.8.1. It is therefore desirable, especially as regards the standards for pollution and noise, that the planned subsequent stage takes proper account of the results of the joint EU/industry research programme which is already on the point of being started (see points 2.5 and 2.9 below).

2. Comments on the individual chapters in the annex

2.1. *Chapter 1 — Tyres for two or three-wheel motor vehicles and on their fitting*

To accommodate users' demands the Commission lays down standards aimed at ensuring interchangeability between tyre types of different makes but with the same 'design' (i.e. diameter, width and cross-section) so as not to cause fitting or vehicle safety problems.

The ESC agrees with these rules and the tests required for the purposes of tyre safety.

2.2. *Chapter 2 — Lighting and light-signalling devices for two or three-wheel motor vehicles*

The ESC realises that the extreme technical detail in the text is necessary in order to guarantee maximum visibility to the driver without disturbing other road

users and ensure that the driver's intentions are not misinterpreted by other road users.

Such rules are essential to safety.

2.3. *Chapter 3 — External projections from two or three-wheel motor vehicles*

This stabilises the different rules for two and three-wheel bodied vehicles with a view to preventing physical injuries to the driver or to other road users in the event of contact with the motor vehicle.

Here too the safety requirements are fully satisfactory.

2.4. *Chapter 4 — Rear-view mirrors for two or three-wheel motor vehicles*

This chapter contains specific rules for rear view mirrors and the way they are installed on vehicles. The ESC appreciates the possibility of mounting type-approved components on two or three-wheel motor vehicles.

2.5. *Chapter 5 — Measures to be taken against atmospheric pollution caused by two or three-wheel motor vehicles*

The ESC considers this matter very critical from the economic and technical point of view, since rules which are too severe may:

— either lead to two or three-wheel vehicles in their present form being redesigned, causing excessive cost increases to users;

— or lead to changes in the way such vehicles are used, maintained, etc.

with the result that they may no longer be 'interesting' in the eyes of users. It cannot be ruled out that the implementation of the standards in this chapter 5 may have some of the negative effects referred to above.

The ESC points out that:

— as regards motorcycles and three-wheel motor vehicles, the limits and the date of application for stage 2 have not yet been decided;

— as regards mopeds, the limits and the date of application for stage 2 have been decided (1999) and such limits are lower than those already in force for cars, which are already very low indeed.

At any event, the ESC recommends that when the European Parliament and the Council draw up the limits for the second stage, to apply in 2001 (see points 1.4.1 and 1.8.1 above) they should pay due attention to the results of the planned joint EU/industry study and possibly providing for solutions in specific cases which do not oblige the use of sophisticated and costly materials or technologies.

2.6. *Chapter 6 — Fuel tanks for two or three-wheel motor vehicles*

This chapter contains precise standards which regulate specific resistance tests for tanks in non-metallic materials so as to ensure the safety of vehicles even in the event of accidents or breakdown.

2.7. *Chapter 7 — Anti-tampering measures for mopeds and motorcycles*

The ESC is puzzled by the request for non-interchangeability of the main engine components of similar vehicles which belong to different vehicle categories: this rule is inconsistent with the industrial logic behind modular components and the economies of scale of mass production.

As the standard requires, at the same time, the marking of the main components of both the engine and the transmission, it can be accepted that this already permits the easy identification of any non-approved or non-original components on the vehicle in the event of any checks.

The ESC feels that the design criteria for engines necessary to comply with the rules proposed in this chapter are needlessly design restrictive and cannot be reasonably justified in pursuance of the goal intended.

To safeguard the interests of the European vehicle industry, there should at least be a derogation (from the request for non-interchangeability of engine components between vehicles of different categories) for a limited number of mass-produced vehicles, per type and per year, destined for the Member States.

Looking at this problem from the user's point of view, thought could be given to limiting the scope of this chapter to vehicles up to 125 c.c. (categories A and B).

2.8. *Chapter 8 — Electromagnetic compatibility of two or three-wheel motor vehicles*

The ESC notes that the testing procedures laid down in this chapter are very complex. They require sophisticated and expensive instrumentation and even the place where the tests must be carried out must comply with many restrictive rules.

However, the ESC appreciates the possibility of carrying out, at the choice of the manufacturer, type approval of either the complete vehicle or individual electric/electronic components (as is already permitted for the type approval of motor vehicles).

Account will also have to be taken of the fact that the general Directive 89/336 harmonizing legislation on electromagnetic compatibility enters into force on 1 January 1996. The entry into force of 'chapter 8' should therefore be brought forward to that date.

In addition, the ESC agrees with the Commission that the rules on vehicle immunity to electromagnetic radiation (i.e. operating capability in an environment of electromagnetic interference) should come into force 3 years later than those on electromagnetic compatibility (i.e. the vehicle's ability not to emit electromagnetic interference above a prescribed limit).

2.9. *Chapter 9 — Permissible sound level and exhaust system of two or three-wheel motor vehicles*

This chapter contains:

— rules for measuring noise from both stationary and moving vehicles;

— rules for the type approval of non-original exhaust systems to tackle the problem of original exhaust systems being replaced by other, noisier systems;

— noise limits for mopeds and motorcycles.

As regards the noise limits for mopeds, while the ESC agrees with the need to move towards lower limits, the figure of 71 dB (A) scheduled for 1 January 1997 seems rather strict when compared with that in force for cars — 74 dB (A) — which make up the vast majority of vehicle traffic in city centres.

Anyway, this lower noise level for mopeds compared with that for cars would not be noticed by the other persons in city traffic.

From an economic point of view, one cannot disregard the technical difficulties involved — the higher costs which would ultimately be reflected in retail prices.

It therefore seems reasonable to recommend that the Council show greater flexibility on limit values and implementation dates.

At any event, the ESC, well aware of the social problems arising from high noise levels in city centres, thinks that one effective measure could be to ban the sale of non-type approved exhaust systems (silencers).

Finally, in line with the hopes expressed in paragraphs 1.4.1, 1.8.1 and 2.5, the ESC would repeat to the European Parliament and the Council its recommendation that the results of the planned joint EU/industry study be borne in mind when deciding on the limits for the second stage.

2.10. *Chapter 10 — Trailer couplings and side-car attachments*

This chapter contains rules on designing and manufacturing devices for coupling vehicles and trailers so as to ensure the mobility and resistance necessary in traffic and the vertical, transverse and longitudinal strength of motorcycle side-car attachments.

The ESC appreciates the Commission's proposal, which seeks in particular to ensure passenger and vehicle safety in road traffic.

2.11. *Chapter 11 — Safety belts and safety belt anchorages*

The scope of the provisions contained in this chapter is obviously limited to vehicles fitted with a body which encloses the driver and any passengers.

The ESC agrees with the Commission that, as regards the safety belt anchorages for three-wheel mopeds, tricycles and quadricycles, the rules are different depending on the weight of the vehicle when empty.

The ESC stresses that, in the light of the experience acquired with cars, it has been possible to keep the same testing procedure for mopeds etc. as for cars while allowing the possibility of applying lower testing loads than for cars, since mopeds are lighter, have a lower maximum speed and are lower-powered; in this way a

synergy between standards has been obtained which the ESC feels is not something to be overlooked.

The ESC also agrees with the Commission that the safety belts fitted on mopeds etc. should be the same as those designed for cars.

2.12. *Chapter 12 — Glazing, windscreen wipers and washers, de-icers and de-misters*

Here too the scope of the provisions contained in this chapter is obviously limited to vehicles fitted with a body which encloses the driver and any passengers.

The ESC agrees that the testing procedure for this equipment — which is especially essential to traffic safety during the winter months, when road and weather conditions are far from ideal — should be the same as those laid down for cars but appropriately simplified for lighter vehicles, showing that the Commission recognises that they are less dangerous both for their drivers and passengers and for other road users.

Done at Brussels, 28 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on:

— **the amended proposal for a Council Directive concerning common rules for the internal market in electricity, and**

— **the amended proposal for a Council Directive concerning common rules for the internal market in natural gas**

(94/C 195/24)

On 22 March 1994 the Economic and Social Committee decided, under the fourth paragraph of Article 20 of its Rules of Procedure, to draw up an Opinion on the abovementioned proposals.

The Section for Energy, Nuclear Questions and Research, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 13 April 1994. The Rapporteur was Mr Gafo Fernández.

At its 315th Plenary Session (meeting of 28 April 1994) the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. The Committee welcomes the presentation by the Commission of amended proposals concerning the establishment of common standards to make possible the internal market in electricity and natural gas.

1.2. The Committee is particularly pleased that a good number of the suggestions and recommendations contained in its previous Opinion of 27 January 1993 [1] on this subject have been taken into account both by the European Parliament in the preparation of its own Opinion and the Commission in drawing up the new proposals.

1.3. In particular, account has been taken of the Committee's suggestions that there should be greater flexibility in the implementation of the internal market in these sectors, that the specific investment and development conditions in these sectors must be considered, that the operating conditions should be gradually aligned and, especially, that further consideration be given to the security of supply and public service obligations aspects.

2. Summary

2.1. The Committee broadly approves the new Commission proposals as conducive to an acceptable balance between the positions of the Member States, the electricity and gas generating industries and the various categories of consumer.

2.2. The Committee expresses its satisfaction that the proposals allow the Member States, within the limits of Community law, to impose public service obligations on undertakings operating in these sectors, while urging the Commission to define these obligations precisely as soon as possible. However, provision should be made for a reference to arbitration under Article 21, paragraphs 1 and 2 (electricity) and 17, paragraphs 1 and 2 (gas) and in any case not without the right to refer the issue to independent arbitration under the terms of Article 21, paragraphs 3 and 4 (electricity) and 17, paragraphs 3 and 4 (gas).

2.3. The Committee approves the new criteria for the construction of plant to increase electricity generating capacity, although it takes the view that the criteria must be improved to take due account of small generating or co-generating installations and of electricity originating in other Member States.

2.4. The Committee welcomes the new philosophy of 'negotiated Third Party Access', within the discharging of public service obligations, but wishes to stress the need to guarantee the independence of the manager of the electrical transmission network and to improve arbitration procedures for disputes.

2.5. With regard to the unbundling and transparency of accounts, the Committee emphasizes the need for data to be kept confidential, and is concerned that the European Union's gas companies may lose negotiating power vis-à-vis suppliers from outside the Union.

2.6. As indicated in its earlier Opinion on the subject, the Committee wishes to stress the need to move forward simultaneously in the coordination of Member States' energy policies and gradually to harmonize cer-

[1] OJ No C 73, 15. 3. 1993, p. 31.

tain factors (e.g. fiscal, environmental or proper consideration of the scope of public service obligations).

3. Overall assessment of the proposals

3.1. The Committee broadly approves the new Commission proposals as conducive to an acceptable balance between the positions of the Member States, the electricity and gas generating industries and the various categories of consumer.

3.2. It also notes the degree of autonomy which will be retained by Member States, in line with the subsidiarity principle, to decide on how the electricity and gas sectors should be organized within their own countries, provided that these arrangements are compatible with the introduction of market principles and the construction of the internal energy market.

3.3. Nevertheless, the Committee is also aware that the present proposals represent a compromise which will have to be fine-tuned as the proposed process of aligning the operating conditions in both sectors progresses and as experience is acquired in operating the internal market in these sectors under these conditions.

3.4. It is against this background that the Committee has carried out the following assessment and puts forward a series of recommendations.

4. Organization of the electricity and natural gas sectors

4.1. The Committee expresses its satisfaction that Article 3(2) of both proposals allows the Member States, within the limits of Community law, to impose public service obligations on undertakings operating in these sectors. However, this obligation must not be used as an excuse not to negotiate access (Article 21, paragraphs 1 and 2, for electricity and 17, paragraphs 1 and 2, for gas) and in any case not without the right to refer the issue to independent arbitration under the terms of Article 21, paragraphs 3 and 4 (electricity) and 17, paragraphs 3 and 4 (gas).

4.2. As stated in its earlier Opinion, the Committee considers it important to achieve an equilibrium between application of competition rules and general protection of consumers.

4.3. The Committee therefore urges the Commission to define the precise scope of the aforementioned obligations as soon as possible, especially when neither the concept nor the scope of the obligations is in any way harmonized between the Member States.

5. Production and transmission in the electricity sector

5.1. In the Committee's view the two alternatives for the construction of new electricity generation capacity — based on either a system of objective, non-discriminatory, non-exhaustive licensing criteria or a tendering procedure for the necessary new capacities — are sufficient to combine continued security of supply with the introduction of commercial criteria, while allowing the Member States flexibility as to what particular form of organization they choose.

5.2. The Committee considers that the Member States' option under Article 7 to take into account 'the nature of the primary sources to be used' should not apply to the autoproducers and independent producers referred to in Article 5(3) with a nominal production capacity of less than 50 MW installed capacity.

5.3. The Committee regards the reference in Article 6(1) to the 'use, if necessary' of interconnected electricity systems as too vague.

5.4. In the Committee's Opinion it should be stated explicitly that new production capacity situated in another Member State will also be able to compete in the tender procedure, provided that the necessary conditions are met as to system stability, possible use of the network or interconnected systems and compliance with public service obligations; the provisions contained in Article 21(1) iii) under the more general heading 'access to the system' should be incorporated in this Article.

5.5. With regard to the electricity transmission system, the Committee considers that the key element is, as it indicated in its previous Opinion, the complete independence of the system operator. Only on this basis will it be possible to ensure that the obligations to manage the system economically, on objective, non-discriminatory terms — as provided for in Article 13 — are met.

6. Operation of the electricity distribution system

6.1. The Committee fully supports the public service obligations in the form of a universal obligation to supply and regulation of the tariffs for this service as laid down in Article 15(2).

7. Organization of the natural gas sector in the collection, storage, transport and distribution stages

7.1. Many of the arguments put forward above in respect of the electricity sector apply also to the natural gas sector.

7.2. The most fundamental differences are rooted in the establishment of a single system of objective, non-discriminatory licences for the construction and operation of the new capacity needed in the Member States and in the different way of regulating the transmission system, based on the independence of operators. The Committee approves these proposals.

8. Unbundling and transparency of accounts

8.1. The Committee endorses the new criteria for unbundling of accounts presented by the Commission for the electricity sector, although in the case of gas it is concerned at the possible negative effect of the proposed unbundling and concomitant loss of commercial confidentiality on the negotiating position of Community companies in relation to energy suppliers.

8.2. On the transparency of accounts, the Committee takes the view that the nature of much of the information involved requires that access for the relevant authority, laid down in Article 19 for electricity and Article 15 for gas, should be subject to a guarantee of confidentiality of the data compatible with the objectives set, particularly as this is referred to in the preamble to both proposals.

8.3. The Committee also takes the view that these criteria should be revised after a reasonable period, to assess whether they are best suited to guarantee the obligations laid down in other chapters of the Directives.

9. Access to the system

9.1. The Committee welcomes the new Commission proposal concerning the voluntary, negotiated introduction of Third Party Access. This proposal concerns the right to enter into negotiations with system operators in order to conclude contracts on a non-discriminatory basis.

9.2. The Committee considers that this new approach brings an element of gradualness and caution into the construction of the internal market in these sectors, while at the same time allowing its real potential to be assessed in economic terms and from the angles of security of supply and compliance with public service obligations. The experience acquired should make it possible to decide whether to extend the system or turn to alternative models for attaining the internal market in these sectors.

9.3. Nevertheless, the Committee considers that five points are in need of additional clarification.

9.3.1. The first concerns the possibility, provided for in Article 21(1) of the electricity Directive, for electricity producers and transmitters to conclude voluntary contracts. In the case of vertically integrated undertakings, this could lead to the precedence of these contracts over the general economic priority criteria for dispatch laid down in Article 13(3). In practice this could mean major problems in applying the Directive.

9.3.2. The second concerns the lack of a precise definition of the terms 'affiliated' and 'associated' undertakings in both Directives. In the Committee's view a definition which refers to existing Community law should be incorporated in Article 2 of the Directives.

9.3.3. The third concerns the independent arbitrator provided for in Articles 21(4) (electricity) and 17(4) (gas). In view of the large number of such bodies in the Directives, it might be advisable to consider subsuming all these activities in a single authority at national level for each sector which could arbitrate in any dispute arising in a Member State in the application of these Directives, without excluding the possibility of recourse to the national courts of the European Union.

9.3.4. The fourth is a lack of precision with regard to the arbitration procedure in the event that access to the system involves two or more Member States [Articles 24 (electricity) and 21 (gas)]. It should be stated whether the arbitration procedure is to be a joint one for all the competent authorities in the Member States concerned, or whether it should be laid down in the Directives on the transit of electricity and gas through large-scale networks [1] [2].

9.3.5. The fifth is the need for a closer link between the denial of access to the market, based on its connection with public service obligations, and the existence of available capacity and proper pricing of the services. This would be particularly relevant in the Member States where public service obligations do not exist or are insufficiently defined.

10. Harmonization procedure

10.1. The Committee considers that the harmonization procedure provided for in Articles 26 (electricity) and 23 (gas) should be spelt out more explicitly so as to include in the proposals the criteria for the safety of installations and protection of the environment referred

[1] OJ No L 313, 13. 11. 1990.
[2] OJ No L 147, 12. 6. 1990.

to in Articles 7 (electricity) and 4 (gas) and the public service obligations specified in Article 3(2) of both Directives.

10.2. The Committee considers it essential to respect the timetable which provides for revision of these Directives by 1 January 1999. The Committee should, however, be expressly requested to give its views on this revision in line with the legal basis of these Directives.

11. Concluding comments

11.1. The Committee reiterates that the appropriate development of trans-European energy networks will facilitate the attainment of an internal market in these sectors.

11.2. In the light of this situation, the Committee is also drawing up an Own-initiative Opinion with the purpose of assessing the desirability of proposing to the European Union institutions and the 1996 Intergovernmental Conference for the revision of the EU Treaty that a specific chapter on energy policy be included; this could cover both the components of a common energy policy and the harmonization required of other aspects of the Member States' energy policies.

12. Specific comments on the Directive concerning common rules for the internal market in electricity

12.1. Seventh 'Whereas' clause of preamble: reword as follows: 'Whereas security of supply and consumer protection entail a number of public service obligations which must be taken into account in parallel with the application of new competition criteria.'

12.2. Twentieth 'Whereas' clause: add the following: '... to the Council, the European Parliament and the Economic and Social Committee ...'

12.3. Article 2: insert a definition of 'subsidiary' using the definition in Article 3 of the Council Directive of 23 July 1990 on a common system of taxation applicable to parent companies and subsidiaries in different Member States [1].

12.4. Article 5.2: add the following: '... in paragraph 1 shall draw up an inventory of the new means of production and transmission which may be necessary, including replacement capacity...'

12.5. Article 6.1: the Commission should review the wording 'if necessary'.

12.6. Article 7: add the following at the end of the second paragraph: 'These criteria should not be taken into account for power stations with a capacity of less than 50 MW which use only combined heat and power systems or renewable energy sources.'

12.7. Article 8.2: amend as follows: '... at least administratively fully independent from the other activities...'

12.8. Article 9.3: add the following: '... proper functioning of the system, including the planning and construction of the necessary new capacity.'

12.9. Article 21.4: add the following: '... rights of appeal to national courts and to Community law'.

12.10. Article 23, first paragraph: replace 'energy market' by 'supply of energy'.

12.11. Article 21.3: add at the end of the second sentence 'but only after reference to arbitration under paragraph 4 below.'

12.12. Article 24: add the following at the end: 'In particular steps shall be taken to ensure that in the case of disputes over access to the market involving the interconnected networks of different countries, the same arbitration procedure is followed as is laid down in Article 21(4) with the intervention of the competent authorities of the countries concerned'.

12.13. Article 26: add the consultation of the Economic and Social Committee in both paragraphs.

13. Specific comments on the Directive concerning common rules for the internal market in natural gas

13.1. Eighth 'Whereas' clause of preamble: reword as follows: 'Whereas security of supply and consumer protection entail a number of public service obligations which must be taken into account in parallel with the application of new competition criteria'

13.2. Twenty-third (penultimate) 'Whereas' clause: add the following: '... to the Council, the European Parliament and the Economic and Social Committee ...'

13.3. Article 2: insert a definition of 'subsidiary' using the definition in Article 3 of the aforementioned Council Directive of 23 July 1990 on a common system of taxation applicable to parent companies and subsidiaries in different Member States.

13.4. Article 6(3): add the following: '... to maintain a high level of reliability and security of its system, including the planning and construction of the necessary new capacity'.

[1] OJ No L 225, 20. 8. 1990, p. 6.

13.5. Article 17.4: add the following: '... rights of appeal to national courts and to Community law.'

13.6. Article 19, first paragraph: replace 'energy market' by 'supply of energy'.

13.7. Article 17.3: add at the end of the second sentence: 'but only after reference to arbitration under paragraph 4 below.'

13.8. Article 20(2): add the following: 'The Commission shall make a report to the European Parliament, the Economic and Social Committee and the Council ...'

13.9. Article 21: add the following at the end: 'In particular steps shall be taken to ensure that in the case of disputes over access to the market involving the transmission networks of different Member States, the same arbitration procedure is followed as is laid down in Article 17(4) with the intervention of the competent authorities of the countries concerned'.

13.10. Article 23: add the consultation of the Economic and Social Committee in both paragraphs.

Done at Brussels, 28 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the proposal for a Council Directive amending Directive 77/388/EEC and introducing new simplification measures with regard to value added tax — scope of certain exemptions and practical arrangements for implementing them [1]

(94/C 195/25)

On 30 March 1994 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.

Since the Council had set an extremely short deadline for the preparation of this Opinion, the Committee decided to apply the urgency procedure and to appoint Mr Richard Müller as Rapporteur-General (Article 46 of the Rules of Procedure).

At its 315th Plenary Session (meeting of 27 April 1994) the Economic and Social Committee adopted the following Opinion unanimously.

The Committee approves the proposal subject to the following comments:

1. The Committee notes that the aim of the proposal is to facilitate the application of the VAT system in the member countries of the Community. It trusts that this will lead to a real simplification of the system. This is important for improving the operation of the internal market and ensuring that firms can compete on equal terms.

2. The Committee would stress that any change to the Community's VAT system should help to make it as watertight as possible against the possibility of tax avoidance.

3. The Committee has doubts about the effectiveness of Article 1(4) and (7) regarding transactions carried out under warehousing arrangements other than customs. These provisions reflect the justified endeavours to decentralize (subsidiarity). However, because they are optional they do not guarantee a uniform solution. Furthermore, the proposed provisions will not bring about the requisite simplification of the VAT treatment of other chain transactions involving more than three entrepreneurs and the circulation of goods within the Community.

4. The Committee has doubts about the completeness of the rules laid down in Article 1(6) and Article 2 regarding certain goods shipments and ancillary services. The Council Decisions listed in Article 2 also contain simplification measures, which expire on 31 December 1994, in respect of certain work and moveable tangible property that have not been subject to processing within the Community. Because of the forthcoming expiry date the proposal should be expanded accordingly.

5. The Committee calls on the Commission to revise the provisions so that they really do simplify the system and make it transparent. If the proposed provisions are maintained, the Commission should keep a close watch on their application to ensure that they do not increase the burdens on firms and persons liable to pay VAT, and that the suspicion regarding tax avoidance referred to in point 2 is not borne out.

[1] OJ No C 107, 15. 4. 1994, p. 7.

Done at Brussels, 27 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on the General framework for action by the Commission of the European Communities in the field of safety, hygiene and health protection at work

(94/C 195/26)

On 19 November 1993 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the General framework for action by the Commission of the European Communities in the field of safety, hygiene and health protection at work.

The Section for Social, Family, Educational and Cultural Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 14 April 1994. The Rapporteur was Mr Etty.

At its 315th Plenary Session (meeting of 28 April 1994) the Economic and Social Committee adopted unanimously the following Opinion.

1. General comments

1.1. The Committee understands that the Commission's communication is a 'General framework for action' and not an action programme, outlining concrete policies and measures for the next few years. The Committee calls on the Commission to come forward shortly with a proposal for an action programme to the Council, Parliament and itself. This proposal should include the financial basis for the action programme.

1.2. The four fields chosen by the Commission [(1) implementation, consolidation, rationalization and completion of Community legislation, (2) promotion of the Community's work in the field of safety and health at work outside the Community and of international cooperation, (3) information, training and education, and (4) the development of non-legislative accompanying measures intended in particular to supplement and consolidate legislative objectives] can be approved and supported.

1.3. The Committee nonetheless has two general concerns:

— The suggestion by the Commission to include these proposals as a supplement to the 'Green Paper on the future of European Social Policy' may introduce uncertainty and unnecessary delay as to the results to achieve. Health and Safety at the Work Place is an integral part of European social policy and, as such, should have its proper place in the Green Paper.

— The ideas expressed by the Commission are general and vague.

The more specific recommendations by the Advisory Committee on safety, hygiene and health protection at work for a new action programme (January 1993) seem to have been discarded. Apparently, the Commission has also not yet paid great attention to relevant suggestions given by the Economic and Social Committee in recent Opinions.

1.4. Proposals for continuing development of EC occupational health and safety legislation remain unclear. The Commission appears to be moving away from Directives towards non-legislative measures. Whilst the Committee acknowledges the importance of non-legislative measures, it sees several areas for further legislation, as has been expressed in earlier relevant Opinions of the Committee (for example: health and safety training at the workplace, occupational medicine, etc.).

1.5. Monitoring of the implementation of Community legislation by Member States should be an important element in the future social dialogue on occupational safety and health in the Community.

1.6. The Committee urges the Commission to include in its future activities work on possible implications of European normalization policies (based on Article 100A) for the field of occupational safety and health. Workers' and employers' representatives should be properly informed, involved, and supported to play their role. The Commission is requested to make appropriate proposals to bring this into effect. When assessing normalization policies with a view to safety and health at the workplace, knowledge and expertise of national institutions dealing with occupational accidents (like the 'Berufsgenossenschaften' in Germany) should be taken into account.

1.7. The Committee requests the Commission to develop proposals seeking common approaches in the field of occupational safety and health, e.g. with a view to risk assessment, training and enforcement.

2. **Specific comments**

2.1. *Social dialogue*

2.1.1. The Committee endorses the importance that the Commission attributes to the role of social dialogue in the preparation of measures in the field of occupational safety and health.

2.1.2. At the same time the Committee recalls its concern expressed in recent Opinions (most recently in its Opinion on chemical substances of November 1993) [1], about a possible weakening of the role of the Advisory Committee. The way the Commission has dealt with the earlier mentioned unanimous recommendations of the Advisory Committee for a new action programme has helped to intensify this concern.

2.1.3. The Advisory Committee must be provided with adequate resources.

2.2. *Links with other programmes*

2.2.1. The Committee welcomes the extra attention accorded by the Commission to such links with environmental and consumer protection, agriculture and research.

2.2.2. The Committee welcomes that certain Community research and development programmes identify the need to address working environment issues (e.g. the new programme on industrial and material technologies, bio-medicine, and health and the environment). It encourages the Commission to continue this line of action and to develop it further.

2.2.3. The Committee refers to the use which can be made of research and development funds for telematics and Trans-European Networks, together with the establishment of data bases for workplace accidents and occupational diseases.

2.3. *Economic and social impact on SMEs*

2.3.1. The Committee reiterates the point it has made on various previous occasions that it is not acceptable to exempt SMEs from Community legislation on occupational safety and health. Risk, and not size, should be the criterion for safety and health control. In developing policy instruments in the field of occupational safety and health, the Commission should pay special attention to the feasibility and applicability as regards SMEs.

2.3.2. Impact evaluations are important. However, they cannot replace social and political judgement as a basis for policy making in relation to SMEs — or for that matter all businesses.

2.3.3. There must be openness and transparency in the development of any methodology to be used for impact evaluations. Current methodologies used in the area of occupational safety and health are extremely imprecise and incorporate many contentious assumptions. No methodology should be adopted without full consultation of workers' and employers' representatives and the development of a consensual approach.

2.3.4. The Commission must initiate the development of new activities which can help the SMEs to comply with minimum standards for occupational safety and health. This must be done, inter alia, by supporting the establishment of national work environment funds. It should not be assumed that the problems of SME's (and of organizations in the field of the social economy) can be solved simply by providing more guidance. Developing the role of 'intermediaries' (individuals or entities which operate between regulating authorities and the SMEs, such as trade and employers' organizations, training institutions, banks and insurance companies, suppliers, and main contractors) is a key issue.

2.4. *Actions*

2.4.1. Implementation, consolidation, rationalization and completion of legislation

2.4.1.1. Member States must strictly implement current EU legislation on occupational safety and health. The Commission must make transparent what is the actual state of affairs. It must produce an early report on the situation to the Economic and Social Committee and Parliament, and consult the Advisory Committee on this report.

2.4.1.2. In the future, the Commission must also report on measures it has taken to stimulate correct transposition and implementation of European legislation in Member States and on the effects of such measures.

2.4.1.3. The Commission must clarify what will be the mandate of the 'Committee of senior labour inspectors'. It must consider the admission of workers' and employers' observers in this Committee.

2.4.1.4. Priorities in the technical development of existing Directives proposed by the Commission must be developed in dialogue with the Advisory Committee.

[1] OJ No C 34, 2. 2. 1994, p. 42.

2.4.1.5. As underlined in earlier Opinions of the Committee, consolidation of legislative texts ought to involve simplification of standards without any lowering of standards or diluting of existing requirements.

2.4.1.6. There must be a review of the existing body of Community occupational safety and health legislation to see which major risk issues are still not addressed by specific Directives. Some examples, on which the Commission must take action, can be indicated right away:

— accidents related to transport at the work site;

— upper limb disorders, related to repetitive work;

— work related stress; and

— prevention of violence at work (experienced by workers who, by the nature of their job, come in contact with the public, as well as regarding problems such as sexual and racial harassment at work, bullying and verbal abuse).

2.4.2. International cooperation and promotion

2.4.2.1. The Commission must clarify which measures it will take to implement its proposals, which funds it has available, and how the latter will be allocated. Encouraging the adoption of Community standards by countries of Central and Eastern Europe is to be welcomed. The Committee wishes to be informed how this will be done. The Commission must also clarify what the implications will be for '100A — Directives'? Finally, the Committee draws the Commission's attention that its efforts vis-à-vis third countries will only be convincing if Member States of the EU implement these standards themselves.

2.4.3. Information, training, education

2.4.3.1. There is a need to review and, as appropriate, to strengthen the occupational health and safety information rights of workers. The Economic and Social Committee's and the Advisory Committee's recommendations have not properly been taken into account.

2.4.3.2. The Commission must follow an integrated approach covering, by various initiatives and instruments, general education of children at school, vocational training, risk related safety and health training at work (in particular in SMEs), and training of relevant workers' representatives and other risk prevention specialists including relevant managerial staff (cf. the Committee's Own-initiative Opinion on Health/Safety at the Work Place — Training, of June 1993) [1].

2.4.3.3. The actions proposed as regards information must be supported; but it must once again be stated that the proposals are lacking in detail.

2.4.3.4. There is a need to review and map out training standards, resources and systems in Member States, both to assess and compare the current level of training provisions. The Committee recommends the Commission to develop Community-wide training standards, e.g. for occupational safety and health professionals, or for certain high risk activities.

2.4.3.5. The Committee strongly supports the development of comprehensive occupational safety and health studies as a component of education at school and further education curricula.

2.4.4. Non-legislative measures

2.4.4.1. There must be a continuing commitment to develop a uniform system of reporting on occupational accidents and safety and health.

2.4.4.2. The question of multidisciplinary preventive services remains a priority and should be the subject of an early special report. In particular, an examination is needed of the range of experts and services which employers need to employ or have access to in order to enable them to understand and apply the requirements of occupational safety and health legislation.

2.4.4.3. The Committee supports the proposals for guidance on risk assessment as a priority. A consistent approach must be developed which can be applied as appropriate to all classes of risk.

2.4.4.4. The list of topics for special investigations needs to be reviewed and extended. Particular attention should be given to upper limb disorders and violence to staff.

2.5. *Definition of priorities*

The procedure, timetable and funding of priorities for future work remain unclear. This is a matter of serious concern in the light of extensive consultation and discussion which has already taken place in 1992 and 1993. The Committee urges the Commission to come forward with early and clear proposals.

[1] OJ No C 249, 13. 9. 1993, p. 12.

2.6. *The Agency*

Meaningful consultation on this 'General framework' could be inhibited if more information on structure, function, role and resources of the Health and Safety Agency is not given. The Committee refers, in this context, to its Opinion on the Agency of April 1992 (among others to the discrepancies identified between the extremely high ambitions expressed in the Commission's proposal and the modest funds available).

Done at Brussels, 28 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN

Opinion on relations between the European Union and Central and Eastern European States: Slovenia

(94/C 195/27)

On 19 October 1993 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 relations between the European Union and Central and Eastern European States: Slovenia.

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 18 April 1994. The Rapporteur was Mr Frerichs.

At its 315th Plenary Session (meeting of 28 April 1994), the Economic and Social Committee adopted the following Opinion by a majority with one abstention.

1. Introduction

1.1. Cooperation between the European Union and Slovenia rests upon the following agreements reached in the course of 1993: a trade and cooperation agreement, a financial protocol, a transport agreement and a joint declaration on political dialogue. They represent a revision and extension of the trade and cooperation agreement with former Yugoslavia applying since 1980. These agreements were signed on 5 April 1993 and came into effect on 1 September 1993.

1.2. Article 50 of the Trade and Cooperation Agreement contains a progressive clause, under which relations between the European Union and Slovenia will be extended as soon as possible by the conclusion of an association agreement (Europe Agreement). This Opinion is issued with a view to an early conclusion of such a Europe Agreement.

1.3. The ESC Study Group responsible for drawing up this Opinion (on Relations between the European Union and Central and Eastern European States — Slovenia) undertook a fact-finding mission to Slovenia from 9 to 11 February 1994, in the course of which intensive discussions were held with representatives of the Slovenian Government and of economic and social groups.

2. Geographical and historical profile of the country

2.1. Slovenia is a relatively small country in central Europe, on the southern flanks of the Alps. Its neighbours are Italy to the west, Austria to the north, Hungary to the east and Croatia to the south. Thus Slovenia is situated at an important crossroads between western Europe on the one hand and central and eastern Europe (more distantly the Middle East) on the other. It is particularly the transit traffic from European Union and EFTA countries to the central and eastern European states which makes Slovenia a very important partner for the European Union.

2.2. In climatic terms Slovenia can be divided into three main areas. Firstly, its Adriatic coastline, which

is about 40 km long. This includes the Mediterranean port of Koper which is important for Slovenia's trade. Along the coast stretches a gentle hilly landscape of lime/sandstone in which many stalactite caverns have been formed. To the north rise the steep slopes of the southern Alps, including Slovenia's highest mountain, Triglav (2864 m). The area includes alpine ski resorts. Finally, there is a fertile plain along the Sava, Savinja and Drava rivers in central Slovenia, stretching towards Hungary in the east.

2.3. The Republic of Slovenia has about 2 million inhabitants and a surface area of 20,251 km^2 (half of it wooded) and is thus is about half the size of Switzerland. It includes a length of Mediterranean coastline on the Adriatic and a part of the Alps. The main cities are the capital, Ljubljana (about 300,000 inhabitants) and Maribor.

2.4. Slovenia has a very homogenous population. More than 90 % of the inhabitants belong to the Slovene nation. There are also small Italian and Hungarian minorities which together account for fewer than 0.5 % of the population and enjoy a special status which includes the use of Italian and Hungarian as official languages in border regions. About 10 % are economic migrants from less-developed parts of the former Yugoslavia. These figures do not yet include the approximately 30,500 war refugees from Croatia and Bosnia-Herzegovina.

2.5. The territory of present-day Slovenia was originally settled by the Celts. Under Roman rule the present capital Ljubljana had the name of Emona. The ancestors of the Slovenes arrived in the migration of the Slavic peoples towards the end of the 6th century AD. As early as the beginning of the 8th century a free kingdom of the Slovenes — Carinthia — was set up. Also in the 8th century, the Slovenes were converted to Christianity. To this day over 90 % of the population is Roman Catholic. Towards the end of the 8th century the Slovene kingdom came under Frankish rule and became part of the German Nation of the Holy Roman Empire under Charlemagne. From 1335 to 1918 the present territory of Slovenia was ruled from Vienna by the Habsburg monarchy. This Austrian influence is still easily discernible in the outward appearance of present-day Ljubljana.

2.6. When the Habsburg Empire disintegrated, the Slovenes decided to found an independent state together with the Serbs and the Croats — the Kingdom of the Serbs, Croats and Slovenes — which was renamed Yugoslavia in 1929. After Slovenia had resisted the German, Italian and Hungarian occupation during the Second World War, it became one of the six republics of the Socialist Federal Republic of Yugoslavia, within which it had its own constitution.

3. The road to independence

3.1. Slovenia was the wealthiest component republic of the former Yugoslavia. Its per capita income was roughly double the Yugoslav average. The Slovenian autonomy movement began as early as 1988.

3.2. In December 1990 Slovenia held a referendum on the subject of independence. 88 % of the population opted for independence (participation in the vote was about 93 %). Slovenia declared independence on 25 June 1991. Two days later the Yugoslav federal army marched in. After 10 days of war an armistice was brokered by the EC, the condition being that effective independence was postponed for 3 months. In that time the army withdrew completely from Slovenia.

3.3. On 8 October 1991 the Slovenian Declaration of Independence became effective. Slovenia introduced its own currency, the Slovenian Tolar. The official title of the State is 'Republic of Slovenia'. Official languages are Slovene (which belongs to the south Slavic language group and uses the Roman alphabet), together with Italian and Hungarian in the frontier regions inhabited mainly by these minorities (see above). The capital is Ljubljana.

3.4. Slovenia is the only country of the former Yugoslavia which has hardly been affected by the war and whose efforts to achieve autonomy have already been successful. As Slovenia has not been involved in the war since the entry into force of its declaration of independence, it is also exempt from the EU's trade embargo (but not from the arms embargo).

3.5. The new Slovenian Constitution was adopted on 23 December 1991. It guarantees the principle of the rule of law, human rights, citizens' rights and protection of minorities. Under the constitution the Republic of Slovenia is a pluralistic democracy. As well as the Parliament with 90 members, there is a second chamber, the National Council. The Government is led by a Minister-President, while the President of the Republic has purely representative tasks.

3.6. The Slovenian legislative procedure gives a right of initiative in proposing laws to the Government, every individual member of Parliament, the National Council, and any group of citizens who have collected a certain number of signatures. After the debates in Parliament, draft laws are referred to the 40-member National Council for its Opinion. In this Council municipal interests are represented by 22 members, while the others represent the interests of the economy (employers through the Chamber of the Economy, farmers, professions, and workers through trade union representatives), as well as non-economic activities (public administration and social services).

3.7. The vote in the National Council can however be overruled by Parliament in its next vote adopting the law. On particularly important questions the National Council can call for a referendum. Laws come into force when they are published in the Slovenian Official Journal. It is possible for the Slovenian Constitutional Court to test their compatibility with the Constitution under certain circumstances.

3.8. The first free democratic elections in the post-war period took place in April 1990, when a centre-right coalition under the name of 'DEMOS' won a majority. The first Minister-President was Peterle, who was ousted in a vote of no confidence in April 1992, but is still Foreign Minister. The new government (a multi-party coalition of left, right and centre parties) is led by Janez Drnovsek.

3.9. The Republic of Slovenia was recognized as a sovereign state by the Member States of the European Community on 15 January 1992, and since then by more than 100 countries. Since 3 October 1993 the European Commission has been directly represented by a diplomatic delegation in Ljubljana.

3.10. Slovenia is already a member of a number of international organizations. These include the United Nations (since 22 May 1992), the IMF (since 19 January 1993), the World Bank (since 25 February 1993), the Council of Europe (since 14 May 1992) and the European Bank for Reconstruction and Development (EBRD, since December 1992). In early April 1994 Slovenia signed the NATO 'Partnership for Peace' initiative. Negotiations are still proceeding on accession to the GATT. In addition, Slovenia has acceded to certain international conventions. It is also considering closer cooperation with the Višegrad Group.

4. Economic profile of Slovenia

4.1. Slovenia's per capita income — US dollars 6,186 in 1993 (World Bank figures) — is below that of Ireland and above that of Portugal or Greece. Compared with other central and eastern European States, it is considerably higher than that of Hungary or the Czech Republic.

4.2. For a small country like Slovenia, external trade is extremely important. The export share of the gross domestic product was almost 60 % in 1992. This makes Slovenia the most open economy in central and eastern Europe.

4.3. In relative importance of sectors, the Slovenian economy is gradually approaching western ratios. In 1992 agriculture and forestry accounted for 4.6 % of the gross domestic product, industry for 39.4 % (processing industry alone 30.9 %) and the service sector for 56 % (of which financial services 17.7 %, commerce and tourism together 13.1 %, transport and communications 6.8 %). Public administration, with 20.2 % of the gross domestic product, is still within reasonable limits.

4.4. In terms of employment, 5.7 % are employed in agriculture and forestry (lower than the EU average), 45.6 % in industry and 48.6 % in the service sector, with the last-named tending to grow.

4.5. Tourism also constitutes a very important source of income for Slovenia. Holiday and spa centres have a tradition dating back more than 100 years. Slovenia's main tourist areas are the Adriatic coast, skiing and walking areas in the Alps, and some spas with thermal springs.

4.6. Turnover in tourism is estimated at 850 million US dollars for 1993. Slovenia is one of the few countries which saw an increase in tourism in 1993, in its case by more than 25 %. Tourists come mainly from Hungary, Germany, Austria, Benelux countries, Switzerland, France, Britain and the USA. There are already seven Slovenian tourist offices abroad, which serve to raise awareness of the Slovenian tourist areas (e.g. in Rotterdam, Frankfurt/Main, Budapest and New York). Slovenia also has a national airline, Adria Airways, which has already been operating for 30 years.

5. Macro-economic trends

5.1. The Slovenian economy is now in the stabilization stage of the transition from a rather socialist-type partially planned economy to a full market economy on the western model. The cumulative fall in production from 1987 onwards was 21.6 %. The fall in the GDP slowed significantly in 1992 and GDP stabilized in 1993. This indicates that important adaptation processes have already occurred.

5.2. The Gross Domestic Product, according to provisional estimates, grew in 1993 by barely 1 % from the previous year's level, while 1991 had shown a fall of 9.3 % and 1992 a fall of 6.5 %. This stabilization is expected by the government to be followed in 1994 by a return to economic growth (+ 1 to 3 %).

5.3. The fall in production is largely due to the abrupt severance of economic relations with the countries of the former Yugoslavia, as representatives of the Slovenian Government never tire of emphasizing. The Slovenian economy is suffering from the effects of the trade embargo imposed by the United Nations on what is left of Yugoslavia and of the persisting civil war conditions in other former Yugoslav republics. The fall in growth in Slovenia was not caused solely by the sudden loss of traditional outlet markets. Other possible

reasons are the loss of other trade, for example the loss of former suppliers in the production process, or blockage of traditional transport routes.

5.4. Nonetheless, Slovenia's fall in production is considerably less than that in most of the other Central and Eastern European States, which are involved in the process of adaptation from a (partly) planned to a full market economy. This suggests that Slovenia needs to apply less drastic adaptation processes to its production structure than do its East European neighbours, since Slovenia was already more orientated than these countries towards West European markets.

5.5. Investments fell in the last few years and now account for 17 % of the Gross Domestic Product. However, they rose in the last six months. On the other hand, the proportion accounted for by consumption rose slightly: this was reflected in the composition of Slovenia's imports.

5.6. Slovenia's national finances are relatively healthy. In 1992 a budgetary surplus of the order of 0.3 % of GDP was achieved for the central government budget and the budgets of the area authorities taken together, after a surplus of 2.6 % for 1991. For 1993, because of the high expenditure on unemployment, a budget deficit of about 0.9 % of the GDP was expected. Net borrowings were expected to amount to about 2 % of GDP (of which 1.3 % abroad).

5.7. Slovenia does not have a high national debt: altogether barely 1.8 bn. US $. Even taking into account Slovenia's share of the federal debt of the former Yugoslavia, the proportion of national debt to GDP is just under 20 %, which is fairly low. Slovenia has so far punctually met its payment obligations resulting from the national debt.

5.8. Subsidies paid directly to enterprises from the State budget are not excessively high at 3.8 % of GDP. Some products are also subsidized for the end consumer. However, this affects only a small proportion of goods and certain services (public transport, railways and postal services).

5.9. The costs of the social security system in Slovenia account for a total of 28.2 % of the GDP. Of this, sickness insurance has a 7.9 % share of GDP, and the pension fund a 13.7 % share. The latter is to be reduced to 12 % by 1997. With regard to the pension system, Slovenians like others are aware of the general problem of the age structure of the population, with a population growth of only 0.7 % per annum. At present the pensionable age is 63 for men and 58 for women. General ideas for a reform of the system have been put forward, but are not likely to be implemented for a number of years yet.

5.10. Monetary stabilization has so far been successful in Slovenia. The inflation rate of Slovenia's currency, the tolar, has already been substantially reduced through a very strict monetary policy. From 92.9 % in 1992 the inflation rate had gone down to 21.9 % in 1993, the lowest rate in the last eleven years. The Government wishes to continue the stabilization policy for the Slovenian currency. For 1994 an inflation rate of 15-18 % is aimed at. For 1995, however, there could be a slight rise in inflation, due to the introduction of Value Added Tax planned for that year.

5.11. The Slovenian tolar is at present the strongest Eastern European currency (measured by the ratio of the official exchange rate to the exchange rate in purchasing power parities). Currency reserves have continuously risen since the introduction of the Slovenian tolar (at present 1.7 bn US dollars) and easily cover three months' imports. They are to be further built up.

5.12. The convertibility of the tolar was already achieved in October 1992 with regard to current account transactions. Thus Slovenia created an important precondition for increased trade with hard currency countries. Slovenian citizens can exchange tolars for private use freely for foreign currency. Only for capital account transactions in foreign currency are there still some restrictions in force.

5.13. The exchange rate for the tolar is flexible in principle. However, the Slovenian Central Bank occasionally intervenes to keep the exchange rate between the tolar and the German mark (Germany is Slovenia's most important export market) as stable as possible. 75 tolars are worth approximately one German mark (February 1994).

5.14. Slovenia's unemployment, according to Slovenian statistics, was 10.1 % in 1991, 13.3 % in 1992, 15 % in 1993 (annual average), and 14.1 % in March 1994. However, if the standard methods internationally recognized by the ILO are used, unemployment figures would be considerably lower, e.g. for May 1993 only 9.1 % (official rate at that time 14 %).

5.15. Youth unemployment (unemployed people younger than 26) was relatively high at 36 % of the unemployed. Half of these were looking for a first job. The proportion of long-term unemployed was over 55 %, mainly as a result of the economic restructuring process. 45 % of the unemployed were unskilled. Women made up 44 % of the unemployed.

5.16. The proportion of the population is 52 % for women and 64 % for men. Since women are mainly employed in the services sector, which is not as affected as industry by the economic restructuring process, the unemployment rate is lower for women than for men. In Slovenia the principle of equal pay for equal work is generally applied between men and women. Women

are employed mainly in the tertiary sector, where average wages are lower. Part-time employment is not very popular, covering only 2 % of those employed.

5.17. The costs for financial support of the unemployed and for retraining measures accounted in 1993 for about 1.8 % of the GDP. Of the unemployed 44.4 % received unemployment benefit and 21.7 % received unemployment relief. In addition, they can draw social assistance under certain circumstances. Slovenia already had a system of labour offices before it began the economic conversion process to a western-style market economy. The fact that it was unnecessary to set these up from scratch was an advantage to Slovenia in relation to other Eastern European countries.

5.18. 10 % of the unemployed took part in State further education and retraining measures. Two-thirds of these programmes are short-term. There are State subsidies to firms specifically for school leavers to gain professional training. The cost of the training is paid for entirely by the State. About 10,000 young people benefited from this in 1993.

5.19. From 1994 onwards there is also a State programme to combat long-term unemployment. From a specially created fund, enterprises receive subsidies for the employment of the long-term unemployed who have been without work for more than two years. In addition, there is a range of State job creation measures. These include jobs for the unemployed in the social field, in environmental protection or in restoration projects for infrastructure and public buildings. About 6,000 unemployed people benefited from such measures in 1993. The option of early retirement is also being introduced to reduce long-term unemployment. About 2,000 unemployed availed themselves of this in 1993.

6. Slovenia's external trade relations

6.1. For Slovenia — a relatively small country with a limited domestic market — external trade plays an extremely important role. The Slovenian government therefore pursues an active external trade policy. To this end, the government is currently conducting negotiations for Slovenia's accession to GATT.

6.2. Bilateral trade agreements to improve market access have been concluded with the following partners: a trade and cooperation agreement with the European Union (see below for further details), free trade agreements with the Czech Republic and Slovakia, providing for the setting-up of a free trade area within two years (excluding agricultural products), a trade agreement with the former Yugoslav republic of Macedonia and another with Slovenia's neighbour, Croatia (already ratified by the Croatian parliament).

6.3. A free trade agreement with Hungary was signed on 6 April 1994. This should lead to a free trade area within five to six years. In a regional cooperation context, Slovenia is also participating in the 'Alps-Adria' initiative (suggested by Italy) for cooperation among the countries of the Mediterranean littoral. Discussions on starting trade agreement negotiations are currently in progress with Poland, Lithuania and Romania, among others.

6.4. Slovenia's negotiations with EFTA on a free trade agreement were ended by EFTA. The reason given is that EFTA wishes to align itself with the deadlines for liberalization which the European Union will lay down in a new Europe Agreement with Slovenia — yet to be negotiated — in order to guarantee parallelism (taking account also of the forthcoming accession of certain EFTA countries). This underlines how important for Slovenia is the early conclusion of a Europe Agreement with the European Union.

6.5. Slovenia has the following trading partners: the European Union is by far Slovenia's most important trading partner, with a 58 % share of Slovenian exports in the first half of 1993, followed by EFTA with a 7 % share. About 16 % of exports went to the countries of the former Yugoslavia.

6.6. On the import side: the European Union accounted for about 55 % of imports, the EFTA countries 12 %, the countries of the former Yugoslavia 11 %, and the rest 22 % (higher than for exports because of oil and gas imports). In terms of the value of trade, broken down by country, Slovenia's five main trading partners were Germany, Croatia, Italy, France and Austria.

6.7. For the European Union, trade with Slovenia is relatively important in comparison with trade with other Central and Eastern European Countries. The EU's bilateral trade with Slovenia is equivalent to 80 % of trade between the EU and Hungary, 75 % of EU/Czech Republic trade, larger than the EU's trade with Slovakia, and nine times its trade with Bulgaria. These figures show that Slovenia, although a relatively small country, is nonetheless an important trading partner for the European Union in Central and Eastern Europe.

6.8. The most important export sectors for Slovenia in 1993 were electrical equipment (16.1 %), transport equipment (12 %), chemicals (9.4 %), metal processing (8.6 %), wood processing and furniture (7 %), mechanical engineering (5.7 %) and textiles and clothing (3.3 %). Job processing traffic accounts for 19.1 % of Slovenian exports and hence also plays an important role.

6.9. The main imports in 1993 can be broken down as follows: vehicles (15 %), machinery (9.2 %), electrical equipment (10.5 %), chemical products including oil/

gas (17.1 %), food- stuffs (9.5 %) and metal processing (8.7 %). Such products imported under outward processing arrangements make up 13.4 % of imports.

6.10. Thus, Slovenia's comparative advantage lies with 'medium-tech' products and with semi-processed goods and job-processing in the processing sector. Hence there is considerable complementarity between Slovenia and the European Union, which mainly exports 'high-tech' products to Slovenia for investment projects to expand and restructure Slovenian industry. The composition of trade has changed over recent years.

6.11. So-called traditional industries, such as textiles, shoes and wood products, have declined in importance. Other, more technically demanding industries, (electrical goods, vehicle production, basic chemicals) have become more important. This development was possible not least because of the relatively well-trained Slovenian workforce. Moreover, a glance at the above list of export and import sectors shows that a large part of Slovenia's external trade is intra-industrial trade, which again confirms the relatively western-type development of Slovenia's economic structure.

6.12. The figures for external trade were not so favourable for Slovenia in 1993 than in the previous two years. After two years of slight nominal growth in exports, there was a fall of 8.9 % in 1993. On the one hand this was a result of the rise in wage costs in Slovenia, which thereby lost some of its competitiveness in relation to its Central and Eastern European neighbours. On the other hand, Slovenia also suffered, as an economy closely linked with Western markets, from the recession in the European Union and the EFTA countries, to which over 65 % of Slovenia's exports go. Slovenia's exports to the EU, however, fell by 7 % less than its general export fall.

6.13. Slovenian imports rose by 5.7 % in 1993 as compared with the previous year. This was mainly due to the greater demand for consumer goods (thanks to higher real wages) and investment goods. Imports from the EU increased by as much as 16 %. As a result, Slovenia's trade balance moved from a surplus in 1992 to a deficit of US $ 400m. Slovenia has a trade surplus with the countries of the former Yugoslavia, but a trade deficit with all other trading partners, including the European Union.

7. The Government's reform policy

7.1. The cornerstone of Slovenia's macro-economic stabilization policy is a very restrictive monetary policy. The Slovenian Central Bank is independent of governmental direction with regard to its monetary policy. It has a range of monetary policy instruments broadly corresponding to that of the Central Banks of the Member States of the European Union.

7.2. The introduction of the tolar was the first step towards emancipation from the hyper- inflation of the Yugoslav dinar. The subsequent restrictive monetary policy led to relative currency stabilization, as shown by the figures on the reduction of inflation to its present level of about 21 % per annum. On the other hand, it pushed up the unemployment figures.

7.3. The Slovenian Government has already adopted the most important key laws to create the institutional framework for a market economy. Thus Slovenia follows a path of reform independent of IMF rules. The constitution itself guarantees private property. The government regards its policy mainly as one aimed at creating the necessary administrative framework. This includes, for example: the law on forms of enterprise (Spring 1993) drawn up on a German industrial pattern; the law on protection of industrial and commercial property (March 1992); the law on rendering of accounts (1993); and a law against unfair competition.

7.4. In June 1991 Slovenia adopted a new banking law. It includes recapitalization or liquidation in the event of bankruptcy. There are about 33 banks, 15 of them newly set up.

7.5. The Slovenian financial system still bears the burden of the old debts of the former state enterprises which in recent years were largely making a loss. About a third of all outstanding liabilities of the banking system would have to be written off. The Slovenian Government has begun a bank rehabilitation programme, initially involving the two largest banks, with a combined market share of 50 %. The programme will transform the written-off liabilities into thirty-year state loans. The cost of the programme is being met partly by the state budget and partly from a World Bank loan.

7.6. Since March 1990 there has also been a stock market in Ljubljana. The volume handled was 1.5 billion DM in 1993 — small by western standards, but the highest per capita volume in central and eastern Europe. At the beginning of 1994, 50 securities were quoted. An upturn in the securities market is expected with the progress of privatization.

7.7. A third of the housing stock was transferred to private ownership in an organized sale in Spring 1993. To that end, the Slovenians used their own savings in German Marks which they had kept at home. Thus the measure served at the same time to stock up the currency reserve of the Slovenian Central Bank.

7.8. The conversion of the Slovenian economy to private property is proceeding slowly. The law on privatization was delayed by a wide-ranging discussion on compensation for expropriations, so that it was not adopted until November 1992. It is called 'the law on conversion of property relationships', and this title takes account of the special relationships in the field of enterprises which were widespread in the former Yugoslavian economic system. In particular, account is taken of the relative degree of autonomy enjoyed by managers of enterprises.

7.9. Of the total of 29,500 enterprises in Slovenia, 2,600 large publicly owned enterprises are affected by this law. These amount to slightly more than 10 % of the actively operating enterprises, but account for 60 % of total turnover and 79 % of employment. These figures show the relative importance of the publicly-owned enterprise sector. Among these enterprises, some branches such as banking and insurance, agriculture and forestry, the lottery and enterprises for which bankruptcy proceedings had already been started are exempted from privatization.

7.10. The State privatization agency carries out the government's privatization programme. All enterprises affected must draw up an opening balance sheet as at 1 January 1993, giving a value for the 'capital in public ownership'. After that every enterprise must submit a privatization plan by 31 December 1994 at the latest, and this plan must be approved by the State privatization agency. In doing so it takes account, inter alia, of maintaining jobs on regional policy and social grounds.

7.11. If a privatization plan has not been drawn up by the end of 1994 (which will apply to about one-sixth of all the enterprises), the privatization agency will itself draw up a privatization plan. The agency then monitors the implementation of the privatization plans. In most cases the form of the enterprise is changed to that of a limited company (joint stock company) at the start of the process. In the case of non-viable enterprises, the privatization agency handles the sale of the capital.

7.12. Although in principle the privatization of these publicly-owned enterprises is to be completed by the end of 1995, a range of problems can arise which could delay the timetable. Before the opening balance sheet of an enterprise can be drawn up, capital must be partly transferred back to restore the original conditions. About one-sixth of all firms are affected by this. For a further sixth of the firms, ownership conditions are unclear because of continuing compensation claims by former owners. Finally, it is also to be expected that the shortage of credit and capital in Slovenia will make sales to Slovenian entrepreneurs more difficult.

7.13. Privatization of publicly-owned Slovenian enterprises is in a mixed form composed of free distribution to Slovenian citizens and sales. The basic plan is as follows: 10 % of shares in an enterprise go to the Slovenian pension fund, 10 % to the compensation fund for expropriations, 20 % to an enterprise development fund, 20 % for internal distribution within the enterprise on special conditions, and 40 % are available for free sale.

7.14. The Slovenian population is directly involved through registered certificates giving rights to former public property; these can be obtained by every Slovenian citizen. The value of the certificates varies according to age. The certificates are not transferable but can be inherited. The owners can either transform these title deeds into shares in the course of internal distribution within a firm, sell them on the open market or acquire shares in an investment fund in exchange.

7.15. Foreign investors can in principle participate in the privatization. However, participation of foreign capital exceeding 40 % of the shares available for sale requires the approval of the State privatization agency. Similarly, investments exceeding the value of ECU 10 million require the approval of the Government. However, in general, even 100 % participation by foreign capital is possible. Of course, in addition to participation in privatization, the other usual forms of external capital investment are available.

7.16. The investment of foreign capital is welcomed by the Slovenian Government and by industry, since it can considerably improve the competitiveness of the Slovenian economy externally, and the domestic employment situation. Foreign capital's share of the Slovenian economy is at present still small.

7.17. Liberal legislation on foreign investment in Slovenia was adopted at the end of 1991. It meets international standards. Among other things, it guarantees the right to 'national treatment', the right to transfer capital and profits and the right to participate in management in proportion to the share of capital invested. Foreign investment is possible in all sectors except those expressly excluded on grounds of national security (military goods, telecommunications, etc.).

7.18. From 1988 to September 1993 a total of one billion ECU of foreign capital had been invested in Slovenia, of which 110 million ECU in 1993 (January to September). Foreign investment in Slovenia is possible in principle in four forms: as a joint venture with a domestic partner, as an injection of capital into an existing domestic enterprise, as acquisition of a share

(up to 100 %) of a domestic enterprise and, finally, to establish a new enterprise. The form usually chosen for foreign investment was that of joint ventures. The establishment of 100 % subsidiaries was still relatively low, with barely 2 % of the total. Of all foreign investment since 1988 almost 500 million ECU-worth were contractual joint ventures, 200 million ECU-worth were acquisitions, and 135 million ECU-worth were investments for new manufacturing plant ('greenfield investment').

7.19. The average sum invested per project was rather small, since investment tended to go primarily to services and commerce. However, there are a few sizeable foreign projects in the processing industry. Among the approximately 40 countries of origin of foreign capital, the main ones are Germany (44.9 %), Austria (20.7 %), Italy (16 %) and France (7.1 %). Thus, just under 70 % of foreign capital invested in Slovenia comes from the countries of the European Union. Despite the rapid rise in foreign investment over the last two years, its importance for the Slovenian economy in terms of scale and proportion has so far been rather slight.

7.20. Ownership conditions: in the middle of 1993 there were 23,298 actively operating firms in Slovenia, of which 82 % were privately owned, (a large number of them new firms). The private sector accounts for an estimated 10 % of the working population, and State-owned large and medium-sized firms for 72 % of those employed, producing 60 % of the turnover. The private and mixed sectors produce about 25 % of the total turnover. In additional there is a statistically uncertain number of cross-frontier (mostly commuting) workers who work in Italy or Austria, some without official work permits.

7.21. The restructuring of the economy has a high priority in Slovenia. Two programmes are intended to contribute to it: the already-mentioned privatization programme, and a programme to revitalize and develop enterprises. The revitalization programme at present covers 100 firms. A development fund is to grant viable firms the necessary bridging loans for stabilization. It should also facilitate liquidation for firms with no future.

8. Economic and social groups in Slovenia

8.1. In comparison with the other former socialist planned economies, Slovenia has an advantage in its entrepreneurs. This derives from the widespread system of socialist self-management of enterprises found only in the former Yugoslavia. Managers of enterprises were relatively autonomous. This explains the great readiness to establish independent firms (see above for the large number of newly-established firms). This will greatly facilitate the process of adapting the Slovenian economy with a view to international competitiveness.

8.2. Slovenia has a relatively well-trained labour force. As well as compulsory schooling there is a system of specialized high schools preparing people for individual trades. In addition there are secondary schools, universities and special training centres for scientific and technical professions. In the craft sector, there are 37,100 registered masters and 32,500 other employees.

8.3. The legal working week is between 36 and 42 hours, with a minimum of 18 days' holiday per year. (The present normal working week is 40 hours.) The hourly wage is below that of Portugal, which is at present the country with the lowest wages in the European Union. There are also extra wage costs, which are not excessively high in relation to wages. Compared with other countries of central and eastern Europe, Slovenia's competitiveness in this respect has suffered through its relatively strong currency.

8.4. The approximately 39,500 independent enterprises in Slovenia are organized into the Slovenian Chamber of the Economy. At present about 23,000 of these can be regarded as active enterprises. The Chamber of the Economy is an independent, non-political organization. Membership of the Chamber is obligatory by law; it includes joint ventures insofar as these are established as legal persons under Slovenian law.

8.5. The Chamber of the Economy is sub-divided into 13 regional chambers. In addition there are 23 specialized associations, e.g. for industry, trade, banking, tourism, textiles, electronics, etc. The Chamber of Crafts is one of the subsidiary organizations of the Slovenian Chamber of the Economy, and has existed for about 140 years. (See above for the number of craft workers.)

8.6. The tasks of the Chamber of the Economy include promotion of international cooperation, disseminating information on specialized trade fairs abroad, professional training and further training, mediation of conflicts between enterprises. The Chamber of the Economy has three training centres where further training seminars for middle management and senior management are held. The international activities of the Chamber are supervised from Ljubljana.

8.7. The Slovenian Chamber of the Economy is an associate member of Eurochambres and can therefore participate in some of Eurochambres' activities. It also cooperates with the organizations for European standardization and product standards. It is not as yet directly represented abroad, so there is only a limited

possibility of canvassing for foreign direct investment in Slovenia.

8.8. In February 1994 efforts were being made to found an employers' association outside the Chamber of the Economy. By the middle of February the founding initiative had been signed by the managers of about 1,500 firms, employing about 58 % of all workers. This new association should then exclusively represent the employers' side in wage negotiations — hitherto represented by members of the Chamber of the Economy. In addition, this employers' association could establish official relations with the ILO (International Labour Organization).

8.9. Wage negotiations take place between the Chamber of the Economy, representing the employers' side, and 4 trade union umbrella organizations representing the workers. The workers' right to strike is laid down in the Slovenian constitution. Legal countermeasures on the employers' side, such as lockouts, are however not in any way provided for by law.

8.10. The level of trade union organization in Slovenia is relatively high at 70 %. The four active trade union umbrella organizations are: 1) the Association of Free Trade Unions; 2) the PERGAM trade union (printing and paper); 3) the Trade Union Alliance 90; 4) the Independent Alliance of New Slovenian Trade Unions.

8.11. By far the largest trade union organization, with 437,000 members, is the Association of Free Trade Unions, which emerged from the former socialist trade union (with compulsory membership). Its organizational structure is based on the former trade union system. The remaining umbrella organizations are still in the process of organizing themselves. At present a split is under way, with trade unions specific to economic branches or undertakings splitting off from the old trade union. However, the signs of a new trend are emerging, in which individual plant-based trade unions are once again coming together on a branch-wide basis in order to strengthen their position in wage negotiations.

8.12. The dialogue between the social partners on a solidarity pact had already begun about one and a half years ago, before the Slovenian privatization programme started. However, negotiations are still very difficult because of the delicate nature of this subject (drawing up of wage guidelines and minimum thresholds for wage/salary rises), so that no practical results have been achieved so far.

8.13. The influence of the trade unions on legislation is limited to a hearing by the Parliament on legal initiatives and the right to participate in working groups. For the largest trade union there is also the possibility of influencing the National Council where it holds a tenth of the votes. However, a vote by the National Council can be overruled by Parliament.

8.14. There are various types of wage agreements: skeleton agreements, sectoral agreements, and agreements for public and social services. As well as the overall skeleton agreements, there are also branch-wide wage agreements, e.g. for textiles, and plant agreements in large enterprises.

8.15. The principle of the wage autonomy of the social partners has not yet been fully recognized by the government, since in 1992 and 1993 it repeatedly used legal measures to break off wage negotiations. Despite the freezing of nominal wages by law for a period of three months (March — June 1993) there was still an overall rise of more than 10 % in real wages in 1993.

8.16. This led to a worsening in the competitiveness of Slovenian products. Because of higher wage costs and its strong currency, Slovenia has already lost some job processing operations to its central and eastern European neighbours with lower wage levels.

8.17. In particular, wage agreements within firms contributed to this rise in real wages, which often exceeded the rise in productivity. Because property relationships were often still unclear before the privatization of publicly-owned enterprises, managers agreed to higher wages to the detriment of the longer-term prospects of the firm, and this in its turn led to an inflation of the volume of credit in the banking system.

8.18. Even the wage agreements negotiated between trade unions and the Chamber of the Economy provided for at least one indexation of wages to the rise in the price level. Because of the liquidity problems caused by the current restructuring process in the Slovenian economy, however, many firms did not keep to these wage agreements or did not feel bound by them.

8.19. In addition to their above-mentioned tasks, provision of legal assistance in the field of labour law is seen as a primary task of the trade unions. However, legislation in this field in Slovenia is not yet very extensive. There is a serious bottleneck in the labour courts, which have a staff shortage, so that even uncomplicated cases can often drag on for a number of years. The law on reform of labour jurisdiction has already been before Parliament for two years. Even after it has been adopted, about 4-5 years are likely to pass before implementation of the new law.

8.20. On the subject of workers' participation in the running of firms, a law was adopted in 1993. It provides for workers' representation in the supervisory board of

a limited company or cooperative society, and for co-determination through works council or ombudsman in questions directly touching upon the workers' area of work. Individual workers also have certain rights of proposal. However, Slovenian trade unions are not yet in a position to exercise their legal rights to the full.

8.21. Works councils are now being set up for the first time in most enterprises. Because the law is so new, consultation of the workers' representatives by management is not yet a matter of routine. A number of years are likely to elapse before co-determination involving workers becomes an established component of Slovenian enterprise culture.

8.22. The self-employed play a special role in the Slovenian economy. Small and medium-sized enterprises (SMEs) constitute more than 70% of the enterprises registered with the Chamber of the Economy. In craft industries and other sectors, they are organized into cooperatives.

8.23. The Slovenian Government is making an effort to promote SMEs. To this end, it has a separate ministry for SMEs and a government-financed fund for their promotion. This fund makes available fixed-term credits, grants interest subsidies for investment projects and underwrites guarantees. In addition the business returns for SMEs are monitored, and promising projects directed towards the internal market of the EU are promoted.

8.24. The Slovenian Chamber of the Economy also assists the self-employed, partly by organizing training seminars for managerial staff. Despite the existing measures the funds available for this purpose are still rather small in relation to the needs. The Chamber of the Economy is also responsible for running the dual training scheme.

8.25. For export promotion there is a special credit programme in Slovenia, under which export credit guarantees are given through the banking system. In addition firms can receive subsidies from a special fund for investment likely to increase exports to western markets. In principle Slovenia is following an export-led growth strategy. At present something over 30% of industrial production is exported. In the long term this percentage should rise to 60-70%. In the light of these aims, however, the funds currently available for export promotion are too small.

8.26. Company taxation includes a uniform corporation tax rate of 30%, so that Slovenia is one of the countries with a rather low company taxation level. For reinvestments, the tax base can be reduced by 20%, and when a part of the profits is put into reserves the tax base can be reduced by 10%. There is also tax relief for newly established firms (in the first year 100%, in the second 66% and in the third 33%). Similar reductions are possible for firms in specially assisted regions.

8.27. Paid-out profits and dividends are subject to a 15% tax at source. In addition, firms make obligatory contributions to social security amounting to about 25% of gross wages.

8.28. There is a progressive personal income tax. The lowest tax rate is 17% and the highest 50%. However, tax evasion is still a relatively widespread problem.

8.29. In indirect taxation, Slovenia wishes to introduce value-added/turnover tax on 1 January 1995, using the system which operates in the Member States of the European Union. At the moment there is a single-stage consumer tax payable at the stage of sale to the final consumer. The general tax rate is 20%. The reduced rate is 10% and covers building materials, coal, wine, clothing and other categories. A rate of 5% applies for example to used cars, fertilizers and agricultural machinery. A top rate of 32% on luxury articles applies to carpets, jewellery and similar products. Exports are tax-free.

8.30. Consumers' interests are defended in Slovenia by a consumer protection association founded in 1990. At present this association has 3,500 members (private persons). It is financed by a membership contribution, but receives project-related funds from the government, e.g. for the publication of a consumer protection magazine. The major part of the association's work is carried out by very committed volunteers. Consumer information contributes to understanding of the market-economy system and of free price formation. Through a network of no-charge telephone information services, consumers can obtain information on goods for sale, and raise objections or make complaints. The consumer protection association is a member of the international consumer organization and the first eastern European member of the international product-testing organization.

8.31. Agriculture in Slovenia consists of 80% small and medium-sized holdings run by families, and 20% large undertakings. In 1993 barely 4% of the Slovenian population was working in agriculture, and 2% in fisheries.

8.32. Crops include maize and other cereals, hops, potatoes, sugar beet, many kinds of fruit and every kind of vegetable. There is a good centuries-old tradition of wine-making (white and red). The quality of Slovenian wines definitely equals that of the best wines from the large European wine-growing areas.

8.33. The greater part of agriculture in Slovenia is now in private hands. About 20 years ago agricultural cooperatives ceased to be set up. After that, land ownership rights were restricted to 10 hectares per person. This figure was raised to 20 hectares per person at the end of the 1970s. There is now no area restriction on ownership of agricultural land for Slovenian citizens.

8.34. It is to be expected that even the surviving agricultural cooperatives will gradually lose their *raison d'être*. This trend was begun by the law on denationalization. Subsequently much agriculturally usable land was given back to former owners. In particular, they include the Roman Catholic Church which claimed its — once very extensive — rural and forestry possessions.

8.35. Slovenia has a separate ministry for environmental protection, which cooperates with the labour ministry and other bodies in implementing regional programmes. At the final consumer stage, certain recycling measures are beginning. For example, the collection of used paper, glass and batteries is already common in the cities. There are also projects for removing litter from the sides of roads, which should lead in the primary schools to children becoming environment-conscious consumers.

8.36. Vehicles with built-in catalytic converters benefit from tax concessions, and unleaded petrol is available at nearly all filling stations. As yet, there are hardly any environmental provisions covering emissions in the industrial production process and other waste substances. The threshold values for maximum permitted pollution are relatively high in comparison with the strictest provisions in the EU (those in Germany).

8.37. Slovenia has one nuclear power station with the capacity to meet about 20 % of the country's energy requirements. Since it is of a type which does not conform to the latest safety standards, some groups of environmentalists are calling for it to be shut down.

9. Legal framework for cooperation with the European Union

9.1. As part of the former Yugoslavia, Slovenia had already developed its trading relations with the European Community under the trade and cooperation agreement applying from 1980 onwards. The disintegration of the former Yugoslavia and Slovenia's declaration of independence necessitated a revision of that agreement. The new agreement was signed on 5 April 1993.

9.2. On 1 September 1993 the new Trade and Cooperation Agreement between the European Community and Slovenia came into force. In many fields (telecommunications, statistics, approximation of laws, etc.) there is to be intensified exchange of information, and cooperation will be encouraged. The agreement now includes a human rights clause which also covers protection of minorities.

9.3. In trade policy, the agreement lays down the immediate abolition of quantitative restrictions and measures of similar effect for industrial products. For other products, access to the European internal market for Slovenian products is facilitated. The rate of duty varies according to class of product. For some products there is a customs ceiling with a higher rate applied if the ceiling is exceeded. For agricultural products certain quotas apply, which arose from a division of the former overall quota. Particular attention to wine is advisable in future negotiations.

9.4. For certain sensitive products such as steel, there are special rules. Thus, on 23 July 1993, a new textile agreement involving special rules was initialled, in which, for example, quotas are replaced by a customs ceiling and a double-checking system. This agreement grants more concessions than the Trade and Cooperation Agreement. Implementation was brought forward to 1 January 1994. Instruments for protection against unfair trading practices (anti-dumping duties, retaliatory duties and other protection measures) can still be applied in reciprocal trade in justifiable cases.

9.5. The cooperation agreement includes a financial protocol. Under this the European Union is to make available to Slovenia by the end of 1997 a total of ECU 150 m. in the form of European Investment Bank (EIB) loans. These loans are intended for improving transport routes, in which the European Union has an interest because of Slovenia's strategic position as a transport crossroads. The loans are to benefit from a 2 % interest rebate. The funds for this (ECU 20 m.) will come from the European Union budget. The EIB has made available an initial loan of more than ECU 47 m. in December 1993 for the renewal of the most important Slovenian rail route, between the Italian border near Trieste and Maribor.

9.6. A transport agreement with Slovenia has also been signed and has been in force since 1 September 1993. Its provisions are linked with those of the financial protocol. Under this agreement, Slovenia grants the road haulage vehicles of the European Union free transit through its territory in return for financial help. In addition, frontier formalities are to be simplified, and Slovenia undertakes to accede to certain international conventions in the transport field (including the AETR).

9.7. At the same time as the Trade and Cooperation Agreement, Slovenia and the 12 Member States of the EU signed a joint declaration on a political dialogue. The aim of this is to consolidate relations between the EU and Slovenia in order to support the political and economic changes there and develop new forms of cooperation. The first official meeting under these arrangements took place in December 1993.

9.8. Since 1992 Slovenia has also been receiving funds from the Phare programme (European Union assistance programme for restructuring the economy in Central and Eastern European Countries). Under the first programme for Slovenia the European Community provided a total of ECU 9 m. in 1992, of which ECU 6.7 m. consisted of technical support, with the other funds being provided under the Tempus programme. In 1993 the European Community provided Slovenia with ECU 11 m. of Phare funds, of which ECU 7.5 m. was for technical assistance. Because bilateral cooperation is operating well, it is planned almost to double the previous amounts in 1994. ECU 12.5 m. are to be made available for technical assistance, ECU 2.5 m. under Tempus and a further ECU 4 m. for other technical programmes to promote regional cooperation (e.g. Eureka, ACE).

9.9. The Slovenian Government has set the following priorities for the use of Phare funds: economic restructuring and privatization (of enterprises and the financial sector), restructuring of the public sector (energy, transport and telecommunications) and closer economic integration with the European Union. One example of the use of Phare funds is the modernization of Slovenian thermal-spring spa resorts to make them reliable in the long term for Slovenia's important income from tourism. However, socio-economic groups in Slovenia would like the Phare programme to have more transparency and improved information on projects.

9.10. In addition, the European Union, through its various institutions, maintains contact with various Slovenian ministries and authorities, and from time to time organizes opportunities for dialogue and exchange of information. One example of this is a seminar organized by the European Commission in Brussels at the end of November 1993, in which representatives of various Slovenian ministries were able to participate.

9.11. Slovenia is also already involved in a number of other Community projects. One example is the agreement signed with Eurostat in January 1994 on cooperation in the statistical field. Under this Slovenia, along with the six Central and Eastern European States which have already concluded Europe Agreements with the European Community, is to receive technical assistance for harmonizing Slovenian statistics with those used in the European Union. To this end, part of the funds available to Eurostat for this purpose (ECU 5.5 m.) can be used in Slovenia.

10. Proposals for a future Europe Agreement

10.1. The Trade and Cooperation Agreement concluded with Slovenia includes a progressive clause. Article 50 provides that the contracting parties will examine the possibility of concluding a Europe Agreement (association agreement) at the earliest opportunity.

10.2. A Europe Agreement would in many ways be considerably more wide-ranging than the existing trade and cooperation agreement. In trade policy, it would involve a gradual dismantling of reciprocal customs duties and other restrictions on trade, going as far as the setting-up of a free trade area. This liberalization of trade would cover most of the reciprocal trade and would be implemented gradually over a transitional period.

10.3. In addition, a Europe Agreement would normally contain provisions on an institutionalized political dialogue, on freedom of establishment for firms and the mobility (usually subject to numerical restrictions) of workers (rights to 'national treatment'), cooperation on environmental protection, inter-cultural exchanges, etc.

10.4. In addition to this extensive liberalization of reciprocal trade, a Europe Agreement would above all contain a reference to the full membership of the European Union aspired to by the associated country. In a Europe Agreement the associated state undertakes to approximate its legislation to that of the European Union.

10.5. Since the associated state has included in such an agreement a written statement of its wish to accede, this gives a stronger incentive to this important harmonization of legislation.

10.6. For its part, Slovenia has expressed its desire to begin negotiations as soon as possible on a Europe Agreement with the European Union and to conclude these before the end of 1994. In the medium term Slovenia aspires explicitly to full membership of the European Union, with all the resulting rights and obligations.

10.7. On the internal procedure in the European Union it should be noted that the European Commission, for its part, has already sounded out Slovenia on a Europe Agreement in December 1993. These soundings showed that no serious complications were to be expected in negotiations.

10.8. In its Decision of 8 February 1993 the Council gave the EU the green light to allow all the States meeting the necessary conditions (including those which were formally part of Yugoslavia, thus in particular Slovenia) to apply for membership of the European Union. By way of preparation, the Council held out the prospect of the necessary supporting measures (Europe Agreements). In April 1994 the Commission will ask the Council for a negotiating mandate for a Europe Agreement, so that the negotiations on a Europe Agreement with Slovenia can be started around May 1994.

11. Recapitulation and final recommendations

11.1. In terms of per capita income and living conditions, Slovenia is the wealthiest of all Central and Eastern European Countries. The country has a long tradition as part of the heart of Europe, clearly reflected in the culture, mentality and lifestyle of the population. Through its autonomy and the particular features of the socialist system in the former Yugoslavia, economic managers and administrators in Slovenia are more used to taking responsibility than in any other central or eastern European country.

11.2. Pluralistic democracy, the rule of law, and respect for human and minority rights are guaranteed in the Slovenian constitution and are also fully implemented. The most important framework laws for the creation of market economy institutions are already in force in Slovenia. Moreover, the country has taken effective measures to modernize and restructure its economy. The government's macro-economic stabilization policy has so far been successful, so that, inter alia, the Slovenian currency is the most stable in central and eastern Europe.

11.3. Slovenia is seeking very intensively and conscientiously to align itself quickly with the European Union. These efforts include seeking to harmonize legislation with that of the EU, subscribing to European standards and cooperating in all other possible areas.

11.4. The European Union is by far the most important trading partner of Slovenia. For the European Union itself, trade with Slovenia is definitely important in scale when compared with trade with other central and eastern European Countries (the value corresponds to 80 % of the EU's trade with Hungary, or nine times that of its trade with Bulgaria).

11.5. There is complementarity in external trade between the European Union and Slovenia, thanks to the differing comparative advantages and the lower wage level in Slovenia.

11.6. Geographically Slovenia is situated at a strategically important point for the European Union in terms of completing the internal market. Slovenia is also an important transit country for the European Union's trade with the countries of Central and Eastern Europe.

11.7. From all these considerations it emerges that a Europe Agreement is a legal framework which Slovenia still lacks for strengthening its economic and democratic position and deepening the integration it seeks with the European Union.

11.8. The Economic and Social Committee welcomes initiatives such as the seminar organized by the European Commission for representatives of the Slovenian ministries and administration. It regards as useful the continuation of such informative contacts with the various levels of Slovenian authorities, in order to facilitate adaptation in Slovenia and help decision-makers to remain on the right track in the process of further integration.

11.9. The Economic and Social Committee recommends that the European Union should soon begin negotiations for a Europe Agreement with Slovenia. It hopes that these negotiations will be completed by the end of 1994.

11.10. Since the economic and social groups in Slovenia are already quite well developed and influence decisions important for the country's economy, the Economic and Social Committee thinks it useful to provide a forum for regular cooperation with the economic and social groups of the EU represented in the ESC. Such cooperation should help draw attention in particular to problems in Slovenian economic life in connection with economic relations with the EU, and thus facilitate a convergence with the structures and economic life of the European Union.

11.11. The Economic and Social Committee therefore proposes that a Joint Consultative Committee be set up as an institutional aspect of the future Europe Agreement. To this end, the Europe Agreement could include an article worded along the following lines.

Proposal for an article to be inserted in the Association Agreement (Europe Agreement) between the European Union and Slovenia — on the setting up of a Joint Consultative Committee

1. A Joint Consultative Committee of the economic and social groups of the European Union and Slovenia shall be set up, with the task of promoting dialogue and cooperation between them.

2. It shall be composed of six members of the Economic and Social Committee of the European Union

and six members of comparable economic and social groups in Slovenia.

3. The abovementioned dialogue and cooperation shall cover all economic and social aspects of relations between the European Union and Slovenia, with particular reference to the fields mentioned in the Europe Agreement.

4. The Joint Consultative Committee shall draw up its own Rules of Procedure.

11.12. The Economic and Social Committee considers that the negotiations on a Europe Agreement should serve as a preliminary run for later negotiations on accession to the European Union. All the important points which could arise in later accession negotiations should therefore be covered in the negotiations for a Europe Agreement.

11.13. In the ESC's view, the assessment of Slovenia's readiness for full membership of the European Union should be based only on its own stage of development and its successes in the reform process. In particular, no parallels should be drawn with other countries of the former Yugoslavia. Nor should the assessment be made dependent on political developments in relation to the other countries of central and eastern Europe.

11.14. The Committee considers that Slovenia, after a properly prepared transition period under the Europe Agreement and after full completion of the free trade area with the EU, will be in such a state of readiness that no further transitional period would be required after its accession to the EU. Thus, at an appropriate time, Slovenia could directly become a member of the European Union with all the usual rights and obligations and without the otherwise usual chronological reservations and restrictions.

11.15. The Committee also considers that the reaching of such a Europe Agreement with the Republic of Slovenia can have a stabilizing role to ensure peace in the whole Balkan/Mediterranean region, and can contribute to gradually increasing economic prosperity.

Done at Brussels, 28 April 1994.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN