

English edition

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II

(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion on the proposal for a Council Directive on taxes other than turnover taxes which affect the consumption of manufactured tobacco — consolidated text

(95/C 133/01)

On 24 November 1994 the Council decided to consult the Economic and Social Committee, under Article 99 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the matter, adopted its Opinion on 7 March 1995. The Rapporteur was Mr Noordwal, who worked without the assistance of a Study or Drafting Group.

At its 324th Plenary Session (meeting of 29 March 1995), the Economic and Social Committee adopted the following Opinion by a large majority, with one abstention.

1. The original Directives were adopted with a view to progressively harmonizing the structure of the specific taxes affecting the consumption of manufactured tobacco. These Directives have been amended on many occasions.

2. The present proposal aims to simplify existing provisions by amalgamating Council Directives

72/464/EEC of 19 December 1972 and 79/32/EEC of 18 December 1978, along with their successive amendments. The new Directive will consolidate the legislation in force, i.e. it will replace the earlier Directives without altering their substance.

3. Given the above remarks, the Committee welcomes the proposal.

Done at Brussels, 29 March 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Regulation (EC) on the European System of National and Regional Accounts in the European Community

(95/C 133/02)

On 29 March 1995, 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 Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 7 March 1995. The Rapporteur was Mr Bento Gonçalves.

At its 324th Plenary Session (meeting of 29 March 1995), the Economic and Social Committee unanimously adopted the following Opinion.

1. General considerations

1.1. The purpose of the proposal is to set up the European System of Accounts (ESA), which will serve as a reference framework for the compiling of national accounts. The ESA will be used in drawing up comparable accounts and tables for EU requirements. A schedule is also to be established for transmitting the ESA-based accounts and tables to the Commission on specific dates.

The Regulation and its Annexes are to be binding on all EU Member States.

1.2. The ESA is based on the System of National Accounts (SNA) adopted by the United Nations Statistical Commission in February 1993 for the purpose of improving the reliability and comparability of data worldwide and adopting statistical systems and models which are consistent with those of the OECD.

1.3. The data to be obtained will be used for determining GNP at market prices so that the third and fourth Community budget resources can be calculated accurately.

1.4. The Structural Fund objectives also stipulate that regions' eligibility for assistance under Objectives 1 and 5(b) is to be determined in the main by comparing their per capita GDP with the Community's overall GDP.

1.5. The proposal and all its annexes were the subject of numerous preparatory meetings at Community level involving the Member States and international bodies.

1.6. The proposed system is to apply solely to Member States' national accounts and to national statistical institutes. No obligations will be imposed on businesses directly.

It may be possible eventually to coordinate the methods used by each Member State to collect data from businesses by modifying the data-collection forms used at present.

1.7. Responsibility for the project is to be shared with the Member States, the aim being to harmonize the concepts and nomenclatures for data collection and to detail the information needed by the main users, viz.:

- Community institutions,
- National, regional and local government,
- International organizations,
- Economic operators,
- Research institutes.

1.7.1. The methods used to collect the data and the collection itself are the responsibility of the Member States.

1.7.2. The aim is to adapt statistical definitions, common classifications and accounting rules to technical and socio-economic developments, as the basis for establishing the list of necessary data.

These data are already collected by the Member States, but collection and presentation should be standardized so that the consolidation of the data produces identical, comparable concepts in all EU Member States.

1.8. The proposed Regulation will lay down the reference framework (concepts, classifications, list of necessary information), while leaving detailed arrange-

ments for the organization and compilation of the accounts to the Member States.

1.9. The Member States will have to bring their statistical systems into line with the Regulation's standards. They will be obliged to supply only such information as is vital for EU requirements.

2. Specific comments

2.1. The ESC notes that Member States will not be obliged to comply with ESA 95 when compiling accounts for their own needs.

2.2. Annex A describes the methodology comprising common standards, definitions, classifications and accounting rules which form the European System of Accounts 95 (ESA 95).

Done at Brussels, 29 March 1995.

2.3. Annex B lists the tables which the national statistical institutes will have to forward to the Commission, together with the corresponding schedule.

2.4. The ESC underlines the importance of setting up the Statistical Programme Committee, as provided for in Article 4.

2.5. The Committee would urge that the deadline laid down in Article 7 for the 'first transmission' be the same for all Member States. Exceptions should be reduced to a minimum or, better still, avoided so that statistical data are collected as quickly as possible in the Community in accordance with comparable concepts and transmission programmes.

3. The Economic and Social Committee approves the proposal and its annexes.

*The President
of the Economic and Social Committee*
Carlos FERRER

Opinion on Europe 2000+ — Cooperation for European territorial development

(95/C 133/03)

At its 324th Plenary Session (meeting of 29 March 1995), the Economic and Social Committee, acting under the third paragraph of Rule 23 of its Rules of Procedure, adopted, by a large majority with two abstentions, the following Opinion on Europe 2000+ — Cooperation for European territorial development.

The Section for Regional Development and Town and Country Planning adopted its Opinion unanimously on 10 March 1995. The Rapporteur was Mr E. Muller.

1. General comments

1.1. The Committee notes with satisfaction that some of the recommendations made in its Opinions on the earlier Communication 'Europe 2000 — Outlook for the Development of the Community's Territory' ⁽¹⁾ are now reflected in the Community's approach to spatial planning and more particularly in the new Communication.

1.2. The Committee is pleased to have the opportunity to give its views on the new Communication, which was welcomed by the informal Council in Leipzig in September 1994. The Communication lays the foundations for the framing of a 'European Spatial Development Perspective' and for research work, pilot projects, and the establishment of a European network of research institutes ('European observatory').

1.3. The present Opinion represents an initial stance on the part of the Committee and is designed to aid the work of the informal Council in Strasbourg. It focuses on those aspects of the Communication which the Committee feels can be rapidly translated into cooperation-based spatial planning initiatives in tune with the new approach set out in the Communication, which the Committee broadly endorses.

1.4. This new approach reflects a growing public awareness of the need for a spatial planning policy drawn up in consultation with all the parties concerned — and, in particular, local and regional authorities and the socio-economic partners.

1.5. Hence the new cooperation-based policy must fit in with the wider objectives of economic and social cohesion and enhancement of the quality of life. Due account must also be taken of differing local circum-

stances, and of the need to work in partnership with the different players concerned. The Committee means to play its full advisory role in this.

2. Specific comments and recommendations

Pending more detailed examination of the Communication, the Committee wishes as of now to make a positive contribution to the informal Council in Strasbourg, and has decided to concentrate on the following aspects:

2.1. The Communication demonstrates the need for cooperation at various levels and in a number of spatial planning spheres, and sketches out broad lines for such cooperation. It shows that an EU spatial planning policy is urgently needed.

Such an objective is also supported by various Articles of the Treaty (Article 130 on cohesion, Article 129b on trans-European networks, and Article 130s on the environment) and by several chapters of the White Paper on Growth, Competitiveness and Employment.

In the Committee's view, Article 129d of the Treaty (trans-European networks) can provide further justification for a spatial planning policy. The Council could usefully draw on this Article when drawing up the European Spatial Development Perspective (ESDP).

Further justification for the establishment of a European spatial planning policy is provided above all by the fact that spatial planning decisions are inextricably bound up with the implementation of other Community policies, because of the intermeshing and impact on spatial planning of the EU's mandatory policies.

(¹) OJ No C 287, 4. 11. 1992 and OJ No C 339, 31. 12. 1991.

2.1.1. The Committee considers that a European spatial planning policy must respect Member States' differing systems for allocating powers.

2.1.2. As a spatial planning policy can be put into effect in various ways, the Committee calls for explicit enshrinement of this policy in the revised Treaty to be drawn up at the 1996 Intergovernmental Conference. The Committee asks the Member States and Community authorities to begin work on this forthwith and to foster awareness of the justification of such a policy, while taking account of the subsidiarity principle, the overall reinforcement of competitiveness, and the specific features of each Member State.

2.2. The Committee views the function of the Committee on Spatial Development, and more especially the ESDP, as being to provide a practical analysis of developments since 1989, reflecting the changes which have occurred in a number of spheres. In this way it can help to meet the concerns of the public and the socio-occupational organizations, notably as regards quality of life.

The ESDP should be viewed as a first step towards translating the principles and guidelines set out in Europe 2000+ into concrete policy.

2.2.1. At all events, the Committee thinks that the ESDP should do more than sketch out new general concepts and guidelines based on broad principles such as promotion of economic and social cohesion, balanced and sustainable development, and respect for the subsidiarity principle and the cultural heritage.

The ESDP should also detail the fields to be covered, and should propose a mechanism for guaranteeing that projects are consistent with it and that proper cooperation arrangements are put in place, backed by a coordination instrument.

The document which has already been issued does not appear to provide a good starting point in this respect.

2.2.2. It will be up to the Strasbourg Council to identify possible action fields at EU level, within the context of the guidelines laid down in the ESDP. The legal status of the ESDP, and its effects on a European spatial planning policy, will also need clarification.

2.3. While welcoming the setting-up of the Committee on Spatial Development (CSD) which is drawing up the ESDP, the Committee considers that its role within the Community's advisory machinery needs to be more clearly defined, as do its tasks, objectives, membership and operating rules.

2.3.1. The Committee considers that, in the interests of effectiveness and openness, the CSD should closely involve representatives of the local and regional authorities and the relevant socioeconomic partners in its work.

2.3.2. The Committee considers that the present CSD — which remains an instrument for cooperation between the Commission and the Member States — should aim to adopt an ESDP which sets out priorities and objectives, which is accepted by all the parties concerned, and which can provide a basis for all cooperation-based schemes at Community, national, regional or local level.

2.3.3. Thought must also be given to the status of the CSD, with a view to extending it beyond the 'intergovernmental' stage. The Committee feels that with the enshrinement of spatial planning policy in the new Treaty, the CSD could be made an advisory committee.

Similarly, the Council of Spatial Planning Ministers should cease to be an informal Council.

2.4. The Committee welcomes the setting-up of the European observatory advocated in its earlier Opinion⁽¹⁾. The Opinion specified that the Observatory should enjoy 'a certain independence vis-à-vis the national and Community authorities' and should be 'backed up by a network of research institutes and

⁽¹⁾ Europe 2000 — Outlook for the Development of the Community's territory (OJ No C 339, 31. 12. 1991, point 4.6).

bodies in all the Member States'. The Committee calls on the Strasbourg Council to define the duties and operating rules of this network.

2.5. The Committee will consider priority fields and actions at a later date, but feels that certain comments must be made as of now with a view to safeguarding and improving the quality of life.

It is clear that all future EU policy action — whether it concerns the internal market, EMU, competitiveness, employment, or internal and external security — will only succeed if special attention is paid to the quality of life in the Community.

2.5.1. Accordingly, spatial planning policy must be treated as a key factor in improving quality of life and must be equipped with the requisite practical means. By the same token, to mention only one example, a concrete link must be established between spatial planning and environment policy, and between spatial planning and regional policy.

2.5.2. Europe 2000+ and the ESDP identify certain transnational cooperation areas. An appropriate financial instrument must therefore be devised for implementing this cooperation, within the framework of an appropriate coordination mechanism. This could take the form of a specific Community initiative programme, since existing instruments (such as Interreg) do not meet the objectives of this policy, unless it proves possible to adapt and harness these instruments to the 'cooperation for territorial development' scheme.

2.5.3. The Committee asks the informal Council to look into the scope for coordinating existing regional development instruments (Structural Funds, European Investment Fund, EIB) with those to be set up for spatial planning.

2.5.4. The Committee asks the Council to draw up forthwith a provisional schedule for the implementation of the ESDP and for the setting-up of the European observatory.

Done at Brussels, 29 March 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Regulation (EC) modifying Regulation (EEC) No 3928/92 establishing a NAFO pilot observer scheme applicable to Community vessels operating in the Regulatory Area of the Northwest Atlantic Fisheries Organization

(95/C 133/04)

On 21 March 1995 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 2 March 1995. The Rapporteur was Mrs Santiago.

At its 324th Plenary Session (meeting of 29 March 1995), the Economic and Social Committee adopted the following Opinion *nem. con.* with two abstentions.

1. Introduction

1.1. At its 14th annual meeting, held on 14-18 September 1992, the Fisheries Commission of the Northwest Atlantic Fisheries Organization (NAFO) adopted an 18-month pilot observer scheme involving the placing of observers on board Community vessels fishing in the NAFO regulatory area.

1.2. As a contracting party to NAFO, the European Union adopted the scheme in Regulation (EEC) No 3928/92.

1.3. The pilot scheme was subsequently extended for a further six-month period. At its 16th annual meeting, held on 20-23 September 1994, the NAFO Fisheries Commission decided on yet a further 12-month extension to 31 December 1995.

1.4. The present proposal seeks to amend the expiry date of Regulation (EEC) No 3928/92 accordingly.

2. General comments

2.1. Whilst the Committee does not oppose the Commission proposal to extend the NAFO scheme until 31 December 1995, it would like to make certain comments.

2.2. The Committee is surprised and saddened that it was not consulted on Regulation (EEC) No 3928/92, and draws attention to the fact that it is now being asked to issue a retrospective Opinion on a decision taken in September 1994.

2.3. The Committee regards the presence of observers on board Community vessels as one of several ways of protecting fishery resources. By accepting this practice,

the EU is demonstrating its good faith and contributing to rational, sustainable fishing activity.

2.4. The EU supports the development of appropriate global methods for managing resources in certain areas and for distributing fishing possibilities between the contracting parties.

2.5. The Committee points out that over a quarter of fish for human consumption is caught in international waters or waters that come under the jurisdiction of third countries, including NAFO waters.

2.5.1. It is thus vital that the EU effectively protect its historic fishing rights in international waters. These rights have been steadily eroded by a string of unilateral impositions introduced ostensibly because of the depletion of fishery resources.

2.5.2. Certain environmental protection measures may in practice be nothing more than a form of trade protectionism designed to defend the interests of a particular country's fishermen.

2.6. The fishing effort of Community vessels in the NAFO area is not the only cause of the alleged depletion of certain fish stocks. The replenishment of depleted stocks is also made difficult by other factors such as environmental and climate changes, imbalances between the number of marine species, and, in particular, the presence of fishing vessels of non-contracting parties whose catch levels and fishing methods are not subject to proper controls.

3. Specific comments

3.1. To protect resources effectively, it is necessary to reinforce and extend the existing global monitoring programme in order to keep a check on catch levels, particularly those of vessels flying flags of convenience or non-contracting parties.

3.2. The Committee hopes that the international code of conduct on responsible fishing, being drawn up by

the FAO, will be concluded shortly as it will help to ensure more rational and orderly deep-sea fishing.

Done at Brussels, 29 March 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Regulation (EC) amending Council Regulation (EEC) No 3013/89 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾

(95/C 133/05)

On 19 January 1995, 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 2 March 1995. The Rapporteur was Mr Strauss.

At its 324th Plenary Session on 29 and 30 March 1995 (meeting of 29 March 1995), the Economic and Social Committee unanimously adopted the following Opinion.

1. Italian and Greek increases in quota for ewe and female goat premium

1.1. The Committee is in general agreement with the proposal.

1.2. It will be essential to ensure that the allocation of any extra individual rights should be conditional on firm proof of eligibility.

1.3. It was in part administrative confusion and the extreme complexity of the system which prevented producers from claiming ewe premiums to which the Commission now feels they were entitled. The Committee therefore believes that a retrospective payment of premium should be made for 1991 to the relevant

producers in Italy and Greece who were not able to claim their full entitlement that year. Quota rights should be adjusted accordingly. Firm proof of actual ewe numbers will have to be furnished for each of the years for which an increased claim is lodged.

1.4. The Committee believes that the Commission should consider whether there is a case for increasing quota allocations to meet the legitimate demands of new entrants and producers who had embarked on investment plans before the introduction of quotas in 1993. The regulation states explicitly that the needs of such producers should be provided for by the reserve.

2. Definition of the producer

2.1. The Committee agrees with the proposal.

2.2. Considerable care will have to be taken to ensure that the greater element of flexibility in the

⁽¹⁾ OJ No C 382, 31. 12. 1994, p. 37.

application of quota transfer will not endanger the operation of the syphon which is necessary to ensure

that the sheep sector continues to become more competitive.

Done at Brussels, 29 March 1995.

The President
of the Economic and Social Committee
Carlos FERRER

APPENDIX

to the Opinion of the Economic and Social Committee

Summary of Proposals for which the Economic and Social Committee's Opinion has been sought

The Council, in agreeing the 1994/95 price package asked the Commission to bring forward proposals on Italian and Greek problems associated with taking 1991 as a base year for allocation of premium rights and also on the transfer of rights within a partnership.

Italian and Greek increases in quota for ewe and female goat premium

Under the sheepmeat and goatmeat regime compensatory payments in the form of premiums on ewes and female goats are paid to producers. Following the 1992 CAP reform, individual quotas were introduced based on producers' claims in 1991.

The Commission proposes to increase the Italian quota allocation by up to 600,000 premium rights. This reflects the Italian authorities claim that:

- with the change in application dates between 1990 and 1991, some 140,000 applications were lost;
- errors in interpreting the Community regulations reduced the number of payments in Sardinia by 460,000 below the number of eligible ewes.

For Greece too, the Commission is proposing to increase quota by up to 600,000 premium rights. This is to reflect the underclaim of premium in 1991 which was a transition year.

Definition of the producer

When there is a transfer of premium rights, the regulation allows for a syphon of up to 15% to be levied to the national reserve. This is a particular problem where there is a high number of family partnerships. The loss of 15% of rights is considered harsh particularly when such transfers occur within such partnerships.

The Commission is now proposing to overcome such difficulties by introducing an element of flexibility which will still preserve the underlying principles of the syphon.

Opinion on the proposal for a European Parliament and Council Directive amending Directive 93/16/EEC which facilitates the free movement of doctors and provides for the mutual recognition of their diplomas, certificates and other evidence of formal qualifications, and conferring implementing powers on the Commission for the updating of certain Articles thereof⁽¹⁾

(95/C 133/06)

On 18 January 1995 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 Section for Social, Family, Educational and Cultural Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 9 March 1995. The Rapporteur was Mr Fuchs.

At its 324th Plenary Session (meeting of 29 March 1995), the Economic and Social Committee adopted the following Opinion unanimously.

1. General comments

1.1. The Economic and Social Committee notes that the purpose of the proposed company directive is to bring about more efficient updating of certain articles of Directive 93/16/EEC, which relates to doctors.

1.2. It acknowledges that the present situation as regards specialists' qualifications in the Member States is not reflected in the consolidated text of the Directive.

1.3. The Committee welcomes the intention of incorporating in Directive 93/16/EEC adaptations of descriptions of specialists which have been introduced or amended in the Member States in the meantime.

2. Specific comments

2.1. *Legal procedure*

2.1.1. The Committee notes that the intention is to introduce a legal procedure for amending Article 5 (3) and Article 7 (2) of Directive 93/16/EEC concerning the rules on the mutual recognition of specialists diplomas, certificates and other qualifications, and Articles 26 and 27 concerning the minimum duration of further training in the specialist areas described therein.

2.1.2. The basis for the introduction of this procedure is the Council decision laying down the procedures for the exercise of the implementing powers conferred on the Commission (Decision 87/373/EEC)⁽²⁾.

A new Article 44 A will empower the Commission to amend the above provisions.

For the amendment of Article 5 (3) and Article 7 (2) the advisory committee procedure under the above Directive is to be used, whereas for amendment of Articles 26 and 27 the management committee procedure is to be used.

In the first case the Commission has the final decision even if the advisory committee should disagree. In the last case, should the management committee disagree, the Council would still have the possibility, by a qualified majority, to 'take a different decision within the time limit referred to in the previous paragraph'.

2.1.3. The Committee of Senior Officials on Public Health set up by Council Decision 75/365/EEC, which is the ESC's view should as far as possible be composed of experts, is to function both as advisory committee (Article 5 (3) and Article 7 (2)) and as management committee (Articles 26 and 27). It should be pointed out here that this committee is composed of senior officials in the field of public health appointed by the Member States, and concerned not only with doctors but also with nurses, dentists and midwives.

2.2. *The aims of the authorization must be clarified*

2.2.1. The Committee notes that the authorization for the Commission to amend the said Articles is more extensive than the aim of the draft — namely a more efficient updating of certain Articles — warrants.

2.2.1.1. The Committee doubts, first of all, the basis in Community law for this authorization to amend, since under Article 145 of the EC Treaty 'the Council shall confer on the Commission, in the acts which the Council adopts, powers for the implementation of the rules which the Council lays down'. However, when

⁽¹⁾ OJ No C 389, 31. 12. 1994, p. 19.

⁽²⁾ OJ No L 197, 18. 7. 1987, p. 33.

using such powers, the Commission may neither amend nor supplement the legal acts of the Council to be implemented.

2.2.1.2. Such a far reaching authorization is unnecessary, given that it is only a question of the adoption of new specialist descriptions, the amendment of existing specialist descriptions and the amendment of the minimum duration of further training for specialists.

2.2.1.3. The Committee takes note of the justification for the planned amendment procedure for Article 26 and 27, which includes the statement:

'The question of the length of training for medical specialists is one which involves financial considerations and many Member States national care delivery systems are dependent on trainee specialists.'

However, in the Committee's view, costs are not important for the duration of further training, the sole decisive issue is whether the planned duration of further training suffices for a doctor to be recognized as having thorough knowledge and experience, i.e. as a specialist. For the same reason the Committee has doubts about the general powers of the Commission to amend these provisions.

2.2.1.4. The Committee points out that the 'updating' of specialist qualifications is not only a technical or drafting question of inclusion in the catalogue; in individual cases it entails an evaluation of qualitative and substantive conformity with the relevant specializations.

2.2.1.5. The Committee therefore proposes that given the aims of the Draft Directive (2.2.1.2), the new Article 5(4) and Article 7(3) and the new sections of Articles 26 and 27 should make it clear that the Commission's powers are based on the standard rules laid down in these provisions. In other words, the Commission's powers should be confined to the adoption and amendment of specialization descriptions on the basis of Member States' data, and to the amendment of the minimum duration of specialist further training.

2.2.1.6. The Committee therefore proposes that Articles 1 and 2 of the Draft Directive be reworded as follows:

'Article 1

In Article 5 of Directive 93/16/EEC, the following new paragraph shall be added:

"4. Paragraph 3 of this Article shall be modified in accordance with the procedure set out in Article 44A(2), only as regards the adoption of new or amendment of existing descriptions of specializations as proposed by the Member States."

In Article 7 of Directive 93/16/EEC, the following new paragraph shall be added:

"3. Paragraph 2 of this Article shall be modified in accordance with the procedure set out in Article 44A(2), only as regards the adoption of new or amendment of existing descriptions of specializations as proposed by the Member States."

Article 2

In each of Articles 26 and 27 of Directive 93/16/EEC, there shall be added the following new sentence:

"The provisions of this Article shall be modified in accordance with the procedure set in Article 44A(3), only as regards modifying the minimum period of specialist training as proposed by the Member States."

2.3. Involvement of the advisory committees for further medical training

2.3.1. The Committee points out that the Advisory Committee for further medical training (Council Decision 75/364/EEC of 16 June 1975) has been set up in connection with the original adoption of the 'doctors' Directive'. Taking account in particular of the reasons set out above (2.2.1.3 and 2.2.1.4) the Committee therefore regards it as necessary to involve the aforementioned Advisory Committee in the procedure. The Committee regards it as inadequate for the matter to be left to the Committee of Senior Officials for Public Health.

2.4. Involvement of European doctors' organizations

2.4.1. The Committee stresses that the proposed amendment procedure for medical further training raises questions for the medical profession which must be discussed by experts. This applies to the question of which new specialization descriptions should be included and to the conformity evaluation of new specialization descriptions. It applies equally to the modification of minimum requirements, e.g. the duration of further training and to determination of the category of minimum duration which is to be laid down at EU level for individual new specialists careers.

2.4.2. The Committee therefore regards it as necessary for the Standing Committee of European Doctors, as the federation of national organizations at European level, to be asked for its opinion in all procedures.

2.4.3. The Committee therefore proposes that the above principle be enshrined in the new text of Article 44 A as follows:

"4. The Commission shall make its proposals after consulting the Advisory Committee for further medical adjudication (75/364 EEC of 16 June 1975).

It should also give the Standing Committee of European Doctors the opportunity to express an opinion. Before submitting proposals for amendment, the Commission shall ask the Standing Committee of European Doctors for proposals.'

2.4.4. The Committee points out that in its Opinion of 26 February 1992⁽¹⁾ on the drawing up of the codification Directive, it called for EU bodies to be assisted by medical expertise:

'The Committee is aware that the medical profession and the Advisory Committee on Medical Training is already reexamining the qualitative aspects of specialist training and urges the Commission to make proposals to effect any recommended changes as soon as possible, in the interest of both doctors and their patients.

Medical progress and professional expertise is evolving at such a rate at present that the Commission has an obligation to continually keep under review current medical matters. It is important that the expert committee (the Advisory Committee on Medical Training) is provided with sufficient backup to enable it to carry out its vital Advisor's role to its full extent.'

The Committee is convinced that this 'backup' must and can come from the representatives of the European medical profession, namely the Standing Committee.

(1) OJ No C 98, 21. 4. 1992.

This backup should therefore be 'institutionalized' through the provision proposed above (2.4.3).

2.5. *Member States to consult the national medical professions*

The Committee proposes that the Commission be urged to ensure, when a draft Directive is being drawn up, that the Member States' authorities responsible for further training take account of the views of the national medical profession.

2.6. *Further development of the system of recognition of doctors' diplomas with the support of the Standing Committee of European Doctors*

2.6.1 The Committee suggests examination of the question of whether the present system of individual references to the extremely varied descriptions of specializations used in the individual Member States, could not be replaced by a more simple system of mutual recognition of main specializations and associated 'sub-specializations'.

2.6.2. To this end the Committee proposes that when it takes a decision on the Draft Directive under review, the Council should instruct the Commission to request the Standing Committee of European Doctors to produce a proposal on the further development of the mutual recognition arrangements for specialist medical qualifications, with the aim of improving freedom of establishment and freedom to provide services.

Done at Brussels, 29 March 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Directive on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses⁽¹⁾

(95/C 133/07)

On 28 September 1994 the Council decided to consult the Economic and Social Committee, under Article 100 of the Treaty establishing the European 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 9 March 1995. The Rapporteur was Mr Liverani.

At its 324th Plenary Session (meeting of 29 March 1995), the Economic and Social Committee adopted the following Opinion by 95 votes to 80, with four abstentions.

1. General comments

1.1. *The reasons for revising Council Directive 77/187/EEC*

1.1.1. During the 1980s, a series of problems arose over the interpretation of Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses, which the European Court of Justice has tried to resolve in several judgements.

1.1.2. Furthermore, one of the weak points of the 1977 Directive arises from the lack of any specific protection for employees transferred in the context of insolvency proceedings or because the undertaking is experiencing serious economic difficulties. In this respect, the European Court of Justice has held, on several occasions, that the Directive does not apply in the case of transfers taking place in the context of liquidation proceedings which do not allow the company to survive.

1.1.3. Therefore, the Commission has decided to revise the 1977 Directive, in order to remedy its shortcomings and loopholes, within the framework of Community case law.

1.1.4. The shortcomings and loopholes of the 1977 Directive must be eliminated in order to address the needs for high levels of employment and social protection in the EU. However, the 1977 Directive must be revised without prejudice to workers' rights.

1.2. *Ambiguities in the proposed revision of Council Directive 77/187/EEC*

1.2.1. Unfortunately, the Commission's proposal for the revision of the 1977 Directive is, in some respects, ambiguous.

1.2.2. In its Explanatory Memorandum, the Commission states that 'any appraisal of the shortcomings and loopholes of the transfer Directive must take into account (...) the case law of the European Court of Justice' (point 2). Moreover, the fourth recital of the proposal states that 'the purpose of this proposal is to amend Council Directive 77/187/EEC of 14 February 1977 in the light (...) of the case law of the European Court of Justice'.

1.2.3. However, although several sections of the Commission proposal take European case law into account (definition of transfer, application of the Directive to undertakings engaged in nonprofit making activities), the second sub-paragraph of Article 1(1) introduces a distinction between 'economic entity' and the 'activity' of an undertaking which seems highly ambiguous.

1.2.4. There are, in fact, consistent references in Court of Justice case law (e.g. the Spijkers case⁽²⁾) to the concept of an economic entity which retains its identity, and the Court has indicated the actual conditions which must be taken into consideration for the implementation of the 1977 Directive. The Commission proposal, in mentioning not just the 'transfer of an economic entity which retains its identity', but also the 'transfer of only an activity of an undertaking, business or part of a business' introduces new elements of uncertainty, since it is not clear whether the latter phrase has bearing on the case-law concept of 'economic entity which retains its identity' or adds something extra to this concept.

1.3. The Committee is concerned that the text proposed by the Commission may have indirectly discriminatory effects. For example, if the intention of the revision of Article 1(1) is to exclude the sub-contracting of ancillary activities from the scope of the Directive then this is likely to have a disproportionate effect on women. As the labour force statistics of the OECD

⁽¹⁾ OJ No C 274, 1. 10. 1994, p. 10.

⁽²⁾ Judgement of 18 March 1986, Spijkers (case 24/85), in European Court Reports, 1986, pp. 1119-1130.

make clear, the majority of workers employed in such occupations in both the public and private sectors are women. If the proposed text is adopted by the Council then many women will find themselves deprived of rights that are otherwise more generally available to men at work. It is strongly arguable that this is contrary to the Treaty provisions guaranteeing equal treatment of men and women and other equal opportunities legislation.

2. Specific comments

2.1. *Definition of 'employee'*

2.1.1. The proposal provides no definition of 'employee'.

2.1.2. The European Court of Justice has ruled that, for the purposes of the 1977 Directive, the term 'employee' must be interpreted as including anyone who, in the Member State concerned, enjoys protection as an employee under national labour law. A decision as to whether this is actually the case falls within the competence of the national legal authorities.

2.1.3. It follows that the interpretation of the term 'employee' in the new Directive must be the same as that provided by the European Court of Justice for the 1977 Directive.

2.2. *Definition of transfer*

2.2.1. The European Court of Justice has given a wide interpretation to the use of the term 'transfer' in the 1977 Directive.

2.2.2. Thus, the Commission proposes, in the light of Community case law, that the new definition of 'transfer' should cover any transfer of undertakings, businesses or parts of businesses from one employer to another.

2.2.3. This new definition is both more explicit and more exhaustive.

2.2.4. The Committee believes that, for greater clarity, it should be specified that the Directive applies to all transfers, as detailed above, which affect workers.

2.3. *The distinction between 'economic entity' and 'activity'*

2.3.1. The second sub-paragraph of Article 1(1) of the proposal provides for a distinction between the 'transfer of an economic entity which retains its identity' and the 'transfer of an activity of an undertaking, business or part of a business'. This distinction is not to be found in the 1977 Directive.

2.3.2. The reference to 'economic entities which retain their identity' occurs consistently in the Court of Justice's case law. According to the Court of Justice, the decisive criterion for establishing, for the purposes of the 1977 Directive, whether there is a transfer, is that the economic entity retains its identity, taken to mean a self-contained set of elements pursuing a specified economic objective, even where the activity is an ancillary one.

2.3.3. The Commission's proposed distinction between 'economic entity' and mere 'activity' is difficult to interpret. Moreover, there seems to be no clear legal basis for not recognizing the Court of Justice's case law.

2.3.4. From a legal standpoint, the distinction is ambiguous, and it will require further interpretation by the Court of Justice in order to make a clear distinction between 'economic entity' and mere 'activity'. The Committee wonders, for example, which designation will cover contracting out of services.

2.3.5. Obviously there will be much doubt in interpreting the new provision for 'the transfer of only an activity of an undertaking, business or part of a business' and, ultimately, it will always be left to the judge to clarify the matter.

2.3.6. Thus the proposal could be interpreted as a step backwards compared to the 1977 Directive, since it would once again bring into question issues which seemed to have been already resolved from a legal point of view.

2.3.7. In short, in contrast with its declared aims (safeguarding employees' rights in the event of transfers of undertakings, businesses or parts of businesses), the proposal undermines employees' rights in this respect.

2.4. *Applying the Directive to public and private undertakings*

2.4.1. The Committee endorses the application of the Directive to both public and private undertakings.

2.5. *Applying the Directive to undertakings engaged in non-profit making activities*

2.5.1. In the absence of any explicit provision in the 1977 Directive, the Court of Justice has ruled that an entity may be engaged in economic activity and be regarded as an undertaking for the purposes of Community legislation even if it is not operated for gain.

2.5.2. The proposal extends the scope of the Directive to include undertakings engaged in non-profit making activities.

2.5.3. The Committee endorses this extension.

2.5.4. Nevertheless, given the differences in Member State legislation, the Committee feels that it would be expedient to specify that the Directive also applies to the cooperative sector.

2.6. *Applying the Directive to sea-going vessels*

2.6.1. The 1977 Directive does not apply to sea-going vessels.

2.6.2. The proposal also extends the safeguarding of employees' rights to the crews of seagoing vessels. However, for practical reasons, and in view of the special nature of sea-going employment, it gives Member States the power not to apply Section III (information and consultation) of the Directive.

2.6.3. The proposal is most certainly a considerable improvement on the 1977 Directive; it should be said, however, that this option, which is designed to provide greater flexibility for the marine navigation sector, nevertheless constitutes a departure from the principle that all workers, including the crews of sea-going vessels, must enjoy the same rights.

2.7. *Extension of the Directive to part-time, fixed duration and temporary employees*

2.7.1. The 1977 Directive makes no reference to part-time, fixed duration and temporary employees.

2.7.2. The scope of the proposal is explicitly extended to include these categories.

2.7.3. The Committee endorses this.

2.8. *Definition of representatives of employees*

2.8.1. In certain Member States, some people who sit on company administrative, governing or supervisory bodies do so as employees' representatives. The 1977 Directive excludes them from the definition of 'representatives of the employees'.

2.8.2. The proposal for a Directive quite rightly makes no reference to this exclusion.

2.8.3. It would, however, be wise to include in the definition of 'representatives of the employees', a reference to the recent Council Directive 94/45/EC of

22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees.

2.8.4. Furthermore, it is obvious that this reference could not be included in the proposal for a Directive, since the proposal (8 September 1994) predates the Directive (22 September 1994).

2.9. *Joint liability of transferor and transferee*

2.9.1. The 1977 Directive gave Member States the option of providing for the joint liability of transferor and transferee.

2.9.2. The new proposal obliges Member States to incorporate provisions for joint liability of transferor and transferee into national law, and introduces a twofold limitation of this liability.

2.9.3. Whilst appreciating the Commission's efforts in this direction, the Committee expresses its concern regarding this twofold limitation.

2.10. *New provisions in insolvency situations*

2.10.1. The 1977 Directive includes no specific provisions for the transfer of undertakings, businesses or parts of businesses involving insolvency proceedings.

2.10.2. The proposal's new provisions on insolvency situations are a welcome attempt to introduce an element of flexibility.

2.10.3. However, these new provisions do not seem to eliminate completely the fraudulent use of bogus liquidation proceedings.

2.10.4. Furthermore, the provision for Member States to allow employers and employees' representatives to change the conditions of employment by an agreement concluded as a means of ensuring the survival of the undertaking, introduced in Article 4(3) of the proposal, does not seem to provide adequate employment protection, and could undermine the conditions of employment.

2.10.5. The power to change the conditions of employment could give rise to genuine disparities between employers and employees. The latter could in fact be faced with the choice of either accepting a pay-cut or seeing the closure of the firm.

2.11. *The need to refer to Council Directive 92/56/EEC in insolvency situations*

2.11.1. The proposed exclusions to the application of the new Directive in insolvency situations must not, however, undermine employees' rights.

2.11.2. The Committee therefore believes it necessary to include, in the provisions on transfers related to insolvency situations, a specific reference to Council Directive 92/56/EEC of 24 June 1992, amending Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies. This would afford better protection for employees, and give them the cover provided for in collective redundancies.

2.12. *Status and functions of the employees' representatives*

2.12.1. The Committee believes that the status and functions of the employees' representatives in transfer cases are adequately preserved.

2.13. *The transnational dimension of information and consultation*

2.13.1. The transnational dimension of information and consultation does not seem to be adequately developed.

2.13.2. Furthermore, the Committee emphasizes the need for a provision on confidentiality making it possible to withhold sensitive financial information or communicate it on a confidential basis, in accordance with current rules and practices in the Member States.

2.13.3. The Committee therefore believes that the provisions on information and consultation should include a specific reference to Council Directive 92/56/EEC of 24 June 1992, amending Directive 75/129/EEC on the approximation of the laws of the Member States relating to collective redundancies, and Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees.

2.14. *Derogation on the obligation to inform and consult for certain categories of undertakings or businesses*

2.14.1. The proposal allows Member States to limit the obligation to inform and consult to certain categories of undertakings or businesses.

2.14.2. Consequently, for the purposes of the Directive, undertakings and businesses which normally employ less than 50 workers or which do not fulfil the workforce size thresholds for the election or nomination of a collegiate body representing the employees, could be excluded from the obligation to inform and consult, which the transferor and the transferee are normally required to comply with.

2.14.3. The Committee does not endorse this option. The Committee also regrets the fact that the Directive makes no reference to the retention of more favourable Member State legislation in this area.

2.15. *More favourable provisions*

2.15.1. The proposal gives Member States the power to promote or allow collective agreements or agreements between social partners which are more favourable to employees.

2.15.2. The Committee endorses this addition.

2.16. *Procedures for non-compliance with the requirements of the new Directive*

2.16.1. The proposal requires Member States to introduce into their national legislation such measures as are necessary to enable all employees who consider themselves wronged by failure to comply with the obligations arising from the new Directive to pursue their claims by judicial process after possible recourse to other competent authorities.

2.16.2. The Committee endorses this addition.

3. **Suggestions for concrete solutions to the problems posed by the new Directive**

3.1. *The recitals*

3.1.1. The Committee would delete the seventh recital.

3.2. *Article 1*

3.2.1. The Committee would add the following phrase to the first subparagraph of Article 1(1): 'and which affects workers.'

3.2.2. The Committee would amend the second subparagraph of Article 1(1) as follows:

'For the purposes of this Directive, the transfer of an undertaking, business or part of a business shall be deemed to occur when there is a transfer of an economic entity which retains its identity'.

3.2.3. The Committee would add the following to Article 1(5):

'provided that employees enjoy protection which is at least equal to that provided for in Council Directive 92/56/EEC of 24 June 1992 on collective redundancies'.

3.3. Article 2

3.3.1. The Committee would add the following to Article 2(1)(c):

'or by Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees'.

3.4. Article 4

3.4.1. The Committee would amend Article 4(5) as follows:

'Without prejudice to paragraph 2 of this Article, where the agreement referred to in paragraph 3 is not concluded, the Member States may confer on the competent judicial authorities the power to alter or terminate contracts of employment or employment relationships existing on the date of a transfer effected in the framework of insolvency proceedings referred to in Article 3(4) to ensure the survival of the undertaking, business or part of a business, provided that the employees enjoy protection which is at least equal to that provided for by Council Directive 92/56/EEC of 24 June 1992 on collective redundancies'.

3.5. Article 6

3.5.1. The Committee would add a further subparagraph to Article 6(1) as follows:

'When applying the present Directive in the context of information and consultation, consideration shall be given to Council Directive 92/56/EEC of 24 June 1992, amending Directive 75/129/EEC on the approximation of the laws of the Member States relating to collective redundancies and Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees'.

3.5.2. The Committee would then add a further subparagraph to Article 6(1) as follows:

'Member States may grant the transferor and transferee the right to withhold sensitive financial information or communicate it on a confidential basis, in accordance with current rules and practice in the Member States.'

3.5.3. The Committee would add a second paragraph to Article 6(4), to read as follows:

'A Works Council shall be established in Community-scale undertakings for the purposes of informing and consulting employees, prior to any possible transfer, on any measures envisaged which might affect their interests, in keeping with the provisions of Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council'.

3.5.4. The Committee would delete Article 6(5).

3.5.5. The Committee would add a further paragraph after the last paragraph of Article 6, as follows:

'The provisions of this Article shall be without prejudice to the application of more favourable provisions for employees, as currently enshrined in individual Member State legislation.'

Done at Brussels, 29 March 1995.

The President
of the Economic and Social Committee
Carlos FERRER

APPENDIX I

to the Opinion of the Economic and Social Committee

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

Mr/Mrs/Miss: ABEJÓN RESA, d'AGOSTINO, ANDREWS, ATTLEY, BAEZA SANJUAN, BELABED, BERNARD, BETELU BAZO, BLESER, BORDES-PAGES, BRIESCH, van den BURG, Vasco CAL, CARLSLUND, CARROLL, CASSINA, CEBALLO HERRERO, CHAGAS, CHEVALIER, CHRISTIE, COLOMBO, DANTIN, DECAILLON, DELAPINA, van DIJK, DRIJFHOUT-ZWEIJTZER, DRILLEAUD, DUNKEL, ENGELLEN-KEFER, ETTL, ETTY, EULEN, FERNANDEZ, FORGAS I CABRERA, FREEMAN, GEUENICH, GIRON, GRUSELIN, HAAZE, HAGEN, HERNANDEZ BATALLER, JENKINS, KANNISTO, KARGAARD, de KNEGT, KONITZER, KOOPMAN, KORYFIDIS, LAUR, LEMMETTY, LIVERANI, LÖNNEBERG, LYONS, MADDOCKS, MARGALEF i MASIA, MASUCCI, MAYAYO BELLO, MENGOZZI, MOLINA VALLEJO, MUÑIZ GUARDADO, NIELSEN B., NYBERG, OLAUSON, PAPAMICHAÏL, PE, PELLARINI, PICKERING, PIETTE, QUEVEDO ROJO, REBUFFEL, REUNA, ROSSITTO, RUPP, SÁNCHEZ MIGUEL, SANDERSON, SANTILLÁN CABEZA, SANTOS, SCHMITZ, SCHUNK, von SCHWERIN, SEPI, SEQUEIRA, STRÖM, TIXIER, TSIRIMOKOS, TÜCHLER, VINAY, VOGLER, WAHROLIN, WESTERLUND, WILMS, WRIGHT, ZARKINOS, ZÖHRER, ZUFIAUR NARVAIZA.

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

Mr/Mrs/Miss: ANDRADE, ASPINALL, BAGLIANO, BARROS VALE, BEALE, BENTO GONÇALVES, BERNABEI, BOUSSAT, BREDIMA-SAVOPOULOU, BROOKES, BUNDGAARD, BURANI, BURKHARD, CAVALEIRO BRANDÃO, CONNELLAN, DENKHAUS, DE NORRE, DONOVAN, FARNLEITNER, FRERICH, FUCHS, GARDNER, GHIGONIS, GIACOMELLI, GIESECKE, GREEN, GUILLAUME, HAMRO-DROTZ, HAUSMANN, JOHANSEN, KALLIO, KAZAZIS, KIELMAN, KIENLE, KONTIO, KRITZ, LEHNHOFF, LEVITT, LINDMARK, LINSSEN, LITTLE, LÖW, LUNDH, LUSTENHOUWER, MAIER, MEGHEN, MERCÉ JUSTE, MERIANO, MOBBS, MORELAND, MORGAN, MULLER, NIELSEN L., NOORDWAL, OSENAT, PARDON, PASOTTI, PELLETIER R., PEZZINI, PRICOLO, REGALDO, REGNELL, RODRÍGUEZ DE AZERO Y DEL HOYO, RODRÍGUEZ GARCÍA CARO, SANTIAGO, SARALEHTO, SCHLEYER, SEGUY, SIRKEINEN, SOLARI, STECHER NAVARRA, STOKKERS, STÖLLNBERGER, STRASSER, STRAUSS, THYS, VERHAEGHE, VEVER, WALKER, WHITWORTH.

The following members, present or represented, abstained:

Mr: ATAÍDE FERREIRA, LERIOS, de PAUL de BARCHIFONTAINE, PELLETIER Ch.

APPENDIX II

to the Opinion of the Economic and Social Committee

The following amendments, which received at least one quarter of the votes cast, were defeated during the discussion:

(COUNTER-OPINION)

Replace by the following:

'1. Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses, was intended to provide for "the protection of employees in the event of a change of employer, in particular, to ensure that their rights are safeguarded".

2. In broad legislative terms, there is no denying the social effectiveness of the protection secured by the Directive.

Any appraisal of the shortcomings and loopholes of the transfer Directive must take account of the internal market, the development of 'emergency law' to deal with the rescue of undertakings in economic difficulties, and the case law of the European Court of Justice, as well as the Commission's proposed revision of the collective redundancies Directive, to which the transfer Directive is closely related.

3. Accordingly, the Commission proposes to clarify the scope of the Directive as presently worded. To a large extent, this is to be done by following and consolidating the broader interpretation advocated in the case law of the European Court of Justice. The Commission also proposes certain other alterations, largely designed to foster and protect the interests of employees, namely in cases of insolvency proceedings, in public undertakings, non-profit making undertakings and sea-going vessels.

4. The Committee welcomes the Commission's move and considers that it does much to clarify the issue. It feels that the proposal taken as a whole is wellbalanced, although certain reservations with regard to specific points may be warranted.

5. In order to further the Commission's declared aim of clarification, and in view of the generally negative response to the case-law solution to the "Schmidt" case, the Committee feels that the proposal would be significantly improved if Article 1 were to include the following:

"...

The transfer of an economic entity which retains its identity, taken to mean a set of independently organized resources, with a view to pursuit of an economic activity, whether essential or ancillary, shall be deemed to be a transfer within the meaning of this Directive.

The following shall be presumed not to be a transfer within the meaning of this Directive, unless the conditions set out in the preceding subparagraph are proved to be met:

- recourse by an undertaking to an external supplier for an activity previously performed by the undertaking itself;
- change of supplier, where the employer already has recourse to an external supplier for an activity;
- resumption, by the undertaking itself, of an activity previously performed by an external supplier."

Result of the vote

For: 84, against: 99, abstentions: 2.

Point 2.2.2

Add after last sentence:

'From this definition should be excluded the situation when the employer is transferring the work to a contractor and also the situation when such a contract is transferred to a subcontractor.'

Reasons

The Commission has stated that the directive should make it possible for an employer to transfer a single activity from one employer to another. This follows from the expression in the directive that there is a difference between the transfer of entities and the transfer of activities. This method, however, could lead to new difficulties, in particular when it comes to the separation of these definitions.

Result of the vote

For: 76, against: 88, abstentions: 4.

Point 2.2.4

Delete.

Reasons

This is not the intention of the Directive nor should it be.

Result of the vote

For: 70, against: 94, abstentions: 2.

Point 2.6.3

Delete this paragraph and substitute it with the following text:

'The Committee welcomes the clause of Article 1(4) giving Member States the power not to apply Section III of the Directive to sea-going vessels. It is regrettable, however, that the recognition of the maritime sector's particular characteristic is not acknowledged in relation to the Directive as a whole as was the case in the 1977 Directive.'

Reasons

The Draft Directive is land orientated and seems to ignore the special characteristics prevailing in the maritime transport sector.

A ship is much more in the nature of an asset than of an undertaking and the buying and selling of such assets is very much part of the normal commercial activity of many shipping companies.

Unlike a land-based situation, an individual ship does not have a regular and stable complement of personnel. The need for regular leave relief means that, either a company's seafarers are permanently employed for deployment between a number of ships operated by it, or they are employed only for a specific voyage on a particular ship for an uninterrupted period on a specific ship. In the first case, in the event of a sale, the seafarers serving on the ship at the time would normally retain their employment with the company and be deployed on other ships. However, in the other circumstances if the ship is sold, there will be a termination of employment, but this amounts to no more than the bringing to an earlier end a short-term contract of employment. If the voyage is terminated unexpectedly early by the sale of the ship, or if the ship were sold abroad, financial compensation would be payable to the seafarers, either as a result of legislation or collective agreements, and they would be repatriated.

This situation is even more important when a ship is sold abroad. Unlike a land-based industrial unit, when a ship is sold to foreign owners it will be subject to an entirely different legislation of the new flag state. Such legislation could be very different in the areas of crew nationality, crew qualifications and manning provisions.

If merchant vessels were to be subject to Section II of the Directive, it would be illegal for dismissals to take effect when they were sold. As a result the purchasing company would be uncertain as to whether and to what extent it would be subject to claims arising from the former crew. A situation could well arise whereby the new owner would seek compensation from the previous owners for having to retain their crew. The end result would be to discourage the purchase of EU flag ships, particularly by foreign shipowners, reduce their value and damage safety by making it more difficult for a purchaser to man a ship with its own crew members.

The practical employment arrangements evident in the shipping industry reflect the fact that a ship is a uniquely mobile asset. There needs to be a legal regime in place which meets such particular characteristics. To avoid the adverse consequences described above, a full exclusion for shipping is considered essential.

Result of the vote

For: 65, against: 96, abstentions: 7.

Point 2.8.3

Delete.

Reasons

This is not necessary since the Directive 94/45/EC stands by itself and will apply only where such legislation is created.

Point 3.3.1

Delete.

Reasons

Same as 2.8.3.

Result of the vote

For: 40, against: 96, abstentions: 19.

Point 2.10

Add new point:

'It is essential that where an enterprise becomes insolvent that every effort should be made to save it as an entity and therefore in considering Article 4 reference should be clear that Article 1(5) be amended so that it should apply to the whole text of the Directive when insolvency proceedings are enacted providing employees are protected under Directives 92/56/EEC on collective redundancies and 80/987/EEC on insolvency protection.

In the text of the Opinion where it refers to Directive 92/56/EEC on collective redundancies should be added after "and Council Directive 80/987 on insolvency".'

Reasons

Self explanatory.

Result of the vote

For: 43, against: 98, abstentions: 17.

Point 2.10.4

Should be deleted.

Reasons

The survival of a company in distress is a common interest for the employees and the employers. One option for the employees is to accept less favourable conditions of employment.

Point 2.10.5

Delete.

Reasons

That paragraph should be deleted as a consequence of the suggested change.

Result of the vote

For: 38, against: 97, abstentions: 4.

Point 2.14.3

Amend the first sentence to read:

'The Committee supports this proposal.'

Delete the second sentence completely.

Reasons

The arguments of the Commission for the suggested change should be considered. It is of particular importance that the rules will not put too heavy liabilities on small companies.

Result of the vote

For: 68, against: 102, abstentions: 7.

The following paragraph of the Section Opinion was deleted after an amendment was adopted during the debate:

Paragraph 1.1.3

'The Directive has been interpreted in different ways by the ECJ which has meant that it has not been possible to implement into national practice or legislation. In addition the existing Directive is unduly rigid, hinders the development of good business practice and competition and has had a damaging effect on the prospects of rescuing insolvent business. The fact that a considerable number of references have been made to the ECJ by national courts seeking preliminary ruling is itself evidence that the scope and application of the existing directive is not clear. This is damaging to both employees and business.'

Result of the vote

For: 81, against: 60, abstentions: 8.

APPENDIX III**to the Opinion of the Economic and Social Committee**

Following the vote by name on the whole text, the Small Business Category of the ESC made the following declaration (cf. Rule 47 of the Rules of Procedure):

'The Small Business Category of the ESC welcomes the European Commission's proposal to amend Directive 77/187 relating to the safeguarding of employees' rights in the event of transfers of undertakings. The ESC representatives of small and medium-sized businesses believe that the Commission is right to propose now to exclude from the scope of the Directive the transfer of only one activity of a business. These ESC members think it must also be quite clear that the Commission seeks to ensure that the Directive does not apply to the contracting-out of services.

In addition, the Directive should not apply to temporary agency staff, since they have no contract of service with the business involved in any form of transfer.

Finally, the ESC small business representatives think that firms of a limited size, for instance, those with less than fifty employees, should be exempted from the obligation to inform and consult employees, since the existing informal employer-work relations in such firms are far more suitable than formal statutory consultation machinery, which does not seem to work in smaller firms.'

Opinion on the proposal for a European Parliament and Council Decision adopting a programme of Community action on the prevention of AIDS and certain other communicable diseases within the framework for action in the field of public health

(95/C 133/08)

On 28 November 1994 the Council decided to consult the Economic and Social Committee, under Article 129 of the Treaty establishing the European 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 3 March 1995. The Rapporteur was Mr Colombo.

At its 324th Plenary Session (meeting of 30 March 1995), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction and general comments

1.1. The proposal is preceded by a full and detailed Communication describing the new context of Community action in pursuit of the health protection objectives laid down in Articles 3(o) and 129 of the Treaty establishing the European Community. The proposal also falls within the ambit of the framework communication (COM(93) 559) on which the Committee has already expressed its views⁽¹⁾.

1.2. The Committee endorses the proposal, noting that it is consistent with the ESC's express desire to see existing programmes in specific areas strengthened by the formulation of a more general action programme in the public health sector. This point was emphasized in point 1.5. of the ESC Opinion on the extension of the Europe against AIDS programme to the end of 1994⁽²⁾.

1.3. The Committee considers that Community action will gain in solidity and coherence by being extended to cover other communicable diseases. Such diseases may be easier to prevent if there is Community-level coordination (especially since more and more people are now moving about freely) and if good use is made of the experience acquired in combatting AIDS. To be successful, however, the programme needs adequate financial resources.

1.4. The Committee calls for the required distinction to be made between action on AIDS and action in connection with other infectious diseases. In the case of AIDS, a number of specific features (absence of vaccines and problems of confidentiality of screening results) obtain, but the Community is now able to draw on a solid wealth of experience which will enable progress to be made. With other infectious diseases, however, European-level coordination is already in place. It will therefore be the task of the new programme to improve

and develop such coordination, pinpointing centres of excellence that are able to perform functions similar to those of the epidemiological AIDS monitoring centre in Paris.

1.4.1. The Committee would recommend that efforts should be focused initially in particular on those communicable diseases most closely related to AIDS, e.g. diseases which can be transmitted sexually or by blood as well as tuberculosis (development of multi-resistant micro-organisms in AIDS victims). The Committee also hopes that in the case of vaccines, and of nosocomial infections contracted in hospitals and other health-care establishments, action will be more clearly focused and be concentrated on the pooling of information.

1.5. Particular attention is paid in the Communication to the importance of coordination with other Community measures (completion of the single market, social policy, consumer protection, research, etc.) and to cooperation with international organizations and third countries. The Committee is pleased that its comments to this effect — both those expressed in previous Opinions on this specific programme and those set out in its Opinion on the Commission Communication on the framework for action in the field of public health⁽¹⁾ — have been taken on board.

1.6. Another reason for satisfaction is the approach to consultation and participation mechanisms adopted by the Commission in its Communication. In line with what the Committee has always advocated, emphasis in the Commission's Communication is now placed on the role of health professionals and non-governmental organizations working in the field of AIDS and other communicable diseases.

1.7. The Committee notes the Commission's intention (point 158 of the Communication) to maintain and strengthen links with non-governmental organizations which have 'contributed generously to the realization of Community actions'.

⁽¹⁾ OJ No C 388, 31. 12. 1994.

⁽²⁾ OJ No C 133, 16. 5. 1994.

1.8. The Committee deplores once more however the failure of the Communication to refer to the social partners and its underestimation of the scope for action at the workplace. Initiatives such as the April 1990 symposium on AIDS at the workplace, sponsored by ex-Commission President Delors, have not been followed up as they should have been by concrete schemes.

1.9. Whilst it is true that the purely 'health' aspects of protection at the workplace are covered by the Directive on exposure to biological agents⁽¹⁾, particular attention should have been paid in the programme to information, prevention and education. The Committee therefore calls upon the Commission to find a place in its Action Programme for specific measures at the workplace, focusing on information, prevention and discrimination.

2. Evaluation of the previous programme

2.1. The Committee notes with interest the Commission's report on the implementation of the plan of action in 1993⁽²⁾ and the Opinions issued by the Advisory Committee on all funding applications submitted to the Commission.

2.1.1. The Committee nevertheless calls upon the Commission to improve the timing of the publication of its reports in such a way that they can be coordinated with the formulation and revision of the programmes and so exert real influence on new policy decisions.

2.2. The Committee agrees that priority should be given to financing a limited number of large-scale projects; given the limited funding available, this is what the Committee has itself recommended.

2.3. The Committee is less concerned about funds being allocated unevenly among the Member States than about the fact that, according to available information, most projects benefiting from Community financial support have not hitherto been located in countries where AIDS is most rampant (Spain, Italy and France).

2.4. Projects should be selected not only on the basis of criteria of quality and effectiveness, but also according to the needs identified by epidemiological data. Funds should therefore not be distributed in a blind bureaucratic way, but in proportion to actual requirements and according to whether the schemes will be effective or not at European level.

2.4.1. The Committee asks whether information about Community actions is being properly disseminated in the Member States and whether it is accessible, in particular, to non-governmental organizations. Responsibility for circulating information undoubtedly lies in the hands of the national authorities but certain initiatives supported by the Community have proved to be valuable, e.g. the drawing up of inventories of existing actions such as the directory of activities carried out by nongovernmental organizations in the European Union in the field of AIDS prevention and assistance⁽³⁾.

2.4.2. The Committee therefore calls upon the Commission to speedily prepare and distribute an information booklet in all languages of the European Union and of principal ethnic minorities in order to facilitate access to Community schemes by all interested organizations and associations. A periodic report on on-going schemes in the form of an information broadsheet might also further transparency and the dissemination of experience.

2.5. 'Community added value' derives not only from projects carried out simultaneously by a number of Member States but may also arise from national projects that can serve as models or are characterized by innovative approaches to specific problems.

2.6. In terms of Committee recommendations in previous Opinions, the most interesting measures supported in 1993 were:

- establishment of an information centre to provide more in the way of information, guidance and support for certain immigrant communities in Europe;
- support for transnational activities designed to educate immigrants living in the European Community about HIV prevention, to overcome the problems of communication with ethnic groups and to establish appropriate methods for educating these groups and increasing their awareness;
- financing of a study of the feasibility of information and prevention campaigns for tourists travelling within the Community, focusing on persuading young people travelling around the Community to use condoms;
- financing of the activities of a European network on AIDS Prevention for Prostitutes (EUROPAP);
- establishment of a European support network for families and children infected with the virus;

⁽¹⁾ Directive 93/88/EEC, OJ No L 268, 29. 10. 1993, p. 71.

⁽²⁾ COM(94) 525 final.

⁽³⁾ European Union AIDS Directory, NAM Publications Ltd., London, 1994.

— funding of a comparative analysis of Member States' AIDS laws in respect of screening, confidentiality and reporting of the disease, patients' right to treatment, AIDS and imprisonment, and restrictions on freedom of movement and immigration.

2.7. This last area of study might throw up useful information for pinpointing measures and action which the Community could take in the context of civil and social rights to ensure the equal treatment of European citizens and make a contribution to the worldwide campaign against AIDS discrimination.

2.8. On a more general note the Committee is pleased that, in accordance with the views of the Advisory Committee and in keeping with its own recommendations on the need to avoid the dispersal of resources, fewer conferences and congresses, but more comparative analyses and targeted education and prevention campaigns, have been financed.

3. Specific comments on the new action programme

3.1. The Committee notes a discrepancy between the ambitions of the Communication and the modesty of the Action Programme itself. The presentation of the Action Programme is extremely succinct and schematic and the Committee considers that this does not reflect the wealth of the ideas and general thrust of the Communication. The description of the measures should therefore be more systematic, provide justification and incorporate elements of the Communication. The Committee also calls for the inclusion of specific actions at the workplace, as mentioned in point 1.9 above.

3.2. The Committee is pleased that the Action Programme has been divided into two parts, the first on AIDS and the second on other communicable diseases, but regrets that the funding is still modest. This lack of proper funding has already been criticized in earlier Opinions even though the Committee is aware that the purpose of Community finances is to achieve a multiplier effect.

3.2.1. The Committee recommends in particular that staffing levels should be brought up to a level adequate to cope with the increase in and diversification of the commitments entered into under the Action Programme.

3.3. With regard to measures relating to HIV/AIDS victims, the Committee would refer to the comments made in Opinion CES 228/94⁽¹⁾ and would stress the importance of data-collection. Data-collection has now quite rightly been moved centre-stage (to point 1 of the programme), but the funds allocated to this area remain extremely modest.

3.3.1. With regard in particular to measures for children and young people, the Committee endorses the premise that the dissemination of information should take account of, for example, cultural and religious backgrounds, unless this cannot reasonably be required in view of the content of the problem.

3.3.2. The Committee recommends close coordination with the BIOMED programme in the interests of using funds effectively. It would in fact be useful if the data-collection measures supported by the current programme could include the acquisition of basic data, thereby leaving research workers free to concentrate on the processing thereof.

3.4. With regard to the 'safety of blood and blood products', mentioned in points 109 and 110 of the Communication and discussed in points 3.3.3. to 3.3.10. of ESC Opinion 228/94⁽¹⁾, the Committee would repeat that 'Community self-sufficiency is not in itself synonymous with safety'. The Committee is pleased that this subject is dealt with in a separate Commission Communication⁽²⁾. The conclusions to be drawn from an examination of this separate Communication should be translated into specific measures and incorporated in the present Action Programme; the Committee asks to be consulted on this in due course.

3.4.1. However, the Committee feels that the Commission should speedily define the necessary rules for checking that blood and blood products are safe for use. Under no circumstances should haemophiliacs and others trying to improve their health through blood transfusions become the innocent victims of HIV or other viruses.

3.5. The Committee thinks it of great importance that the general public's knowledge and understanding of the other infectious diseases (hepatitis, tuberculosis, nosocomial infections) now included in the programme and their consequences should be improved. This would prevent infection and improve the effectiveness of preventive measures.

3.5.1. At the same time it should be noted that action by non-governmental organizations is not particularly well developed so that the main focus of attention will have to be on promoting improvements in the efficiency and coordination of public health agencies.

3.6. The proposed measures cover vaccination of the population at large, qualitative improvement of Member State surveillance schemes, promotion of the exchange of experience between health professionals, and support for the early detection and systematic screening of communicable diseases.

⁽¹⁾ OJ No C 133, 16. 5. 1995.

⁽²⁾ COM(94) 652 final.

3.7. Given that this is a new area of intervention, existing networks of European public health authority coordination should not be duplicated but refined and put on a formal footing; centres of excellence which are particularly well suited to carrying out pilot studies should also be identified.

3.8. Particular attention should also be paid to the topic of 'new types of infection' and the organization of ad hoc epidemiological surveys. This is because of the transnational nature of a) many infections that have already been recognized and b) other infections that are still to emerge.

3.9. At the present time Member States already operate an informal network of coordination whenever there is a health emergency (e.g. pneumonic plague in India in September 1994 and cholera in Puglia in October of the same year), but if such emergencies are to be tackled with greater efficiency, then a European rapid intervention unit needs to be set up under the Action Programme.

3.10. With regard to the Advisory Committee's practical arrangements for selecting projects, the Committee

notes with satisfaction the idea expressed in point 9.2(b) of the Financial Statement that action should be taken in conjunction 'with national coordinating committees to be established at the request of Member States, with participation by all those involved in the prevention of HIV/AIDS and other communicable diseases'.

3.11. This structure should satisfy concerns about current differences between Member States in terms of availability of information and capacity to make use of Community programmes. In this context, subsidiarity should also be seen as a means of strengthening networks of national action plans.

3.12. The Committee finally recommends that the intermediate status report to be forwarded to it should carefully evaluate the feasibility of linking HIV/AIDS and other infectious diseases within the same programme. It may indeed help if action on other infectious diseases uses a solid, preestablished system during the initial start-up phase, but the different features of both projects and operators in this field may require a more clear-cut distinction during the second phase.

Done at Brussels, 30 March 1995.

*The President
of the Economic and Social Committee*

Carlos FERRER

Opinion on the proposal for a Commission Regulation (EC) on the application of Article 85(3) of the EC Treaty to certain categories of motor vehicle distribution and servicing agreements

(95/C 133/09)

On 20 December 1994 the Economic and Social Committee, under the second paragraph of Article 23 of its Rules of Procedure, decided to draw up an Opinion 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 1 March 1995. The Rapporteur was Mr Moreland.

At its 324th Plenary Session (meeting of 29 March 1995) the Economic and Social Committee adopted the following Opinion by 70 votes for, with none against and 11 abstentions.

1. Background

1.1. Article 85(1) of the EC Treaty prohibits undertakings entering into agreements which restrict competition and affect trade between Member States. However, in accordance with Article 85(3), Council Regulation 19/65 permits the Commission by regulation to declare that Article 85(1) shall not apply to certain categories of agreements.

1.2. In 1984, the Commission adopted Regulation 123/85 which block exempts certain agreements for motor vehicle distribution and services. Regulation 123/85 came into force on 1 July 1985 and expires on 30 June 1995.

1.3. Regulation 123/85 exempts agreements between vehicle manufacturers and dealers under which the manufacturer grants the dealer an exclusive territory. The Regulation also applies to this type of agreement where the manufacturer imposes, inter alia, the following obligations on the dealer:

- an obligation not to sell competing motor vehicles. The manufacturer can extend this obligation to cover all companies in the dealer's group;
- an obligation not to seek customers outside the dealer's allotted territory;
- an obligation not to sell or use competing spare parts which do not match the quality of the manufacturer's spare parts;
- an obligation to supply only end users or authorized resellers within the manufacturer's distribution network.

In general, the Regulation only applies if the agreement is for a minimum fixed period of four years or an indefinite period with at least a one-year notice period.

2. The Commission's proposal

2.1. On the expiry of Regulation 123/85 the Commission proposes to replace it with a new regulation, based on Regulation 123/85 but including various changes which are designed to establish a better balance between the various parties involved primarily by giving dealers greater independence from manufacturers, and independent spare-part manufacturers and distributors easier access to the various markets and by increasing consumer choice.

2.2. The main changes are as follows:

- Manufacturers will no longer be able to prevent dealers selling competing motor vehicles if such sales are made by a separate legal entity on separate sales premises and under separate management.
- Under Regulation 123/85, a manufacturer relying on the block exemption is permitted to impose sales targets on the dealer and oblige the dealer to keep a minimum stock and a minimum number of demonstration vehicles. In the absence of agreement between the manufacturer and the dealer as to the minimum sales target, amount of stock and number of demonstration vehicles, the manufacturer is to set these on the basis of estimates. Under the new proposal, in the absence of agreement, these matters must be referred to arbitration.
- The minimum duration for fixed term agreements is to be raised from four to five years and the minimum notice period for indefinite duration contracts will be increased from one to two years.
- Under Regulation 123/85, the manufacturer can reserve the right to alter the allotted territory or appoint other dealers in it during the contract period. This option does not appear in the proposed new regulation. Instead, where there is an urgent need

for restructuring established by the parties through agreement or arbitration, the manufacturer can terminate the agreement by giving six months notice.

- Manufacturers will no longer be able to prevent dealers seeking customers outside their allotted territory by advertising.
- Manufacturers will lose the benefits of the block exemption not only if they restrict the freedom of dealers to purchase third party spare parts matching the quality of the manufacturers' spare parts but also if they restrict the freedom of independent producers to supply spare parts to resellers of their choice.
- Manufacturers will lose the benefit of the block exemption if they do not supply to independent garage owners the technical information they require to provide repair services on their vehicles (provided this is not covered by industrial property rights or does not constitute secret know-how).
- Changes have been made to ensure that leasing companies which do not transfer ownership of vehicles or give customers an option to purchase the vehicles prior to expiry of the leasing contract are not classified as resellers (in which case dealers could refuse to supply them because they are not authorized dealers).

2.3. It is proposed that the new regulation will exempt agreements falling within it until 30 June 2005.

3. General Comments

3.1. The Committee accepts that it is necessary to replace Regulation 123/85 on its expiry. The EFTA Surveillance Authority's view that passenger cars are no more sophisticated than other technically complicated consumer durables which do not benefit from a specific block exemption is noted. However, a fundamental and immediate alteration of the existing distribution system would be damaging to the ability of European motor vehicle manufacturers to compete on the global market and to the interest of consumers in benefiting from an efficient motor vehicle distribution system. The Committee therefore favours a replacement regulation. Subject to the specific comments below, the Committee welcomes the Commission's proposal and considers that it should operate to the benefit of vehicle manufacturers, spare part manufacturers, dealers and consumers.

3.2. According to Article 11.3 of the draft regulation, there is to be a report on the evaluation of the replacement regulation on or before the end of 2000. If it is anticipated at that stage that the replacement regulation will not be

renewed after 2005, a clear statement to this effect should be published to give the motor vehicle industry ample time to adjust to the new regime.

4. Specific Comments

4.1. *Recital 9 last sentence (also Article 3.8 (b))*

It should be made clear that dealers can contact customers by communication through the media aimed partly or wholly at areas outside the dealer's territory.

4.2. *New Recital*

See 4.5 below.

4.3. *Article 3.3*

The Committee agrees with the general principle that a dealer's freedom to distribute vehicles of other makes should be conditional, inter alia, on the dealer exercising this activity in separate sales premises, under separate management and in the form of a distinct legal entity. However, the Commission should clarify what is meant by 'unfair trading practices' or delete the reference to such practices.

4.4. *Article 3.8 (b)*

See 4.1 above.

4.5. *Article 3.11*

This Article allows manufacturers to oblige dealers to sell vehicles to consumers using the services of an intermediary only if the intermediary, inter alia, has prior written authority to purchase from the consumer. The Committee recommends that a new recital be inserted between recitals (9) and (10) drawing attention to the fact that both the Commission (in its 1991 Notice) and the Court of Justice (in the Peugeot/Ecosystem case) have provided clarification on the concept of an intermediary as used in this Article.

4.6. *Article 4.1 (3), (4) and (5) (and also Article 5.4 and Article 10.14)*

4.6.1. The Commission has introduced the concept of 'arbitration' to resolve disagreements between manufacturers and dealers over sales targets and minimum stock and vehicle demonstration obligations as well as to resolve disputes over whether termination is justified in certain circumstances.

4.6.2. 'Arbitration' is defined in Article 10.14. as 'a procedure for resolving disputes between parties by arbitrators of their choice, as provided for by legislation or convention'.

4.6.3. 'Arbitration' as defined is used in the draft replacement regulation to cover two very different types of situation. In Article 4.1 arbitration is used to set certain commercial terms in the dealer contract in the event that the manufacturer and dealer cannot agree. In this situation, the Committee considers the imposition of arbitration to be unnecessary where the manufacturer and the dealer do not already have an agreement in place — if the parties wish to resolve a disagreement about the terms on which they will do business, but nevertheless desire an agreement, they can revert to arbitration voluntarily. Where the manufacturer and dealer already have a dealer agreement in place and are simply conducting an annual target review, the imposition of arbitration may be appropriate, as long as it is clear how the procedure will work. See 4.6.4 below on this point.

4.6.4. In Article 5.4 on the other hand, arbitration is imposed with the intention of ensuring that there is a speedier alternative to litigation in the event of a dispute about whether the dealer contract has been properly terminated. Provided that it is without prejudice to the parties' rights of access to competent courts (and Recital 19 states that it is), the imposition of arbitration is acceptable, as long as it is properly described. At present it is not clear how the arbitration procedure will work. For example, what happens if the parties are not able to agree on an arbitrator? Is the Commission assuming that the parties will set up and conduct their arbitration in accordance with national arbitration law and in the absence of such law in accordance with the provisions set out in the dealer agreement? If so, this should be made clear.

4.7. Article 5.2 (2)

4.7.1. The Committee notes the proposal to extend the minimum duration of fixed term dealer contracts and the notice period of indefinite term dealer contracts. However, this appears to run counter to the Regulation's aim (as stated on page 1 of the Explanatory Memorandum) of 'developing flexible ... structures' in the distribution of motor vehicles.

4.7.2. The argument used by the Commission to justify the extension of the minimum duration and notice period relates partly to the fact that the laws of certain Member States do not provide dealers with an automatic right to a goodwill indemnity in the event of ordinary termination. It is arguable that if the Commission wishes to address the issue of harmonization of the laws of Member States on indemnities payable to distributors on termination, it should do so in a separate proposal.

4.8. Article 5.4

4.8.1. See 4.7 above.

4.8.2. The Committee considers that the supplier should not benefit from a shorter notice period (one year instead of two) if he is terminating the dealer contract because the dealer gives notice that he intends to sell competing motor vehicles. As the Commission points out in its Explanatory Memorandum (on page 2) 'the scope for allowing multi-dealerships has been used very rarely'. Given the obstacle of the conditions which a dealer will need to satisfy before he can engage in multimarketing (contained in Article 3.3), the Committee considers that this further disadvantage to multimarketing (the prospect of a shorter notice period) will act as a disincentive to dealers to deal in competing products.

4.9. Article 6

The Committee welcomes the extensions of the black list of prohibited clauses, which should not be weakened. The Committee agrees that manufacturers engaging in abusive practices which are detrimental to competition should not be able to benefit from the regulation.

4.10. Article 6.1 (12)

4.10.1. The Commission's proposal provides that 'manufacturers will lose the benefit of the block exemption if they systematically refuse to make accessible, where appropriate upon payment, to non-network firms the technical information necessary for the repair and maintenance of motor vehicles, provided that the information is not covered by industrial property rights or does not constitute secret know-how'.

4.10.2. The Committee is concerned that the lack of harmonization of the laws of the Member States on industrial property, in particular the differences between the copyright laws of the Member States, will cause problems in the implementation of this Article. Furthermore the Committee notes the Commission's use of the term 'industrial property' as opposed to 'intellectual property'. The latter is generally considered to cover a wider range of rights and the Committee suggests the use of the latter term if the Commission intends this Article to cover the wider range.

4.10.3. This Article is too imprecise: it is not clear what amounts to 'systematic refusal' or when payment will be 'appropriate' and what the level of payment should be.

4.11. *Article 7*

The 6 month transitional period allowed for existing arrangements is too short. In particular, there may be a conflict with the length of notice manufacturers must give dealers if they are currently relying on Regulation 123/85 but do not wish to rely on the proposed new block exemption. Therefore the transitional period should be 12 months.

4.12. *Article 10.12*

The new exclusion of leasing companies from the definition of 'reseller' may go further than its aim as stated in the Explanatory Memorandum at point 3(d) on page 6 (of preventing the evasion of the provisions concerning territoriality and the principle of selectivity). There may be leasing companies which, for reasons unrelated to evasion of the distribution system, transfer ownership of the vehicle prior to the expiry of the contract.

4.13. *Article 10.14*

See 4.6 above.

4.14. *Article 11.3 (and Recital 32)*

There will be a report of the Commission's regular evaluations on the application of the new regulation after five years. The Commission should not hesitate to issue interpretative communications on the various aspects of the regulation following the report in 2000.

4.15. *Article 12*

The Committee agrees that the regulation should remain in force until 30 June 2005.

5. Further Comments

5.1. The Commission's Explanatory Memorandum indicates (at point 7, page 8) that it is proposed to retain the Commission Notices of 12. 12. 1984 and 18. 12. 1991 unaltered. The Committee considers that the Notices should be updated at least so that they refer to the correct articles of the proposed regulation.

Done at Brussels, 29 March 1995.

The President
of the Economic and Social Committee
Carlos FERRER

*APPENDIX**to the Opinion of the Economic and Social Committee*

The following amendment, which secured at least a quarter of the votes cast, was rejected during the course of the debate:

Point 4.7.1

Replace the second sentence ('However, this appears of motor vehicles') by the following:

'The Committee endorses these extensions since they will increase dealers' confidence in their ability to recoup their investments'.

Reasons

The extension both of fixed-term dealer contracts from four to at least five years and of the notice period of indefinite-term dealer contracts from one to two years will increase dealer confidence vis-à-vis the manufacturer with regard to the time available for recouping what are frequently very substantial dealership investments.

Result of the vote

For: 27, against: 36, abstentions: 9.

Opinion on spatial planning and inter-regional cooperation in the Mediterranean area

(95/C 133/10)

On 20 December 1993 the Economic and Social Committee, acting under the third paragraph of Rule 23 of its Rules of Procedure, decided to draw up an Opinion on spatial planning and inter-regional cooperation in the Mediterranean area.

The Section for Regional Development and Town and Country Planning, which was responsible for preparing the Committee's work on the subject, unanimously adopted its Opinion on 10 March 1995. The Rapporteur was Mr Cal, who replaced Mr Amato.

At its 324th Plenary Session (meeting of 30 March 1995), the Economic and Social Committee adopted the following Opinion by a majority vote with two abstentions.

CONTENTS

The present Opinion on spatial planning and inter-regional cooperation in the Mediterranean area is divided up as follows:

1. Introduction
2. The Mediterranean: globalization and marginalization
3. Changing the European development model: a prerequisite for repatterning the Mediterranean area
4. Strategy goals of repatterning in the Mediterranean area
5. Spatial planning policies for the Mediterranean region
6. Trans-European and trans-Mediterranean networks
7. Inter-regional cooperation
8. Involvement of the socio-economic partners
9. Conclusions

1. Introduction

1.1. The competitiveness requirements of an economy which has shifted to sustainable development have obvious spatial implications. This is apparent from the overall strategy of the White Paper, which places considerable emphasis on spatial planning. The aim is that Europe's regions should become more competitive and develop in a sustainable manner, while being more mutually supportive in the interests of economic and social cohesion.

1.2. The need for a European spatial planning policy has been repeatedly highlighted, not least by the Economic and Social Committee⁽¹⁾, and is now widely recognized. Spatial planning enables national and regional bodies to agree on a consistent overall framework which facilitates cooperation and helps iron out certain problems which cannot be resolved in isolation.

1.3. Various ministerial and Council meetings held since the adoption of the first Europe 2000 paper in 1991 have provided the requisite political impetus for concrete action.

The ministerial meetings held in Lisbon in May 1992, Liège in November 1993 (the first informal Council) and Corfu in June 1994 all addressed the problem. The process culminated in Leipzig in September 1994 with the examination of the new Europe 2000+ paper and of the policy guidelines for the 'European spatial development perspective'. A paper on the latter subject was drawn up by the Spatial Development Committee set up following the adoption of Europe 2000.

1.4. A number of studies (analyzed in the Appendix to the present Opinion⁽²⁾) were undertaken in the wake of Europe 2000. They highlight the emergence of new spatial disparities which are liable to aggravate the imbalances between, and within, the EU's regions. Hence transnational measures are needed to influence and, where necessary, alter the EU's spatial balance, and internal and external cross-border cooperation will be vitally important.

Alongside these transnational measures within the EU, it is necessary to consider the case for a transnational and inter-regional cooperation with neighbouring non-EU nations, which will promote coherent development of Europe as a whole.

1.5. The present Opinion focuses on spatial planning and inter-regional cooperation in the Mediterranean. The Committee has already considered the Mediterranean on several occasions⁽³⁾. It now seeks to make a further contribution to the integrated development of

⁽²⁾ ESC 629/94 fin, Appendix.

⁽³⁾ ESC 386/89 fin, OJ No C 221, 26. 3. 1990, OJ No C 168, 10. 7. 1990 and OJ No C 40, 17. 2. 1992.

⁽¹⁾ OJ No C 339, 31. 12. 1991 and OJ No C 287, 4. 11. 1992.

the Mediterranean regions with a view to boosting economic and social cohesion and in keeping with the strategy put forward in the White Paper.

2. The Mediterranean: globalization and marginalization

2.1. Earlier ESC Opinions have examined the effect which the globalization of the economy is having on the Mediterranean region. This globalization mainly concerns the most technologically advanced companies, sectors and regions, and is progressively marginalizing the less developed businesses, sectors and regions.

The Mediterranean is an unstable, rapidly changing region which is being weakened as development is increasingly drawn towards Europe's core regions. At the same time, marked disparities in growth and wealth within the Mediterranean area accentuate its fragmentary nature.

2.2. The trans-regional studies drawn up by the Commission under the Europe 2000 project confirm this marginalization of the Mediterranean.

There has always been a considerable gap between the EU's Mediterranean regions and the 'centre capitals' ⁽¹⁾. The gap between the Mediterranean and Alpine regions is even more striking; per capita GDP in the Alpine Arc ⁽²⁾ has now outstripped that of the 'centre capitals'.

In the case of the Mediterranean regions, the gap is not only apparent from macroeconomic indicators (per capita GDP, unemployment, etc.) but also from structural factors which are of vital importance to spatial organization. These include:

- structural unemployment (especially among young people) and the lay-offs caused by the recession;
- serious under-industrialization and poor industrial services;

(1) According to Europe 2000+, the 'centre capitals' region includes South East England, the southern Netherlands, Belgium, North and North East France (including the Paris basin), Luxembourg, and Central Western and South West Germany.

(2) According to the Commission study, the Alpine Arc comprises:

- in Germany: Baden-Württemberg and Bavaria
- in France: Alsace, Franche-Comté, Rhône-Alpes and the Alpine departments of Provence-Alpes-Côte d'Azur
- in Italy: Piedmont, Val d'Aosta, Lombardy, Veneto, Trentino-Alto Adige, Friuli-Venezia-Giulia, Emilia Romagna, Marche
- Austria
- Switzerland
- Liechtenstein.

- development of the informal economy;
- incipient crisis and loss of competitiveness in the tourist sector;
- inadequacy of infrastructure networks;
- a perverse transport policy which puts the emphasis on road transport; congested communications systems;
- weak farm structures that are disadvantaged by the CAP, reliant on support, and becoming increasingly uncompetitive;
- serious ecological problems: soil erosion, sea and air pollution, urban pollution, drift away from upland and inland areas, speculative building on the coast which is affected both by deindustrialization and by mass tourism, and emerging serious problems with regard to drinking water;
- crisis of the welfare and public assistance systems (considerable in the Italian Mezzogiorno and Liguria, Greece, Andalusia, and Provence/Côte d'Azur);
- inefficient public authorities and substantial lack of local planning schemes (with a few exceptions).

2.3. The widening development disparities within the EU give concern about an overall loss of external competitiveness. The two processes have been inter-linked in the past, but the whole EU is now experiencing a problem well-known in Italy, i.e. the backwardness of some of its regions is hamstringing its ability to compete in the global market place. Economic and social cohesion is not just a question of solidarity; it is also important for Europe's overall competitiveness.

2.4. The pull towards the centre is bringing significant changes in development corridors: the centre is changing. Lorraine is no longer a heartland of heavy industry, and parts of this large central region are now derelict. The decline of heavy industry has sidelined entire regions, and new development axes are emerging. However, the centre no longer even lies along the banana-shaped arc linking London, Brussels, Frankfurt and Milan which came to the fore in the 1980s and which has now broken up with the emergence of the 'centre capitals'. It is the Alpine Arc which is now making the running, and which is bringing the centre closer to the Mediterranean. As well as helping neighbouring regions to catch up, this is also boosting the commercial and economic momentum of the whole Mediterranean region.

2.5. The polarization/marginalization process has two main implications for the EU's relations with its

Mediterranean neighbours, notably those of the South and East Mediterranean (SEM) ⁽¹⁾.

Firstly, imbalances are worsening because resources are being drained by the skewed pattern of trade and by the deterioration in terms of trade and financial flows resulting from the high level of debt servicing.

Secondly, the dependent status of the SEM also reflects the polarization within Europe which leads the SEM to trade more with central and northern Europe than with southern Europe. This is underscored by the fact that European investment in the SEM also comes mainly from central and northern Europe, since trade follows investment.

2.6. The development scenarios outlined in the trans-regional studies demonstrate the need for a radical change in economic and social trends. If they persist, they will sideline the Latin Rim, fragment and marginalize the Italian Mezzogiorno and Greece, and lead to economic, social and political disintegration of the South and East Mediterranean, on top of that already occurring in the Balkans.

The EU's Mediterranean interface can be highly beneficial for relations between the SEM and the regions of central and northern Europe, and can help to counteract the marginalization of the Mediterranean region as a whole.

3. Changing the European development model: a prerequisite for repatterning the Mediterranean area

3.1. It is clear from the above that the marginalization of the Mediterranean, as an area for the location of industry and the expansion of employment in tradeable services (other than tourism), is closely tied to the type of economic development which has prevailed in Europe, and especially to the way in which it has been shaped

by the more negative trends of the economic globalization process. For instance, there are the additional costs of congestion which affect the competitiveness of many of Europe's stronger regions, while inadequate infrastructure aggravates regional development differentials and drains resources from the weaker to the wealthier regions.

It is now generally recognized that spatial planning, linked to appropriate environmental, economic and social policies, can help to overcome the spatial problems affecting the European economy, although it cannot solve them on its own.

3.2. The need to change the European development model is also recognized in the White Paper. Competitiveness and employment objectives must be revised, and thought must be given to ensuring a harmonious development of the regions which will overcome the marginalization which is holding the Mediterranean regions back. The emphasis should be on a multicentred development pattern, in which the Mediterranean becomes an area of renewed balance and regional cooperation.

3.3. Although the Mediterranean regions share a common history and a common destiny, they differ greatly in economic, social and ecological terms. The Committee has long recommended the establishment of a Euro-Mediterranean strategic area (which should also include Eastern Europe). The Commission's recent Communication on strengthening the EU's Mediterranean policy and establishing a Euro-Mediterranean partnership ⁽²⁾ has finally accepted the Committee's suggestion, by proposing a Euro-Mediterranean partnership designed to establish a zone of political stability and security and a Euro-Mediterranean economic area.

The long-term aim of this process must be a close association between the EU and the Mediterranean third countries.

3.3.1. The three strategic areas at world level — in America, Europe and Asia — are all currently forging closer relations with their immediate neighbours.

Over the last decade, this process has taken on a completely different nature to that of the preceding twenty years. Visible trade between the EU, Japan and the United States has grown less rapidly than the United States' trade with Canada and Mexico (now NAFTA) and Japan's with the rest of South East Asia. EU trade has not risen as fast as that of the United States or Japan.

⁽¹⁾ The South and East Mediterranean nations include Israel, Turkey and the countries of the Maghreb and Mashreq. The present analysis does not consider the Balkans, since geopolitical problems and the present conflict have taken precedence over economic relations with the EU.

⁽²⁾ COM (94) 427 final.

Unlike them, the EU has been unable to boost its economic relations with its Mediterranean and Eastern European neighbours.

3.4. As the White Paper notes, we are witnessing dramatic changes in technology and in work organization, as well as the emergence of new sectors, services and products. The development of the Mediterranean region must take account of these changes, in order to give it a firmer footing within the world economy and eschew too heavy a reliance on traditional forms of industrial investment, the limitations of which are now clear.

3.5. At the same time, the EU must promote policies which allow the SEM to develop by creating an internal and regional market, improving living standards, and eliminating structural imbalances (deficits in food, health, training, balance of payments, and so on). This process, far from competing with that of the EU's Mediterranean areas, can be cooperative in nature, and should not be limited (as it has so far) to the clothing industry but should extend to the production of a wider range of consumer goods. Complementary links could be forged between the two sides of the Mediterranean, buttressed by trade in goods, knowhow, consumption patterns and an increasingly competitive workforce.

3.6. Compatible development on both sides of the Mediterranean is clearly the main prerequisite for establishing new cooperation in the Euro-Mediterranean area. However, there are at least four other intervention areas that have significant implications for Mediterranean spatial planning and bring a need for radical revision of Community policies and for new joint development policies.

- a) The problems of arid agriculture and of regions with water shortages; it is vitally important to focus biotechnology and agronomic research on these problems, in the interests of reliability of food supplies, desertification control, and expansion of science parks. The Committee would again draw attention to the impact which agricultural policy measures may have on the environment and the rural economy. Dramatic changes in Mediterranean farming regions could also further aggravate the flight from the land and the desertification of rural areas.
- b) Stemming of environmental decay, and improvement of land: the specific nature of the Mediterranean

region and the growing costs of land degradation, bring a need for work on sustainable development. In all countries, water treatment policy is important for effectively combating the pollution of the Mediterranean. Research and training bodies must adopt a new approach to the problem.

- c) Tourism. The countries on the southern flank of the Mediterranean are finding new fields in which they can compete with the north. Cooperation in this sector, which requires efficient agencies (such as those found in Austria, Germany and other northern European countries) would help the Mediterranean regions to compete more effectively with the new holiday formulas being offered elsewhere. Another aim here should be to remove the environmental risks caused by the presence of too many tourists in ecologically delicate areas.
- d) Training. Close two-way cooperation is needed at all levels. Basic literacy campaigns, technical institutes, universities, refresher and further training courses in the south; training and integration schemes for immigrant workers and new university courses in the north.

3.6.1. The key to Mediterranean development lies in making the best possible use of human resources. Drawing on its own experience, the Community can assist in the reinforcement of R& D capacity, training for new technologies, and further training for workers faced with industrial change, in order to foster the emergence of a forward-looking workforce able to adapt to changing circumstances.

4. Strategic goals of repatterning in the Mediterranean area

4.1. To ensure that the new development scenario and economic policies are consistent with a more balanced thrust of spatial planning, an effective European spatial planning policy is needed. This should lay down precise, binding guidelines, accepted by all parties, for the economic and spatial planning policies of the EU, the Member States, and the regional and local authorities.

In this context the Committee welcomes the work being done by the Commission and Member States, within the Committee on Spatial Development, to define a 'European spatial development perspective'.

4.2. The main strategic goal for the Mediterranean area should be to alter development and communications axes, starting with those in southern Europe. It is a well known fact that such axes are generally geared towards the north and that sizable isolated pockets remain (the 'missing links').

New operational links must be developed along east-west axes, and north-south links must be completed so as to end the spatial fragmentation of the Italian Mezzogiorno and Greece and the isolation of the most outlying regions and islands.

The main east-west axis should link the Algarve to Thrace, passing through Seville, Murcia, Valencia, Barcelona, Marseille, Genoa, Livorno, Rome, Naples, Brindisi, Igumenitza, Patras, Athens and Salonika.

4.3. Euro-Mediterranean integration also requires development axes that enhance the role of the Mediterranean interface.

This mainly involves links between the north and south shores of the Mediterranean: southern Spain and Portugal with Morocco, the regions and main ports of the Latin Arc (which have always looked mainly to the north) and Sicily with the Maghreb and with Malta; the Italian Adriatic regions with Greece, the Balkans and Turkey; and mainland Greece and the Greek islands with the SEM.

Special and considered attention has to be paid to Malta and Cyprus as island communities both with individual and special needs. Consideration must also be given to the emerging needs of Israel and neighbouring areas where the development of trade and economic growth is crucial to developing stable and continuing relationships.

4.4. *A second strategic goal concerns the decongestion of urban areas.*

The sprawl and deterioration of major built-up areas, the unhealthy expansion of urban monsters such as Athens and Cairo, is causing huge environmental, economic, social and civil problems.

The only solution is to decentralize urban functions and create a balanced polycentric urban network. The aim should be to boost the role of medium-sized towns by promoting 'decentralized concentration' rather than excessive fragmentation. The policy must be backed by coordinated urban renovation and environmental measures, as well as measures to combat social exclusion in the big cities.

4.5. A further strategic goal will be integrated management of Mediterranean coastal areas. Global integrated measures must be taken to tackle the problems

caused by congestion, overbuilding, excessive tourism and the increasing undermining of the environment which so often leads to fullscale decay. All this requires a coordinated reassessment of all the productive, service, housing, tourism and leisure activities which take place along coastlines, in their hinterlands, and offshore.

4.6. Decongestion of urban and coastal areas should help to revitalize inland and upland areas. While in central and northern Europe it is rural areas that need to be preserved, in the Mediterranean it is inland and upland areas — defined as 'inland' because they are located between the coasts of the peninsulas and islands, and 'upland' (using the term in the broad sense explained in earlier ESC Opinions) as they are mainly hilly or mountainous. Such areas are generally sparsely populated, losing what few inhabitants they have, and are plagued by environmental decay and sometimes desertification.

Action to revitalize their productive role in agriculture and other economic activities, and attract incomers, would improve the Mediterranean spatial balance.

4.7. Another strategic goal for the Mediterranean region must be the integration of maritime transport. This is particularly important, given the increasingly vigorous growth of trade in this region over recent years. It is necessary to address the issues posed by links between on-shore and maritime activities (fisheries and aquaculture, extractive industries, transport, leisure activities, and so on) and interactions between land and sea, notably those affecting the balance of the environment. Account will also have to be taken of the problems posed by the fragmentation and isolation of the Mediterranean islands, particularly the smaller and more outlying ones.

4.8. The Mediterranean region possesses a huge wealth of natural, environmental, historical, artistic and cultural treasures. These are assets to be conserved, but also resources to be exploited. A farsighted spatial planning policy must address itself to their protection, conservation and exploitation.

4.9. The Committee asks the Committee on Spatial Development to include these strategic goals for restructuring the Mediterranean region in its 'European spatial development perspective'.

5. Spatial planning policies for the Mediterranean region

5.1. The Community does not yet have a full-scale spatial planning policy. Even the 'European spatial development perspective' is limited to cooperation

between the Commission and the Member States. While this might be technically convenient when drawing up the perspective, the Committee feels that what is needed is a Community reference framework that lays down priorities and objectives and is accepted by all the parties concerned. This will foster more effective interregional cooperation and the involvement of interested parties, including the socio-economic partners, at all levels (national, regional and local).

5.2. This is the only way in which the Commission's review and regular updating of Community policies with major spatial implications (e.g. networks, environment, research, agriculture) and its monitoring of the spatial impact of Structural Fund support can develop from mere aspiration or a bureaucratic exercise into a major new Community strategy.

5.3. The Community's Mediterranean policy will form the benchmark for integration with the non-member Mediterranean countries. The recent Commission Communication proposing a strengthened and revamped Mediterranean policy does not specifically mention Euro-Mediterranean spatial planning. However, the proposal to establish a Euro-Mediterranean economic area has major implications for spatial planning, involving as it does free trade, support for regional cooperation (chiefly in the environmental protection sphere), and an increase in decentralized cooperation together with technical and economic cooperation in various sectors. Here too a mechanism must be devised for shaping and monitoring a Mediterranean policy based on a set of strategic restructuring goals.

5.4. For the moment, given the time needed to put such a mechanism in place at both EU and Mediterranean level, the most promising spatial planning targets will be the trans-European networks and inter-regional cooperation.

6. Trans-European and trans-Mediterranean networks

6.1. The Appendix to the present Opinion provides a detailed analysis of the trans-European and trans-Mediterranean networks and puts forward systematic recommendations for the different types of network. Here the Committee simply offers a few general considerations.

6.2. The role of trans-European transport, telecommunications and energy networks in eliminating regional imbalances has assumed strategic importance with the publication of the White Paper, which states that they should be the focus of Community action (including

short-term measures) to boost competitiveness and employment. This is a matter of crucial importance as the choice of networks will clearly have medium and long-term economic, political and social implications, and will affect the EU for the next thirty to fifty years.

6.3. Hence the question of networks has implications for growth, restoration of balance and strategic planning. From this viewpoint, it is regrettable that the problems and individual proposals set out in the White Paper are completely divorced from any analysis of the spatial (regional) dimension of Community problems.

6.4. The 14 projects presented at the Essen European Council (all of which concern transport) take no account of spatial imbalances or the problem of 'missing links' and intermodal transport.

The Committee realizes that it is necessary to start with projects for which funds are immediately available, but asks that further projects calculated to improve spatial balance and integrate the two sides of the Mediterranean be added to the priority list as soon as possible.

6.5. As regards the relation between 'infrastructure networks' and 'development and integration between Mediterranean nations', the Section would merely note that networks must be decided and implemented in the light of their suitability for the declared economic and social objectives, and not in simple financial terms. In other words, the case for building a road or laying an energy pipeline should be assessed first and foremost in terms of its structural impact, of its impact on the development and integration of user regions, and only secondarily in terms of its impact on employment, regional income, etc.

6.6. The time factor is crucial when deciding which schemes are to be given priority. If for financial reasons priority goes to projects which reinforce existing trends, when in fact it would be better to reverse them, spatial imbalances will increase and the scope for subsequent corrective measures will be constrained for some time to come.

7. Inter-regional cooperation

7.1. Alongside trans-European and trans-Mediterranean networks, inter-regional cooperation is the most concrete and practical way of launching a Mediterranean spatial planning policy.

To this end, a significant portion of EU resources earmarked for inter-regional cooperation should be assigned to the Mediterranean with a view to securing the requisite spatial balance. The bulk of these resources currently goes to the EU's central and northern regions.

7.2. Community support for inter-regional cooperation in the Mediterranean should give priority to programmes and projects which:

— focus on:

- a) the various aspects of economic integration and joint development: sectoral (industry, agriculture, tourism), factors (R& D, training) and infrastructure (transport, telecommunications, energy, water resources);
- b) sustainable development and environmental and spatial rehabilitation;

— pursue the strategic goals set out in point 4 for repatterning the Mediterranean area: new development guidelines, decongestion of urban areas, integrated management of coastal areas, revitalization of inland and upland areas, integration of maritime transport, conservation and upgrading of the countryside and cultural treasures.

7.3. The inter-regional cooperation promoted by the Community can be defined according to:

- a) type of target area: regions, big cities, local sub-regional units;
- b) spatial categories: adjacent or non-adjacent areas (cross-border or transnational cooperation);
- c) geographical areas: cooperation within the EU or between EU regions and neighbouring regions (EFTA, CEEC, and potentially also SEM);
- d) levels of cooperation:
 - pooling of experience, knowhow transfer networks;
 - spatial planning (new priority for 1994-1999);
 - projects involving investment in infrastructure and other facilities.

Linkage between the various categories has hitherto been rather selective: for example, cooperation has only functioned at some of the levels mentioned and has been confined to certain spatial categories and geographical areas. In the Committee's view, there should be no limits to the mix of target areas, spatial categories, geographical areas and cooperation levels in the Mediterranean. The proposals which follow are divided up according to cooperation levels, but on the understanding that each level may cover a variety of target areas, that cooperation may be crossborder or otherwise, and that inter-regional cooperation may be confined to the EU or may extend to the SEM.

7.4. Although the pooling of experience and knowhow transfer networks are the most basic form of inter-regional cooperation, they are not the least important.

For the period 1994-99, the Commission has proposed continuing the Pacte and Recite programmes which the Committee agrees have produced good results. A larger number of local/regional authorities in southern Europe should be encouraged to participate in projects pursuing the aims described in 7.2 above.

The Commission also intends to strengthen the Ouverture/Ecos programmes (cooperation between EU local/regional authorities and those of the Phare and Tacis nations). Pursuant to the creation of a Euro-Mediterranean area, appropriate support should be granted to cooperation schemes between local/regional authorities in the southern EU and the Balkan and Black Sea countries. In particular, the Committee calls for the extension of the Ouverture/Ecos programmes to all SEM as of 1995.

To this end, Community resources will have to be reallocated to offset the cofinancing difficulties faced by the authorities in the partner countries (a problem which has already arisen with the CEEC).

7.5. Under Europe 2000+, the Commission envisages co-financing the following over the next five years:

- a) spatial development projects and feasibility studies which help to promote spatial planning, which have a transnational dimension and which are of Community interest;
- b) transnational, spatial-planning demonstration projects with a strong transnational aspect (water catchment areas, upland areas, coastlines, etc.), together with schemes which reflect innovative spatial-planning models.

The Committee endorses these proposals as meeting the needs of the Mediterranean area. The Commission

should pay special attention to pilot projects and feasibility studies designed to integrate sub-areas within the Mediterranean (Latin Rim — southern Mediterranean — Adriatic — south-west Mediterranean) and integrated development planning for EU and SEM Mediterranean regions.

7.6. At present, the only EU co-financing option for inter-regional cooperation projects involving investment in infrastructure and other facilities is Interreg II. This severely limits interregional cooperation, as the Committee pointed out in its recent Opinions on the Community initiatives. In particular, these Opinions recommended an extension of the scope of the Interreg Programme⁽¹⁾.

The first problem is the requirement that projects must cover an uninterrupted (i.e. cross-border) area. The rationale here is that inter-regional cooperation should focus mainly on infrastructure, thus excluding joint economic or production-related projects designed to promote complementary relations and integration in certain sectors or regions (which need not be geographically adjacent).

Secondly, only two Mediterranean maritime frontiers within the EU are eligible (Corsica-Sardinia and Italy-Greece). Given the need to build east-west axes embracing intermodal and therefore maritime links, the maritime frontiers separating the Tyrrhenian coast of Italy from the French and Spanish Mediterranean coasts should also be made eligible.

Thirdly, Interreg II only extends to two cases of inter-regional cooperation with the SEM: Andalusia/Morocco and Apulia/Albania. It does not cover obvious maritime neighbours such as Sicily/Tunisia, Crete/Egypt and the Aegean islands/Turkey.

These limitations on Interreg II are particularly untenable when we consider that the Interreg/Phare combination has already built up solid cooperation with neighbouring areas. It is not clear why this cannot be extended to all the SEM. Moreover, although the 1994

budget allocated the SEM significant resources for inter-regional cooperation with the EU (which will receive a further boost under the new Mediterranean policy proposals), these resources paradoxically remain untapped because corresponding funding is not available on the Community side.

The mid-term review of Interreg II must rectify these limitations. Interreg should be extended to all types of transnational spatial planning cooperation (and not just cross-border cooperation), both between EU regions and between them and all the SEM. This will inevitably require an increase in the funds allotted to Interreg II.

Pending this, the Commission should allocate priority financing to spatial-planning pilot projects and feasibility studies which pave the way for investment projects not currently eligible for Interreg II funding, both within the EU (integration projects for non-adjacent areas) and between EU regions and SEM; this should start with the most obvious maritime frontiers excluded hitherto, such as Sicily/Tunisia.

In a similar context, the European Parliament has introduced a new provision into the Community budget covering the possible financing, under Interreg II, of a new Community initiative on inter-regional cooperation between Mediterranean regions. The Committee urges the Commission to act on this forthwith.

7.7. If a significant number of inter-regional cooperation projects (at the three cooperation levels described) is to be funded, it is important that they be mutually consistent. Hence the need to establish a general framework setting out the objectives for the repatterning of the Mediterranean region which can be used to assess the orientation and impact of projects for which Community funding is proposed, and their consistency with funding from other sources such as EIB loans.

8. Involvement of the socio-economic partners

8.1. It is clear from the general approach and practical recommendations propounded here that the Committee intends the democratic institutions — first and foremost, local/regional authorities — to play a key role in the spatial planning of the Mediterranean. The affinities, shared interests and common external policies put forward by the regions will play a crucial part in the

⁽¹⁾ ESC Opinions in OJ No C 304, 10. 11. 1993, OJ No C 295, 22. 10. 1994.

establishment of a coherent Mediterranean socio-economic area, as will their ability to propose, participate in and monitor the implementation of Community and national economic measures.

However, the role of the local and regional authorities will only be truly democratic if it is buttressed by consultation of the socio-economic partners⁽¹⁾.

8.2. Without such consultation, measures cannot be effective. It is no coincidence that the instruments being proposed here (networks and inter-regional cooperation) imply a greater concern for internally generated development; and the success of such development hinges to a large extent on involvement of the socio-economic partners. A recent OECD study⁽²⁾ showed that unemployment is lower in areas where trade unions, employers and local authorities work in partnership.

8.3. Involvement of the socio-economic partners can also help to improve openness at all tiers of authority.

8.4. A socio-economic partnership is also vital to the creation of an EU-SEM joint development area if we wish to couple the economic area with a Euro-Mediterranean social area, this being the sole way of avoiding attempts to achieve competitiveness by cutting social protection.

8.5. Involvement of the socio-economic partners, at all levels, in all stages of inter-regional cooperation could boost the effectiveness and transparency of the programmes and projects submitted for funding.

9. Conclusions

9.1. The Mediterranean region faces serious spatial imbalances (geographical fragmentation, isolation of the outermost areas, etc.). These imbalances are linked to the European development mode (globalization/polarization/marginalization), and the only way to remove them is by adopting a multicentred development pattern. The Mediterranean must become a centre of development within a wider Euro-Mediterranean strategic area. To this end, it must strengthen its internal cohesion, integrate its sub-areas, and pursue Euro-Mediterranean joint development.

9.2. The EU must adopt a spatial planning policy. The 'European spatial development perspective' is only a first step. It must be followed by the drafting of a Community reference framework, with input from all the relevant authorities, which lays down priorities and objectives and is accepted by all the parties concerned. This will foster more effective inter-regional cooperation and the involvement of interested parties, including the socio-economic partners, at all levels (national, regional and local).

9.3. The strategic aims of this blueprint will be as follows:

- new east-west and north-south axes of production and service development (notably industry, agriculture, tourism, R&D and training) and infrastructure development (transport, telecommunications, energy, water resources);
- sustainable development and environmental and spatial rehabilitation;
- decongestion of urban areas;
- integrated management of coastal areas;
- revitalization of inland and upland areas;
- integration of maritime transport;
- conservation and exploitation of the environmental and local heritage.

9.4. For the immediate future, the scope for a Mediterranean spatial planning policy lies mainly in:

- the trans-European and trans-Mediterranean networks;
- inter-regional cooperation.

9.5. Detailed proposals for the various trans-European and trans-Mediterranean networks are set out in the Appendix to this Opinion.

The Committee also asks that the list of White Paper priority projects approved in Essen be extended as soon as possible to take in other projects calculated to restore spatial balance and integrate the two sides of the Mediterranean.

9.6. The Committee calls for the deployment of all existing inter-regional cooperation instruments, and asks:

- that all projects which affect the Mediterranean area, and for which Community funding is sought, be checked against common spatial planning guidelines;

⁽¹⁾ Opinion in OJ No C 393, 31. 12. 1994.

⁽²⁾ OECD employment study, Paris 1994.

- that the mid-term review of Interreg II extend the programme to all types of transnational (rather than solely cross-border) spatial planning cooperation, both between EU regions and between them and all SEM countries;
 - for greater involvement of the Mediterranean region in the Pacte and Recite programmes;
 - for extension of the Ouverture/Ecos programmes to all SEM;
 - that the Commission give priority to financing pilot projects and feasibility studies which:
 - a) help to integrate sub-areas within the Mediterranean (Latin Rim — southern Mediterranean — Adriatic — south-west Mediterranean);
 - b) promote integrated development plans between EU and SEM Mediterranean regions, and between SEMs;
 - c) pave the way for investment projects not currently eligible for Interreg II funding, both within the EU (integration projects for non-adjacent areas) and between EU regions and SEM; this should start with the most obvious maritime frontiers excluded hitherto, such as Sicily/Tunisia.
- 9.7. Involvement of the socio-economic partners, at all levels, in all stages of inter-regional cooperation could boost the effectiveness and transparency of the programmes and projects submitted for funding.

Done at Brussels, 30 March 1995.

*The President
of the Economic and Social Committee*

Carlos FERRER

Opinion on the 1995 Annual Economic Report

(95/C 133/11)

On 21 December 1994 the Commission decided to consult the Economic and Social Committee on the 1995 Annual Economic Report.

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 7 March 1995. The Rapporteur was Mr Ramaekers.

At its 324th Plenary Session (meeting of 30 March 1995) the Economic and Social Committee adopted the following Opinion by a large majority with 5 votes against and 4 abstentions.

1. Introduction

1.1. The Economic and Social Committee welcomes the fact that the Commission has requested its Opinion on the 1995 Annual Economic Report. In thus consulting the Committee, the Commission has shown its will to involve the social partners in drawing up the 'Broad Guidelines of the economic policies of the Member States and of the Community'.

1.2. Since the Treaty on European Union came into force on 1 November 1993, the Economic and Social Report is no longer sent to the Council for its approval. The Commission's role in coordinating economic policy has been significantly reduced, since it is now confined to submitting recommendations which may then be amended by the Council; the Commission used to enjoy an exclusive right of initiative and it put forward proposals, after ascertaining the views of the European Parliament and the Economic and Social Committee. The Council could only amend these proposals by a unanimous vote.

1.3. A further consequence of the new procedure is that the ESC Opinion, which was hitherto drawn up in response to a request from the Council, is now no longer mandatory; furthermore, under Article 103(2) of the Treaty on European Union, the Council is to inform the European Parliament of the 'broad guidelines', but no mention is made of the Economic and Social Committee.

1.4. On a number of occasions — including the recent Essen Summit — the Council has underlined the importance of the social dialogue for the successful introduction of the radical structural changes being considered in Europe with a view to creating new jobs and strengthening Europe's position in the world economy, whilst preserving the social objectives of the European model. The success of the European objective depends on a broad consensus secured via wide-ranging consultations between governments and social partners. It is for this reason, and with an eye to the review of the institutional provisions in the Treaties in 1996, that the Committee would urge that it be consulted on a mandatory basis when the broad guidelines of economic policy provided for in Article 103 of the EU Treaty are being drawn up.

2. The 1995 Annual Economic Report: stocktaking and outlook**2.1. *The economic upturn — strong but varying in nature from Member State to Member State***

2.1.1. Following the recession in 1992 and 1993 — which was the worst one for decades (0.4% year-on-year fall in GDP) — in 1994 the EU Member States once again recorded strong economic growth in excess of the forecast level (2.6% annual increase in GDP).

2.1.2. The EU economy benefitted from the strong economic upturn in its main exports markets. External demand was also consolidated by improved competitiveness, brought about by increased productivity, and wage restraint policies.

2.1.3. Strong exports boosted investment which has increased in the sectors geared to external markets. The level of investment rose by 2.5% in 1994, despite the sharp increase in longterm interest rates during the year: the improved financial situation of business and the increase in intra-EU trade seem to have cushioned the effect of the high cost of capital on gross fixed internal asset formation.

2.1.4. The increase in private consumption was more modest; it did, however, rise by 1.5% at a time when the level of real disposable income was more or less stagnant. This increase was funded by a fall in the rate of household savings, which, as the Commission points out, reflects the recovery in consumer confidence and the slight drop in the level of unemployment.

2.1.5. In the Committee's view, however, a question mark still hangs over the strength of the economic recovery as it is in part based on temporary factors.

2.1.5.1. As the Commission's report points out, after two years of severe recession the vigorous growth recorded in 1994 was in part due to a number of 'catching-up' factors: restocking accounted for half a

percentage point of GDP growth in 1994 (i.e. equivalent to that represented by fixed asset formation); private consumer spending was bolstered mainly by purchases of household durables, prompted, in part, by an attempt to cater for demand which had not been satisfied during the years of recession.

2.1.5.2. The Committee would, however, draw attention to the fact that private consumption remains patchy. In those Member States where an upturn has occurred, it was very frequently bolstered by fiscal incentives (France, for example, introduced the 'Balladur premium' to encourage motorists to replace old motor vehicles) or temporary budgetary measures designed to cushion the impact of the recession (e.g. measures taken in Denmark). Although surveys point to a revival of confidence, this is not reflected in a clear increase in consumer expenditure throughout the EU.

2.1.6. Generally speaking, the Committee notes that the nature of the economic upturn varies from Member State to Member State: a distinction may thus be drawn between those States in which there has been a clear-cut improvement in the level of internal demand, investment and/or private consumer spending (France, Denmark, Ireland and Germany) and those States in which the level of internal demand has remained lack-lustre and in which growth continues to be founded on increased exports (Belgium, Netherlands), sometimes helped by devaluations (Spain, Italy, Portugal). The UK, for its part, represents a special case: the growth in exports, bolstered by successive devaluations of sterling over the last two years, has encouraged private consumption and investment.

2.2. *Progress towards achieving convergence*

2.2.1. Progress towards the achievement of real convergence, measured on the basis of per capita GDP, remains patchy. Ireland's relative position has improved, while Portugal and Greece have taken a step backwards and the situation in Spain has remained unchanged.

2.2.2. Despite the strength of the recovery, it has not resulted in an inflationary spiral (the GDP deflator was 2.7% in 1994). Capacity utilization rates which remain relatively low, the pursuit of a policy of wage restraint, increases in productivity and the weaker dollar have all helped to curb inflation.

2.2.3. Almost all EU Member States have achieved these good performances. There has thus been a higher level of convergence in respect of rates of inflation and this in turn has had a knock-on effect on exchange rates and long-term interest rates. The latter are, however, still very high in view of the inflationary outlook.

2.2.4. The economic upturn has automatically brought about a reduction in budgetary deficits. In the Committee's view, however, Governments should not,

however, be content with these cyclical improvements as this would merely repeat the mistakes made in the second half of the 1980s. The Committee calls upon the Governments to take advantage of the favourable economic climate in order to undertake the budgetary restructuring measures required to bring the level of public debt down to a tolerable level in the medium term; social welfare should not however be jeopardized. The Committee recognizes that this task will be particularly problematic in states where tax levels are high.

2.3. *The short-term prospects (1995-1996)*

2.3.1. In the short-term, the consolidation of growth in the EU fundamentally depends upon an internal upturn in private demand. The Annual Economic Report points to a slowdown in the growth of external demand, in particular in the US, where the gradual tightening of monetary policy is beginning to work through. In this context, the Committee would in particular express its concern that the crisis in Mexico and the chronic indebtedness of American households may at a later stage lead to a depreciation of the dollar against the EU currencies. If the fall in the value of the dollar brings about lower commodity prices this will have an effect on the competitiveness of EU enterprises vis-à-vis enterprises not only in the US but also in all those states whose currencies are linked to the dollar.

2.3.2. The Commission forecasts that investment will be a driving force for growth in 1995 and 1996 (+ 6%), whereas the level of consumption, which accounts for almost two-thirds of EU GDP, is also expected to rise, albeit modestly over the next two years (2% and 2.5% in 1995 and 1996 respectively).

2.3.3. The Committee would, however, draw attention to the fact that two highly significant obstacles are bound to dampen the overall mood of optimism, namely:

2.3.3.1. The situation on the labour-market remains unchanged. The Commission acknowledges that in spite of economic growth, unemployment did not fall between 1993 and 1994. As there is always a certain time lag between economic growth and shorter dole queues, unemployment figures actually continued to rise during the first few months of 1994, before bottoming out by the end of this period. Unemployment among the working population in the EU over 1994 as a whole was running at 10.9% compared with 10.6% in 1993. The Commission also points out that the level of growth expected in 1995 and 1996 (approximately 3%) will not be enough to cut unemployment significantly, bearing in mind the rise in the number of jobseekers. Although it is declining, unemployment is therefore likely to

remain very high in the next few years (a rate of 10.4% is forecast for 1995, compared with 8.8% for 1991).

2.3.3.2. There is no clear picture as regards the trend in interest rates, particularly long-term interest rates.

2.3.3.2.1. Short-term interest rates appear to have bottomed out, after a steady fall since 1993. In particular, the fact that the German Federal Bank has continued to restrict M3 growth between 4% and 6% in 1995, reflects its view that it is no longer necessary to support the recovery by relaxing monetary policy. Furthermore, the gradual tightening of US monetary policy will leave European Central Banks little room for manoeuvre. The Committee would nonetheless urge that this room for manoeuvre be utilized over a period of time, insofar as this is compatible with the goal of maintaining stable exchange rates.

2.3.3.2.2. In this context, the Committee wonders whether it would be possible to decouple US and EU monetary policies. Over the last ten years there has been a very sharp rise in capital flows and this has severely curtailed the autonomy of governments in conducting monetary policy. Exchange rate fluctuations have increased and rates are no longer in step with the economic fundamentals. Against this background and in the absence of better economic coordination at international level, the Central Banks will not be in a position, by themselves, to establish a credible framework for a stable exchange rate policy.

2.3.3.2.3. If the economic upturn is to be underpinned by internal demand, and in particular by investment, as forecast by the Commission, it is a matter of priority that the rise in long-term interest rates which occurred in 1994 does not reoccur in 1995. With this aim in view, it will be necessary to establish a credible framework for price stability based on a prudent monetary policy and ongoing measures to improve the budgetary situation. It is also essential to pursue the same policy in the latter field in order to prevent attempts to boost investment from being thwarted by a shortage of savings at national level, which could put long-term interest rates under pressure and ultimately affect external balances.

2.3.4. Against this background, Commission forecasts of a revival of private consumption financed by reductions in the proportion of incomes going into household saving, would seem to be optimistic. Leaving aside the fact that the situation on the labour market remains stationary, a variety of factors seem to suggest that 1) the growth of real disposable incomes may be reduced, in some Member States, by changes in fiscal policy and 2) changes in income distribution will tend to increase, in aggregate, savings out of disposable income by households. Among the factors which may have the effect of maintaining or even increasing levels of savings, reference may be made to a) the additional measures to improve public finances which will need to be taken by a large number of the Member States; b) the uncertainty surrounding social welfare schemes, in

particular pensions; c) continuing high real rates of return on the debenture markets; d) the widening gap between, on the one hand, wages and salaries and on the other hand, income from property. Income from the latter source tends to generate a lower level of consumption. In this context the Committee is concerned about the possible implications which the growing and persistent imbalance between, on the one hand, wages and salaries and, on the other hand, investment income could have for social cohesion and the sustainability of growth in the long term.

2.3.5. In conclusion, whilst the Committee welcomes the return to growth and low rates of inflation in the EU Member States, it would point out that the prerequisites for sustained growth in 1995 and 1996 do not seem to have been achieved: it would refer in particular to the temporary nature of certain factors which pushed up growth rates in 1994; the persistent high level of unemployment; and the fact that there is likely to be a slow-down in the rate of increase in household purchasing power or the level of purchasing power may even stagnate. Furthermore, although it accepts that the monetary policy pursued by the Member States is geared, above all, to holding down inflation, the Committee is concerned about the economic and social implications of maintaining high interest rates in the long term.

3. The policies required for transforming the economic upturn into a lasting process, in the medium term

3.0.1. Despite the upswing in economic activity, unemployment is not decreasing sufficiently quickly. The challenges taken up a year ago in the White Paper on Growth, Competitiveness and Unemployment under the broad guidelines of the economic policies of the Member States, as defined in the Council Resolution of 22 December, are still of current concern. What we have to do is to implement both macro- and micro-economic policies which will make it possible to turn the economic upturn into a lasting phenomenon in the medium term and to consolidate the employment component of growth so as to substantially trim unemployment by the year 2000.

3.1. A macro-economic framework for lasting, non-inflationary growth

3.1.1. The macro-economic framework must provide a fair balance between ensuring price stability — which is essential in order to strengthen the competitiveness of the European economy, maintain the profitability of investments and pave the way for cheaper public debt servicing — and promoting the achievement of the level of growth required to boost employment.

3.1.2. If lasting growth is to be maintained in the medium term, a favourable climate for investors must

be created. Up to now, investment levels have been bolstered by an expansion of external demand and a high level of profitability, but there will need to be a fall in long-term interest rates and a gradual upturn in consumption, based on a restoration of consumer confidence, if investment levels are to be maintained. The restoration of consumer confidence in the medium term is contingent on an improvement in the situation on the labour market. In the short term, wage policies should benefit from the room for manoeuvre created by the considerable fall in levels of inflation and the major productivity gains achieved over the last two years.

3.1.3. It is all the more important to restore the level of internal demand, in particular private consumption, in view of the fact that the non-export sectors have so far failed to benefit from the economic upturn. These latter sectors comprise a large number of SMEs which are not directly subject to international competition, which appear to have the highest job-creation potential.

3.1.4. In the longer term, both growth and employment would be losers if the role of the internal demand factor were to be disregarded by implementing policies which solely affected the supply side.

3.1.5. The Committee points out that coordination of budgetary, wage and monetary policies has improved over the last few years. Successful budgetary policies and the fact that rates of increase in real wages have been kept below the levels of productivity gains have made it possible to relax monetary policy, whilst maintaining inflation levels which are very low in relation to the growth rates achieved in 1994.

3.1.5.1. In this context, the measures taken in a number of States to make the Central Banks independent will promote monetary stability; they also represent a step towards establishing a credible framework for price stability.

3.1.5.2. Although additional measures will be required to reduce the impact of the structural components of the budgetary deficit and thereby foster lower interest rates in the long term and encourage investments, the Committee has its doubts about the ability of some Member States to fulfil the objectives and abide by the guidelines imposed by the convergence strategy whilst, at the same time, maintaining the levels of growth recorded in 1994. The Committee does, however, recognize that this inability should not cast doubt on the principles of coordinating, monitoring and promoting Member States' macro-economic policies which are necessary to secure cohesion in the EU. This same cohesion however may well be jeopardized by the limited room for manoeuvre which national governments have for regulating economic policy. By virtue of the constraints which they impose on the populations of some Member States, the criteria in the Treaty of Maastricht have now become a major electoral issue. The recent

fluctuations on the European exchange rate markets and the discrepancies in both short and long-term interest rates between the 'core' currencies of the European Monetary System and the 'weak' currencies (Italian Lire, Peseta, Portuguese Escudo) are clearly indications of this new financial danger which has been brought about by political considerations.

3.1.6. In conclusion, the Committee would urge that the fruits of economic growth be shared out in such a way as to strengthen internal demand and improve the situation on the labour market, without creating inflationary pressures.

3.1.6.1. In particular, wage-moderation policies must not hold back growth. Political and social factors must be taken into account in implementing these policies. If wages fall too far behind income from capital, the economy may have to contend with compensatory measures and with social conflicts which may jeopardize growth and employment.

3.1.6.2. Economic policy should also provide a framework for redistribution in order to safeguard the purchasing power of low income households, which are the very ones with the highest propensity for consumer spending. If we are to avoid higher labour costs and action which will run counter to the policies to improve the budgetary situation, the recipients of all forms of income should show solidarity towards the victims of the economic recession.

3.2. *A trade policy conducive to cooperation*

3.2.1. As we move towards a world market and burgeoning competition, the Committee echoes the appeal made by the former EC Commission President, Jacques Delors, for a European economy which is open but not defenceless. With this aim in view, the Committee welcomes the ratification of the conclusions of the Uruguay Round by the EU Member States. Furthermore, the establishment of the World Trade Organization on 1 January 1995 has led to the revitalization of the multilateral relations framework, which has been brought into line with the introduction of a worldwide economy. Within the framework of the World Trade Organization, the European Union will have to ensure that the multilateral trade system is strengthened and, in particular, trade with the industrialized countries must be managed on a basis of reciprocity. Steps must be taken to check the all too frequent trend towards unilateral intervention and discriminatory, bilateral trade and to open up national markets. The Committee calls upon the European Union to help to find a solution to these problems within the WTO with a view to establishing genuinely fair conditions for international competition.

3.2.2. Against a background of the proliferation of preferential regional agreements and cooperation agreements on the American continent and in South-East Asia, EU trade policy must foster an increase in trade with the countries closest to the EU's border, namely the Central and Eastern European and the Mediterranean countries. The 'pre-accession' strategy in relations to the countries of Central and Eastern Europe, officially set in train at the European Summit in Essen, represents a considerable step forward in the process of rapprochement and development of these countries' economies. The decision to grant improved access to the EU market for these countries' products must go hand in hand with economic and social development assistance. In addition to the financial commitment, the EU must participate actively in the reconstruction of these countries, offering advice in various fields such as technological know-how, administration and education in order to enable these countries to overcome the difficulties which they are encountering during their transition to market economies.

3.2.3. Although there is every justification for giving priority to cooperation with the countries of Central and Eastern Europe, we must not disregard the Mediterranean countries which are still much more closely interdependent on the EU in the energy, environment, migration and investment spheres. These countries are not viewed as future EU members but the EU must nonetheless help them to get their economies off the ground so as to prevent the growing prosperity gap from exacerbating political and social instability in these regions.

3.2.4. Looking to the shorter term, the EU should take advantage of the dynamism of the thriving markets of South-East Asia. The economies of these states are going from strength to strength and this is part of the reason for the good export figures recorded in 1994. Over the next two years the Commission forecasts that the rate of increase, in real terms, in imports into the dynamic economies of Asia is likely to hold firm at a level in excess of 12%.

3.2.5. Although the Committee advocates an open, international economic area which is the only long term means of giving a new boost to growth through a fairer redistribution of the world's resources, it nonetheless regrets that the cultural, social and environmental dictates of these countries have not been heeded in framing multilateral trade rules.

3.2.5.1. The Committee considers in particular that the opening-up of trade must help to secure social progress in countries which are becoming industrialized. Current GATT rules do not make provision for the application of International Labour Organization Conventions. The Committee therefore urges that these issues be tackled as a matter of priority by the new World Trade Organization, working in collaboration with the International Labour Office, and that measures be taken to promote the ratification of ILO Conventions.

3.2.5.2. Furthermore, the Committee calls upon the European Union, working through the Trade and Environment Committee, to endeavour to secure the establishment and effective implementation of environmental protection criteria which are non-discriminatory in respect of international trade.

3.3. *The need to take advantage of the economic upturn to introduce structural reforms boosting competitiveness and the number of jobs created by economic growth*

3.3.1. The Commission has estimated that the sustainable level of growth of the European economy at the end of this century is between 3% and 3.5%; such a level of growth would make it possible to trim unemployment to approximately 7% of the EU workforce. The 5% target set in the White Paper presupposes measures to remedy the structural weaknesses of the European economy from the angle of competitiveness and operation of the labour market.

3.3.2. One of the key objectives is to exploit the economic potential of the internal market by dismantling trade barriers as well as by establishing trans-European networks in the transport, energy and telecommunications sectors. Here the Committee urges that the investment programmes in respect of the 14 major projects selected for priority action at the Essen Summit be implemented without delay in order to preserve the opportunity to stimulate the economies of the Member States. In the Committee's view, direct financial involvement by the EU is warranted not only on the grounds of these projects' trans-national dimension, but also in view of the major spin-off benefits that these networks may produce for the economies of EU Member States. Finally, there is every likelihood that an EU initiative would provide the necessary guarantees for the capital markets so that the project would cost less than would have been the case if funded by national loans.

3.3.3. The Committee recognizes that a long-term boost to the competitiveness of the EU Member States presupposes a number of qualitative improvements: the EU would have to develop an efficient, innovative industrial sector and invest in high-technology areas with a high growth potential. With this aim in view, the achievement of greater competitiveness requires the implementation of policies to promote investment in human resources, in particular training and apprenticeships, in order to enable Europe to benefit to the full from the productive potential of its labour force. Steps must be taken in particular to secure a better match between supply and demand in the field of vocational training in order to meet the specific requirements of industry. Bridges need to be built between school and enterprises and tax incentives should be introduced to promote ongoing training and inservice apprenticeships.

3.3.4. These technological changes will make it necessary to redeploy a large number of relatively highly skilled jobs in high-productivity sectors and these changes will lead to the relocation of labour-intensive activities. For this reason the White Paper correctly points out that we must not concentrate our efforts solely on how we are to organize production; we should also anticipate the new requirements of both the individual and society triggered by the demographic and socio-economic changes taking place as we draw to the end of the century, in order to prevent the drive for greater competitiveness from leading to a net labour-shedding in the economy as whole.

3.3.5. With this aim in view, the European Council held in Essen on 9 and 10 December 1994, underlined the urgent need to introduce structural measures to improve the employment situation. The Council highlighted the important role of 'the dialogue between the social partners and politicians' in implementing these measures. The Council also identified five other types of action to combat unemployment in Europe, namely: the promotion of investment in vocational training; measures to increase the number of jobs created by economic growth; the reduction of indirect wage costs; a more effective labour market policy; and consolidation of measures to help the most vulnerable workers.

3.3.5.1. The Committee is convinced that in the longer term, education and on-going training represent the best ways of improving the professional mobility of the workforce and its ability to react to the changes brought about by technological progress, thereby striking a balance between supply and demand on the labour market. With this aim in view, education is not only a key factor in the achievement of growth in the longer term, but also as a means of distributing wealth. The current educational systems are, however, no longer capable of meeting the new requirements, not only for budgetary reasons but also because the jobs of the future will require workers to go on improving their skills throughout their working lives. In point 3.3.3 above, attention was drawn to the fact that in order to improve qualifications — a necessary step in order to meet the challenges posed by competitiveness — it would be necessary to create synergies between schools and the world of business. In this context the Committee welcomes the Commission's decision to carry out a study, without delay, and having regard to the principle of subsidiarity, of the scope for providing incentives to encourage businesses and individuals to invest in ongoing training.

3.3.5.2. In the medium term, the Committee notes that the non-wage costs of labour, particularly with regard to unskilled jobs must be cut, in order to promote substitutions which will benefit employment. Reductions in statutory charges on wages and salaries,

must not, however, jeopardize levels of social protection which, moreover, play a positive role in promoting growth and employment by redistributing income. Measures will have to be taken to replace funding from wages and salaries by broader based, alternative funding arrangements. Whatever alternative funding arrangements are adopted, their implications for the redistribution of income and for growth and employment must be assessed. The Committee would also point out that economic and monetary union cannot be achieved against a background of social fragmentation. The reforms required to ensure the future viability of social welfare systems in the various Member States should be coordinated in order to help secure the desirable alignment of social security provisions and to avoid 'social dumping'.

3.3.5.3. Changes in the working hours of individual workers are undoubtedly an attractive way of increasing the number of jobs created by economic growth, provided that they bring about a real improvement in the quality of life of workers and do not involve additional costs for businesses. In some sectors the increased productivity brought about by shorter working hours, together with lower capital costs as a result of higher equipment utilization factors and lower social contributions could provide some scope for negotiation. In the Committee's view, a policy based on shorter working hours, together with a compensatory increase in jobs will make it possible to achieve consensual results which will be beneficial to employment.

3.3.5.4. The development of labour-intensive services in sectors which are, by their very nature, shielded from international competition is a further attractive approach. Changes in lifestyle, demographic changes and higher participation rates, etc. have created new social needs, which have yet to be satisfied: supervisory services for sick children, health and social service facilities for the elderly, assistance for young people who are in difficulty, daily help for pupils with their school work, protection of the environment and the natural heritage, etc. These are all services which are genuinely beneficial in economic, social and cultural terms but which have been discontinued or have never been provided. 'Social economy' (cooperative, mutual and non-profit sector) enterprises have already featured significantly in these new alternative fields: by taking over and establishing caring services, social economy enterprises will be able to play an active role in the overall policy of combatting social exclusion, as defined in the White Paper. The extra jobs in these areas should provide adequate guarantees against social deregulation and an increase in the number of insecure jobs. These services must, first and foremost, be seen and recognized as genuine jobs and be regarded as such by the workers concerned. A solution will also have to be found to the inability of the persons requiring these services to pay

for them: the cost will either have to be geared to the income of the user or reduced by lowering the social security contributions charged in respect of the service. If these services are to be developed, the supply side will have to be structured and quality standards will have to be laid down in order to meet consumer expectations.

3.3.5.5. The Commission plans to draw up assessment and monitoring procedures to gauge the effectiveness of employment policies; the Committee welcomes this initiative. The Committee points out that measures to

help vulnerable groups, in particular, frequently lead to substitution measures which do not bring a net increase in jobs.

3.3.5.6. In the Committee's view, the principles of fair treatment which underlie European society must continue to apply when the labour market is being reorganized. With this aim in view, the level of flexibility on the labour market must remain compatible with the European social model — the steps taken must not lead to rampant deregulation.

Done at Brussels, 30 March 1995.

The President
of the Economic and Social Committee
Carlos FERRER
